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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF ARIZONA

17 Maria M. Gonzalez, et al.,) No. CV-06-1268-PHX-ROS(Lead)
) No. CV-06-1362-PCT-JAT(Cons.)
18 Plaintiffs,) No. CV-06-1575-PHX-EHC(Cons.)
) DECLARATION OF NINA
19 vs.) PERALES IN SUPPORT OF BRIEF
) IN RESPONSE TO DEFENDANTS'
20 State of Arizona, et al,) MOTION FOR SUMMARY
) JUDGMENT
21 Defendants.)
22) (Assigned to the
23) Honorable Roslyn O. Silver)

24 I, NINA PERALES, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:
25
26

1 I am an attorney and Southwest Regional Counsel for the Mexican American
2 Legal Defense and Educational Fund, counsel for Plaintiffs Maria M. Gonzalez, et al.
3 Attached hereto are true and correct copies of the following documents, to which
4 reference is made in Plaintiffs' Brief in Response to Defendants' Partial Summary
5

6 Judgment Motion:

- 7 1. 42 U.S.C § 1973gg et. seq., identified as Ex A.
- 8 2. July 10, 2007 Declaration of Allan Byron Swift, identified as Ex B.
- 9 3. House Report 103-9 to National Voter Registration Act of 1993, 103d
10 Congress, identified as Ex C.
- 11 4. Senate Report 103-6 to National Voter Registration Act of 1993, 103d
12 Congress, identified as Ex D.
- 13 5. July 12, 2007 Declaration of Ray Martinez III, identified as Ex E.
- 14 6. House Conference Report on H.R. 2, National Voter Registration Act of
15 1993, 103d Congress, 139 CONG. REC. H 2078, identified as Ex F.
- 16 7. Consideration of Conference Report Accompanying H.R. 2, 103d
17 Congress, 139 CONG. REC. S 5677, identified as Ex G.
- 18 8. 11 CFR § 8, identified as Ex H.
- 19 9. 59 Fed. Reg. 32311, identified as Ex I.
- 20
- 21 10. July 11, 2006 Certification of Tally Vote of United States Election
22 Assistance Commission, identified as Ex J.
- 23 11. May 4, 2007 Letter from Jan Brewer, Arizona Secretary of State, to
24 Chairman Donetta Davidson, United States Election Assistance
25 Commission, identified as Ex K.
- 26

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I declare under penalty of perjury that the foregoing is true and correct.
Executed on July 12, 2007.

s/Nina Perales
Nina Perales

Counsel for Plaintiffs
Gonzalez, et al.

EXHIBIT A

Westlaw.

42 USCA § 1973gg-1

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42 U.S.C.A. § 1973gg-1

C**Effective: [See Text Amendments]**

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 Chapter 20. Elective Franchise
 Subchapter I-H. National Voter Registration

→ § 1973gg-1. Definitions

As used in this subchapter--

- (1) the term "election" has the meaning stated in section 431(1) of Title 2;
- (2) the term "Federal office" has the meaning stated in section 431(3) of Title 2;
- (3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;
- (4) the term "State" means a State of the United States and the District of Columbia; and
- (5) the term "voter registration agency" means an office designated under section 1973gg-5(a)(1) of this title to perform voter registration activities.

CREDIT(S)

(Pub.L. 103-31, § 3, May 20, 1993, 107 Stat. 77.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

This subchapter, referred to in text, was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State

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42 U.S.C.A. § 1973gg-1

official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

LIBRARY REFERENCES

American Digest System

Elections ⌚106.

Key Number System Topic No. 144.

RESEARCH REFERENCES

ALR Library

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

NOTES OF DECISIONS

Voter registration agencies 1

I. Voter registration agencies

Provision of the National Voter Registration Act of 1993 (NVRA), or "motor-voter" law, requiring that each state designate as voter registration agencies "all offices" in the state that provide "public assistance" did not require a state to so designate a city's approximately 1,600 public and private hospitals, nursing homes, clinics, and other community-based organizations that processed Medicaid applications. *U.S. v. State of N.Y.*, E.D.N.Y.1998, 3 F.Supp.2d 298, affirmed in part, reversed in part 202 F.3d 110. Elections ⌚ 99.1

For purposes of determining compliance with National Voter Registration Act (NVRA), Virginia's state colleges and universities were not "primarily engaged" in serving disabled persons, as necessary to bring them within provisions of NVRA applicable to voter registration agencies; primary purpose of Virginia's state colleges and universities was to provide for collegiate curriculum to confer degrees and to direct activities of professors, teachers, staff members and agents. *National Coalition for Students with Disabilities Educ. and Legal Defense Fund v. Allen*, E.D.Va.1997, 961 F.Supp. 129, reversed 152 F.3d 283. Elections ⌚ 99.1

42 U.S.C.A. § 1973gg-1, 42 USCA § 1973gg-1

Current through P.L. 110-46 (excluding P.L. 110-42 & 110-44)
approved 07-05-07

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42 USCA § 1973gg-1

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42 U.S.C.A. § 1973gg-1

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Westlaw Attached Printing Summary Report for PERALES,NINA 4156083

Date/Time of Request:	Wednesday, July 11, 2007 15:17:00 Central
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42 U.S.C.A. § 1973gg-2

C**Effective: January 06, 1996**

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 Chapter 20. Elective Franchise
 Subchapter I-H. National Voter Registration

→ § 1973gg-2. National procedures for voter registration for elections for Federal office

(a) In general

Except as provided in subsection (b) of this section, notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office--

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 1973gg-3 of this title;

(2) by mail application pursuant to section 1973gg-4 of this title; and

(3) by application in person--

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 1973gg-5 of this title.

(b) Nonapplicability to certain States

This subchapter does not apply to a State described in either or both of the following paragraphs:

(1) A State in which, under law that is in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which, under law that is in effect continuously on and after August 1, 1994, or that was enacted on or prior to August 1, 1994, and by its terms is to come into effect upon the enactment of this subchapter, so long as that law remains in effect, all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

CREDIT(S)

(Pub.L. 103-31, § 4, May 20, 1993, 107 Stat. 78; Pub.L. 104-91, Title I, § 101(a), Jan. 6, 1996, 110 Stat. 11, as amended Pub.L. 104-99, Title II, § 211, Jan. 26, 1996, 110 Stat. 37.)

HISTORICAL AND STATUTORY NOTES

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42 U.S.C.A. § 1973gg-2

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

This subchapter, referred to in subsec. (b), was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

Upon the enactment of this subchapter, referred to in subsec. (b)(2), probably means the date of enactment of Pub.L. 103-31, which was approved May 20, 1993.

Codifications

Section 101(a) of Pub.L. 104-91, as amended by section 211 of Pub.L. 104-99, provided in part that section 116(a) of the General Provisions for the Department of Justice in Title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations "Act", 1996 (H.R. 2076) as passed by the House of Representatives on Dec. 6, 1995, was enacted into law. Such section 116(a) of H.R. 2076 amended subsec. (b) of this section; see 1996 Amendments note set out under this section.

Amendments

1996 Amendments. Subsec. (b)(1), (2). Pub.L. 104-91, § 101(a), as amended Pub.L. 104-99, § 211, substituted "August 1, 1994" for "March 11, 1993", wherever appearing. See Codifications note set out under this section.

Effective and Applicability Provisions

1996 Acts. Section 101(a) of Pub.L. 104-91, as amended Pub.L. 104-99, Title II, § 211, Jan. 26, 1996, 110 Stat. 37, provided, in part, that: "The amendments made by subsection (a) [amending subsec. (b) of this section, see bracketed note following this note and Codifications note set out under this section] shall take effect as if included in the provisions of the National Voter Registration Act of 1993 [Pub.L. 103-31, May 20, 1993, 107 Stat. 77, for classification of which to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables, and, for effective date provisions, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title]."

[Section 101(a) of Pub.L. 104-91, as amended by section 211 of Pub.L. 104-99, provided in part that section 116(b) of the General Provisions for the Department of Justice in Title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations "Act", 1996 (H.R. 2076) as passed by the House of Representatives on Dec. 6, 1995, was enacted into law. The text of such section 116(b) of H.R. 2076 is set out as this note.]

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

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CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

LIBRARY REFERENCES

Administrative Law

Voting rights procedures, see 28 CFR § 51.1 et seq.

American Digest System

Elections ↪106.

Key Number System Topic No. 144.

Corpus Juris Secundum

CJS Elections § 55, National Voter Registration Act.

RESEARCH REFERENCES

ALR Library

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

Encyclopedias

Am. Jur. 2d Elections § 190, Generally; Purpose, Effective Date, and Applicability.

Am. Jur. 2d Elections § 191, Mandatory Methods of Registration.

Forms

Am. Jur. Pl. & Pr. Forms Elections § 21, Complaint in Federal District Court -- for Declaratory Judgment and Injunctive Relief -- to Review Decision of State Election Officials Concerning Ineligibility to Register to Vote -- Discriminatory...

NOTES OF DECISIONS

Constitutionality 1

1. Constitutionality

National Voter Registration Act of 1993 ("motor voter" law) does not purport to alter qualifications fixed by State of Illinois for voters in elections for state Assembly and existence of any such indirect effects as are bound to follow from effort to make or alter state regulations of times, places and manner of conducting elections, including registration phase, cannot invalidate the law. Association of Community Organizations for Reform Now (ACORN) v. Edgar, C.A.7 (Ill.) 1995, 56 F.3d 791. Elections ↪ 95

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National Voter Registration Act (NVRA) does not violate Tenth Amendment by compelling states to enact and enforce federal regulatory program; constitutional provision that Congress may at any time make or alter regulations enacted by states dealing with time, manner and place of holding federal elections empowers Congress to impose on the states precisely the burden at issue. Association of Community Organizations for Reform Now v. Miller, W.D.Mich.1995, 912 F.Supp. 976, affirmed 129 F.3d 833. Elections ↻ 19; States ↻ 4.16(2)

Congress' decision to exempt from National Voter Registration Act those states that had no voter registration requirement at all for any of their voters for federal offices or those states that permitted all of their voters to register at the time that any federal election was held constituted rational classification. Association of Community Organizations for Reform Now (ACORN) v. Edgar, N.D.Ill.1995, 880 F.Supp. 1215, affirmed as modified 56 F.3d 791. Constitutional Law ↻ 3648; Elections ↻ 19

42 U.S.C.A. § 1973gg-2, 42 USCA § 1973gg-2

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42 USCA § 1973gg-3

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42 U.S.C.A. § 1973gg-3

C**Effective: [See Text Amendments]**

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 Chapter 20. Elective Franchise
 Subchapter I-H. National Voter Registration

→ § 1973gg-3. Simultaneous application for voter registration and application for motor vehicle driver's license

(a) In general

(1) Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) Limitation on use of information

No information relating to the failure of an applicant for a State motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(c) Forms and procedures

(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license--

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) may require only the minimum amount of information necessary to--

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(C) shall include a statement that--

(i) states each eligibility requirement (including citizenship);

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(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury;

(D) shall include, in print that is identical to that used in the attestation portion of the application--

(i) the information required in section 1973gg-6(a)(5)(A) and (B) of this title;

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) Change of address

Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(e) Transmittal deadline

(1) Subject to paragraph (2), a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

CREDIT(S)

(Pub.L. 103-31, § 5, May 20, 1993, 107 Stat. 78.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into

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effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

LIBRARY REFERENCES

Administrative Law

Voting rights procedures, see 28 CFR § 51.1 et seq.

American Digest System

Elections ↪106.

Key Number System Topic No. 144.

Corpus Juris Secundum

CJS Elections § 55, National Voter Registration Act.

RESEARCH REFERENCES

ALR Library

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

Encyclopedias

Am. Jur. 2d Elections § 191, Mandatory Methods of Registration.

NOTES OF DECISIONS

Constitutionality 1**Construction with state law 3****Power of Congress 2**

1. Constitutionality

National Voter Registration Act of 1993, on its face, fits comfortably within the grasp of the Constitutional article granting Congress power to regulate time, place, and manner of congressional elections. *Voting Rights Coalition v. Wilson*, C.A.9 (Cal.) 1995, 60 F.3d 1411, certiorari denied 116 S.Ct. 815, 516 U.S. 1093, 133 L.Ed.2d 759. United States ↪ 11

2. Power of Congress

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Exercise of Congress' power to conscript state agencies to carry out voter registration for the elections of Representatives and Senators is meant to be borne by the states without compensation, even where, as with the National Voter Registration Act of 1993, the cost of such implementation may be significant. *Voting Rights Coalition v. Wilson*, C.A.9 (Cal.) 1995, 60 F.3d 1411, certiorari denied 116 S.Ct. 815, 516 U.S. 1093, 133 L.Ed.2d 759. United States ↪ 11

3. Construction with state law

Tennessee statute requiring voter registration applicant to list his or her social security number did not violate National Voter Registration Act (NVRA), inasmuch as NVRA did not specifically forbid use of social security numbers, and Privacy Act contained a more specific "grandfather" provision that allowed Tennessee's requirement and that Congress intended to survive the more general provisions of the NVRA. *McKay v. Thompson*, C.A.6 (Tenn.) 2000, 226 F.3d 752, rehearing and suggestion for rehearing en banc denied, certiorari denied 121 S.Ct. 1230, 532 U.S. 906, 149 L.Ed.2d 139. Elections ↪ 95

42 U.S.C.A. § 1973gg-3, 42 USCA § 1973gg-3

Current through P.L. 110-46 (excluding P.L. 110-42 & 110-44)
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42 USCA § 1973gg-4

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42 U.S.C.A. § 1973gg-4

C**Effective: [See Text Amendments]**

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 [Ⓜ] Chapter 20. Elective Franchise
 [Ⓜ] Subchapter I-H. National Voter Registration

→ § 1973gg-4. Mail registration**(a) Form**

(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 1973gg-7(a)(2) of this title for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 1973gg-7(b) of this title for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) Availability of forms

The chief State election official of a State shall make the forms described in subsection (a) of this section available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) First-time voters

(1) Subject to paragraph (2), a State may by law require a person to vote in person if--

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person--

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C.A. § 1973ff et seq.];

(B) who is provided the right to vote otherwise than in person under section 1973ee-1(b)(2)(B)(ii) of this title; or

(C) who is entitled to vote otherwise than in person under any other Federal law.

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42 U.S.C.A. § 1973gg-4

(d) Undelivered notices

If a notice of the disposition of a mail voter registration application under section 1973gg-6(a)(2) of this title is sent by nonforwardable mail and is returned undelivered, the registrar may proceed in accordance with section 1973gg-6(d) of this title.

CREDIT(S)

(Pub.L. 103-31, § 6, May 20, 1993, 107 Stat. 79.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in subsec. (c)(2)(A), is Pub.L. 99-410, Aug. 28, 1986, 100 Stat. 924, which is classified principally to subchapter I-G (section 1973ff et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1986 Acts note set out under section 1973ff of this title and Tables.

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

LIBRARY REFERENCES

Administrative Law

Voting rights procedures, see 28 CFR § 51.1 et seq.

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42 USCA § 1973gg-4

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42 U.S.C.A. § 1973gg-4

CJS Elections § 55, National Voter Registration Act.

RESEARCH REFERENCES

ALR Library

10 ALR, Fed. 2nd Series 643, Construction and Application of Provisional Balloting Provisions of the Help America Vote Act, Pub. L. 107-252, Title III, § 302, 116 Stat. 1706 (Codified at 42 U.S.C.A. §§ 15301 et seq.)...

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

Encyclopedias

Am. Jur. 2d Elections § 191, Mandatory Methods of Registration.

Forms

Am. Jur. Pl. & Pr. Forms Elections § 21, Complaint in Federal District Court -- for Declaratory Judgment and Injunctive Relief -- to Review Decision of State Election Officials Concerning Ineligibility to Register to Vote -- Discriminatory...

NOTES OF DECISIONS

Applications 2**Voter identification cards 1**

1. Voter identification cards

Michigan's voter identification cards statute does not violate the National Voter Registration Act (NVRA) by impermissibly removing from roles registered voters who have changed residences, by providing that person whose card is returned as non-deliverable shall be deemed not registered; under NVRA, applicant is not registered by filling out registration application, and under both NVRA and Michigan law, applicant is permitted to vote in all elections occurring not less than 30 days after application so long as applicant is determined qualified, but states are still left task of determining that applicant is eligible and that registration form as submitted complies with state law. Association of Community Organizations for Reform Now v. Miller, W.D.Mich.1995, 912 F.Supp. 976, affirmed 129 F.3d 833. Elections ↩ 19

2. Applications

Uniformity provision of Voting Rights Act did not prohibit Florida from rejecting voter registration applications for failure to check the felon and mental capacity check-boxes since Florida accepted the national form that did not include those boxes. Diaz v. Cobb, S.D.Fla.2006, 435 F.Supp.2d 1206. Elections ↩ 12(4)

42 U.S.C.A. § 1973gg-4, 42 USCA § 1973gg-4

Current through P.L. 110-46 (excluding P.L. 110-42 & 110-44)
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Effective: [See Text Amendments]

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 ▣ Chapter 20. Elective Franchise
 ▣ Subchapter I-H. National Voter Registration

→ § 1973gg-5. Voter registration agencies

(a) Designation

(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies--

(A) all offices in the State that provide public assistance; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include--

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

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(5) A person who provides service described in paragraph (4) shall not--

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance;

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall--

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance--

(i) the mail voter registration application form described in section 1973gg-7(a)(2) of this title, including a statement that--

(I) specifies each eligibility requirement (including citizenship);

(II) contains an attestation that the applicant meets each such requirement; and

(III) requires the signature of the applicant, under penalty of perjury; or

(ii) the office's own form if it is equivalent to the form described in section 1973gg-7(a)(2) of this title,

unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes--

(i) the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(ii) if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C)), together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iv) the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(v) the statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your

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right to choose your own political party or other political preference, you may file a complaint with _____.", the blank being filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) Federal Government and private sector cooperation

All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a) of this section, and all nongovernmental entities are encouraged to do so.

(c) Armed Forces recruitment offices

(1) Each State and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States.

(2) A recruitment office of the Armed Forces of the United States shall be considered to be a voter registration agency designated under subsection (a)(2) of this section for all purposes of this subchapter.

(d) Transmittal deadline

(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

CREDIT(S)

(Pub.L. 103-31, § 7, May 20, 1993, 107 Stat. 80.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

This subchapter, referred to in subsec. (c)(2), was in original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

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Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 12926

<Sept. 12, 1994, 59 F.R. 47227>

IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT OF 1993

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code [section 301 of Title 3, The President], and in order to ensure, as required by section 7(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) ("the Act") [subsec. (b) of this section], that departments, agencies, and other entities of the executive branch of the Federal Government cooperate with the States in carrying out the Act's [this subchapter] requirements, it is hereby ordered as follows:

Section 1. Assistance to States. To the greatest extent practicable, departments, agencies, and other entities of the executive branch of the Federal Government that provide, in whole or in part, funding, grants, or assistance for, or with respect to the administration of, any program of public assistance or services to persons with disabilities within the meaning of section 7(a) of the Act [subsec. (a) of this section] shall: (a) provide, to State agencies administering any such program, guidance for the implementation of the requirements of section 7 of the Act [this section], including guidance for use and distribution of voter registration forms in connection with applications for service;

(b) assist each such State agency administering any such program with the costs of implementation of the Act [this subchapter], consistent with legal authority and the availability of funds, and promptly indicate to each State agency the extent to which such assistance will be made available; and

(c) designate an office or staff to be available to provide technical assistance to such State agencies.

Sec. 2. Armed Forces Recruitment Offices. The Secretary of Defense is directed to work with the appropriate State elections authorities in each State to develop procedures for persons to apply to register to vote at Armed Forces recruitment offices as required by section 7(c) of the Act [subsec. (c) of this section].

Sec. 3. Acceptance of Designation. To the greatest extent practicable, departments, agencies, or other entities of the executive branch of the Federal Government, if requested to be designated as a voter registration agency pursuant to section 7(a)(3)(B)(ii) of the Act [subsec. (a)(3)(B)(ii) of this section], shall: (a) agree to such a designation if agreement is consistent with the department's, agency's, or entity's legal authority and availability of funds; and

(b) ensure that all of its offices that are located in a particular State will have available to the public at least one of the national voter registration forms that are required under the Act [this subchapter] to be available in that State.

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CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

LIBRARY REFERENCES

Administrative Law

Voting rights procedures, see 28 CFR § 51.1 et seq.

American Digest System

Elections ☞99.1, 106.

Key Number System Topic No. 144.

Corpus Juris Secundum

CJS Elections § 55, National Voter Registration Act.

CJS Elections § 60, Place to Register -- Effect of National Voter Registration Act.

RESEARCH REFERENCES

ALR Library

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

Encyclopedias

Am. Jur. 2d Elections § 191, Mandatory Methods of Registration.

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1. Office

The National Voter Registration Act (NVRA), in differentiating between mandatory and discretionary voter registration agencies (VRAs), differentiates between State and local government offices that provide public assistance on the one hand and federal and nongovernmental offices on the other, and not between all offices that provide public assistance and those that do not, regardless of the nature of those offices. Disabled in Action of Metropolitan New York v. Hammons, C.A.2 (N.Y.) 2000, 202 F.3d 110. Elections ⇨ 99.1

Within provision of the National Voter Registration Act (NVRA) requiring that "all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities" shall be designated as voter registration agencies, "office" means a subdivision of a government department or institution, and not the department or institution as a whole. National Coalition For Students With Disabilities Educ. and Legal Defense Fund v. Allen, C.A.4 (Va.) 1998, 152 F.3d 283. Elections ⇨ 100

2. State funding

For purposes of provision of the National Voter Registration Act (NVRA) that "all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities" shall be designated as voter registration agencies, student activity fees may be considered a source of state funding if the monies generated by those fees are controlled by the college or university, but if the fees are not subject to college or university control and are segregated from other college or university funds, they may not be considered as state funds. National Coalition For Students With Disabilities Educ. and Legal Defense Fund v. Allen, C.A.4 (Va.) 1998, 152 F.3d 283. Elections ⇨ 100

3. Persons served

The fact that an office providing State-funded programs primarily engaged in providing services to persons with disabilities is designated as a voter registration agency under the National Voter Registration Act (NVRA) does not mean that it must provide voter registration services to all patrons, including those without disabilities; rather, only those persons seeking the benefits of the programs primarily serving the disabled would be entitled to voter registration services. National Coalition For Students With Disabilities Educ. and Legal Defense Fund v. Allen, C.A.4 (Va.) 1998, 152 F.3d 283. Elections ⇨ 103

Distribution requirement of National Voters Registration Act (NVRA) did not apply to unregistered disabled students. National Coalition for Students with Disabilities Educ. and Legal Defense Fund v. Scales, D.Md.2001, 150 F.Supp.2d 845, 185 A.L.R. Fed. 689. Elections ⇨ 103

4. Designation of agencies--Generally

Provision of the National Voter Registration Act (NVRA) requiring states to designate as voter registration agencies (VRAs) "all offices in the State that provide public assistance" did not encompass nongovernmental hospitals, nursing homes, clinics, community-based organizations and other offices that provided Medicaid application forms; the NVRA merely "encourages" nongovernmental cooperation with agency-based registration, and it cannot be said that such offices must be designated as mandatory VRAs. Disabled in Action of Metropolitan New York v. Hammons, C.A.2 (N.Y.) 2000, 202 F.3d 110. Elections ⇨ 99.1

Any provider under the New York Prenatal Care Assistance Program (PCAP) that is an office of State or local

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government must be designated as a mandatory voter registration agency (VRA) under the National Voter Registration Act (NVRA), regardless of whether it contains a Medical Assistance program (MAP) office, but any PCAP provider that is a federal or nongovernmental office, but houses a MAP office on its premises, need not be designated a mandatory VRA; however, if the MAP office in any such PCAP provider assists or interviews Medicaid applicants, the MAP office, but not the PCAP provider, must be designated as a mandatory VRA, and if the MAP office in such a PCAP provider were to close or move out of the provider's premises, the PCAP provider would have no obligation under the NVRA to provide voter registration materials. Disabled in Action of Metropolitan New York v. Hammons, C.A.2 (N.Y.) 2000, 202 F.3d 110. Elections ⇨ 99.1

State Administrator of Maryland State Board of Election was not subject to personal jurisdiction in District of Columbia in action alleging violation of National Voter Registration Act as result of Administrator's failure to designate Washington Metropolitan Area Transit Authority (WMATA) disability office as voter registration site, absent allegation that Administrator had any personal or official contacts with District, or that alleged violation arose from her official contacts with District. National Coalition for Students with Disabilities v. Miller, D.D.C.2002, 298 F.Supp.2d 16. Federal Courts ⇨ 76.5

5. ---- Schools, designation of agencies

Public schools may be designated as discretionary voter registration agencies (VRAs) under the National Voter Registration Act (NVRA), and thus cannot be mandatory VRAs, even in those cases where a public school is involved with the Medicaid application process. Disabled in Action of Metropolitan New York v. Hammons, C.A.2 (N.Y.) 2000, 202 F.3d 110. Elections ⇨ 99.1

Under National Voters Registration Act (NVRA), disabled student need not be registered at the particular university in question in order to receive voter registration assistance from voter registration agency (VRA) of state university. National Coalition for Students with Disabilities Educ. and Legal Defense Fund v. Scales, D.Md.2001, 150 F.Supp.2d 845, 185 A.L.R. Fed. 689. Elections ⇨ 103

6. ---- Hospitals, designation of agencies

Nongovernmental hospitals, nursing homes, clinics, community-based organizations and other offices that provided assistance with Medicaid applications were not mandatory voter registration agencies (VRAs) under the National Voter Registration Act (NVRA) as "offices in the State that provide public assistance," on theories they were state actors or had been delegated essential governmental functions, as it was unclear whether those offices were acting as agents of city or state, or on behalf of the applicants, there was no sufficiently close nexus between the state and those offices, and none had the authority to issue or deny Medicaid benefits. Disabled in Action of Metropolitan New York v. Hammons, C.A.2 (N.Y.) 2000, 202 F.3d 110. Elections ⇨ 99.1

7. ---- Public assistance, designation of agencies

Federal and nongovernmental offices which provided medical services or assisted applicants with Medicaid applications in connection with those services, but did not provide payment for those services, provided "public assistance" within meaning of the National Voter Registration Act (NVRA), despite definition of medical assistance in both the federal Medicaid statute and New York's Social Services Law as "payment of part or all of the cost," as the drafters of the NVRA intended the phrase "public assistance" to have a broader meaning that includes not only the payment process, but the application process as well; nonetheless, states may designate federal and nongovernmental offices providing public assistance as voter registration agencies (VRAs) only with the agreement of such offices. Disabled in Action of Metropolitan New York v. Hammons, C.A.2 (N.Y.) 2000, 202 F.3d 110. Elections ⇨ 99.1

State agencies which were designated as mandatory voting registration agencies (VRAs), pursuant to National

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Voter Registration Act (NVRA), and which administered their services through district offices run by local municipal governments were responsible for ensuring that local district offices complied with NVRA's requirements, even though NVRA did not explicitly impose such duty, inasmuch as it would be plainly unreasonable to permit mandatorily-designated agency to shed its NVRA responsibilities because it chose to delegate rendering of its services to local agencies, notwithstanding associated costs. *U.S. v. New York*, E.D.N.Y.2003, 255 F.Supp.2d 73. Elections ↻ 103

8. Time for compliance

Michigan administrative agencies were not entitled to additional six months to comply with voter registration requirements of National Voter Registration Act (NVRA), in view of evidence that all agencies were aware of pending registration deadline for upcoming presidential primary, that Secretary of State was in full compliance with regard to its responsibilities under implementation plan, and that registration forms and implementation guides were available from Secretary of State. *Association of Community Organizations for Reform Now v. Miller*, W.D.Mich.1996, 912 F.Supp. 989, affirmed 129 F.3d 833. Elections ↻ 95

9. Private right of action

The National Voter Registration Act provided a private right of action for disabled individuals and association that represented them to enforce against state officials provision requiring that each state designate as voter registration agencies all state offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, on grounds plaintiffs would be unable to recover under any set of facts that could be proved in support of complaint. *National Coalition for Students With Disabilities Educ., Legal Defense Fund v. Bush*, N.D.Fla.2001, 170 F.Supp.2d 1205. Action ↻ 3

10. Persons entitled to maintain action

Advocacy group for disabled individuals did not have associational standing to raise claim that District of Columbia official violated National Voter Registration Act (NVRA) by not designating Washington Metropolitan Area Transit Authority (WMATA) disability office as voter registration site, absent allegation that there was any District resident in its organization who was both eligible voter and had been deprived of opportunity to register to vote due to official's alleged NVRA violations. *National Coalition for Students with Disabilities v. Miller*, D.D.C.2002, 298 F.Supp.2d 16. Associations ↻ 20(1); Elections ↻ 106

Disabled individuals established their standing to bring action against state officials, where individuals alleged that they were disabled, that officials violated National Voter Registration Act provision regarding disabled voters, and that violations created, caused, and contributed to their inability to register to vote and failure to vote in national election of year 2000. *National Coalition for Students With Disabilities Educ., Legal Defense Fund v. Bush*, N.D.Fla.2001, 170 F.Supp.2d 1205. Declaratory Judgment ↻ 300

11. Summary judgment

In suit to enforce the National Voter Registration Act (NVRA) in Michigan, genuine issues of material fact precluded summary judgment on issue of whether certain of Michigan's forms comported with NVRA and what designated state offices state had to establish to register voters under NVRA. *Association of Community Organizations for Reform Now v. Miller*, W.D.Mich.1995, 912 F.Supp. 976, affirmed 129 F.3d 833. Federal Civil Procedure ↻ 2518

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Effective: October 29, 2002

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 Chapter 20. Elective Franchise
 Subchapter I-H. National Voter Registration

→ § 1973gg-6. Requirements with respect to administration of voter registration

(a) In general

In the administration of voter registration for elections for Federal office, each State shall--

(1) ensure that any eligible applicant is registered to vote in an election--

(A) in the case of registration with a motor vehicle application under section 1973gg-3 of this title, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 1973gg-4 of this title, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except--

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of--

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- (A) the death of the registrant; or
- (B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d) of this section;
- (5) inform applicants under sections 1973gg-3, 1973gg-4, and 1973gg-5 of this title of--
 - (A) voter eligibility requirements; and
 - (B) penalties provided by law for submission of a false voter registration application; and
- (6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) Confirmation of voter registration

Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office--

- (1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and
- (2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote, except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) of this section to remove an individual from the official list of eligible voters if the individual--
 - (A) has not either notified the applicable registrar (in person or in writing) or responded during the period described in subparagraph (B) to the notice sent by the applicable registrar; and then
 - (B) has not voted or appeared to vote in 2 or more consecutive general elections for Federal office.

(c) Voter removal programs

- (1) A State may meet the requirement of subsection (a)(4) of this section by establishing a program under which--
 - (A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and
 - (B) if it appears from information provided by the Postal Service that--
 - (i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or
 - (ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) of this section to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the

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official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude--

(i) the removal of names from official lists of voters on a basis described in paragraph (3)(A) or (B) or (4)(A) of subsection (a) of this section; or

(ii) correction of registration records pursuant to this subchapter.

(d) Removal of names from voting rolls

(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant--

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B) of this section. If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) Procedure for voting following failure to return card

(1) A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of

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the registrant--

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(i) or (A)(ii)(II), voting at the other locations described in subparagraph (A) need not be provided as options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) Change of voting address within a jurisdiction

In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d) of this section.

(g) Conviction in Federal court

(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 1973gg-8 of this title of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include--

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

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(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) Omitted

(i) Public disclosure of voter registration activities

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) of this section are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

(j) "Registrar's jurisdiction" defined

For the purposes of this section, the term "registrar's jurisdiction" means--

- (1) an incorporated city, town, borough, or other form of municipality;
- (2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or
- (3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

CREDIT(S)

(Pub.L. 103-31, § 8, May 20, 1993, 107 Stat. 82; Pub.L. 107-252, Title IX, § 903, Oct. 29, 2002, 116 Stat. 1728.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

2002 Acts. House Report No. 107-329(Part I), see 2002 U.S. Code Cong. and Adm. News, p. 1086.

References in Text

The Voting Rights Act of 1965, referred to in subsec. (b)(1), is Pub.L. 89- 110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I-A (section 1973 et seq.), I-B (section 1973aa et seq.), and I-C (section 1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of

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1965 Acts note set out under section 1973 of this title and Tables.

This subchapter, referred to in subsec. (c)(2)(B)(ii), was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

Codifications

Subsec. (h) of this section enacted section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39.

Amendments

2002 Amendments. Subsec. (b)(2). Pub.L. 107-252, § 903, deleted the period at the end of par. (2) and inserted ", except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual--" and inserted subpars. (A) and (B).

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

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Protecting the right not to vote from voter purge statutes. 64 Fordham L.Rev. 1015 (1995).

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Voting rights procedures, see 28 CFR § 51.1 et seq.

American Digest System

Elections ↻106.

Key Number System Topic No. 144.

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CJS Elections § 55, National Voter Registration Act.

CJS Elections § 57, Uniformed and Overseas Citizens Absentee Voting Act.

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10 ALR, Fed. 2nd Series 643, Construction and Application of Provisional Balloting Provisions of the Help America Vote Act, Pub. L. 107-252, Title III, § 302, 116 Stat. 1706 (Codified at 42 U.S.C.A. §§ 15301 et seq.)...

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

91 ALR 349, Constitutionality of Statutes in Relation to Registration Before Voting at Election or Primary.

Encyclopedias

Am. Jur. 2d Elections § 177, Effect of Conviction in Other State or Under Federal Law -- Effect of National Voter Registration Act.

Am. Jur. 2d Elections § 192, State's Duties Under Act.

Treatises and Practice Aids

Federal Procedure, Lawyers Edition § 28:206, Actions by Attorney General.

West's Federal Administrative Practice § 11952, The National Voter Registration Act of 1993 (Motor Voter Law).

NOTES OF DECISIONS

**Nonresidents, removal of names from precenct voting lists 2
Voter identification cards 1**

1. Voter identification cards

Michigan's voter identification cards statute does not violate the National Voter Registration Act (NVRA) by impermissibly removing from roles registered voters who have changed residences, by providing that person whose card is returned as non-deliverable shall be deemed not registered; under NVRA, applicant is not registered by filling out registration application, and under both NVRA and Michigan law, applicant is permitted to vote in all elections occurring not less than 30 days after application so long as applicant is determined qualified, but states are still left task of determining that applicant is eligible and that registration form as submitted complies with state law. Association of Community Organizations for Reform Now v. Miller, W.D.Mich.1995, 912 F.Supp. 976, affirmed 129 F.3d 833. Elections ↻ 19

2. Nonresidents, removal of names from precenct voting lists

State of Georgia was not free to reject voter registration applications forwarded by organizers of voter registration drive, pursuant to state statutes prohibiting acceptance of bundled voter registration applications, and requiring presence of deputy registrar at a voting drive, where statutes were inconsistent with sections of the National Voter

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Registration Act (NVRA) requiring that states accept voter registration applications delivered by mail and postmarked in time to be processed. *Charles H. Wesley Educ. Foundation, Inc. v. Cox*, C.A.11 (Ga.) 2005, 408 F.3d 1349. Elections ↻ 19; Elections ↻ 106

Provision of National Voter Registration Act, barring removal from voting roles except in specified circumstances, did not preclude county officials from removing, pursuant to state law, names of electors who never resided in precinct from precinct voting lists. *Bell v. Marinko*, C.A.6 (Ohio) 2004, 367 F.3d 588. Elections ↻ 108

42 U.S.C.A. § 1973gg-6, 42 USCA § 1973gg-6

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C**Effective: [See Notes]**

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 ▣ Chapter 20. Elective Franchise
 ▣ Subchapter I-H. National Voter Registration

→ § 1973gg-7. Federal coordination and regulations**(a) In general**

The Election Assistance Commission--

- (1)** in consultation with the chief election officers of the States, shall prescribe such regulations as are necessary to carry out paragraphs (2) and (3);
- (2)** in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;
- (3)** not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this subchapter on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this subchapter; and
- (4)** shall provide information to the States with respect to the responsibilities of the States under this subchapter.

(b) Contents of mail voter registration form

The mail voter registration form developed under subsection (a)(2) of this section--

- (1)** may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;
- (2)** shall include a statement that--
 - (A)** specifies each eligibility requirement (including citizenship);
 - (B)** contains an attestation that the applicant meets each such requirement; and
 - (C)** requires the signature of the applicant, under penalty of perjury;
- (3)** may not include any requirement for notarization or other formal authentication; and

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(4) shall include, in print that is identical to that used in the attestation portion of the application--

- (i) the information required in section 1973gg-6(a)(5)(A) and (B) of this title;
- (ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and
- (iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

CREDIT(S)

(Pub.L. 103-31, § 9, May 20, 1993, 107 Stat. 87; Pub.L. 107-252, Title VIII, § 802(b), Oct. 29, 2002, 116 Stat. 1726.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

2002 Acts. House Report No. 107-329(Part I), see 2002 U.S. Code Cong. and Adm. News, p. 1086.

References in Text

This subchapter, referred to in subsec. (a)(3) and (4), was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

Amendments

2002 Amendments. Subsec. (a). Pub.L. 107-252, § 802(b), struck out "Federal Election Commission" and inserted "Election Assistance Commission".

Effective and Applicability Provisions

2002 Acts. Amendments to this section by Pub.L. 107-252, Title VIII, effective upon appointment of all members of the Election Assistance Counsel, see 42 U.S.C.A. § 15534(a).

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

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Voting rights procedures, see 28 CFR § 51.1 et seq.

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NOTES OF DECISIONS

Voter identification 1

1. Voter identification

Arizona's proof of citizenship requirement for voter registration did not conflict with National Voter Registration Act (NVRA); NVRA did not act as a ceiling preventing states from enforcing their own laws regarding voter qualifications. *Gonzalez v. State of Arizona*, D.Ariz.2006, 435 F.Supp.2d 997. Elections ↩ 19

42 U.S.C.A. § 1973gg-7, 42 USCA § 1973gg-7

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C**Effective: [See Text Amendments]**

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 ▣ Chapter 20. Elective Franchise
 ▣ Subchapter I-H. National Voter Registration

→ § 1973gg-8. Designation of chief State election official

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this subchapter.

CREDIT(S)

(Pub.L. 103-31, § 10, May 20, 1993, 107 Stat. 87.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

This subchapter, referred to in text, was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

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42 U.S.C.A. § 1973gg-8, 42 USCA § 1973gg-8

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Effective: [See Text Amendments]

United States Code Annotated Currentness
 Title 42. The Public Health and Welfare
 § Chapter 20. Elective Franchise
 § Subchapter I-H. National Voter Registration

→ § 1973gg-9. Civil enforcement and private right of action

(a) Attorney General

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this subchapter.

(b) Private right of action

(1) A person who is aggrieved by a violation of this subchapter may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) Attorney's fees

In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) Relation to other laws

(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this subchapter shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this subchapter authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

CREDIT(S)

(Pub.L. 103-31, § 11, May 20, 1993, 107 Stat. 88.)

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

This subchapter, referred to in subsecs. (a), (b)(1), and (d), was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

The Voting Rights Act of 1965, referred to in subsec. (d), is Pub.L. 89-110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I-A (section 1973 et seq.), I-B (section 1973aa et seq.), and I-C (section 1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1965 Acts note set out under section 1973 of this title and Tables.

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

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CJS Elections § 56, National Voter Registration Act -- Enforcement; Suits by Aggrieved Persons.

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West's Federal Administrative Practice § 11952, The National Voter Registration Act of 1993 (Motor Voter Law).

NOTES OF DECISIONS

Attorney fees 6**Balance of interests, injunction 5a****Case or controversy 4****Injunction 5-5b****Injunction - Generally 5****Injunction - Balance of interests 5a****Injunction - Public interest 5b****Intervention 3****Notice 2****Persons entitled to maintain action 1****Public interest, injunction 5b**

1. Persons entitled to maintain action

Charitable and educational organization had a legally protected interest under the Nation Voter Registration Act (NVRA) to conduct voter registration drives and submit voter registration forms by mail, and, thus, states' denial of 64 registration forms on the grounds that the forms were mailed in a single package was a clear invasion of that interest, for purposes of determining whether organization had standing to sue challenging the refusal. Charles H. Wesley Educ. Foundation, Inc. v. Cox, C.A.11 (Ga.) 2005, 408 F.3d 1349. Elections ☞ 112

Fact that eligible members of nonprofit organization were not registered to vote was insufficient to establish organization's standing, as representative of its members, to bring claims that state allegedly violated National Voter Registration Act (NVRA) by failing to include voter registration materials with mail-in driver's license renewal applications and improperly purging voters from rolls, absent any evidence that members had received driver's license renewal form or were purged from state rolls. Association of Community Organizations for Reform

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Now v. Fowler, C.A.5 (La.) 1999, 178 F.3d 350. Associations ↻ 20(1)

Political party had standing to sue election officials of State of Ohio, claiming that procedure for determining whether new prospective voters were registered in proper precinct violated its members' free speech and due process rights, and rights under National Voter Registration Act. *Miller v. Blackwell*, S.D. Ohio 2004, 348 F.Supp.2d 916, stay denied 388 F.3d 546. Constitutional Law ↻ 893; Elections ↻ 112; Constitutional Law ↻ 863

Voters had standing to sue Ohio Secretary of State, for issuing, in alleged violation of National Voter Registration Act, First Amendment, and Due Process Clause, directive to county boards of election to issue notice and conduct hearings in response to claim by political party that prospective voters were about to vote in precinct where they were not registered; directive likely infringed upon voters' rights to vote and to due process. *Miller v. Blackwell*, S.D. Ohio 2004, 348 F.Supp.2d 916, stay denied 388 F.3d 546. Constitutional Law ↻ 893; Elections ↻ 112; Constitutional Law ↻ 803

Organizers of voter registration drive, who forwarded voter registration applications to Georgia, which rejected them on ground that organizers were not authorized under Georgia law to accept or collect voter registration applications, alleged sufficient injury in fact for Article III standing purposes by asserting that state's refusal to accept applications rendered them unable to collect and submit registration applications on behalf of those who attended their voter registration drives, as permitted under the National Voter Registration Act (NVRA). *Charles H. Wesley Educ. Foundation, Inc. v. Cox*, N.D. Ga. 2004, 324 F.Supp.2d 1358, affirmed 408 F.3d 1349. Elections ↻ 112

Association that represented disabled individuals established its standing to bring action against state officials, alleging violation of the National Voter Registration Act, the Constitution, and other laws addressing voting rights, where association's members included disabled students, and its mission included improving educational opportunities and enforcing legal rights of students with disabilities. *National Coalition for Students With Disabilities Educ., Legal Defense Fund v. Bush*, N.D. Fla. 2001, 170 F.Supp.2d 1205. Declaratory Judgment ↻ 305

Non-profit advocacy group committed to promoting educational opportunities for and the legal rights of students with disabilities alleged sufficient facts to confer standing under National Voters Registration Act (NVRA) to challenge voter registration procedures established by state university; however, prudential concerns weighed against grant of standing on its own behalf on its § 1983 claim since record failed to indicate any barrier preventing the alleged direct victims of the NVRA violations from bringing an action on their own behalf. under § 1983. *National Coalition for Students with Disabilities Educ. and Legal Defense Fund v. Scales*, D. Md. 2001, 150 F.Supp.2d 845, 185 A.L.R. Fed. 689. Civil Rights ↻ 1332(6); Elections ↻ 112

Initiative petition sponsors lacked standing under National Voter Registration Act (NVRA) to challenge state's voter registration list maintenance procedures which allegedly prevented initiatives from being placed on ballot; sponsors were not aggrieved persons under NVRA, since their challenge was in context of state ballot question, not federal election. *Dobrovolny v. Nebraska*, D. Neb. 2000, 100 F.Supp.2d 1012. Injunction ↻ 114(2)

Plaintiff who testified she was eligible to vote in federal elections in South Carolina except for fact she was not registered and that when she applied for driver's license, voter registration information was not provided to her had standing to challenge state's noncompliance with National Voter Registration Act. *Condon v. Reno*, D.S.C. 1995, 913 F.Supp. 946. Elections ↻ 107

2. Notice

Voters' failure to comply with National Voter Registration Act's (NVRA) notice provision before suing state of

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42 USCA § 1973gg-9

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Michigan and various State officials for their failure to comply with Act did not warrant dismissal; purpose of notice provision was to provide states in violation of Act opportunity to attempt compliance before facing litigation, but Michigan had already received actual notice of its noncompliance, and already made clear its refusal to comply. *Association of Community Organizations for Reform Now v. Miller*, C.A.6 (Mich.) 1997, 129 F.3d 833. *Federal Civil Procedure* ⤴ 1741

Allegation that voter registration agency (VRA) failed to provide voter registration services to students with disabilities that made their initial application for services within 30 days of the November 2000 election was sufficient to dispense with the notice provisions of National Voters Registration Act (NVRA). *National Coalition for Students with Disabilities Educ. and Legal Defense Fund v. Scales*, D.Md.2001, 150 F.Supp.2d 845, 185 A.L.R. Fed. 689. *Elections* ⤴ 112

Plaintiffs in action against state officials to enforce the National Voting Rights Act (NVRA) were not required to file individual notice of violation prior to suit where defendants had already ignored actual notice given by one plaintiff and noncompliance was intentional and not result of administrative oversight. *Association of Community Organizations for Reform Now v. Miller*, W.D.Mich.1995, 912 F.Supp. 976, affirmed 129 F.3d 833. *Elections* ⤴ 106

3. Intervention

Because National Voter Registration Act's (NVRA) notice provision pertains to those who initiate suits, it did not apply to intervenors. *Association of Community Organizations for Reform Now v. Miller*, C.A.6 (Mich.) 1997, 129 F.3d 833. *Elections* ⤴ 95

Voters who had challenged eligibility of recently registered voters would be allowed to intervene, in §§ 1983 suit brought by representatives of recently registered voters against state election officials, claiming their rights under National Voter Registration Act and Due Process Clause were violated when they were not given notice of hearing scheduled regarding political party's challenge to their eligibility; intervention motion was filed day after suit was commenced, state law claimants had interest which could be impaired by outcome of suit, and claimants' interest in avoiding dilution of their votes was different from interest of state election officials scheduling hearing, who were seeking efficient and accurate election process, reducing likelihood that officials could adequately represent interest of intervenors. *Miller v. Blackwell*, S.D.Ohio 2004, 348 F.Supp.2d 916, stay denied 388 F.3d 546. *Federal Civil Procedure* ⤴ 331

4. Case or controversy

No actual case or controversy existed in post-election § 1983 action by initiative petition sponsors alleging state officials' denial of access to petition and voter registration records in violation of First Amendment, where denial of access was isolated and due to confusion attending first-time application of National Voter Registration Act (NVRA) provisions in same election as amendments to state requirements for initiative petitions; access problems were unlikely to recur. *Dobrovolny v. Nebraska*, D.Neb.2000, 100 F.Supp.2d 1012. *Constitutional Law* ⤴ 980

5. Injunction--Generally

Injunction commanding State of Illinois to comply with National Voter Registration Act of 1993 ("motor voter" law) was proper and lawful remedy where State decided not to comply with law rather than seek declaratory judgment that law was invalid. *Association of Community Organizations for Reform Now (ACORN) v. Edgar*, C.A.7 (Ill.) 1995, 56 F.3d 791. *Elections* ⤴ 80

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5A. ---- Balance of interests, injunction

Emergency stay of district court's order, which granted temporary restraining order (TRO) that enjoined county from issuing notices or conducting hearings regarding pre-election challenges to voter eligibility, was not warranted, after Court of Appeals balanced difficulties posed by competing concerns of not discouraging or preventing legal voting, on one hand, and minimizing false registrations and election fraud, on other hand, and considered prospective voters' demonstration of strong likelihood of success on merits regarding alleged violation of their constitutional rights. *Miller v. Blackwell*, C.A.6 2004, 388 F.3d 546. Federal Courts ↻ 685

Threatened injury to organizers of voter registration drive and Georgia resident who completed voter registration application during registration drive, resulting from Georgia Secretary of State's rejection of registration applications, outweighed any harm that might befall Secretary of State under proposed preliminary injunction prohibiting state from refusing registration applications; state already had procedures in place for accepting applications sent through mail, and such burden was mandated by the National Voter Registration Act (NVRA). *Charles H. Wesley Educ. Foundation, Inc. v. Cox*, N.D.Ga.2004, 324 F.Supp.2d 1358, affirmed 408 F.3d 1349. Injunction ↻ 138.51

5B. ---- Public interest, injunction

Preliminary injunction to prohibit Georgia's Secretary of State and elections official from refusing registration applications forwarded by organizers of voter registration drive would not be contrary to public interest; rather, public had interest in seeing that state complied with federal National Voter Registration Act (NVRA), especially in important area of voter registration. *Charles H. Wesley Educ. Foundation, Inc. v. Cox*, N.D.Ga.2004, 324 F.Supp.2d 1358, affirmed 408 F.3d 1349. Injunction ↻ 138.51

6. Attorney fees

Plaintiffs were "prevailing parties" entitled to attorney fees under National Voter Registration Act (NVRA) even though the relief obtained was comparatively minor; although plaintiffs sought, but failed to obtain, relief of enormous import, including the blocking of certification of the 2000 presidential election results, imposition of detailed and specific voter registration requirements, class certification and an award of \$2,500 per class member, plaintiffs did obtain an injunction requiring defendants to take immediate affirmative steps to come into compliance with all provisions of the NVRA. *National Coalition for Students with Disabilities v. Bush*, N.D.Fla.2001, 173 F.Supp.2d 1272. Federal Civil Procedure ↻ 2737.5

42 U.S.C.A. § 1973gg-9, 42 USCA § 1973gg-9

Current through P.L. 110-46 (excluding P.L. 110-42 & 110-44)
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42 U.S.C.A. § 1973gg-10

C**Effective: [See Text Amendments]**

United States Code Annotated Currentness

Title 42. The Public Health and Welfare

▣ Chapter 20. Elective Franchise

▣ Subchapter I-H. National Voter Registration

→ § 1973gg-10. Criminal penalties

A person, including an election official, who in any election for Federal office--

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for--

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this subchapter; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by--

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held,

shall be fined in accordance with Title 18 (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of Title 31), notwithstanding any other law), or imprisoned not more than 5 years, or both.

CREDIT(S)

(Pub.L. 103-31, § 12, May 20, 1993, 107 Stat. 88.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-9 and House Conference Report No. 103-66, see 1993 U.S. Code Cong. and Adm. News, p. 105.

References in Text

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This subchapter, referred to in par. (1)(C), was in the original "this Act", meaning Pub.L. 103-31, May 20, 1993, 107 Stat. 77, known as the National Voter Registration Act of 1993, which enacted this subchapter and section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39. For complete classification of this Act to the Code, see Short Title of 1993 Acts note set out under section 1973gg of this title and Tables.

Effective and Applicability Provisions

1993 Acts. Section effective with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with this subchapter, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with this subchapter without requiring a special election, and with respect to a State not so described on Jan. 1, 1995, see section 13 of Pub.L. 103-31, set out as a note under section 1973gg of this title.

FEDERAL SENTENCING GUIDELINES

See Federal Sentencing Guidelines § 2H2.1, 18 USCA.

CODE OF FEDERAL REGULATIONS

Voting rights procedures, see 28 CFR § 51.1 et seq.

LIBRARY REFERENCES

American Digest System

Elections ↪312, 320, 323.

Key Number System Topic No. 144.

Corpus Juris Secundum

CJS Elections § 55, National Voter Registration Act.

RESEARCH REFERENCES

ALR Library

185 ALR, Fed. 155, Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. §§ 1973gg et Seq.

10 ALR 6th 31, Validity, Construction, and Application of State Criminal Disenfranchisement Provisions.

Encyclopedias

Am. Jur. 2d Elections § 194, Criminal Penalties.

Forms

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Am. Jur. Pl. & Pr. Forms Elections § 21, Complaint in Federal District Court -- for Declaratory Judgment and Injunctive Relief -- to Review Decision of State Election Officials Concerning Ineligibility to Register to Vote -- Discriminatory...

Treatises and Practice Aids

West's Federal Administrative Practice § 11952, The National Voter Registration Act of 1993 (Motor Voter Law).

42 U.S.C.A. § 1973gg-10, 42 USCA § 1973gg-10

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EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Maria M. Gonzalez, et al.,

Plaintiffs,

v.

State of Arizona, et al.,

Defendants.

Case No. CV-06-1268-PHX-ROS
Case No. CV-06-1362-PHX-ROS
(cons)
Case No. CV-06-1575-PHX-ROS
(cons)

DECLARATION OF ALLAN BYRON SWIFT

In accordance with 28 U.S.C. § 1746, Allan Byron Swift declares as follows:

1. From 1979 through 1995, I served as Representative to the United States Congress from the Second District of Washington State. I served as Chairman of the Subcommittee on Elections of the Committee on House Administration from 1985 through 1994.
2. During my tenure as Chairman, the subcommittee considered and reported the legislation that became known as the National Voter Registration Act of 1993 (NVRA). The purpose of that legislation was to create uniform voter registration procedures across the country for federal elections. To that end, Congress required all states to permit individuals to register to vote at motor vehicle departments, at public assistance agencies and by mail using a form developed by the Federal Election Commission. The legislation represented a major departure from past practice and imposed on states uniform federal standards governing registration for federal elections.

3. Mandatory mail registration was an essential component of the legislation. It was intended to fill a gap and to insure that an individual who did not have occasion to appear at a drivers license or public assistance office would have an easy method for registering to vote.

4. Approximately half of the states at the time of the NVRA's passage permitted mail registration and there was little evidence of fraud in the process. Mail registration was generally referred to as postcard registration because it allowed voters to register by simply mailing in a postcard.

5. As chief sponsor of the legislation in the House of Representatives, I thought that it was particularly important to have a federal postcard form that would be widely available, uniform and that did not require notarization or authentication. Whether an individual was in the state or out of the country, he or she could register by completing and mailing in the form to the appropriate election official. In every state, an individual would be able to register to vote by sending in that simple postcard.

6. In enacting the NVRA, Congress was explicit about the content of the form. The form was to recite all the eligibility requirements including citizenship and require the registrant to attest to each requirement under the penalty of perjury. Rather than investing the authority for developing the form to each state, Congress gave this authority to the Federal Election Commission. It permitted states to develop their own form provided that those forms met the specified NVRA criteria

but still required states to accept registrations made using the Federal form regardless of the existence of a state form.

7. The reason for investing the authority in the Federal Election Commission was that if the responsibility was left to the states, as some in Congress proposed, a state could make registration by mail so cumbersome that few voters would take advantage of the opportunity. States could make their forms complex or require a wealth of additional documentation. All the benefits that flowed from having a federally developed and mandated form would be lost. Uniformity would be unachievable and discriminatory, and unfair registration practices that Congress was seeking to eliminate could be reintroduced.

8. For example, a state could require a voter to submit documentary evidence of his or her name, address, age, and citizenship. Allowing a state to require documentation from a voter would be to allow a state to reconstruct precisely the type of barrier that Congress was attempting to remove. Instead of requiring documentation at the time of registering, NVRA provided that a state could require identification from first time mail registrants when they voted. The opponents of the legislation did not think that this was a sufficient safeguard against fraudulent voting; the supporters, on the other hand, did.

9. If states were permitted to demand documentation, a state could undermine NVRA. In this circumstance, a voter would lose his or her right under NVRA to register merely by submitting a postcard. Faced with this possibility, Congress

chose to invest a federal agency with the responsibility to determine what information was necessary to establish eligibility regardless of where one lived and to develop a form that reflected those eligibility requirements. Congress decided that every state then would be required to accept a completed federal form. Congress considered a uniform national mail registration form essential to achieving its objective.

10. Requiring states to accept the form promulgated by the Federal Election Commission after consultation with the states was an unconditioned mandate. When Congress imposed this mandate, Congress was motivated by what it believed was a pressing need for national uniform voter registration standards. It was and is difficult to see how that purpose could be, or can continue to be, achieved if a state could or can reject the form or place conditions on its acceptance.

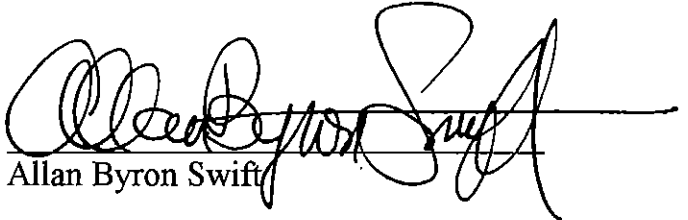
11. Congress recognized the significance of the change it was making. It was not lost on Congress that it was assuming a responsibility that historically had been left to the states. Indeed there was a good deal of opposition to the legislation. Much of the opposition focused on mail registration. President George Bush vetoed the legislation when first passed by Congress precisely because he believed it intruded into a state responsibility and opened the door for individuals who were not eligible to register by mail and to vote.

12. Much of the debate when the Conference Report was considered in Congress in 1993 centered on the fact that the legislation allowed voters to register without having to prove with a document that they were citizens. The Senate had included a provision in its bill that allowed states to require a voter to provide documentation proving his or her citizenship when registering. The House had addressed this issue by requiring individuals to attest under a penalty of perjury that they were citizens. The Senate provision was rejected in Conference precisely because it defeated the whole purpose of having a federal form. Congress knew that, in the final form in which NVRA was enacted, it was balancing the known benefits of easier registration against the unproven risk of an increased opportunity for fraud.

13. In summary, NVRA was the product of many years of legislative work including hearings across the country and votes and debates in three different Congresses. Every aspect of the bill was thoroughly considered and the opponents were provided multiple opportunities to offer amendments. Indeed amendments were offered in committee and on the floor to give states more flexibility in administering mail registration. The majority in Congress consistently rejected those amendments including rejecting in conference a proof of citizenship requirement because the amendments were inconsistent with Congress's desire to create national uniform standards. The law has worked remarkably well. Registration across the country has increased with no discernible increase in fraud.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 2007.



Allan Byron Swift

EXHIBIT C

5 of 6 DOCUMENTS

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Committee Reports

103d Congress

House Report 103-9

103 H. Rpt. 9

NATIONAL VOTER REGISTRATION ACT OF 1993

DATE: February 2, 1993. Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

SPONSOR: Mr. Swift, from the Committee on House Administration, submitted the following

REPORT together with MINORITY VIEWS
(To accompany H.R. 2)
(Including cost estimate of the Congressional Budget Office)

TEXT:

The Committee on House Administration, to whom was referred the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 11, beginning on line 5, strike out "substantially".

Page 22, strike out line 16 and all that follows through line 21 and insert in lieu thereof the following:

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended by striking out "and 3626(a)-(h) and (j)-(k) of this title," and inserting in lieu thereof "3626(a)-(h), 3626(j)-(k), and 3629 of this title".

(3) Section 3627 of title 39, United States Code, is amended by striking out "or 3626 of this title," and inserting in lieu thereof 3626, or 3629 of this title".

Purpose

The purpose of H.R. 2 is to establish national voter registration procedures for Federal elections.

Subcommittee Action

The Subcommittee on Elections held a hearing on H.R. 2 on January 26. Testimony on the bill was heard from the Honorable Ralph Munro, Washington Secretary of State; David D. Orr, Clerk, Cook County, Illinois; Becky Cain, President, League of Women Voters of the United State; Edward A. Hailes, Counsel, NAACP; James C. Dickson, Disabled AND Able to Vote; Tony Bernhard, Clerk-Recorder, Yolo County, California; Jackie Winchester, Supervisor of Elections, West Palm Beach, Florida; Ronald A. Rasmus, Clerk and Recorder, Ford County, Illinois; Richard Leibovitz, Clerk, Rock Island County, Illinois; and Emmett H. Fremaux, Jr., Executive Director, Board of Elections and Ethics, Washington, D.C.

The Subcommittee held a markup on H.R. 2 on January 26, 1993 and, by voice vote, ordered it reported favorably to the full Committee on House Administration without amendment.

Committee Action

On January 27, 1993, a quorum being present, the Committee on House Administration held an open markup on H.R. 2. During the markup, Representative Swift offered an amendment to an amendment by Representative Thomas, to strike the word "substantially". After a discussion of the amendment, the Committee agreed to the amendment by Mr. Swift by voice vote.

No other amendments (other than one technical amendment) were agreed to. After further discussion, the Committee ordered H.R. 2, as amended, favorably reported to the House by a roll call vote of 9 "ayes" and 3 "nays".

Findings

Restrictive registration laws and administrative procedures were introduced in the United States in the late nineteenth and early twentieth centuries to keep certain groups of citizens from voting; in the North, the wave of immigrants pouring into the industrial cities; in the South, blacks and the rural poor. The poll tax, literacy tests, residency requirements, selective purges, elaborate administrative procedures and annual reregistration requirements were some of the techniques developed to discourage participation. These restrictions, along with a weakening of political party competition, were so effective that between 1896 and 1924, the voter turnout for Presidential elections dropped from 79 percent to 49 percent. In the South, the turnout went from 57 percent to 19 percent, with the black vote dropping from 44 percent to essentially zero percent.

The depression, the emergence of the New Deal and a revitalization of the political parties stimulated political activity in the period before World War II, and the national Presidential voter turnout jumped to 62 percent in 1940, although in the South the turnout was only 29 percent. While the more flagrant and discriminatory impediments, such as the poll tax and literacy tests, were gradually going out of existence in the North, they remained very much in place in the South until the Civil Rights movement of the 1950s. In 1940, only 4.5 percent of blacks were registered in the South. This figure slowly moved up to 12.5 percent in 1947, 20.7 percent in 1952, 29.1 percent in 1960 and 35.5 percent in 1965, just before passage of the Voting Rights Act.

Enactment of the Voting Rights Act of 1965 eliminated the more obvious impediments to registration, but left a complicated maze of local laws and procedures, in some cases as restrictive as the outlawed practices, through which eligible citizens had to navigate in order to exercise their right to vote. The unfinished business of registration reform is to reduce these obstacles to voting to the absolute minimum while maintaining the integrity of the electoral process.

While the steady decline in citizen participation in Federal elections over the past thirty years was reversed in 1992, apparently as many as 44 percent of the eligible electorate failed to vote in last years Presidential election. There are many factors involved in the lack of public participation, factors largely beyond the control of Congress. However, the difficulties encountered by eligible citizens in becoming registered to vote is an issue which can be directly addressed through the legislative process.

Public opinion polls, along with individual testimony received by the Committee, indicate that failure to become registered is the primary reason given by eligible citizens for not voting. It is generally accepted that over 80 percent of those citizens who are registered vote in Presidential elections. However, according to figures provided by the Congressional Research Service, only slightly over 60 percent of the eligible voters are registered. Thus, even a relatively good turnout of registered voters, such as occurred in 1992, will only produce an overall participation rate in the low 50s percentile. Expanding the rolls of the eligible citizens who are registered is no guarantee that the total number of voters will increase, but it is one positive action Congress can take to give the greatest number of people an opportunity to participate. The Committee believes that Congress should assist in reducing barriers, particularly government-imposed barriers, to applying for registration wherever possible.

The Committee found that:

- (1) the right of citizens of the United States to vote in Federal elections is a fundamental Constitutional right;
- (2) it is the responsibility of each citizen to exercise the right to vote, and it is the duty of the Federal, state and local governments to promote the exercise of that right;
- (3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office, and disproportionately harm voter participation by various groups, including the disabled and racial minorities.
- (4) Congress has a Constitutionally based authority to enact national registration standards for elections for Federal office;

(5) while Congress may not be able to directly affect voter turnout in Federal elections through the enactment of legislation, Congress does have the authority and responsibility to make the registration process for Federal elections as accessible as possible while maintaining the integrity of the electoral process;

(6) low voter turnout in Federal elections poses potential serious problems in our democratic society.

In the 101st Congress, in extensive hearings on very similar legislation, the Committee heard a variety of witnesses testify that registration procedures in the United States were not uniform, were not nondiscriminatory and, in some cases, were interpreted in such a manner as to deny eligible citizens their right to vote.

As a result of these hearings, the Committee, in the 101st Congress, reported out favorably H.R. 2190, a bill subsequently passed by the House of Representatives on February 6, 1990. No action was taken on this legislation by the other body.

In developing legislative language for H.R. 2190, the Committee considered a variety of proposals to make the registration process more accessible. Since registration by mail was already in place in approximately half the states, and there was substantial evidence that this procedure not only increased registration but successfully reached out to those groups most under-represented on the registration rolls, this method of registration was considered appropriate for a national standard.

A number of states had already extended the availability of mail registration forms to public agencies, so the Committee adopted this procedure for a national standard, specifically mentioning certain public and private outlets where registration forms would be available.

The most controversial method of registration considered by the Committee in its deliberation on H.R. 2190 was registration on the day of election. Advocates argued that the extensive cut-off period between registration and election day (most states mandating between 25 and 30 days) was a major cause of low registration. They contended that most people don't become interested in elections until the last weeks of a campaign, and then discover it is too late to register. Maine, Minnesota and Wisconsin allow a form of "same day" registration, and they rank among the top states in the percent of eligible voters registered. Strong opposition to "same day" registration was expressed by a number of state and local election officials who argued that such a procedure would be very difficult to administer and could result in fraud. With some 35 percent of the eligible voters not registered, the potential for an overwhelming number of people to show up on election day was a matter of deep concern. The Committee concluded that while the concept of "same day" registration might be desirable it would not be feasible to mandate such a procedure as a national standard until the number of unregistered citizens had been substantially reduced and procedures for verification and vote tabulation clarified.

The Committee felt that the broadest, most effective and cost-efficient method of registration would be the simultaneous application procedure suggested by Washington State Secretary of State Ralph Munro, i.e. a drivers license application serving as an application for registration. A version of this approach was already in place in several states. Statistics from the Department of Transportation indicated that approximately 87 percent of the population eighteen years and older had drivers licenses. It was determined that another three or four percent had, in lieu of a drivers license, an identification card issued by the state motor vehicle agency. Many of those applying for identification cards fell into the demographic categories of those least likely to be registered.

The Committee felt that many processing systems in place to handle drivers license application data lent themselves naturally to processing a voter registration application.

By combining the drivers license application approach with mail and agency-based registration, the Committee felt that any eligible citizen who wished to register would have ready access to an application.

Ensuring that expanding the opportunities to register would in no way weaken the validity of the registration rolls was a priority for the Committee. The Committee felt strongly that no legislative provision should be considered that did not at least maintain the current level of fraud prevention. Consequently, the Committee concluded that language on list verification procedures was appropriate, specifically prohibiting any registered voter from being removed from the rolls for failure to vote. The Committee agreed on language which mandated that any list cleaning procedure must be uniform and nondiscriminatory and in compliance with the Voting Rights Act of 1965. The Committee also urged adoption of the United States Postal Services National Change of Address Program as the most efficient and cost-effective method of keeping registration lists up-to-date.

In the 102nd Congress, the Senate passed and sent to the House S. 250, a bill very similar to H.R. 2190. The House considered and passed S. 250 on June 16, 1992. President Bush vetoed S. 250 on July 2, 1992 .

With the exception of the effective date and the short title, H.R. 2 is identical to S. 250. It contains all the basic registration procedures of H.R. 2190 and includes a section on verification mandating that States have a program to clean voter registration lists and requiring that any list cleaning program be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965. The Committee feels that H.R. 2 addresses all the issues and qualifications of H.R. 2190 and fills the legislative initiatives which prompted H.R. 2190.

Description and Discussion of Bill

section 1. short title

This section provides that the legislation may be cited as the "National Voter Registration Act of 1993".

section 2. findings and purposes

Section (a) sets forth the findings of the Congress that the right to vote is a fundamental right of citizens; that it is the duty of Federal, state and local governments to promote the exercise of that right; and that discriminatory and unfair registration laws and procedures have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

Section (b) sets forth the purposes of this Act, which are to increase the registration of voters, to make it possible for Federal, state and local governments to implement the Act in a manner that enhances the participation of eligible citizens, to protect the integrity of the electoral process and guarantee accurate and current voter registration rolls.

section 3. definitions

Section 3 defines the term "motor vehicle drivers license" to include any personal identification document issued by a State motor vehicle authority, and applies the definitions of Section 301 of the Federal Election Campaign Act of 1971 to election terms used in this Act. "State" is defined to be a State of the United States or the District of Columbia. A "voter registration agency" is any office designated under this Acts agency-based registration provisions to perform registration functions which include distributing registration forms simultaneously with applications for services or benefits, providing assistance to applicants similar to that provided in the completion of the offices own forms, and receipt and transmittal of such forms to the appropriate voter registrar.

section 4. national procedures for voter registration for elections for federal office

Section 4(a) requires that the States, in addition to any other methods for voter registration provided for under State law, establish procedures to permit voter registration in elections for Federal office: simultaneously with an application for a drivers license; by mail application; by application in person, either at an appropriate registration office, or at a Federal, State or private sector location ("agency registration").

Section 4(b) provides that this Act is not applicable to a State where either or both of the following apply: a State in which there is no voter registration requirement for any voter in the State with respect to a Federal election; or, a State in which all voters may register to vote at the polling place at the time of voting in a Federal general election.

The language of this section is specific as it relates to the exceptions. It is the intent of the Committee that these exceptions are narrowly drawn to assure that only those States in which any voter may vote either without registration or by registering at the polling place on election day would be exempt. A State would be exempt from the requirements of the bill if it meets either or both of these requirements. The Committee believes that states which have implemented one or both of these exceptions have lessened the impediments to registration which goes significantly beyond the requirements of the bill. A State would not be exempt if it merely granted local jurisdictions the option of providing for election day registration or no registration if local jurisdictions also had the option of requiring any other form of registration. The Committee does not believe such an option results in a significant reduction in registration barriers.

section 5. simultaneous application for voter registration and application for motor vehicle drivers license

Subsections (a) and (b) require that each State motor vehicle drivers license application, including a renewal application, shall also serve as an application for voter registration for Federal elections. In addition, such an application will also serve as updating any previous voter registration by the applicant. An applicant for a motor vehicle drivers license may decline to register to vote and such information may not be used for any purpose other than voter registration.

Although the declination to register must be in writing, no particular format is required so long as a record of the declination is created and retained.

The Committee recognizes that in some jurisdictions the application process is fully computerized. In such cases, any form signed by an applicant during the process shall contain an attestation to the questions on the application, including any declination question.

It is the intent of the Committee that the application procedure should require the affirmative act of an applicant but only after the applicant has received a complete application that includes both the drivers license and voter registration application forms. States are afforded latitude in this section to develop an application which will meet the needs of the particular jurisdiction. In some instances, a State may determine that the application should include a box in either form for a registrant to check if he or she declines to register. In other instances, where the application for the drivers license and voting registration are combined into a single form, the failure of an applicant to sign the voting registration application portion could serve as a declination to register, if the drivers license portion contains a notice to the applicant that the failure to complete and sign the voter registration application portion of that form is a declination to register.

This requirement that there be a written declination to register serves two purposes: first, to prevent unnecessary paperwork where a person is already properly registered; and, two, to prevent the registration of ineligible persons. It is not the intent of this bill to generate needless paperwork for either the registry of motor vehicles or the voter registrar. The Committee would expect the registry of motor vehicles staff to instruct applicants who are already properly registered to vote to decline to register. Such instructions should also be included in any written materials provided to applicants as well as in any instructions posted in motor vehicle agency offices.

Some have noted that the requirements for obtaining a drivers license are not the same as those for eligibility to vote, specifically, age and citizenship. The Committee would expect that any drivers license applicant who does not meet the requirements for eligibility to vote would decline to do so. It is important, therefore, that each applicant be advised of the voting requirements and the need to decline to register if he or she does not meet the requirements. The bill provides that all registration requirements be set forth in the application to register to vote so that they will be readily available for each applicant to review during the application process. The applicant should be advised that there is no obligation to specify the particular reason for choosing to decline to register.

Since some of the reasons for declining to register to vote may involve matters of personal privacy, such as ineligibility under State law due to mental incompetence or a criminal conviction, an individual who declines to register to vote shall not be questioned as to the reasons for such action. If an individual reveals such information, it must be treated as confidential and may not be used for any other purpose. As discussed later, the Act contains a general prohibition against a State or entity from revealing any information relating to a declination to register or to the particular location or agency where a person registered.

Subsection (c) requires that each State shall include a voter registration application form as part of an application for a State motor vehicle drivers license. The voter registration application form may not require any information that duplicates information required in the drivers license portion of the form, other than a second signature and the minimum amount of information necessary to prevent duplicate voter registration and enable State election officials to assess the eligibility of the applicant for voter registration and other parts of the election process, and must include a means by which an applicant may decline to register to vote. The voter registration application form must include a statement that states each eligibility requirement, including citizenship, an attestation that the applicant meets each such requirement, and the signature of the applicant under penalty of perjury. In addition, where appropriate, such forms should include information requesting the applicants mail address if it differs from the applicants residence. Each completed voter registration application form must be made available to the appropriate State election official as provided by State law.

The terms "State election officials" and "appropriate State election official" refer to whatever election official under State law has the appropriate responsibility. In some cases, this may be a local election official.

Although the application for voting registration is simultaneous with an application for a drivers license, it is not the intent of the bill to supplant the traditional role of voting registrars over the registration procedure. The bill makes it very clear that the motor vehicle agency is responsible for forwarding voting registration applications to the appropriate State election official. It should be made very clear to any applicant in a drivers license bureau that the application for voter registration is an application which must be reviewed by the appropriate election officials. Only the election officials designated and authorized under State law are charged with the responsibility to enroll eligible voters on the list of

voters. This bill should not be interpreted in any way to supplant that authority. The Committee is particularly interested in ensuring that election officials continue to make determinations as to applicants eligibility, such as citizenship, as are made under current law and practice. Applications should be sent to the appropriate election official for the applicants address in accordance with the regulations and laws of each State.

Although the Committee would encourage States to adopt a single form for a voter registration application and a motor vehicle drivers license application in order to expedite the process, to minimize the duplication of information, and to establish a truly simultaneous application process, it recognizes that administrative and funding considerations may pose problems for some States. Thus, Section 5(c) is so drafted to describe an application process that permits the use of two forms, one for the motor vehicle drivers license application and one for the voting registration application, thereby avoiding any cost associated with revamping current procedures or computer programs.

The committee believes that a single combined form will be both more effective and more cost-efficient over the long term, and encourages responsible officials to use such a combined form.

However, where two forms are used, it is expected and intended that such forms will be used simultaneously as part of a single, integrated application process. All applicants appearing at the motor vehicle office must be given an application that includes both forms. If such an applicant does not wish to register to vote and so indicates by declining in writing to do so, such an applicant need not complete the voter registration portion of the application.

Subsection (d) provides that any change of address form submitted in accordance with State law for purposes of a State motor vehicle drivers license shall serve as notification of a change of address for voter registration unless the registrant states on the form that the change of address is not for voter registration purposes. The requirements of residency pertaining to drivers licenses may vary from those pertaining to voting; therefore, this provision will permit a person to indicate that a change of address notification to the motor vehicle agency is not intended to effect a change in the address for voting purposes and should not be forwarded to the voting registrar.

section 6. mail registration

Subsection (a) requires that all States accept and use the mail voter registration form prescribed by the Federal Election Commission. In addition, States are permitted to develop and use their own mail registration form, provided it meets the requirements of this Act. Mail registration forms may also be used for voter registration change of address.

The Federal Election Commission, in consultation with the chief election officials of the States, is required pursuant to Section 9 to promulgate a mail registration application form. That form shall include a statement that specifies each eligibility requirement for voting, contain an attestation that the applicant meets each such requirement, including citizenship, and require the signature of the applicant, under penalty of perjury. Where appropriate, the application form should include information requesting the applicants mail address if it differs from the applicants residence. The form may not include any requirement for notarization or other formal authentication, such as witnessing. If a State chooses to develop and use its own form, that form must comply with the same criteria that applies to the Federal form promulgated by the Federal Election Commission.

The requirements that States use a uniform mail registration application form serves to augment the extensive outreach features of the "motor-voter" and agency-based registration procedures. Uniform mail forms will permit voter registration drives through a regional or national mailing, or for more than one State at a central location, such as a city where persons from a number of neighboring States work, shop or attend events. By permitting States to develop and use their own forms as well, the bill provides flexibility for the States. In those States that develop their own mail voter registration applications, an applicant may use, and the State must accept, either the national form developed by the FEC or the States own form.

Subsection (b) requires the chief State election official to make the mail registration forms available for distribution through governmental and private entities, with a particular emphasis on making such forms available to organized voter registration programs. Broad dissemination of mail application forms, when coupled with the other procedures of this bill, should reach most persons eligible to register to vote, and is, therefore, a key element of the voter outreach feature of this bill. Such forms may also be disseminated to agencies designated under the agency-based registration procedures for use by those agencies in their registration programs.

States that use mail registration application procedures generally employ a number of means to prevent fraud, such as including on the form a statement of voter qualification requirements or penalties for fraud, or a follow-up mailing. The form to be developed by the FEC is to include a statement setting forth the requirements to vote (including age and

citizenship) and an attestation to be signed by the applicant under penalty of perjury. The Committee intends for forms developed by States to contain the same statement and attestation. The bill requires notice to each applicant of the disposition of his or her application. This requirement could be met by a follow-up mailing by any State that wishes to employ that procedure as a means of protecting against possible fraud in the mail registration process.

The Committee believes that these provisions are sufficient to deter fraudulent registrations. Nevertheless, the bill includes an additional provision relating to first time voters which has been added to address the concerns that this process may be subject to misuse. Subsection (c) provides that a State may require by law that a person who registers to vote by mail and has not previously voted in that jurisdiction, vote in person. This requirement would not be applicable to any person who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, or who is provided the right to vote otherwise than in person by the Voting Accessibility for the Elderly and Handicapped Act, or who is entitled to vote otherwise than in person by any other Federal law. States are permitted to employ any other fraud protection procedures which are not inconsistent with this bill.

section 7. voter registration agencies

Subsection (a) requires that each State establish an agency-based registration program by designating various public and private agencies or offices for the registration of voters for Federal elections. The Act requires that certain agencies must be included in such a program. Thus, each State must designate all public offices in the State of those agencies that provide public assistance, unemployment compensation, or related services and all agencies and offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities. In addition the State must designate additional Federal, State or local governmental agencies as well as private sector offices as registration agencies, but each State is given discretion as which agencies and what offices of those agencies to include. The Act provides that such discretionary agency programs may include public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and any agency or office that provides services to persons with disabilities that is not included in the mandatory agency-based voter registration program. Federal, State and private sector offices could also be included in this program.

A voter registration agency that provides service or assistance in addition to conducting voter registration shall distribute simultaneously with each application for service or assistance, and with each recertification, renewal, or change of address, a mail voter registration application form promulgated by the Federal Election Commission as provided for in the Act or its own form, if the agency has devised its own form in compliance with the requirements of this Act. The offices should to the greatest extent practicable, incorporate in application forms and other forms used for purposes other than voter registration, a means by which an applicant may decline in writing to register to vote. If an applicant does not decline to register, the office is to provide the same type and degree of assistance in completing the registration application as it usually provides its applicants with regard to the completion of the offices own forms. Costs for registration application assistance for these offices should be considered matchable under the current Federal match rate for these programs.

A person who provides these voter registration services at an agency voter registration office shall not influence an applicants political preference or party registration, display any political preference or party affiliation, or make any statement to an applicant the purpose or effect of which is to discourage the applicant from registering to vote.

While concerns have been raised that applicants will feel pressured to affiliate with a particular political party, the Committee believes that these provisions, coupled with the new criminal provisions, will alleviate such pressure. In addition, the Committee found no evidence of such pressure in the States which have implemented an agency registration application program.

The mandatory portion of the agency-based registration application program, which includes offices providing public assistance, unemployment compensation or related services and services primarily to persons with disabilities, is intended to supplement the motor-voter provisions of the bill by reaching out to those citizens who are likely not to benefit from the State motor-voter registration application provisions. These agencies are included in the mandatory agency registration program because they are considered most likely to serve persons of voting age who may not have driver licenses and therefore are not served by the motor-voter provisions. The Committee strongly believes that the mandatory portion provides a necessary balance to the motor-voter portion, without unduly burdening State resources.

The second portion of a States agency-based registration program includes other agencies and offices which the State may designate to extend its outreach to as many citizens of voting age as possible. While the States are required to

have a discretionary agency registration program in addition to the mandatory one, the State is given latitude to determine which agencies, as well as which of their offices, should be included.

Each agency voter registration office is required to provide the following services: simultaneous distribution of mail voter registration application forms (or the agency's own form), assistance to applicants in completing voter registration application forms, and acceptance of completed voter registration application forms for transmittal to the appropriate State election official. The term "appropriate State election official" shall be interpreted in accordance with State law or practice and is intended to mean that official who is authorized under State law to register voters in the jurisdiction where the registrant resides.

The original bill included in the mandatory agency registration program offices that provide vocational rehabilitation services in an attempt to assure that persons with disabilities would be reached by some part of the States registration programs. Representatives of programs that serve persons with disabilities made it clear that vocational rehabilitation offices would not have extensive contact with such persons and that a broader designation of offices would be necessary if a States agency program was to include a sufficient number of persons with disabilities. The Act now includes a definition that is intended to have more extensive outreach to persons with disabilities. While it would include vocational rehabilitation offices, it would also extend to many other agencies that have contact on a with persons with disabilities, such as, but not limited to those agencies which provide transportation, job training, education counseling, rehabilitation or independent living services.

The Committee also recognizes that many persons with disabilities are less likely to visit offices in order to obtain services or benefits. As a result, the bill requires that if a voter registration agency designated by the State provides services to a person with a disability at the persons home, the agency shall provide the voter registration services at the persons home, as well. The Committee notes that the provisions referring to persons with disabilities are not intended to reach any persons otherwise ineligible to register, such as by reason of judicially determined mental incapacity.

Since the requirements for services or assistance at agency offices may differ significantly from those voting registration purposes, the Committee would expect that any applicant for services or assistance from such an agency who does not meet the requirements for eligibility to register to vote would decline to do so. It is important, therefore, that each applicant be advised of the voting requirements and the need to decline to register if he or she does not meet the requirements. The bill provides that all registration requirements should be set forth in the application to register to vote so that they will be readily available for each applicant to review during the application process. These requirements must include a statement of citizenship, an attestation that the applicant meets each such requirement, and the signature of the applicant under penalty of perjury. The applicant should be advised there is no obligation to specify the particular reasons for choosing to decline to register.

Since some of the reasons for declining to register to vote may involve matters of personal privacy, such as ineligibility under State law due to mental incompetence or a criminal conviction, an individual who declines to register to vote shall not be questioned as to the reasons for such action. If an individual reveals such information, it must be treated as confidential and may not be used for any purpose other than voter registration. As discussed later, the Act contains a general prohibition against a State or other entity, including an agency designated under this provision, from revealing any information relating to a declination to register or to the identification of the agency where a person registered.

Subsection (b) requires all entities of the Federal government to cooperate as much as possible with the States in carrying out this program by participating as designated voter registration agencies. This participation requirement is subject to the Federal agency agreeing to participate pursuant to subsection (a). No specific Federal agencies are designated in this bill to participate, it being left to the States to negotiate such arrangements with the appropriate Federal agencies. It is the Committees intention that any agency or organization providing assistance under the terms of this Act would negotiate a mutually satisfactory arrangement, which could include, where appropriate or required, reimbursement for services provided.

Subsection (c) requires that a completed registration application shall be transmitted to the appropriate State election official no later than 10 days after the date of acceptance. If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application must be transmitted to the appropriate State election official no later than 5 days after the date of acceptance. An applicant may, if he or she chooses, mail the voter registration application directly to the appropriate State election official rather than returning it to the agency for transmittal. The agency providing voter registration services is prohibited from requiring a registrant to mail the form, and must

accept it and forward it to the appropriate registration official if turned in by the applicant. The agency must provide regular, visible means for collecting registration application forms.

section 8. requirements with respect to administration of voter registration

Subsection (a) provides that any person registered to vote not later than 30 days, or a lesser period as provided by State law, before a Federal election shall be permitted to vote. For these purposes, registration is complete upon submitting the form to the voting registrar, motor vehicle office, designated agency or office, or on date of postmark, if mailed. While the Act is clear with regard to the motor-voter and agency-based registration deadline requirement, the mail situation may be in need of some clarification. The reference, "or a lesser period as provided by State law" means, with regard to mailed registration application, that the shorter State period would apply only if it is referenced to "date of postmark". If the shorter period provided by State law refers to the date of receipt in the registrars office, the thirty day period provided for here would apply. It is not intended here to penalize a registration applicant; thus, if the application is postmarked after thirty days, but is received before the deadline specified by State law, it should be accepted. Also, one postmarked before thirty days but received after the deadline under State law, should also be accepted as timely.

Each State election official is required to give notice to each applicant regarding the disposition of his or her voter registration application. The means of notifying each applicant is not specified, so that each State may continue to use whatever means is required or permitted by State law or regulation. States may adopt whichever procedure they deem best suited to provide notice to the applicant and to provide the registrar with verification of the accuracy of the information provided by the applicant. The Committee recognizes that such notices are sent by most States as a means of detecting the possibility of fraud in voting registration and intends to give each State discretion to adopt a means of notification best suited to accomplish that purpose as well as providing a means for notifying an applicant, who has not had direct contact with the voter registrars office, of the appropriate voting place for his or her residence. The Committee believes that accurate and current voter registration lists are essential to the integrity of the election process and for the protection of the individual.

This section also provides that the name of a registered voter may not be removed from the official list of eligible voters except: at the request of the registrant; as provided by State law, by reason of criminal conviction or mental incapacity; or, in accordance with the requirements of the Act, by reason of the death or a change in the residence of the registrant. Recognizing the essential need to maintain the integrity of the voter registration lists, the bill requires that States conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of death or by a change of residence.

A "request" by a registrant would include actions that result in the registrant being registered at a new address, such as registering in another jurisdiction or providing a change-of-address notice through the drivers license process that updates the voter registration.

States are required to inform applicants of voter eligibility requirements, the penalties provided by law for the submission of a false voter registration application, and ensure that the identity of the voter registration agency through which any particular voter is registered is not publicly disclosed.

Subsection (b) sets forth the standards for the confirmation of voter registration. Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current registration roll for Federal elections shall be (1) uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965; and (2) shall not result in the removal of the name of any person from the official list because of a failure to vote.

The purpose of this requirement is to prohibit selective or discriminatory purge programs. This requirement may not be avoided by a registrar conducting a purge program or activity based on lists provided by other parties where such lists were compiled as the result of a selective, non-uniform, or discriminatory program or activity. The term "nondiscriminatory" is intended to mean that the procedure complies with the requirements of the Voting Rights Act of 1965.

The term "uniform" is intended to mean that any purge program or activity must be applied to an entire jurisdiction.

It is the intent of this section to impose the uniform, nondiscriminatory and conforming with the Voting Rights Act standards on any activity that is used to start, or has the effect of starting, a purge of the voter rolls, without regard to how it is described or to whether it also may have some other purpose. For example, the mailing of sample ballots is clearly a program that has another purpose but might provide the basis for a purge of voter rolls. If it is to be used for that purpose and the registrar uses it to serve as his or her reason to send notices under subsection (d), that sample ballot mailing program must meet the standards of this section.

The Committee is mindful of the need to keep accurate and current voter rolls. The Committee is concerned that such programs can be abused and may result in the elimination of names of voters from the rolls solely due to their failure to respond to a mailing. Abuses may be found in the design of a program as well as in its implementation. In order to provide some guidance to the States, subsection (c) provides that a State may meet the requirements of conducting a general program that makes a reasonable effort to keep voting lists clean by establishing a program which uses the National Change of Address ("NCOA") program of the U.S. Postal Service. Use of the NCOA program by a State or any of its registration jurisdictions could be deemed to be in compliance with the requirements that the program be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965.

By using the NCOA, a State may use change of address information to identify registrants whose addresses may have changed. If it appears from the information provided that a registrant has moved to a different address within the jurisdiction of the same voting registrar, the registrar is required to make the address change automatically and send the registrant a notice by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information. If the registrant appears to have moved to an address outside of the jurisdiction of the registrar, the registrar may not remove the name of the voter until the registrar has sent a notice to the registrant as provided in subsection (d).

The section requires that a State complete any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters at least 90 days before a primary or general election for Federal office. This requirement applies to the State outreach activity such as a mailing or a door to door canvas and requires that such activity be completed by the 90-day deadline. This section does not prohibit a State during that 90-day pre-election day period from removing names from the official list of eligible voters on the basis of the request of the registrant, as provided by State law for criminal conviction or mental incapacity, death, or any other correction of registration records pursuant to the Act.

Subsection (d) prohibits a State from removing the name of a registered voter by reason of a change in residence, unless the registered voter confirms in writing that he or she has changed residence outside the jurisdiction in which registered; or has failed to respond to a notice sent by the State and has not voted or appeared to vote within two general elections for Federal office since the date of the notice.

If a State determines that a registrant may have changed residence, the State may send by forwardable mail a postage prepaid return card on which the registrant may state his or her current address, together with a notice which states that: if the registrant has not changed residence or has changed residence within the same jurisdiction, the registrant should return the card before the time for closing registrations for the next Federal election, i.e. 30 days before an election, or such lesser period as may be provided by State law. If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant would be permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the second general Federal election that occurs after the date of the notice. If the registrant has not appeared to vote in an election during that period, the registrant's name will be removed from the list. If the registrant has moved to a residence outside the jurisdiction, the notice on the mailing must include information concerning how the registrant may continue to be eligible to vote.

Within the official list of eligible voters, notations (such as an asterisk or "I" for inactive status) may be made of those eligible voters who have failed to respond to a notice under Section 8(d)(2). The requirement that names with notations be maintained on the official list of eligible voters permits the State to decline to use these names in performing the type of routine, administrative responsibilities that do not impair the right of such voters to vote as set forth in the Act, and as protected by the Voting Rights Act. For example, those who have failed to respond to a Section 8(d)(2) notice need not be included for administrative purposes in determining the number of signatures that may be required under State law for ballot access, the number of precincts that may be needed to service voters, or the number of ballots or voting machines that may be required in the administration of the voting process.

The term "registrars jurisdiction", as used in connection with the NCOA program and with regard to the "affirmation" or "confirmation" requirements, is a term of art for the purpose of this Act and is not intended to dictate to the States their actual administrative structure for the purpose of registering voters. The Committee intends that a "registrars jurisdiction" for the purposes of the Act be no smaller than a county, parish, city or town. This conforms to current practice. A State would be free, for example, to divide a very large county or city into 2 or more administrative units for registering voters as long as the county continued to be treated as the "registrars jurisdiction" for those purposes of the Act hereinafter specified. First, that provision pertaining to a person who returns the postcard described in section 8(d) indicating that the registrant has moved to another residence within the jurisdiction of the same voter registrar must

have his or her registration corrected to reflect the new address. Second, the provision that requires that a person who has not sent in the card is entitled to vote after affirming or confirming that his or her new residence is within the same congressional district and the same registrars jurisdiction as that of his or her former residence. And third, the provision that use of the national change of address program could be considered to be in compliance with the requirements of the Act that pertain to list maintenance programs could protect the State if used Statewide or a registrar if used within the registrars jurisdiction. As long as these protections are maintained a State would be free to alter its administrative structure and jurisdiction for the purpose of registering voters for Federal elections.

Subsection (e) establishes the procedures for voting in a Federal election where the registrant fails to return the card in accordance with the procedures outlined in subsection (d). If a registrant has moved from one residence to another within the jurisdiction of the same polling place, the person shall be permitted to vote at that polling place upon oral or written affirmation of the registrants change of address, before an election official at the polling place. If a registrant has moved from a residence in one polling place to a residence in another polling place within the jurisdiction of the same voting registrar, the registrant shall be permitted to vote, in one of the following ways, at the option of the voter: (1) at the registrants former polling place upon written or oral affirmation of the new address; or (2) at a central location, upon written affirmation of the new address; or (3), shall be permitted to correct the voting records at the appropriate polling place for the current address, and, if permitted by State law, shall be permitted to vote upon confirmation of the registrants new address by such means as required by law. However, if a State permits the registrant to vote at the new polling place by oral or written affirmation of the current address, it need not provide the alternatives of the former polling place or a central location.

If the registration records incorrectly indicate that a registrant has changed his or her residence, the registrant shall be permitted to vote upon oral or written affirmation that the registrant continues to reside at the same address.

This section of the bill attempts to incorporate an underlying purpose of the Act; that once registered, a voter should remain on the list of voters so long as the individual remains eligible to vote in that jurisdiction. This section ensures that if a registered voter moves within the jurisdiction of the same registrar, he or she should be permitted to vote. However, while this section sets out where an individual may vote, it is silent as to how that individual may be permitted to vote. Under certain circumstances it would be appropriate, and in compliance with the requirements of this Act, to require that such a person vote by some form of provisional ballot. It is not the intent of this provision to pre-empt any State requirement that a person whose eligibility to vote is challenged may be required to vote by a special ballot that is subject to post election rejection, where the challenge is sustained.

Subsection (f) provides that in the case of change of residence within the jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrants name may not be removed from the official list of eligible voters, nor may a registrant be required to re-register as a result of such a change of residence. The obligation of the registrar to change the rolls to reflect the new residence is triggered by notice to the registrar of such change, not the date of such change. The intent of this requirement is that it is the responsibility of a registrar, upon notification of a change of residence by a voter to another residence within the registrars jurisdiction, to make the necessary correction of the records. A registrar may not impose requirements, such as re-registration, upon such a voter. Although such notice of change of address might be made by the voter through the use of the motor-voter or agency-based registration process, the registrars responsibility to make the correction is not dependent on the voter giving such notice; such notice may come through the Postal Service change of address program or other means conducted in conformance with the requirements of the Act, subject to verification by the voter.

Some State election officials expressed concern to the Committee that they had experienced difficulty in obtaining information regarding convictions for Federal offenses from the Federal courts which is needed to remove the names of persons convicted of certain offenses from the voter rolls under State law. Subsection (g) requires a United States Attorney to inform the appropriate State election official of the felony conviction of any person. Such notice must give the name, age, and address of the offender; the entry date of judgment; a description of the offenses on which the person was convicted; and the sentence imposed. Additional information may be provided at the request of the election official if necessary to determine whether a conviction affects the persons eligibility to vote. If such a conviction is overturned, the United States Attorney shall give notice to the appropriate election official.

Subsection (h) provides lower postal rates to a State or local voting registration official for any mailing which is certified to be required or authorized by the Act. This lower postal rate is the rate for any class of mail which is made available to a qualified non-profit organization.

Subsection (i) provides that each State shall maintain for two years all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of addresses on the official list of eligible voters. The records must be made available for public inspection and, where available, photocopying at reasonable costs. The records shall include lists of names and addresses of all persons to whom notices were sent and information concerning whether or not each person has responded to the notice as of the date of inspection.

Provisions of this Act pertaining to voter registration programs require that information regarding a persons declination to register not be used for any purpose other than registration. There was also concern that information not be made public as to what voters registered at a particular agency, such as a welfare or unemployment office. Therefore, these records may not contain any information relating to a declination to register or the identity of a voter registration agency through which any particular voter is registered, or a list of those persons registered through a particular agency.

Section 9. Federal coordination and regulations

Subsection (a) provides that the Federal Election Commission shall prescribe appropriate regulations necessary to carry out this Act, consult with chief election officers of the States to develop a mail voter registration application form for Federal elections, and submit by June 30 of each odd-numbered year, a report to the Congress assessing the impact of the Act on the administration of elections for Federal office and recommendations for improvements in Federal and State procedures, forms, and other matters, and provide information to the States with respect to the responsibilities of the States under this Act. It is the Committees intent that the Commission carefully determine which regulations are necessary and appropriate.

Nothing in the Act prohibits the Federal Election Commission from gathering the appropriate statistics necessary to meet its reporting requirements.

Subsection (b) sets forth the requirements of the mail registration form to be developed by the FEC. This form may only require such identifying information (including the signature of the applicant) and other information (including data relating to previous registrations) as is necessary to enable the appropriate State election official to assess the applicants eligibility. The form must also include a statement that specifies each eligibility requirement (including citizenship); contain an attestation that the applicant meets such requirements, and require the signature of the applicant under penalty of perjury. This form may not include any requirement for notarization or other formal authentication.

Section 10. Designation of chief State election official

Each State shall designate a State officer or employee as the chief State election official to be responsible for the coordination of State responsibilities under this Act. Various provisions of this Act assign to this official certain responsibilities regarding the promulgation of regulations, the design of the Federal mail registration form, the receipt of notice of civil suits, and the distribution of mail registration forms.

section 11. civil enforcement and private right of action

Subsection (a) provides that the Attorney General may bring a civil action for declaratory or injunctive relief as is necessary to carry out this Act.

Subsection (b) provides a private right of action to any person who is aggrieved by a violation of this Act by providing written notice of the violation to the chief State election official. If the violation is not corrected within 90 days after receipt of the notice, or within 20 days of when the violation occurs, within 120 days before the date of an election for Federal office the aggrieved person may bring a civil action in Federal court for declaratory or injunctive relief. If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person may proceed to file a civil suit without notice to the chief State election official.

Subsection (c) permits a prevailing party (other than the United States) in a civil action to seek reasonable attorney fees, including litigation costs and expenses.

The Committee has heard concerns that this section authorizes the award of monetary damages. It does not. Corrective action in the form of declaratory and injunctive relief, plus reasonable attorney fees are the available civil remedies. The Committee does not believe that reasonable attorney fees will result in excessive awards in civil actions brought under this Act.

Subsection (d) provides that the rights and remedies established by this Act are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this

Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965. Nothing in this Act authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965.

section 12. criminal penalties

This section would make a new Federal offense, punishable by a fine and/or imprisonment for not more than 5 years, for any person, including an election official, who in any election for Federal office: (1) knowingly and willfully intimidates, threatens, or coerces any person for registering to vote, or voting, or attempting to register or vote; urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or exercising any right under this Act; or (2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process by the procurement or submission of voter registrations that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent under the laws of the State in which the election is held.

Concern has been expressed that these criminal provisions may be used to impede lawful political activities, such as distributing campaign literature, poll watching, and registration drives. Careful attention has been given to these concerns and this section has been specifically written to refer to acts which are "knowing and willful" and does not refer to inadvertent omissions or inaccuracies on voter registration forms or absentee ballots.

The Committee has also heard concerns expressed as to the availability of criminal penalties under State law. This section addresses the Federal criminal code only.

section 13. effective date

The Act will take effect on January 1, 1995. While this Act applies only to Federal elections and States are free to apply other regulations to State elections, many States will prefer to have the same requirements for both Federal and State elections. To accommodate those States that have constitutional obstacles to conforming State requirements to the Act, the effective date for such States will be January 1, 1996.

Committee Action

On January 27, 1993, by rollcall vote (9-3), a quorum being present, the Commission agreed to a motion to report the bill favorably to the House, as amended.

Committee Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Statement of Budget Authority and Related Items

The statement required by clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 is contained in the cost estimate and comparison prepared by the Director of the Congressional Budget Office and included in this report.

Congressional Budget Office Cost Estimate

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. Congress,
 Congressional Budget Office,
 Washington, DC, February 1, 1993.
 Hon. Charlie Rose,
 Chairman, Committee on House Administration,
 House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2, the National Voter Registration Act of 1993. Because enactment of H.R. 2 could affect receipts and direct spending, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,
James L. Blum
(For Robert D. Reischauer).

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 2.
2. Bill title: National Voter Registration Act of 1993.
3. Bill status: As ordered reported by the Committee on House Administration on January 27, 1993.

4. Bill purpose: H.R. 2 would create a national system of voter registration procedures for elections for federal office. Responsibility for implementing the system would fall largely to the states, with the federal government responsible for enforcement, as well as some financial and technical assistance.

Requirements for States

Under the national system of voter registration, most states (except those with election day registration and those with no registration requirement at all) would be required to provide the following methods of registration:

Motor/Voter. When someone applies for a drivers license (new, renewal, or change of address) at the state motor vehicle authority, the application procedure would have to include the opportunity to register to vote. An individual would have to decline in writing on an application form to avoid registering by this means, or would have to sign an attestation, under penalty of perjury, that the individual is eligible to register to vote.

Mail Registration. Each state would make available through various sources a form, prescribed by the Federal Election Commission (FEC), that applicants could complete and mail to the election official to register for federal elections.

Agency Registration. Each state would have to designate some state and federal offices as well as private sector locations (such as public libraries, unemployment offices, banks, fishing and hunting license bureaus, or post offices) to distribute and collect applications for voter registration. Such locations would then forward the applications to the appropriate election official.

Currently, the federal government has little involvement with voter registration. Each state has its own laws governing registration, and in practice, registration practices vary widely even among local election jurisdictions within a state. H.R. 2 would mandate that states provide the specified registration methods consistently in all jurisdictions.

In addition, H.R. 2 would mandate that any state programs used to update voter registration lists shall be uniform and nondiscriminatory and may not remove someone from the list for not voting. The bill would permit a state, if it determines a voter has moved, to remove the voter from the list only after sending a forwardable notice with a return card that would allow the voter to confirm the correct address.

Finally, each state would have to designate a chief state official responsible for implementing the states functions under H.R. 2.

Requirements for the Federal Government

H.R. 2 would require the U.S. Postal Service to provide election officials with a postal rate subsidy for any mailings that the bill requires the officials to conduct, such as the registration confirmation notice and the registration update notice. The bill authorizes the appropriation of funds sufficient to reimburse the Postal Service for its losses in providing the subsidy. If the Congress does not appropriate the necessary amounts, then the Postal Service would no longer offer the subsidy.

The bill would require the FEC to provide information to the states regarding their responsibilities and to report to the Congress once every two years on the impact of the registration procedures required by the bill. The FEC also would have to develop a uniform application form to be used by states for mail registration.

In addition, H.R. 2 would authorize the Attorney General to bring civil actions in court to enforce the provisions of the bill. Individuals also would be allowed to ask the court for relief from any violations of the bills provisions.

Finally, the bill would establish criminal penalties for persons who, in any election for federal office, interfere or seek to interfere with voting or voter registration, falsify voter registration applications, or knowingly cast or tabulate false or fraudulent ballots.

5. Estimated cost to the Federal Government:

-- (PLEASE REFER TO ORIGINAL SOURCE FOR TABLE) --

The costs of this bill fall within budget functions 370 and 800.

Basis of estimate: The subsidized postal rates would be used primarily to update voter registration files and to confirm the receipt of voter registration applications. Based on the total number of change-of-address actions filed with the Postal Service, CBO expects that the postal subsidy would amount to no more than \$3 million annually probably in the vicinity of \$2 million to cover a portion of the cost of mailing registration update notices. In addition, CBO estimates that officials would mail about 25 million voter confirmation notices, based on election officials reports that the number of registration applications typically amounts to 20 percent of the total number of registered voters in the jurisdiction. (There are about 130 million registered voters nationwide.) Assuming an average subsidy of 7.3 cents per piece of mail, subsidizing the mailing of these confirmation notices would cost about \$2 million annually at current rates. The postal subsidy would first be available in January 1995, a year in which CBO assumes that an increase in postal rates will occur. Assuming rates will rise about 15 percent, CBO estimates that the total postal subsidy would be about \$4.5 million annually. The subsidy for fiscal year 1995 would be less because the subsidized rates would become available three months into the fiscal year.

Based on information from the FEC, CBO estimates that the additional staff and associated expenses necessary to develop a mail registration form and to provide assistance to the states would cost approximately \$200,000 annually, beginning in 1994. The requirements imposed on states and localities would become effective beginning January 1, 1995, unless provisions in a states constitution conflict with implementing H.R. 2. In such cases, a state would not have to comply with H.R. 2 until January 1, 1996.

The imposition of criminal penalties could cause governmental receipts to increase through increased penalty collections, but CBO cannot estimate the amount of such an increase. Such fines are deposited in the Crime Victims Fund and are spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Enactment of H.R. 2 could affect both receipts and direct spending as the result of increased penalty collections. CBO cannot estimate the amount of any such increases, but the changes in spending and receipts would net out over time.

7. Estimated cost to State and local governments: H.R. 2 would require most states to provide three types of voter registration for federal elections beginning in 1995: motor/voter, mail-in, and agency registration. The bill also would mandate that states use a uniform and nondiscriminatory program for maintaining accurate lists of eligible voters.

Consistent with CBOs usual procedures for estimating the cost effects of legislation, this estimate compares the cost of states of complying with the bills provisions to the cost of their current practices under existing law. Few states and local governments currently employ all the methods required by the bill for registering and maintaining voters on the rolls. In addition, without H.R. 2, states and localities are unlikely to replace their existing practices with those outlined in the bill. Therefore, the costs states would incur in changing their registration procedures would be directly attributable to enactment of the bill.

Summary of costs

Direct Costs. If the bill is enacted, state and local governments would have to pay for the cost of complying with the bills registration provisions. For the additional staff, postage, and printing expenses associated with the expected increase in registrations, especially through motor/voter, CBO estimates that it would cost states and localities an average of about \$20 million a year for the first five years of the program. Added costs would be somewhat lower than the average in federal election years, and above the average in other years, since the procedures required by the bill would have the effect of smoothing the current election-year peaks in registration costs. Some of these expenses would begin in 1994, the year before the bills provisions take effect, as the states prepare to offer the new registration methods.

Although the bill would not directly require it, some states may decide to acquire, expand, or upgrade computer systems to facilitate implementation of the bill. To the extent that state and local governments make such changes in computer technology, their costs could increase further. For example, we estimate that one-time costs to computerize the registration lists of all the jurisdictions that currently do not have computers would amount to less than \$25 million. We cannot predict how many jurisdictions would do so, or how many that now have computers would choose to change their system.

Another provision that would require most states to make a change from current practices affects the polling place where a registrant may be permitted to vote. Under H.R. 2, if a registrant has changed addresses within a jurisdiction without notifying the registrar, but the new and old addresses have different polling places, then the registrant would have the option of voting at the old or new polling place, or some other polling place that has a list of registered voters. Election officials have indicated that this requirement would be quite difficult to implement without a computerized registration list. Without such a capability, it might not be possible to fully meet this requirement, so the cost to election officials of this provision cannot be estimated at this time.

Offsets to Costs. Because H.R. 2 would authorize the Postal Service to provide a rate subsidy to election officials for mailings required by the bill, state and local governments would be able to shift some of the costs they incur now to the federal government. H.R. 2 would require officials to notify registrants as to the outcome of their application and to contact those whom the officials plan to drop from the rolls because of a change in address. (Most officials already take both of these actions.) CBO estimates that the postal subsidy for these mailings would total about \$4 million annually. Thus, upon enactment of H.R. 2, state and local election officials would save approximately \$4 million annually in postage costs.

Other Costs. To the extent that H.R. 2 is successful in increasing the number of registered voters in all jurisdictions, state and local governments likely would face other costs that are not directly associated with implementing the bills provisions. For example, if more people are registered, then presumably voter turnout during elections would increase. Because election officials try to maintain a certain ratio of voters per polling place, officials might have to add new polling places, voting machines, and poll workers. However, these officials would take similar steps because of growth or migration patterns, and it would be difficult to separate the bills effect on increased turnout from other contributing factors.

Certain states with specialized election laws would encounter some secondary effects of the bill. California law, for example, requires state and local officials to mail all voters on the registration list a sample ballot and an explanation of all ballot initiative issues before each election. If enactment of H.R. 2 results in more people registered, then the cost of such special mailings will be greater. On the other hand, the bills provisions that encourage improved list-cleaning would result in more accurate voter registration lists, and election officials would save money by not having to mail voting materials to or prepare polling places for people who no longer would be on the lists. We have not estimated the total costs or savings from such effects in the various states, which would depend in part on how successful this legislation would be accomplishing its goals. California, which has some of the most extensive requirements relating to communications with registered voters, has estimated that it costs between \$4 and \$5 per registered voter to print ballots, print labels, mail sample ballots, and provide polling places. Most other states have lower costs, because they do not have all these requirements mandated by law.

Because H.R. 2 would allow individuals to sue for relief from violation of the bills provisions, state and local governments and officials are potentially liable to pay fines and court and attorney fees if they lose a lawsuit. Such costs would not result directly from the bill, but rather from court cases that CBO cannot predict.

Current law

Under current law, each state sets its own rules or guidelines for registering to vote in federal elections, and many states allow a wide range in practice among decentralized, local election jurisdictions (usually counties or cities and towns). About thirty states already have mail-in registration, and about one-half of the states have some form of motor/voter registration. States and local jurisdictions pay the costs of registering voters, and the federal government does not currently assist them with these costs.

Data collection

Because voting registration practices vary so widely, the incremental cost of implementing new procedures in the nations 18,000 election jurisdictions is difficult to determine. In preparing this estimate, CBO assumed that local jurisdictions within a state generally follow registration guidelines set out by the state (even though there are some varia-

tions). We then compared the states current guidelines with the requirements in the bill. (CBO relied on state-by-state summaries of registration practices prepared by various election information clearinghouses.)

In so doing, CBO surveyed the election officials in just over half of the states (as well as about two dozen counties of varying sizes). We collected cost information from some states that already provide one or more of the registration procedures mandated in the bill. In addition, some states provided CBO with the fiscal notes prepared for their state legislatures when they were considering one of these options. We also contacted about half of the 12 states that currently do not offer any of the bills registration methods for their assessment of the bills likely impact.

Assumptions

Based on this information about the general registration practices in each state and the steps each state would have to take under H.R. 2, CBO makes the following assumptions regarding implementation that could affect the costs to state and local governments:

In most states, motor/voter would become the primary method of registering voters. Because most people have a drivers license and are required to renew it periodically, a motor/voter system eventually would provide most people with a convenient opportunity to register, especially after a change of address.

Although completing a drivers license application at the state department of motor vehicles (DMV) would be the most common way people would apply for registration, local election officials would remain largely responsible for maintaining accurate voter lists.

The several states with constitutional provisions that would conflict with the bill, such as requiring voters to sign an oath in person in front of a registrar, would change their laws to be consistent with H.R. 2. Otherwise, those states would have to maintain separate registration rolls and conduct federal elections separate from other elections. This estimate does not include any cost for such separate elections.

Costs of registration provisions

Motor/Voter: DMV Costs. H.R. 2 would require states to include a voter registration application form as part of an application for a state drivers license. The bill language suggests that states use a consolidated form, but also allows them the flexibility of using two forms. CBO assumes that states could use two forms if they desire, because the committees report language emphatically declares the committees intent to allow this option to states. Thus, states that already have a two-form motor/voter process would not have to change, and states that would have to decide how to set up a motor/voter process could have a choice.

Based on the experience of the states that already have motor/voter, it appears that the additional cost to states of implementing motor/voter registration would result mainly from hiring additional staff to handle the extra paperwork. For example, state DMVs would need more employees at high traffic locations to continue to process applicants in the same amount of time as they currently do. For the 25 states that do not now have some form of motor/voter, the cost of such additional employees and related expenses would probably be about \$20 million annually during the first five years of implementation. Since most states require renewal of a drivers license every four years, costs would decrease in later years, because most people would have had an opportunity to register and only those who move would have to update their registration.

Motor/Voter: Election Official Costs. Once the DMV receives an application, it probably would forward a copy to the local election official to process the registration, as is current practice in the states that now have motor/voter. While CBO expects that officials in sparsely populated jurisdictions would be able to absorb small increases in the number of applications, others would face increased costs. In especially populous jurisdictions, election officials would have to hire more staff to handle the likely increase in applications and to check for duplicate registrations (although some states with motor/voter report these are less than they had originally anticipated). Counties we contacted report that the number of registration applications they handle annually amounts to about 20 percent of the number of registered voters in the county (there are about 130 million registered voters nationwide). Based on information from counties in states that currently have motor/voter, it appears that the workload could increase by 20 percent because of people registering who otherwise would not have registered, duplicate registrations, and ineligible applications.

Assuming the incremental cost for a county election office of handling an additional application is \$1.50, then local jurisdictions, in aggregate, would have to pay an additional \$5 million to \$10 million annually. Some of these costs

would only be incurred during the first few years. Once most people are on the rolls and the number of unregistered voters decreases, use of the motor/voter system would decrease as voters would only register if they have moved.

Such costs, however, would be somewhat offset by a reduction in the cost of part-time employees hired to handle the increased workload around each registration deadline. Officials in some states with motor/voter, such as Colorado and Michigan, report that receiving forms from the DMV evenly over the year rather than in a last-minute pre-election rush has allowed them to reduce their part-time hires and use their full-time staff more efficiently. Based on information from several localities that hire part-time staff during election years, we expect local officials nationwide could save about \$10 million in a presidential election year and about \$7 million in non-presidential election years by reducing part-time hires. (There would be no savings in non-election years because no part-time help is necessary.)

The total costs that election officials would face would be offset further by the postal rate subsidy authorized by H.R. 2. While the bill requires election officials to notify applicants of the outcome of their registration application, it also would provide a discount of about 43 percent for notices mailed by third class. Because most states already mail such notices to applicants, the notification requirement would not result in additional costs, but the subsidy would shift about \$2 million of postage costs currently incurred by election officials to the federal government.

Motor/Voter: Computer Costs. Rather than forwarding an application from the DMV to a county registrar, a possible alternative, untested thus far, would be to transmit the voter information electronically. The cost of adding registrants to a jurisdictions list would be lower if the voter data were transferred to computer by tape or other device rather than entered by hand. Some states have indicated that they would probably implement the motor/voter requirement by switching their record-keeping from paper to computers, and arranging for electronic transfer of data from the DMV system to the voter registration system. Some state officials have suggested that record-keeping would be improved if election officials used signature digitizers to store voters signatures on computer, but this would cost extra. Although the bill would not mandate states to computerize, in some instances states or counties might decide computerization would be the best action, even though it would require a significant one-time investment in equipment.

CBO has no information on which to base an estimate of how many counties would computerize or how many more states would create a statewide registration system. (Currently, 21 states have one.) Based on data from Election Data Services, it appears that jurisdictions already use computers to maintain lists for at least 70 percent to 80 percent of the registered voters in the country. Aside from jurisdictions that might wish to change their existing computer systems, jurisdictions could potentially purchase new equipment to computerize the remaining one-fourth of the nations voters.

We have examined the costs of existing registration and election systems and have determined that it costs less than one dollar per voter record for a computer system. Therefore, computerizing the registration lists for the 25 million to 35 million people in jurisdictions currently without computers would probably cost less than \$25 million.

Mail-In and Agency Registration. Because most voters (we assume 80 percent to 90 percent) eventually would register through the motor/voter system, mail-in and agency registration would serve as alternate means for those few remaining voters who do not have a drivers license. In those states that currently provide one or both of these methods, the number of registrations received from these sources would decrease over time as voters register instead through the DMV, and would, after the first few years, eventually generate from \$5 million to \$10 million in annual savings, which would partially offset increased costs of motor/voter. If the states that currently do not have mail-in registration were to implement it along with the other two methods, it would cost them \$1 million to \$2 million annually because they would not use mail-in registration as much as states that currently have mail-in registration do.

Almost all states report that they have some form of agency or satellite registration, which in some states means a voter has to swear an oath in front of a deputy registrar at one of several county offices. H.R. 2 envisions a somewhat expanded type of agency registration in which forms are available at a variety of locations where voters can complete and submit them (or else take them home and mail them in). Again, this would not be a major source of registering voters, and the costs are not expected to be significant in aggregate, although some additional training costs might be necessary to expand the pool of people able to assist voters in completing the forms. Only these states that currently have just a deputy registrar system would have to print extra forms to be available throughout the jurisdiction, but these costs probably would be offset by the reduced amount of work for the registrars and clerks who would not have to register as many voters in person.

Costs of voter confirmation provisions

Because voters usually do not notify election officials of address changes, the names and addresses of outdated registrants often accumulate on the rolls. Election officials revise registration lists to clean out those who have moved, died,

or are otherwise ineligible to vote in that jurisdiction. H.R. 2 would prescribe that whatever method a state uses to maintain accurate registration rolls, it should be uniform and nondiscriminatory. Further, the bill would prohibit states from removing registrants from the list simply for not voting.

Current Law. Almost all states now employ some procedure for updating lists at least once every two years, though practices may vary somewhat from county to county. About one-fifth of the states canvass all voters on the list. The rest of the states do not contract all voters, but instead target only those who did not vote in the most recent election (using not voting as an indication that an individual might have moved). Of these, only a handful of states simply drop the non-voters from the list without notice. These states could not continue this practice under H.R. 2.

Whether states canvass all those on the list or just the non-voters, most send a notice to assess whether the person has moved. In a majority of states, election officials also provide voters with a way to update or prevent removal from the registration list.

National Change of Address System. H.R. 2 suggests, but does not require, an approach election officials can use to make sure that their list clearing method is uniform and nondiscriminatory. Instead of using non-voting as an indication that a voter has changed addresses, an election official could contact only those who have actually moved, and at their new addresses. By using the National Change of Address (NCOA) system of the U.S. Postal Service, election officials could directly identify those who have moved and would send those people a forwardable notice with a pre-addressed, postage paid card that outlines the registration options available and allows people to respond to the officials. While an elections jurisdiction would have to pay a vendor licensed by the Postal Service to do a computer match of the registration list and the NCOA list (costing from \$2 to \$8 per 1,000 address matched), these costs probably would be offset by reducing the postage and printing costs that officials currently pay for less-focused canvassing. Several pilot studies of this system in California and Oregon, sometimes called Project MAIL, report that counties would save money by significantly reducing the number of notices sent out.

Postal Rate Subsidy. Whether election officials decide to use this NCOA approach or choose their current or other method for list clearing (as long as it is uniform, nondiscriminatory, and does not drop for nonvoting), their postal costs associated with this process would decrease if H.R. 2 is enacted. The bill authorizes a postal rate subsidy for mailings associated with the list cleaning requirement, thereby shifting costs from the states to the federal government. The ultimate amount of this shift would depend on the number of notices mailed. We have no data on that amount of mail election officials currently send out to update their lists. However, if most states adopt the NCOA approach, the number of changes of address, about 40 million annually, would represent the maximum possible number of matches between the registration rolls and the NCOA list. With an average third class subsidy of about 7.3 cents per piece of mail at current rates, the cost of this subsidy is unlikely to exceed \$3 million annually. In fact, it is likely to be less—probably in the vicinity of \$2 million because not everyone on the NCOA list will be on a registration list, some changes of address are temporary only, and officials will update their lists through other methods such as motor/voter. When voters move within a state and get a new drivers license, they also would be updating their voting registration, thereby reducing the number of voters that officials will have to contact to determine whether they are recorded on the rolls accurately.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10 Estimate prepared by: James Hearn, Mickey Buhl, and John Stell.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Oversight Findings of Committee on Government Operations

The Committee states, with respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, that the Committee on Government Operations did not submit findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

Inflationary Impact Statement

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the bill will have no inflationary impact on prices and costs in the operation of the national economy.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 39, UNITED STATES CODE

***** PART III MODERNIZATION AND FISCAL ADMINISTRATION

***** CHAPTER 24 APPROPRIATIONS AND ANNUAL REPORT

***** 2401. Appropriations

(a) ***

(c) There are authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the difference between the revenues the Postal Service would have received if sections 3217, 3403-3406, and 3626(a)-(h) and (j)-(k) of this title, 3626(a)-(h), 3626(j)-(k), and 3629 of this title, had not been enacted and the estimated revenues to be received on mail carried under such sections and Acts. In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall (i) include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume; and (ii) calculate the sums requested in respect of mail under former sections 4452(b) and 4452(c) of this title as though all such mail consisted of letter shaped pieces, as such pieces are defined in the then effective classification and rate schedules.

PART IV MAIL MATTER CHAPTER 36 POSTAL RATES, CLASSES, AND SERVICES

***** SUBCHAPTER II PERMANENT RATES AND CLASSES OF MAIL

3621. Authority to fix rates and classes.

3629. Reduced rates for voter registration purposes.

***** 3627. Adjusting free and reduced rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent at a free or reduced rate under section 3217, 3403-3406, or 3626 of this title, 3626, or 3629 of this title, the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

***** 3629. Reduced rates for voter registration purposes

The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.

MINORITY VIEWS ON H.R. 2

We support the goal of increasing participation in the electoral process. However, H.R. 2 is a partisan bill containing serious flaws, and almost every attempt to improve it was defeated by Committee Democrats. This bill would rewrite the election laws of virtually all states, unless they adopt same day registration or have no voter registration requirement at all. It would require the states to employ three methods of registering voters for Federal elections, and specify in considerable detail what the states would have to do implement each one. No funds are authorized to compensate for this expensive new Federal mandate on the states.

H.R. 2 seriously impedes states ability to combat fraud in order to increase voter turnout, but election results in 1992 showed an increase in voter turnout to the highest level since 1972 without the costs and risks associated with this unnecessary and partisan legislation (See, Chart 1).

Number of persons voting-
Percent of eligible voters

Year:

1972 \$7,718,554 \$5.21

1976 81,555,789 \$3.55

1980 86,515,221 \$2.56

1984 92,652,680 \$3.10

1988 91,594,693 \$0.15

1992 104,552,736 \$5.90 Source:

Federal Election Commis-
sion Data.

H.R. 2 is virtually identical to S. 250 (102nd Congress), a bill that was vetoed by President Bush as a partisan sham. During debate on S. 250 last year, several Members of the Majority asserted that the bill was substantially the same as H.R. 2190 (101st Congress). It was not, and neither is the instant bill. H.R. 2190 was a bipartisan compromise which passed the House with a significant number of Republican as well as Democrat votes. It troubles us that an endeavor which began as a cooperative effort in the 101st Congress, which actually produced a bill that was supported by many Republicans, has been supplanted by this bogus facsimile.

Unlike H.R. 2, H.R. 2190 would have required specific uniform and nondiscriminatory programs to assure that official voter registration lists are accurate. It required systematic review of residence addresses on voter registration lists by means of first class mailings or a Post Office change of address system. H.R. 2 on the other hand requires only that each state "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists . . ." by reason of death, or change in residence. Use of the Post Office change of address system is optional.

H.R. 2190 would have required states to designate a wide spectrum of voter registration locations including public libraries, public schools, clerks offices, marriage license bureaus, fishing and hunting license bureaus, revenue offices, post offices, and offices providing public assistance, unemployment compensation, and related services. H.R. 2 requires states to designate as voter registration agencies all public assistance (welfare) offices, unemployment compensation offices, and offices engaged in providing disability services. Other state or local government agencies are optional.

H.R. 2190 would have applied to every state with a voter registration requirement for elections to federal office. H.R. 2 does not apply to states in which there is no voter registration requirement, or to states in which voters may register to vote at the polling place on election day. This bill is designed to encourage fraud prone election day registration.

H.R. 2190 would have retained under state law the authority to establish special procedures to verify the registration status of an individual at the polls, and to administer voter registration laws in general. H.R. 2 requires the FEC to impose regulations on the states, and to develop a uniform mail voter registration form to be used by the states.

H.R. 2190 would have authorized a \$50,000,000 appropriation for the FEC to provide support, through chief state election officials, for programs for assuring accurate and current official voter registration lists. H.R. 2 provides a reduced rate mail subsidy for registration purposes and no funds are authorized for either the postal subsidy or the increased FEC administrative costs.

We oppose H.R. 2 in its current form because: (1) no sufficient justification has been demonstrated for imposing extensive procedural requirements and significant related costs on the states, and (2) the bill would substantially increase the risk of voter fraud.

States have used a variety of procedures to guard against fraud and maintain the integrity of the electoral process. This flexibility has allowed the states to tailor procedures to local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. This bill would prevent states from implementing procedures that are responsive to local conditions.

H.R. 2 would increase the potential for corruption and vote fraud. The bill limits the states ability to confirm independently the information contained in voter registration applications and severely restrict the states ability to remove ineligible voters from the rolls. This problem would be compounded by the inadequate penalties in current Federal criminal law for electoral crimes and other forms of public corruption. By contrast, the Chairman of the Subcommittee on Elections, Ms. Swift, lauded H.R. 2190 on the Floor of the House because it ". . . provides for the maintenance of

accurate and up-to-date registration lists. Inaccurate registration lists are the bane of every election official, can lead to fraud and are extremely costly to the states, political parties, candidates and others who depend on them for effective voter contact."

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Statement of Mr. Swift, Chairman of the Subcommittee on Elections, Congressional Record, February 6, 1990, p. H 255.

Of special concern is the possibility that illegal aliens seeking to apply for a drivers license may complete the entire form, including the citizenship attestation and not check the "decline to register" box so as not to draw attention to themselves. These illegal aliens will end up on the voter rolls.

By mandating compliance with the provisions of this bill, the Congress would be imposing enormous costs on states, many of which are already facing financial crises. During the Subcommittee on Elections hearing on this bill, the costs imposed on California alone were estimated at over \$26 million per year. The estimate nationwide was between \$200 million and \$250 million per year.

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Testimony of Tony Bernhard, Yolo County Clerk and Co-Chair of the California County Clerks Election Legislation Committee, before the Subcommittee on Elections, January 26, 1993.

The 1991 Congressional Budget Office analysis of S. 250, virtually identical to H.R. 2, estimated annual costs of \$20-25 million to state and local governments for the first five years. But this estimate excluded any costs of computerization that could well be required by the bill. It also excluded any cost due to an increase in the number of voters on the rolls, whether or not those voters are current residents of the voting precincts in which they are registered. Further, it excluded any costs to agencies for their new responsibilities for assistance to those seeking their other services. The real costs of this bill are not yet determined, but they are substantially higher than the \$20-25 million cited by CBO.

During the Committee on House Administrations mark-up of H.R. 2, the Minority Members of the Committee offered various amendments, which were rejected by members of the Majority. These amendments would have improved the bill by:

(1) Replacing the Agency Registration section of the bill that emphasizes welfare agencies with the broad based agency provisions of H.R. 2190, or in the alternative, striking that section altogether;

(2) Restoring the mandatory voter address correction provisions of H.R. 2190 in place of the vague section in this bill;

(3) Striking the section that requires the states to provide voter registration by mail;

(4) Striking the provision that exempts states from complying with the Act if the states allow all voters to register at the polling place at the time of voting;

(5) Striking the provision of the bill that requires voter registration agencies to provide the same degree of assistance to voter registration applicants that they provide to the applicants for their own services;

(6) Changing the procedure for registering to vote while applying for motor vehicle drivers license to require an affirmative action in order to register;

(7) Allowing the states to remove the name of a person from the official list of registered voters if the person has not voted for at least 4, 10, or even 100 years;

(8) Providing that mandates in the bill that are subject to pre-clearance for the nine southern states as required by the Voting Rights Act of 1965 be applied to all 50 states, or in the alternative eliminating the pre-clearance requirements of the Voting Rights Act for any new mandates required by the bill;

(9) Making all provisions of the bill voluntary for states until funds are appropriated to pay for the additional costs imposed by the bill;

(10) Preserving state fraud provisions that are stronger than the federal provisions of the bill;

(11) Requiring that only U.S. citizens can be registered under the bill; and

(12) Clarifying that the mandatory designation as voter registration agencies all offices engaged in providing services to persons with disabilities applied to those offices serving physically disabled persons.

In fact, the only amendment Republican Members of the Committee were able to secure involved extending the requirement that mail voter registration forms include a statement that specifies each eligibility requirement (including citizenship), contain an attestation that the applicant meets each such requirement, and require the signature of the applicant under penalty of perjury, to forms distributed by any agency that provides services or assistance in addition to voter registration.

H.R. 2 as recommended by the Committee on House Administration amounts to a partisan exercise which increases the potential for fraud and imposes expensive and unfunded mandates on the states. In considering this resolution, the House must measure the attempt to compel voter registration against the countervailing concerns of accuracy and integrity of the election process. Increased voter participation is a goal shared by all Members of the Committee. However, we fear that passage of the bill as written will substantially impair the ability of the states to maintain the accurate and verifiable voter registration lists needed to administer valid elections, and impose upon them untold costs which many are currently unable to accommodate.

Bill Thomas.

Newt Gingrich.

Pat Roberts.

Bob Livingston.

Bill Barrett.

John Boehner.

SUBJECT: VOTERS & VOTING (92%); ELECTION LAW (90%); LEGISLATION (90%); ELECTIONS (90%); CAMPAIGNS & ELECTIONS (79%); LICENSES & PERMITS (79%); VETO (59%); PRESIDENTIAL ELECTIONS (59%); REGIONAL & LOCAL GOVERNMENTS (59%); CIVIL RIGHTS (59%); ELECTION AUTHORITIES (59%);

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