

EXHIBIT D

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ESTABLISHING NATIONAL VOTER REGISTRATION PROCEDURES FOR FEDERAL ELECTIONS, AND FOR OTHER PURPOSES

DATE: February 25, 1993. Ordered to be printed

SPONSOR: Mr. Ford, from the Committee on Rules and Administration, submitted the following

REPORT together with MINORITY AND ADDITIONAL VIEWS
(To accompany S. 460)

TEXT:

The Committee on Rules and Administration, having considered S. 460, an original bill to establish national voter registration procedures for Federal elections, and for other purposes, reports favorably thereon and recommends that the bill do pass.

Purposes

The purposes of the bill are to establish procedures which will increase registration of eligible citizens in elections for Federal office; to make it possible for Federal, State, and local governments to implement the Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office; to protect the integrity of the political process; and to assure an accurate and current voter registration roll.

To increase registration of eligible citizens, this bill would require States that require registration to vote in elections for Federal office, to permit voter registration by the following means, in addition to any other method provided by State law: (a) by application simultaneous with an application for a motor vehicle drivers license so-called "motor-voter" registration; (b) by use of a uniform mail application; and (c) by application in person at an agency designated to process registration applications in each State.

The bill would provide procedures and standards regarding the maintenance and confirmation of voter rolls to assure that voters names are maintained on the rolls so long as they remain eligible to vote in their current jurisdiction and to assure that voters are not required to re-register except upon a change of voting address to one outside their current registration jurisdiction. The bill would not require a specific mandatory procedure for verifying or confirming voter rolls, but would establish standards for any such procedure a State might employ.

Background

The declining numbers of voters who participate in Federal elections (only about half of the voting age population went to the polls in the 1988 Presidential election) spurred the Committees search for possible remedies to this situation. It was noted that the national voter turnout in the 1990 Congressional elections was only 36 percent. Members were encouraged by the fact that the 1992 Presidential election turnout increased 4 percentage points over the 1988 election. Nevertheless, there are almost 70 million eligible citizens who did not participate in the election because they were not registered to vote. The Members are aware that there are multiple and complex factors that contribute to the decline in voter participation in Federal elections. While most contributing factors may not be affected by legislation, one difficulties encountered by some who desire to register to vote is susceptible to correction by legislation.

The Committee found that:

(1) The right of citizens of the United States to vote is a fundamental right;

(2) It is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(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 racial minorities.

While there may be no conclusive proof that an increase in the voter rolls will automatically or necessarily result in an increase in voter turnout, it is indisputable that it will increase the number of persons eligible to vote. There are also significant indications that most of those who are eligible to vote, do so. The most common excuse given by individuals for not voting is that they are not registered. The Congressional Research Service has indicated that only approximately 61 percent of those eligible to vote are registered, so that even with an enthusiastic electorate the participation rate by eligible voters would be unimpressive. It has been found, however, that over three-quarters of those who do register, do actually vote, at least in Presidential elections. The Bureau of the Census puts the figure for voter turnout of registered voters in Presidential elections at between 85 percent and 90 percent.

Several witnesses at the Committees hearings in the 102nd Congress testified that registration procedures in the United States are not uniform and that discriminatory and restrictive practices that deter potential voters are employed by some States. Throughout the history of this country there have been attempts to keep certain groups of citizens from registering to vote which groups specifically depending on the decade and the locale. Among the techniques developed in the various localities to inhibit or exclude potential voters were annual registration, selective purging of the voter rolls, literacy tests and poll taxes. The Voting Rights Act of 1965 made most of these restrictive practices illegal, yet discriminatory and unfair practices still exist and deprive some citizens of their right to vote. This legislation will provide uniform national voter registration procedures for Federal elections and thereby further the procedural reform intended by the Voting Rights Act.

Some restrictive practices in the voting process arise from the attempts of States to respond to the legitimate administrative concerns of election officials, such as the detection and prevention of fraud, the maintenance of accurate and up-to-date voter rolls, and the removal of the names of ineligible persons from the rolls. These tasks are made particularly difficult by the mobility of our population.

In fashioning this bill, the Committee has been concerned with the impact of a regulation or practice on the exercise of the right to vote and not with the question of whether its impact was intentional or inadvertent. It must be remembered that the purpose of our election process is not to test the fortitude and determination of the voter, but to discern the will of the majority. Every effort has been made to produce a bill that balances the legitimate administrative concerns of the election administrators and the objectives of this legislation.

The Committee was also aware that some have questioned the Congress constitutional authority to enact a measure on voter registration. This Act seeks to remove the barriers to voter registration and participation under Congress power to enforce the equal protection guarantees of the 14th Amendment to the Constitution. Nevertheless, these critics argue that traditionally, it has been the role of the States to regulate the manner in which elections are conducted. Contrary to this view, the States do not have exclusive authority over elections. Article I, Section 4, clause 1 of the United States Constitution states:

The Times, Places and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

In *United States v. Classic*, 313 U.S. 299 (1941), the Supreme Court clearly held that the right of the people to choose representatives in Congress is "a right established and guaranteed by the Constitution." *Id.* at 314. It is a right derived from the States, only in the sense that the Constitution authorizes States to legislate on the subject under Article I, Section 2. The Court said, however, that this power of the States only exists to the extent that Congress has not restricted State action by exercising its authority to regulate elections. *Id.* at 315. Moreover, in *Oregon v. Mitchell*, 400 U.S. 112 (1970), the Court supported the constitutional authority of Congress to enact election laws regulating Federal elections. In this case, the Court upheld the constitutionality of a Federal statute barring a State from denying the right to vote in any election because of a literacy test and of a Federal statute banning durational residency requirements. Justice Stewart wrote: "These cases and others establish that Congress brings to the protection and facilitation of the exer-

cise of privileges of United States citizenship all of its powers under the Necessary and Proper Clause." *Id.* at 286. Justice Stewart concluded that the Constitution permits Congress to enact statutes protecting the fundamental right to vote.

Congress has the power to regulate Federal elections, including the establishment of national voter registration procedures for Presidential and congressional elections. Congress power has been clearly established under the Times, Places and Manner Clause and the Necessary and Proper Clause of the Constitution. These provisions, as interpreted by the Supreme court, belie assertions by those who argue that the States have exclusive authority to regulate the manner in which Federal elections are conducted.

Committee Action

On January 21, 1993, Senator Ford and Senator Hatfield introduced S. 2, the National Voter Registration Act of 1993. S. 2 was referred to the Committee on Rules and Administration. On February 17, 1993, H.R. 2, the companion bill in the House of Representatives, was received in the Senate and referred to the Committee. H.R. 2 passed the House of Representatives on February 4, 1993.

The substance of both S. 2 and H.R. 2 is based on S. 250, which passed both houses of Congress in the 102nd Congress and which was subsequently vetoed. In the 102nd Congress, the Committee held hearings on the measure and heard from several witnesses representing State and local governments, civic and civil rights organizations, and the U.S. Postal Service. Because the text of both S. 2 and H.R. 2 were identical to a similar measure on which there was substantial Committee hearing record, the Committee proceeded to consider this legislation without further hearings. Consequently, references to testimony in this report correspond to the Committees hearings from the 102nd Congress.

On February 18, 1993, the Committee considered these bills at a mark-up session of pending legislation. During the consideration of these measures, the Chairman noted that both S. 2 and H.R. 2 presented procedural considerations relating to possible point of order. After consideration of the measures and the procedural circumstances, the Chairman proposed for himself and for Senator Hatfield, that the Committee report an original bill.

After a brief discussion, the roll was called on the motion to approve and report the original bill. That motion was passed by a record vote of 7-5 and the bill was ordered reported favorably by the Committee. Senator Stevens requested that the report include minority views.

National Voter Registration Procedures for Elections for Federal Office

i. "motor-voter" registration

Two points made in testimony before the Committee are central to the Committees consideration of this legislation, and to the "motor-voter" provisions in particular. First, voter turnout of registered voters in Presidential elections since 1968 has been quite high. Census Bureau figures indicate a range from a high of 91.2 percent in 1968 to a low of 86.2 percent in 1988. While figures from election officials put the totals somewhat lower (from a high in 1968 of 82.5 percent to a low in 1988 of 70.6 percent) they are not adjusted for ineligible and duplicate names on the registration rolls. In any case it is clear that more than three quarters of those who are registered to vote do vote, at least in Presidential elections. And in all but a few States, a person must be registered before election day in order to vote.

Second, between 85 percent and 90 percent of people of voting age nationwide have drivers licenses or identification cards issued by State motor vehicle offices. A voter registration system tied to the application for or the renewal of a motor vehicle drivers license would be an ideal way to register most people of voting age throughout the country.

The drivers license procedure appears to be ideally suited to the purpose of registering voters. A procedure for licensing motor vehicle drivers is in place in every State. The States have developed exacting procedures to assure proper and correct identification of all licensees and to assure that a person has but a single license. Driver license applications require most of the information needed to determine the eligibility of a voting registration applicant, and include the additional protection of a photograph. This provision for simultaneous motor-voter applications permits the voter registrars to piggy-back on the identification techniques developed to assure accuracy in the licensing process.

Washington Secretary of State Ralph Munro, one of the first proponents of the motor voter concept, observed during his testimony before the Committee that incorporating voter registration into the drivers licensing process provides a secure and convenient method for registering voters; an effective means of reaching groups of individuals generally considered hard-to-reach for voting purposes, such as the youngest voting age population who generally have drivers licenses; and a procedure for keeping rolls current through contact with licensees who change addresses, both within a State and from one State to another, and are required to report such changes to the motor vehicles department.

Also, most States already have moved into centralized record keeping, with their drivers license application as the key document. This provision of the bill affords the States the opportunity to build on that process and to include the registration of voters. Although the bill does provide a procedure for registration that is ideally suited for automation in conjunction with the drivers license records, it does, however, permit each State some discretion as to how to administer this process and how to integrate it with its drivers license process. That discretion would range from a fully integrated, automated process, a single application form for use by both agencies requiring minimal duplication of information, or separate application forms to be completed as part of a single, simultaneous application process at the drivers license agency.

While the bill permits some discretion to States as to how the two systems may be related, ideally the system should be so designed as to include the voter registration application as a simultaneous, automatic part of the overall process with the duplication of information requested and forms to be completed held to an absolute minimum. The system now in place in the District of Columbia accomplishes this goal by use of a single application format in which information entered on that portion of the form dealing with licensing information prints through to the voting registration form so that only a few questions pertaining to voting eligibility and the persons signature remain to be inserted after completion of the license portion.

It would not be sufficient under the terms of this legislation for a State motor vehicles office merely to make a voter registration application available upon request to a license applicant or to simply put some forms on a table in the agency. Likewise, it would not be sufficient to provide a voter registration application separate from the license application. Although this bill permits separate forms, it stresses that there must be a single application process and that requires the simultaneous delivery of the entire application, consisting of both forms, to an applicant. After receipt of the entire application, the applicant may choose not to register to vote by so indicating in writing and by not completing the voter registration portion of the application. Where a single combined form is used, an applicants failure to sign the portion of the form containing the oath or attestation of eligibility to vote, shall be interpreted as an applicants decision to decline the opportunity to vote.

To assure that the voter registration process is incorporated into the licensing application process so as to make it simultaneous and as automatic as possible, it is the Committees intent that all applicants for motor vehicle drivers licenses or renewal thereof receive an application that includes both forms, and that all applicants complete the voter registration application form as part of the application procedure, unless they decline in writing to register to vote. For each license application processed by the motor vehicle registry, that office should receive either a completed voter registration application form to forward to the voting registrar or a written declination to register. Other than the requirement that it be in writing, the bill does not specify any particular form for this declination. So long as it produces a written record of the declination, any format would be sufficient, such as a check-off box on the license application form or a separate form signed by the applicant.

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 will be sufficient for purposes of the requirement of a written declination if the signature of the applicant on the final document produced during the transaction incorporates by reference all questions which are asked of the applicant, including any declination question.

The Committee is aware that some concern has been expressed that this provision of the bill transfers voting registration authority from State voting registrars to State drivers licensing officers. That is not the intent of this bill and a close reading of its provisions should make that very clear. Under this bill, the role of the motor vehicle registrar is to provide forms to applicants and receive completed voter applications for transmittal to the appropriate State voting registration official. It is that official who determines whether or not to accept the application and place the name on the voting roll for the appropriate voting jurisdiction. The bill requires that the appropriate voting registration official notify each applicant of the disposition of his or her application. Nowhere does the bill suggest that that determination be made by anyone other than the appropriate voting registrar under State law. Also this bill does not give any authority to the motor vehicle agency with regard to the design of the voting registration application form. Although some cooperation would be required to integrate the two application forms to be processed by the motor vehicles agency, the bill leaves it to State law as to the officer who is responsible for the design, layout and contents of the voting registration application form, subject to the requirements of this bill.

Twenty-seven States and the District of Columbia now have a system of registration through the States Department of Motor Vehicles. In some States, the voter registration process is done on the same form as the application for a driv-

ers license. In other States, employees of the motor vehicle bureau are deputized to register voters. And in some states, the Department of Motor Vehicles will accept the mail registration application and forward the form on to the appropriate election official. Many of the motor-voter programs are part of a larger State agency-based system whereby voter registration applications are available at a State agency, and the agency will accept the completed forms and forward them to the appropriate election official. The type and degree of assistance given or required to complete and process the forms does vary.

States in which the Department of Motor Vehicles accepts applications for voter registration (either directly or through deputy registrars employed by the DMV office) and a brief description of their programs are as follows:

Alaska. Although the program was not formalized until 1989, informally Alaskas Department of Motor Vehicles (DMV) has been accepting voter registration applications since 1983. A separate voter registration form is available at the States DMV offices and must be filled out in front of and witnessed by DMV personnel. DMV will then forward the form to the State Election Office.

Arizona. The motor-voter program was established in 1982. A separate form is available in each DMV office and is accepted by a deputy registrar associated with the DMV office.

Colorado. The motor-voter program was first established in 1984. The single application form for both voter registration and drivers license was developed by April 1985.

Idaho. Legislation has recently been passed that as of July 1, 1991, DMV offices in buildings not adjacent to county clerks offices will accept voter registration applications and forward them to the appropriate county clerk. This affects approximately 6 counties in the State.

Illinois. As of September 1990, at least one employee in each DMV office is designated to become a deputy voter registrar. As such, the employee can register voters and witness applications within the DMV offices. However, it is a separate application process.

Iowa. The motor-voter program was established in 1987. At that time, voters were allowed to register through the States DMV using a separate form for voter registration. As of 1989, Iowa has developed a single unified form for both registering to vote and applying for a drivers license.

Louisiana. In 1989, the State legislature authorized a pilot project that would allow employees of the States DMV office to volunteer to become deputy registrars and register persons to vote from within the DMV offices. However, few persons have volunteered for the program. In January 1991, the pilot project became law.

Maine. As of April 1990, Maines DMV will accept applications for voter registration and forward them to the Secretary of States office for further distribution. DMV employees are encouraged to ask all applicants for drivers licenses if they are registered to vote and direct them to the deputy registrar in the DMV if they wish to register. The program also covers drivers license renewals and changes of address.

Michigan. The motor-voter program was established in 1975. Voter registration requires completion of a separate form. DMV employees are trained to assist in voter registration and accept changes of address for purposes of voter registration.

Minnesota. The motor-voter program was established in 1987. While a separate form is required for voter registration, that form and the drivers license application are joined together. DMV personnel need only separate the two forms at a perforated line before sending the voter registration form to the appropriate voter registrar.

Montana. As of October 1, 1991, the States DMV office began accepting voter registration applications and forwarding them to the appropriate election officials. In the future, a single combined drivers license/voter registration application form is planned.

Nevada. The motor-voter program was established in 1987. Persons desiring to register to vote must complete a separate form from that required to apply for a drivers license. DMV personnel will accept the voter registration application and forward it to the appropriate county registrar.

New Jersey. Motor-voter was established in 1989 by executive order. Employees of the States DMV offices and other State agencies accept and forward on voter registration applications to the appropriate election officials. In 1991, legislation passed to implement parts of the executive order. Employees of the Department of Motor Vehicles and of Human Services of the New Jersey Transit Corporation, and the Office of Disabilities, are required under the legislation

to accept and forward applications for voter registration to appropriate election officials. In addition, other State agencies, originally covered by the executive order, are still required because of that executive order, to process voter registration applications.

New Mexico. As of June 1991, the States DMV offices will have at least one deputy registrar available to register persons to voter when they come in to apply for a drivers license. The program covers new drivers license applicants as well as renewals and changes of address.

North Carolina. The motor-voter program was established in 1983. Persons desiring to register to vote must complete a separate form. DMV personnel will accept the voter registration application and forward it to the State Board of Elections, which will then forward it to the appropriate county registrar.

Ohio. The motor-voter program was established in 1977, but not implemented until 1982 when a statewide voter registration form was authorized and developed. Persons desiring to register to vote must complete a separate form. DMV personnel will accept the voter registration application and forward it to the appropriate county registrar.

Oregon. In 1989, the State legislature enacted motor-voter provisions into law, conditional on the passage of Federal legislation. However, in 1991, it was decided to proceed and implement a motor-voter registration system. Persons who are applying for a drivers license are asked if they are registered to vote and if they wish to be registered to vote. If they respond "yes", a combined form is printed, part for the DMV application and part for the voter registration application. The forms are accepted by the DMV and picked up by the appropriate election officials at regular intervals.

Rhode Island. In January 1990, the legislature established a pilot project in the DMV to have a table occupied by a deputy registrar to register persons to vote. In 1991, this program was made permanent in the DMV where certain employees of the DMV were made deputy registrars. In 1992, the program was extended to several other State agencies. In all cases, selected employees of the agency are trained as deputy voter registrars, a separate voter registration form is used by the agency and the deputy registrar takes a sworn statement relating to the veracity of the information provided on the form.

Texas. In 1991, the State legislature passed a bill to implement a motor-voter registration program. The program automatically produces two forms if persons applying for a drivers license wish to be registered to vote. Both forms will be signed and the DMV will forward the voter registration forms to the appropriate election official.

Vermont. The motor-voter program was established in 1986. Persons desiring to register to vote must complete a separate form from the required to apply for a drivers license. DMV personnel will then administer an oath to the registrant, accept the voter registration application and forward it to the appropriate county registrar.

Washington. In January 1992, motor-voter registration became official in the State. DMV employees will accept voter registration applications.

West Virginia. As of July 1, 1991, employees of the States DMV office will ask all applicants and persons renewing their drivers licenses if they would like to register to vote. If the person wishes to register, they will be sent to the DMVs deputy voter registrar who will accept the voter registration application and administer the oath.

District of Columbia. The motor-voter program was established in 1989. A single combined form is used to both register voters and apply for a drivers license. The section of the form containing information required for both processes has a carbon attached; that part of the form containing only information required by the Department of Elections has no carbon. A license applicant who wishes to register to vote must complete and sign both application sections of the form.

It has been reported that in the first month of operation of the motor-voter registration program in the District of Columbia, voter registrations were four times the usual monthly rate and that increase was achieved with one-half of the license applicants declining to register to vote. According to Emmett H. Fremaux, Executive Director of the D.C. Board of Elections and Ethics, who administers the program, during the first 20 months the program has been in operation, 32,000 persons have been registered to vote through the motor-voter program. That program accounted for 45 percent of all voter registrations during that period. Mr. Fremaux concluded, based on the experience in the District of Columbia, that "motor voter is so immediately and dramatically productive in putting new registrants on the roll that implementing this program nationally will produce a quantum leap in the level of voter registration in this country in a surprisingly short period of time. * * * (I)t would mean adding more than 20 million persons to the national voter rolls from one presidential election to the next."

In addition to the States that accept or plan to accept voter registration applications and forward them to the appropriate election officials, a number of the States with mail registration make the forms available within the offices of public agencies, including the DMV office, and some (New York and Pennsylvania) specifically direct the persons visiting the office to where the forms are located. However, citizens still have to fill the forms out and mail them in themselves.

Although not the direct purpose of this bill, a side effect of its motor-voter and agency provisions will likely be to even out the work of voter registration offices throughout the year. Pre-election rushes of registrations caused by registration drives associated with an upcoming election will be minimized. The continuous flow of drivers license applications throughout the year will result in a similar pattern of activity in the voting registration offices. Also, the voter rolls will be updated continuously throughout the year from renewals of licenses, notices of change of address and new applications by persons who move into the State and are required to obtain a State license within a prescribed period of time. All of these activities by the motor vehicle agency to comply with motor vehicle drivers license requirements and assure accurate and current information on drivers licenses and identification cards will result in the transfer of information to the voting registrar to help keep the voting rolls current and correct, as well.

Some concern has been expressed concerning the issue of fraud in the application process as a result of it being tied to the drivers license application process. This concern centers on the possibility of the registration of license applicants who are under age or not citizens since the requirements for a drivers license are not the same as for voting registration. Two things should be noted in this regard. First, most drivers license agencies require proof of the applicants date of birth in order to apply for a license. Therefore, although the age requirements may differ, that information will be readily available to the clerk processing the application. Second, the bill requires that the application include a statement as to voting eligibility requirements, including age and citizenship, which must be attested to by the applicant upon signing the application. Thus, the processing of voting registration applications at the motor vehicles agency would lessen the likelihood of such fraud and certainly would not make it greater than it is now. As noted during the Committees hearings in the 102nd Congress by Ralph Munro, Secretary of State of Washington, if the same scrutiny of drivers license applications is applied to voting registrations, the likelihood of registering ineligible people is severely diminished.

In addition to these safeguards, the bill provides for Federal criminal penalties for knowing and willful offenses, including the submission of voter registration applications containing materially false information. This is a broader provision than current law. Under the "false information" provision of the Voting Rights Act, the false information must relate to one of three items that are listed in the statute; that is, the name, address, and/or period of residence in the voting district. Under the provisions of this bill, prosecution for false information would be expanded beyond these three items.

With regard to the registration of noncitizens, current law at 18 U.S.C. 911 prohibits the knowing and false assertion of United States citizenship by an alien. Under the provisions of this bill, every application for voter registration must include a statement that sets forth all the requirements for eligibility, including citizenship, and requires that the applicant sign an attestation clause, under penalty of perjury, that the applicant meets those requirements. Together with the criminal penalties section of the bill, the Committee is confident that this Act provides sufficient safeguards to prevent noncitizens from registering to vote.

ii. uniform mail registration

The second approach of the bill is the development of uniform mail registration. Under the provisions of the bill, the Federal Election Commission, in conjunction with the chief election officials of the 50 States, will develop a universal mail registration form. The form may only require such identifying information (including the signature of the applicant) as is necessary for election officials to determine the eligibility of the applicant. The form must 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. The form may not include any requirement for notarization or other formal means of authentication, i.e. a witness requirement.

The bill provides flexibility by permitting States to develop and use their own mail registration form, as long as it meets the requirements of the Act. A registrant is permitted to use either the Federal form or the appropriate State form and the States would be required to accept either form.

Texas was one of the first States to institute a system of registration by mail the person desiring to register mailed a card containing all pertinent information to a voter registrar. Now, twenty-seven States and the District of Columbia have some form of mail registration program. Mail registration is an effective means for increasing the voter rolls be-

cause it relieves the voter of the need to appear in person at one central registration office during prescribed hours and it permits organizations to go to the voter with organized registration drives. Mail registration is convenient for the voter, for registration drive organizers and for voter registrars as well.⁸

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The procedure adopted by Texas was limited to military personnel. The first State to adopt such a procedure universally and as a principal method of registering voters was Alaska.

Some have expressed concern that mail registration would increase the potential for fraud. This concern was expressed by the Department of Justice in a letter to the Chairman of the Committee, in the 102nd Congress. The letter states, in part, "because some of the registration techniques mandated by the bill are fraught with the potential for fraud if adequate verification methods are not used in light of local conditions, * * * the bill would present a serious potential for increased voting fraud and electoral corruption." In an accompanying memorandum, the Justice Department states that "(r)egistration by mail is much more susceptible to misuse because a would-be registrant never has to appear in person before a registrar for verification of identity and eligibility."⁸

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During the Committees consideration of similar legislation in the 102nd Congress, the Committee received a letter dated April 17, 1991 to the Chairman and signed by W. Lee Rawls, Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice. Throughout this report, there are a number of references to this letter and the Committees response. Because this letter serves as the basis for much of the arguments made by opponents to this legislation, the Committee was inclined to include references of the letter in this report, as well as the Committees response. However, it should be noted, that the views expressed in the April 17, 1991 letter may not accurately reflect the views of the current Department of Justice.

A study by the Congressional Research Service of States having mail registration procedures in 1984, found that "voter registration officials in all eighteen States for which data are available reported they have had little or no fraud with post care registration. Several said they have had no more fraud with post card registration than with in-person registration." In fact, Governor Barbara Roberts of Oregon testified that her State instituted mail registration in 1975, and that despite the fact that Oregon does not have a notarization or witness requirement, Oregon has not experienced any cases of fraud or fraudulent voting with mail registration. Governor Roberts stated that there was "Literally no abuse of the system."

The Governor stated that when Oregon adopted mail registration, opponents raised the issue of fraud. As a result, the mail registration form includes detailed information to the registrant in red lettering that abuse of the registration process is punishable by a substantial fine and prison sentence. Moreover, despite Oregons large migrant worker population, there has not been any indication of non-citizens registering in the State.

In addition to Oregon, it is significant to note that the States with a mail registration procedure include the most populous ones of California, New York, Texas, Ohio, New Jersey and Pennsylvania. Less than half of those States that have mail registration require a witness to thee applicants signature and, of the more populous States, only New Jersey requires a witness. The most commonly used methods of confirming information on mail registration applications are a non-forwardable or forwardable mailing to the applicant after receipt of the application, and warnings of penalties for fraud on the application form. This bill requires a notice to each applicant as to the disposition of his or her application. Thus, it permits a State to use either a forwardable or non-forwardable mailing to confirm a registration. With regard to this notice requirement, States should be aware that such a notice should be drafted with regard to the purge provisions of this bill.

To address these concerns regarding fraud, the bill includes a provision which would permit the States to require by law that a first time voter who registered to vote by mail, and was not previously registered in that jurisdiction, make a personal appearance to vote. This section of the bill again demonstrates the concern of the Committee that each State should develop mechanisms to ensure the integrity of the voting rolls. States may determine, based on their own circumstances, that a personal appearance for mail registrants is necessary to ensure the integrity of the voting rolls. Other

States, based on their own experiences may determine that such a requirement is not necessary. Oregon is one such State which has mail registration and does not require a personal appearance to vote.

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The bill provides certain exemptions from the personal appearance to vote, including those who are entitled to vote through other means as provided by the Uniformed and Overseas Citizens Absentee Voting Act, or those who are provided a right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act; or as provided by any other Federal law.

In addition, this bill requires that mail applications include a statement of voting qualifications and an attestation, which must be signed by the applicant under penalty of perjury, that the applicant meets all those requirements. All applicants must be informed of the penalties provided by law for submission of a false voter registration application and in the case of mail applications such notice would be on the form itself.

Mail registration provides a convenient method for reaching out to eligible voters. But while it makes registration convenient, the bill also provides that there will be sufficient safeguards to prevent an abuse of the system with fraudulent registrations.

iii. agency registration

Agency-based voter registration provides a useful supplement to motor-voter registration systems, enables more low income and minority citizens to become registered, and is cost effective. Under the provisions of the bill, States will be required to designate agencies to serve as voter registration offices. The program of registering voters at various agency locations mirrors the registration program of the "motor-voter" provisions of the bill, but does not require the same integration of the voter registration application form with the agency forms. The agency-based registration program is designed to reach out to those sectors of the population which are not likely to have drivers licenses or other identification cards issued by a motor vehicle agency.

The agency-based program of the Act is a two tiered program. In the first tier, the States are required to designate all offices in the State which provide public assistance, unemployment compensation and related services, and all offices which provide State-funded programs primarily engaged in providing services to persons with disabilities. Such programs would include vocational rehabilitation but would also include other programs which provide assistance or services to physically challenged persons. The second tier of the agency-based registration program compliments the first and although each State must have such a program, a State is given discretion in determining which agencies will be included, as well as at which agencies local offices registration will be made available. This second tier may be comprised of Federal, State, local government offices or private sector agencies in the State. Such offices and agencies may include public libraries, schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and any office that provides services to persons with disabilities which are not included in the mandatory agency-based program. Within this second tier, a State has discretion to designate some or all of these offices, whichever is in the judgment of the State will serve the purposes of ensuring wide-spread voter registration opportunities.

Many persons will visit a public office or facility a public assistance office, an unemployment office, a tax office, a library in the course of a year. Agency-based voter registration provides a method whereby citizens may easily register to vote and fulfill the requirement that government should do all it can to make registration widely and easily available. Agency-based voter registration means that registration services forms and assistance in completing such forms will be available routinely and year round in many government and private sector offices.

As noted during the Committees hearings last Congress, one of the advantages of the agency-based program is that it is an interactive registration. That is, there are individuals to assist registrants in completing the information on the registration application. Birgit Seifert of the Mexican American Legal Defense Fund noted that "mail registration is important, but perhaps more important are the agency registration procedures because (it is) . . . an interactive form of registration. If you have a stack of mail registration cards available, that does not necessarily mean that people are going to pick them up and send them in."

While mail registration procedures make registration convenient, in communities where resources are limited, it has been demonstrated to be ineffective in registering those who have historically been left out of the registration process. Thus, in some instances, mail registration is inferior to agency-based registration. As Ms. Seifert noted in her testimony:

If you couple placing the burden on community leaders to register people, and then you have the State affirmatively purging people, you have got them putting all their resources into getting something that is not getting them very far. They are having to marshal all their resources just to maintain the status quo . . . (I)n a country which prides itself on a representative form of government, it is crucial that the government task affirmative steps to register its citizenry and that the burden not fall on communities, especially communities . . . which lack resources.

The experience in many States with registration at schools, at libraries, or in motor vehicle offices provided the precedents for agency voter registration programs. Five States (Alaska, Iowa, Minnesota, New Jersey, and Ohio) have, either through executive order or law, established some form of public agency voter registration system other than motor-voter registration procedures, often as an adjunct to other voter registration procedures. In addition, nine States either make voter registration forms available within offices of State agencies or have added language to agency application forms asking if the applicant would like to register to vote. In these States, an applicant is given a mail voter registration form or is directed to the appropriate office for registration.

An agency registration program may also include private offices and locations throughout a State. An agency program that includes private places at which persons may register to vote may be organized through cooperative arrangements and agreements between the sponsoring agency and appropriate local or State election officials. A comprehensive agency-based program should include private locations and offices, as well as public agencies, in order to make registration available on as broad a basis as possible in a State and to make registration readily available in areas that experience low registration.

To make the agency-based program as comprehensive as possible, the bill requires all entities and agencies of the Federal government to cooperate as much as practicable with the States in carrying out this program by participating as designated voter registration agencies. No specific Federal agencies are designated in this bill to participate; rather, it is left to the States to negotiate such arrangements with appropriate Federal agencies.

A Department of Transportation study noted that almost 50 percent of those persons who do not have a drivers license have annual incomes of less than \$10,000. As a result, motor-voter registration programs may not adequately reach low income citizens and minorities. Active public and private agency-based voter registration programs available through such public agencies as State public assistance offices, State unemployment offices, or programs primarily engaged in providing services to person with disabilities, as well as at private offices and locations in areas of low registration, are more likely to reach these eligible citizens, who are likely to have contact with a number of these agencies. Currently, most registration systems make it difficult for the low income citizen to qualify to participate in our nations elections. Agency voter registration programs provide an institutional solution to the problem of unequal access to the voting booth.

Agency-based registration on a year-round basis may also indirectly minimize the necessity for periodic, large scale purges of voter registration lists by election registrars. With an effective agency-based registration system, voters would have the opportunity not only to register, but also to update their registrations each time they sought services at the government agency. Persons who receive social services welfare, unemployment checks must keep their addresses up-to-date in order to receive the benefit. Similarly, public housing recipients must keep their address information up-to-date. Like the motor-voter program, any application for renewal, recertification, or change of address would serve as an update for that persons registration to vote unless the applicant declines in writing.

The bill has a broad scope with regard to agency-based registration for persons with disabilities. As noted by a number of organizations representing the disabled community, particularly Disabled AND Able to Vote, there is no one agency which provides services to all, or even a large percentage of the disabled population. Vocational rehabilitation services, for example, reach no more than one disabled person out of 15 at any one time during their entire life. Independent living centers are overwhelmingly located in large cities and do not serve those persons with disabilities who live in suburbs, small towns, or rural areas. Thirty-seven percent of all persons with disabilities acquire the disability after the age of 55. As a result, employment, education and training programs rarely provide services to these individuals. In order to access this isolated population, it is essential that as many locations as possible which provide services to disabled Americans offer voter registration services: by making forms available, providing assistance with filling out the forms, and collecting and forwarding the registration forms to the appropriate election official.

Because many of these services may be offered by home visitations, the bill includes a provision which requires that any agency which provides services to persons with disabilities at the persons home must provide the same degree of assistance for voter registration in the home as an agency provides in the office.

Concerns have also been expressed that the agency-based registration programs risk various forms of intimidation of the public. However, this bill explicitly prohibits those engaged in registering voters from seeking to influence an applicants political preference or party registration, displaying any political preference or party affiliation, or making any statement to an applicant the purpose of which is to discourage the applicant from voting. Agency personnel are also prohibited from intimidating a person to register who does not want to register, for fear of not receiving benefits. Moreover, under the criminal penalties section of the bill, it is a Federal offense to intimidate any person who attempts to register to vote. The Committee believes that these provisions are a sufficient deterrent to any person who would seek to intimidate any person who is entitled to register through the agency-based registration program, or any other registration program established by this bill or any other law.

Like the motor-voter provisions of the bill, the Committee is aware that some concern has been expressed that this provision of the bill transfers voting registration authority from State voting registrars to agencies. That is not the intent of this bill. This bill provides only that the role of the agency-based registration program is to provide forms to applicants and receive completed voter applications for transmittal to the appropriate State voting registration official. It is the voter registration official who determines whether or not to accept the application and place the name on the voting roll for the appropriate voting jurisdiction. The bill requires that the appropriate voting registration office notify each applicant of the disposition of the application. There is no provision in this bill which would require or suggest that determination be made by anyone other than the appropriate voting registrar under State law.

In addition, this bill does not give any authority to the agencies with regard to the design of the voting registration application form. In fact, the bill encourages agencies to incorporate their forms to provide one form for the applicant, as an application for services and voter registration. Ideally, the agency-based program would work efficiently if one form were created. In that instance, some cooperation would be required to integrate the two application forms to be processed by the agencies. The bill leaves it to State law as to the officer who is responsible for the design, layout and contents of the voting registration application form, subject to the requirements of this bill.

iv. voting list confirmation procedures and standards

One of the purposes of this bill is to ensure that once a citizen is registered to vote, he or she should remain on the voting list so long as he or she remains eligible to vote in that jurisdiction. The Committee recognizes that while voting is a right, people have an equal right not to vote, for whatever reason. However, many States continue to penalize such non-voters by removing their names from the voter registration rolls merely because they have failed to cast a ballot in a recent election. Such citizens may not have moved or died or committed a felony. Their only "crime" was not to have voted in a recent election. As the Reverend Jesse Jackson stated during the House hearings on voter registration reform in the 101st Congress: "No other rights guaranteed to citizens are bound by the constant exercise of that right. We do not lose our right to free speech because we do not speak out on every issue."

While most States use the procedure of removal for non-voting merely as an inexpensive method for eliminating persons believed to have moved or died, many persons may be removed from the election rolls merely for exercising their right not to vote, a practice which some believe tends to disproportionately affect persons of low incomes, and blacks and other minorities.

Such purging for non-voting tends to be highly inefficient and costly. It not only requires eligible citizens to re-register when they have chosen not to exercise their vote, but it also unnecessarily places additional burdens on the registration system because persons who are legitimately registered must be processed all over again.

Although purge systems may be inefficient and costly, the Committee and other participants are well aware of the need for the States to maintain accurate voting rolls. An important goal of this bill, to open the registration process, must be balanced with the need to maintain the integrity of the election process by updating the voting rolls on a continual basis. The maintenance of accurate and up-to-date voter registration lists is the hallmark of a national system seeking to prevent voter fraud. These processes, however, must be scrutinized to prevent poor and illiterate voters from being caught in a purge system which will require them to needlessly re-register. Such processes must be structured to prevent abuse which has a disparate impact on minority communities. Unfortunately, there is a long history of such list cleaning mechanisms which have been used to violate the basic rights of citizens.

One of the advantages of the bill is the fact that the motor-voter and agency-based programs are ongoing and that applications and renewals may serve as updating the addresses of registered voters. Thus, the need for large scale purges and list cleaning systems becomes superfluous. Nevertheless, the bill requires States to conduct a program to maintain the integrity of the rolls. The Act requires that any program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965. Merely because a program was conducted under the National Voter Registration Act would not be a defense to any claim which might be asserted under the Voting Rights Act. The requirements of the two acts are distinct and complementary. The States must comply with the National Voter Registration Act in a manner which does not violate the Voting Rights Act.

These programs may not remove the name of a voter from the list of eligible voters by reason of a persons failure to vote. States are permitted to remove the names of eligible voters from the rolls at the request of the voter or as provided by State law by reason of mental incapacity or criminal conviction.⁸

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The bill also includes a provision which requires the U.S. Attorney to give notice to the chief State election official information regarding the criminal convictions of any person. This notice requirement will permit States to make a determination if such criminal conviction is reason for the removal of the persons name from the list of eligible voters.

In addition, States are required to 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 a change in residence. Any program which the States undertake to verify addresses must be completed not later than 90 days before a primary or general election. It is intended by this requirement that the State outreach activity, such as the mailing of list verification notices or conducting a canvas, must be concluded not later than 90 days before an election, however, this would not prevent a State from making the appropriate changes to the official lists pursuant to the Act during the 90 day pre-election period.

A State or local subdivision may satisfy this requirement by using the National Change of Address program available through licensees of the U.S. Postal Service. The Committee strongly encourages all States to implement the NCOA program, which is efficient, is cost-effective once the start-up computerization expenses are absorbed, and properly implemented, is uniform and objective. Jurisdictions which choose not to use the NCOA program should implement another reasonable program which is designed to meet the requirements of the bill, i.e. that it be uniform, non-discriminatory and in conformance with the Voting Rights Act of 1965.

If in the course of using the NCOA program, it is determined that a voter has changed addresses within the jurisdiction of the same voting registrar, the registrar is directed to make the change on the official list of eligible voters and notify the voter of the change by sending a notice of the change by forwardable mail with a postage pre-paid return card for the registrant to verify or correct the information.

The Act allows the removal of a persons name from the official list by reason of a change of residence outside the jurisdiction of the registrar, only if the voter notifies the registrar of such a change or has failed to respond to a notice sent by the registrar and has failed to vote or appear to vote in two Federal general elections following date of the notice. Under this notice requirement, the notice must be sent by forwardable mail, with a return postage prepaid and pre-addressed card, on which the registrant may state his or her current address. This mailing must include a notice to the registrant that if he or she has not changed residence, or changed residence within the jurisdiction of the registrar, that the card should be returned no later than the time period provided for registration by mail. Further, if the card is not returned, confirmation or attestation may be required before the registrant is permitted to vote in the Federal election during the period between the date of the notice and ending after the second general election for Federal office that occurs after the date of the notice. If the registrant does not vote or appear to vote, his or her name will be removed from the list of eligible voters. This mailing must also give information to the registrant concerning how the registrant can continue to vote if he or she has moved outside the jurisdiction of the registrar. A voting registrar shall correct the roll based on information obtained through this program.⁸

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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.

As previously noted, one of the guiding principles of this legislation to ensure that once registered, a voter remains on the rolls so long as he or she is eligible to vote in that jurisdiction. Thus, when a registrant fails to return a card to the voting registrar, the voter must be permitted to vote if he or she appears at the polls within two general Federal elections after the date of the notice. While the bill secures the right of the voter to vote, it does not dictate the way in which the person is to vote. The State may establish its own requirements regarding the means of voting.

In response to the concerns of various witnesses representing civil rights organizations, these requirements of the bill were added to prevent the discriminatory nature of periodic voter purges, which they assert appear to affect blacks and minorities more than others. It should be noted that the bill does not mandate any specific time periods for when such list cleaning mechanisms must be used. While these provisions have been included to insure that voting rolls will be free from "deadwood", there will be less need for these mailing because the programs of voter registration include provisions for automatic updating of addresses. Thus, the process of updating registration rolls is an ongoing and continuous process.

v. enforcement and regulation

A. The Federal Election Commission

The Federal Election Commission (FEC) was created to oversee the campaign finance law authorized under the Federal Election Campaign Act and its amendments. The FEC officially became operative in 1975. Although known mostly for its regulatory activities in the area of Federal election campaign finance, the FEC is the only Federal agency uniquely set up to deal with Federal elections. Due to the politically sensitive nature of its role, the FEC was organized as an independent agency with members appointed with consideration of their political affiliations, but under restrictions designed to assure that no single political party would control its deliberations. Further, through its National Clearinghouse on Election Administration, the FEC has maintained an advisory role in election administration and has developed model election administration programs and information to assist States in conducting their elections. Given its composition and independent status, its experience in developing rules and regulations in the area of campaign finance, its unique position within the Federal government as the principal agency dealing with election administration, and its experience in developing model procedures for States, the Federal regulation of any national voter registration could best be administered from the FEC.

B. Enforcement

Many State and local election administrators expressed concern about the potential for an increase in voter fraud as a possible result of voter registration reform, and especially that registration by mail would make it easier for persons to vote fraudulently. This bill not only attempts to make voter registration convenient, but is also designed to prevent fraud and abuse of the electoral process.

The Committee is aware of the concerns regarding the potential for fraud in registrations. Throughout the bill, each registration program has been developed to assure the integrity of the voting rolls. One of the principle concerns expressed by critics of this bill is the use of mail registration. Based on the Congressional Research Services study, however, the experience of the States with mail registration appears to be that voter fraud is no more prevalent under a mail registration system than under other types of voter registration systems. Moreover, where States have investigated fraudulent registration and voting, there has never been a recommendation to repeal mail registration. As previously noted elsewhere in this report, the provisions relating to mail registration permit the States to require by law that a person make a personal appearance to vote if that person registered by mail and had not previously voted in that jurisdiction.

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Opponents to the legislation have often referred to a footnote reference in the April 17, 1991 Justice Department letter, which refers to an Illinois Grand Jury investigation of voter fraud. However, it should be noted that the Grand Jury never recommended that mail registration should be repealed. In addition, a Grand Jury investigation in Kings County,

New York which found substantial incidents of voting fraud never recommended a repeal of New York's mail registration system. The Grand Jury did not conclude that mail registration was the cause or a significant contributing cause to the specific incidence of fraud it investigated. It should be further noted that during the Committee's consideration of S. 250 in the last Congress, the New York State Assembly passed legislation revising its registration laws. Part of this legislation was to maintain and expand the mail registration system. Clearly, if the State of New York believed that the mail registration system resulted in fraudulent registrations, it would have sought to limit or abandon mail registration.

Nevertheless, a uniform national voter registration system should make it a Federal offense to fraudulently register to vote. Voter fraud is a crime against the legitimate electoral process. On the other hand, others expressed concern that legitimate voters should be able to go to the polls without fear of intimidation or threat by either officials or other citizens. As much as it is a crime to attempt to fraudulently cast a ballot, it is equally a crime to try to prevent an eligible citizen from casting a ballot in an election. Any national voter registration measure should discourage equally both of these activities. Language was added to the criminal penalties section to make clear that the person charged must have actual knowledge that the registration forms contain materially false information and were submitted with the specific intent to fraudulently affect the outcome of an election.

In addition to criminal enforcement, an effective national voter registration program must also include private civil enforcement. Such private initiative can encourage action to assure that a reasonable effort is undertaken to achieve its objectives in all States and, indeed, it may be essential to the success of such a program in some areas. Private civil enforcement should be designed to assure and to encourage, to the fullest extent possible, the cooperation of local and State election officials responsible for implementation of the voter registration programs. An essential element of an effective civil enforcement program is a requirement for notice of any complaint regarding its implementation to the appropriate election officials together with a process for its administrative resolution before legal action may be commenced.

Section-by-Section Description and Discussion

section 1. short title

This Act 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 Act's 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 office's 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. It is not the intent of this legislation to encourage the adoption of election day registration. Rather, 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, it would be sufficient to satisfy the requirement of a written declination if the form signed by an applicant at the conclusion of the process contains an attestation to all questions in 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 or those who are otherwise ineligible to vote 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 claimed that the failure to decline to register will result in the automatic registrations of such individuals. This is simply not true. This bill provides for simultaneous applications procedures, but still requires the intervening act of a review of the registration applications by the appropriate State or local election official.

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 such 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. 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, and 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 for the administration of voter registrations and elections. 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. Election officials should continue to make determinations as to an 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 pose serious 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 of computer programs. 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 should 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 application, 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 the 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. Mail registration forms developed by the State should 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. With regard to this notice requirement, States should be aware that such a notice should be drafted with regard to the purge provisions of this bill.

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 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. With this "incorporation to the greatest extent practicable in the agency's own forms," the bill attempts to provide flexibility to the agencies to develop a program that best fits the type of program. For example, in the case of a program such as unemployment compensation, where eligibility must be recertified on a frequent (i.e., weekly or biweekly) basis, the Committee intends that the agency be required to provide voter registration materials and assistance at the time of initial applica-

tion, upon any change in the address or eligibility status of the applicant, and upon any extension in the eligibility for benefits. 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 segment 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 be coerced to affiliate with a particular political party or that the receipt of benefits is contingent upon the act of registering to vote, the Committee believes that these provisions, together with the criminal penalties provisions of the bill, are sufficient to deter any such activities. Moreover, no evidence has been presented that such abuses have occurred in a State which has implemented an agency-based registration program.

The mandatory portion of the agency-based registration 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 program. 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 drivers licenses and therefore are not served by the motor-voter provisions. This mandatory portion provides a necessary balance to the motor-voter program, 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: distribution of mail voter registration application forms (or the agencies own form), assistance to applicants in completing voter registration application forms, 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.

Previous versions of this legislation 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 out-reach to persons with disabilities. While it would include vocational rehabilitation offices, it would also extend to many other agencies that have more contact on a regular basis 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 person otherwise ineligible to register, such as by reason of a current judicial determination of mental incapacity to vote.

Since the requirements for services or assistance at agency offices may differ significantly from those for 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 require-

ments 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 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 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. Thus, the agency has an affirmative obligation to actively collect completed registration applications.

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 a 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 should be aware that such notices should be drafted with regard to the purge provisions of the bill. 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 "non-discriminatory" is intended to mean that the procedure complies with the requirements of the Voting Right 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 and comprehensive 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 voted 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 State-wide 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 registrant's 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 and the same congressional district, the registrant is provided three options. The registrant shall: (1) be permitted to correct the voting records and vote at the registrant's former polling place upon oral or written affirmation of the new address; or (2) be permitted to correct the voting records and vote at a central location within the same registrars jurisdiction where a list of eligible voters is maintained upon written affirmation of the new address; or (3) 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 of the new address by such means as are required by State law. If State law permits the registrant to vote in the current election upon oral or written affirmation of the new address at the appropriate polling place for the new address, voting at the old polling place and the central location do not have to be provided as alternative options.

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 permit-

ted 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 challenge 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 nonprofit 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 particularly 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 should carefully determine which regulations are necessary and appropriate. In addition, nothing in the Act prohibits the Federal Election Commission from fathering the appropriate statistics necessary to meet its reporting requirements under the Act.

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, i.e., a witness requirement.

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 if the violation occurs within 120 days before the date of an election for Federal office, the aggrieved individual 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 individual may proceed to file a civil suit without notice to the chief State election official.

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

It should be noted that this section does not authorize the award of monetary damages. Rather, the civil remedies that are authorized are corrective action in the form of declaratory and injunctive relief, plus reasonable attorney fees. 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 right and remedies established by this Act are in addition to all other 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 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 second addresses the Federal criminal code only, and would not limit or restrict the availability of criminal penalties under State law.

Section 13. Effective Date

That 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.

Cost Estimate

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, February 25, 1993.
Hon. Wendell H. Ford,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for the National Voter Registration Act of 1993. Because enactment of the legislation could affect revenues, 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,
Robert D. Reischauer,
Director, Congressional Budget Office Cost Estimate

1. Bill number: Not yet assigned.
2. Bill title: National Voter Registration Act of 1993.
3. Bill status: As ordered reported by the Senate Committee on Rules and Administration on February 18, 1993.
4. Bill purpose: The bill 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. The bill would mandate that states provide the specific registration methods consistently in all jurisdictions.

In addition, the bill 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 the bill.

requirements for the federal government

The legislation would require the U.S. Postal Service to provide election officials with a postal rate subsidy for any mailings that it 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, the bill would authorize the Attorney General to bring civil actions in court to enforce its provisions. 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 the bill. In such cases, a state would not have to comply with the bill until January 1, 1996.

The imposition of criminal penalties could cause an increase in governmental receipts from penalty collections, but CBO cannot estimate the amount of such an increase. Such fines would be deposited into the general fund of the Treasury.

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 the bill could result in greater receipts from penalty collections, but CBO cannot estimate the amount of any such increase.

7. Estimated cost to State and local governments: The bill 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 to states of complying with the bills provisions to the cost of their current practices under existing law. Few state and local governments currently employ all the methods required by the bill for registering and maintaining voters on the rolls. In addition, without the bill, states and localities are unlikely to replace their existing practices with those outlined in the legislation. 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 the bill, 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 the bill would authorize the Postal Service to provide a rate subsidy to election officials for mailings it requires, state and local governments would be able to shift some of the costs they incur now to the federal government. The bill 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 the bill, state and local election officials would save approximately \$4 million annually in postage costs.

Other costs. To the extent that the legislation 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 the bill 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 in 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 the legislation 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 variations). 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 the bill, 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 the bill. Otherwise, those states would have to maintain separate registration rolls and conduct federal elections separately from other elections. This estimate does not include any cost for such separate elections.

Costs of registration provisions

Motor/voter: DMV costs. The bill 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 indicates 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 the bill. While the legislation 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 an 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 all 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. The bill 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 vot-

ers, 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 those 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 persons.

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. The bill 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 contact 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 the bill.

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. The bill suggests, but does not require, an approach election officials can use to make sure that their list cleaning 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. But 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 addresses 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 cleaning (as long as it is uniform, nondiscriminatory, and does not drop for nonvoting), their postal costs associated with this process would decrease if the legislation 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 the amount of mail election officials currently send out to update their lists. However, if most state 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: On February 1, 1993, CBO prepared an estimate for H.R. 2, the National Voter Registration Act of 1993, as ordered reported by the Committee on House Administration on January 27, 1993. That estimate showed direct spending from the Crime Victims Fund because fines mandated by the bill would result in greater deposits into the fund. The estimate for this bill does not include any direct spending because income from fines would go into the general fund of the Treasury. The cost estimates for the two bills are otherwise identical.

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

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

Regulatory Impact

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee received the following information from the Federal Election Commission as to the regulatory impact of the bill, as reported by the Committee:

Federal Election Commission,
Washington, DC, February 25, 1993.
Hon. Wendell H. Ford,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This letter responds to your inquiry of February 22, 1993, regarding the probable impact of regulatory and reporting responsibilities assigned to the Federal Election Commission (FEC) under the terms of the National Voter Registration Act of 1993, as reported out of Committee.

At this time, we anticipate that the regulations will be limited to specifying the contents of the national mail voter registration form and the data to be collected and reported by State and local election authorities, pursuant to the reporting requirements set out in Section 9.

In response to the individual items you specified:

1. An estimate of the numbers and classes of individuals and groups who would be regulated. The Commission estimates that its regulations and reporting requirements would, like other provisions of the bill itself, have a direct impact on approximately 8,000 State and local election officials throughout the nation who are responsible for conducting voter registration for federal elections. Tangentially affected would be the 189,000,000 persons of voting age in the United States who might come in contact with the registration process.

2. The economic impact of the regulations. We foresee regulations pertaining only to the contents of the mail registration forms and State reporting required by the bill. The latter would have associated costs beyond that inherent in the bill itself. This is addressed under item 4 below.

3. The impact on the personal privacy of the individuals involved. The Commission's regulations would have no impact on the personal privacy of the election officials themselves. However, certain items that might have to appear on the proposed national mail registration application form could be perceived by some members of the public as an invasion of personal privacy. Three such items are questions regarding Social Security number (required by 13 States, optional in 14 States), political party preference (required by the 26 States that conduct closed primaries) and race (required by some States in carrying out the purposes of the Voting Rights Act). These questions could be viewed as especially intrusive in States that do not require this information for voter registration purposes.

4. An estimate of the time, additional paperwork, and financial costs of recordkeeping requirements. The Commission anticipates that minimum reporting requirements may necessitate the collection of the following data from State and local election authorities:

- The number, method, source, and disposition of registration applications received;
- The method, frequency, and consequences of confirming the voter registration lists;
- The number and reasons for other deletions from the voter registration lists;
- The number of persons of voting age and the percentage of those that are registered;
- The number and types of the various mailings required under the bill; and

Costs of implementing the legislation, to include producing registration forms and other necessary materials, training, and maintaining records.

Although several jurisdictions, notably the large ones, routinely collect some or all of the data, a universal mandate to do so would unquestionably place some additional burden on many election offices. This burden would fall unevenly on local jurisdictions dependent on both the size of their populations and the extent of their computerization. We can estimate costs of such a reporting mechanism based on the model devised for the Voting Accessibility for the Eld-

erly and Handicapped Act wherein local jurisdictions report to the State, States to the FEC, and the FEC to the Congress.

Our assumption is that such reporting would require one-half (0.5) a staff month (on average) per local jurisdiction and two staff months per State. At \$24,000 salary per person, the approximately 350 staff years would cost about \$8,400,000 per year, to be borne by State and local governments. This figure would likely decrease over time with increased computerization. Furthermore, such data would prove useful to the State and local offices as well as to political parties, the Postal Service, and the Department of Justice.

Should you or your staff require any further information regarding these or other related matters, please do not hesitate to contact me.

Sincerely,
Scott E. Thomas, Chairman.

Committee Rollcall Vote

In compliance with paragraph 7 (b) and (c) of rule XXVI of the Standing Rules of the Senate, the record of the rollcall vote in the Committee on Rules and Administration during its consideration of the original bill, to report it favorably, was: Yeas 7 Nays 5

Senator Stevens presented the proxy of Senator Hatfield in favor of the bill.

Minority Views of Senators Stevens, Helms, Warner, Dole, McConnell, and Cochran on the National Voter Registration Act of 1993

Since this issue was last debated before the full Senate, two significant developments have occurred: (1) in the 1992 general election, voter turnout increased 5 percent over 1988; and (2) the financial condition of the Federal and State governments has worsened.

The first point clearly indicates that the National Voter Registration Act is not necessary to increase voter turnout. The key to increasing turnout is an electorate that feels they have something at stake and that there is a compelling reason to vote. Those elements were present in 1992.

On the second point, States, the vast majority of whom must balance their budgets, have their backs against the financial wall. The unfunded mandates established by this bill will exacerbate the situation and force many States to resort to offsets in the form of program cuts or tax increases. For them, deficit spending is not an option.

If, as the majority report contends, the costs of this bill are relatively modest, then it should not be difficult for the bills proponents to provide funding to implement its provisions. Regardless of whose cost estimates are the most accurate, Congress should not impose this bill on the states as the latest in a long line of unfunded Federal mandates.

The National Voter Registration Act of 1993 would require State and local governments to register voters in three ways: (a) by simultaneous applications when applying for motor vehicle drivers licenses; (b) by applications received through the mail; and (c) by applications through all public assistance, unemployment and vocational rehabilitation offices.

No hearings were held on this bill in the 103d Congress, but the Rules Committee hearings held in 1991 afforded an opportunity for both the proponents and opponents of this legislation to be heard.

The enthusiasm of the bills supporters for registering people to vote when applying for a drivers license is shared at the state level. In fact, fully 27 States plus the District of Columbia now provide citizens who want to register to vote while visiting a Department of Motor Vehicles office an opportunity to do so. In 1991, legislation was introduced in the statehouses of an additional 17 States to establish some form of motor voter or agency based systems.⁸

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100 percent Vote, A Project of Human Serve, Memorandum, May 1, 1991.

While the enthusiasm for such programs at the State level continues to grow, it has not translated into enthusiasm for the strictures of this legislation. This reluctance is partly because States are experiencing severe fiscal pressure and simply cannot afford the expensive and unnecessary costs this bill imposes.

State after State has insisted that the costs of motor voter will be substantial and they will have to curtail other programs such as education or child nutrition to come up with the funds needed to meet the unfunded mandates in the bill.

In fact, officials in 13 States with over 36 percent of the Nations population are so concerned about the financial impact of this proposal they have taken the time to inform the committee of their objections to it. Ten of these States prepared cost estimates of the bill for their jurisdictions.

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

Alabama, Minnesota, Missouri and South Dakota also expressed concern over the impact of the requirements contained in motor voter.

Furthermore, the following organizations have criticized the National Voter Registration Act for the unfunded mandates it would impose on state and local governments:

American Association of Motor Vehicle Administrators National Association of Counties.

National Governors Association.

National Association of Secretaries of State.

National Association of Towns and Townships.

National League of Cities.

Imposing these additional costs on state and local governments is particularly hard to justify when one considers that any causal link between the registration programs required by the bill and increased voter turnout is tenuous. The Congressional Research Service studied motor voter programs in states that have adopted them and produced the following findings.

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

Note that voter turnout dropped after the adoption of motor voter programs in 7 of these 10 states. Collectively, voter turnout declined in states that adopted motor voter programs by 2.68 percent. For the states that practice the active form of motor voter (similar to the requirements of this bill, turnout went down 6.21 percent in Presidential elections. For non-Presidential elections, turnout increased by just over half of one percent.

Given its lackluster effect at the state level, motor voter is a surprising prescription for arresting the decline in voter turnout nationally.

It should also be noted that this bill provides states with a way to escape the expenses and rigors of the bill: adoption of election day registration. The Department of Justice has said that election day registration ". . . would greatly impair the ability of the Department and the states to combat voting and election fraud. . . . (and) would totally preclude meaningful verification of voter eligibility, and thus allow easy corruption of the election process by the unscrupulous."

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W. Lee Rawls, Assistant Attorney General, U.S. Department of Justice, Letter to the Honorable Wendell H. Ford, Chairman, U.S. Senate Committee on Rules and Administration, April 17, 1991, p. 10-11.

Permitting registration on the day of the vote eliminates the ability of election officials to confirm the identity, address and eligibility of a prospective voter. Congress should be reluctant to provide economic incentives to states to adopt a procedure that undermines the very basis of democracy.

For the first time, this bill would subject voter registration systems to the regulatory control of the Federal Elections Commission an entity many have criticized for being unable to satisfactorily carry out its current federally mandated duties.

Mail Registration

The National Voter Registration Act mandates unsupervised registration by mail for all states and forbids precautions states may take to reduce the chance of the unscrupulous taking advantage of the system. The Department of Justice wrote in 1991:

(This proposal) would impose a sweeping requirement to allow mail-in registration while simultaneously limiting significantly the ability of the states to use a variety of techniques to verify the applicants identity and eligibility. For this reason (the bills) provision for registration by mail would entail a substantial and perhaps prohibitive risk of enhancing the opportunities for fraudulent registration and voting.

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Ibid., p. 6.

Section 9(b)(3) of the bill states that a mail registration form "may not include any requirement or other formal authentication." Alaska requires registration applications received through the mail to be authenticated by the signatures of two adults. Other states require notarization of these applications. All of these precautions would be prohibited under the bill.

Mail registration also prohibits a requirement that registration applications be made in-person. By implication, states would be prohibited from asking applicants to supply identification to determine that persons registering are who they claim to be or live where they say they do. Currently, Connecticut requires a birth certificate, drivers license, or Social Security card to be shown at the time of registration. New Hampshire officials have the authority to require similar identification from applicants who are naturalized citizens.

In 1982, a New York Grand Jury reviewed widespread vote fraud charges in Kings County from 1968 to 1982. It observed:

The advent of mail-in registration in 1976 made the creation of bogus registration cards even easier and less subject to detection. . . . According to testimony, mail-in registration has become the principal means of perpetrating election fraud and has apparently resulted in the abandonment of the pre-1976 election fraud methods.

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Supreme Court of the State of New York, County of Kings: Criminal Term, "In the Matter of Confidential Investigation R84-11", pp. 11-12.

As a District Attorney in New York, Elizabeth Holtzman wrote the New York Times lamenting "how easy it is to vote illegally" there and called for implementation of the recommendations contained in this Grand Jury Report. Under motor voter New York would be prevented from ending what the Grand Jury said had now become "the principal means of perpetrating election fraud."

The Justice Department pointed out that verification of mail registration applications in states that now have it may be inadequate. Many states rely upon the mailing of non-forwardable letters to mail registration applicants when the application is received by the election office. The assumption is that the Postal Service will return notices if an individual does not actually live at the address.

This assumption is false. The Federal Election Commissions Advisory Committee on Election Administration pointed out that such non-forwardable notices are only returned to the sender if the addressee files a change of address with the Postal Service. The Postal Service never inquires whether an addressee actually lives at an address. If no change of address form has been filed with the Post Office, the mail is delivered no matter who lives at an address.

The Department of Justice pointed out that because of this underlying assumption for verifying the authenticity of a mail registration application is false ". . . there may in fact be a great deal of fraudulent registration by mail that simply has gone undetected." Nevertheless, this bill mandates this suspect system of registration for all states while forbidding even modest verification procedures for it.

In an effort to reduce the fraud associated with mail registration, the bill has been changed to permit states to require that new voters who have registered by mail must vote in person the first time they vote. States could ask for identification at that time. However, the effectiveness of this requirement is greatly undermined by an exception in the bill that voids the provision if it conflicts with another law. Most states now have absentee balloting. Laying mail registration on top of absentee balloting would result in a complete mailbox voting system particularly susceptible to fraud.

The State of Illinois requires signatures on voter registration applications to be made in front of a registrar. On election day, the signature on the registration form is compared with the signature of the person seeking to vote under that registration form to guard against "ghost voting."

By implication, this bill would prohibit this verification procedure. The Chairman of the Illinois Board of Elections told the Committee that a mail registration program would prevent verification of the original voter application and "would destroy the signature verification process a key factor in the prevention of vote fraud."

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Theresa M. Petrone, Chairman, State Board of Elections, State of Illinois: Testimony to Senate Committee on Rules and Administration; May, 1989, p.3.

This verification system helped a Grand Jury examining voter fraud in the 1982 Chicago election secure sixty-two indictments resulting in at least fifty-six convictions. Much of the evidence in this case was based on the work of FBI handwriting experts who compared the signatures on authenticated voter registration cards with signatures made at the polling booths. Such detection would have been impossible if mail registration, as mandated by this bill, were in place.8

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U.S. District Court, Northern District of Illinois, Eastern Division: "Report of the Special January 1982 Grand Jury", pp. 3-6.

With mail registration, the perpetrators could have easily escaped detection by simply sending in bogus registration forms, and on polling day, having the same person sign to cast a fraudulent ballot. The signatures would then have been identical.

Even with Chicagos signature verification system, a U.S. attorney has estimated that up to one hundred thousand fraudulent ballots were cast in each of the Chicago elections of 1982 and 1986. It is difficult to imagine what the extent of the vote fraud problem in that city would be if its signature verification procedures were prohibited by this bill.

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Mark Eissman, "Massive Fraud Found in Mayoral Primary", Chicago Tribune, March 8, 1986, p. 1, Section 1.

In California, mail registration led to fraudulent filings with a phenomenon called "creative writing." This state experienced fake and duplicate registrations because of registration drives in which registrations were filed, often without knowledge of the "applicant," simply to fill a quota. The problem led this state to hire an investigator to guard against this kind of fraud.

Nationwide mail registration, as proposed by this bill, raises the very real specter of adding to Americas illegal immigration problems. Illegal aliens have used easy availability of voter registration cards as a means to gain entry into the

United States. Voter registration cards have also been used to gain access to federal and state benefits and even to obtain jobs with the federal government.

The Grand Jury sitting in Chicago reported:

Another pool of potential votes for the unscrupulous precinct captain was that of aliens who were illegally registered. Many aliens register to vote so that they can obtain documents identifying them as U.S. citizens; however, the number of aliens who actually voted is undocumented. We have learned that these aliens used their voters cards to obtain a myriad of benefits, from Social Security to jobs with the Defense Department.

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"Report of the Special January 1982 Grand Jury", op. cit., p. 8-9.

Although this Grand Jury did not document aliens actually voting, a survey

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by the Immigration and Naturalization Service of ballots cast in a 1989 U.S. House of Representatives special election in Florida did. In that election, it was confirmed that fully 11 percent of all ballots of foreign born voters sampled were cast by non-citizens. Furthermore, the Immigration and Naturalization Service reported that there is reason to believe that in this federal election, the incidence of illegal alien voting among all ballots examined was as high as 24 percent.

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Richard Wallace, "INS: Noncitizens Voted in 1989 Election, State Doesn't Require Proof of Citizenship to Register to Vote", Miami Herald, March 9, 1991, p. 1B, Section Local.

This fraud might be combated by requiring proof of citizenship at the time of registration. However, mail registration under this bill would preclude such corrective action.

This bill would mandate that voter registration cards be accepted by states through the mail from any location in the U.S. (and even around the world for that matter). Therefore, there is the potential for citizens of one state to use mail registration to gain access to another states benefits.

Alaska, in addition to witnessed signatures, requires all out-of-state mail registration applicants to provide "identification or other documentation that supports . . . a claim to Alaska residency."

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This precaution would be prohibited under this legislation.

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6 Alaska Administrative Code 25.027 (c).

The bill would require all mail registration applications to be processed if postmarked up to thirty days before an election. The Alaska Division of Elections has reviewed absentee mail ballots and found that almost thirty percent of them had illegible postmarks. This would be a problem around the nation and could unintentionally disenfranchise many voters.

Election fraud disenfranchises voters. It erodes confidence in our democratic traditions. Unfortunately, it is not a problem confined to the past and, in some areas of the nation, it will continue to be a problem in the future. The mail registration provisions of this bill would strip the states of their ability to deal with these election fraud problems.

Agency Based Registration

This bill would require all public assistance, unemployment, and vocational rehabilitation offices to register those who receive benefits from those offices.

In its letter to the Committee, the Department of justice wrote in 1991:

The Departments experience demonstrates that public officials sometimes use their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party. This bill would increase substantially the opportunities for such intimidation and coercion of the public.

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Rawls, op. cit., 7-8.

The Justice Department was not engaging in mere speculation. The St. Louis Post-Dispatch reported on an investigation into allegations that public assistance employees were routinely registering public assistance applicants, "suggesting" who they should vote for and taking them to the polls.

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St. Louis Post-Dispatch, "State Investigating Centreville Township", August 29, 1990, p. 5a.

Such exploitation of vulnerable public assistance recipients is not a new phenomena and continues today. This bill would require public assistance employees across the nation to become actively involved in the administration of elections and we think the results will mean more political manipulation and abuse of public recipients.

The threat of public employee misconduct is not the sole objection to the agency registration provisions of this bill. Even the appearance that a persons public assistance benefits are linked to registering to vote violates the American tradition of voluntary participation in the political system. It should not be required by the federal government.

Conclusion

Although greater voter participation is a goal shared by all Members of the Committee, state experience with motor voter programs demonstrate that such programs do not increase voter turnout. What will increase are the costs to state and local governments and opportunities for election fraud.

The lions share of any new registration under this bill is expected to be done at Departments of Motor Vehicles. The supporters of the bill assume that both mail registration and agency based registration under this bill will account for only a small portion of the new registrations. The bill as written, therefore, risks significant new opportunities for vote fraud and improprieties by governmental agencies for no significant increase in voter participation.

Rather than assisting state efforts to implement innovative voter registration program, this legislation will impose obligations that are impractical, ineffective and an expensive burden for states.

Ted Stevens.

Jesse Helms.

John Warner.

Bob Dole.

Mitch McConnell.

Thad Cochran.

ADDITIONAL VIEWS OF SENATOR HATFIELD

The bill we report today is substantially similar to S. 250 of the 102nd Congress, the National Voter Registration Act. I supported this legislation last year after the Committee Chairman and I worked to improve its provisions related to protection of the electoral process from registration fraud.

During consideration of the bill last year, the Chairman and I worked to mandate an address verification system which makes a "reasonable" attempt to clean the voting rolls, as well as provisions to allow states to require mail registrants to vote in person the first time.

The goal embodied in this legislation, to improve accessibility to the voting process, deserves our careful consideration at the federal level. The National Voter Registration Act sets a national standard through a national system to provide equal access to the process for all Americans.

My own states experience with "motor-voter" legislation attests to the merits of a national standard. Oregon enacted its own law in 1991 and from all accounts, its effects on voting habits are quite positive. The number of registered voters in Oregon jumped by 15 percent between the 1990 and 1992 general election. Of all the transactions that have occurred at offices of the Oregon Motor Vehicles Division (DMV) across the state since the "motor-voter" law took effect in October of 1991, 24 percent involved some sort of voter registration activity.

I have remaining concerns about the cost which may be borne by the states in implementing this legislation. The bill now includes a postal rate reduction for state registrars which will be a helpful tool for offsetting the cost to the states of mail registration. My state reports that from the onset of Oregon's law in late 1991 to January 1 of this year, the DMV has spent \$86,135 on voter registration activities. The Divisions 1991-1993 biennial budget for "motor-voter" services is \$122,593. These are not exorbitant expenditures, because my state has actively sought methods to cut costs. For example, county clerks in several Oregon counties save postage by going to the local DMV offices in person to pick up the new registration cards. Clearly, the postal rate reduction will be a supportive addition, but it does not compensate for the total additional costs of "motor-voter" procedures. This tradeoff suggests the value we in the federal government place on opening access to the electoral process.

I support the National Voter Registration Act and encourage its swift passage by the Senate.

Mark O. Hatfield.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing rules of the senate, changes in existing law made by the bill, as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in bold brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 39, UNITED STATES CODE

POSTAL SERVICE

PART I GENERAL

CHAPTER 1 POSTAL POLICY AND DEFINITIONS

*****CHAPTER 24 APPROPRIATIONS AND ANNUAL REPORT

Sec.

2401. Appropriations.

2402. Annual report. 2401. Appropriations

(a) There are appropriated to the Postal Service all revenues received by the Postal Service.

(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.

*******CHAPTER 36 POSTAL RATES, CLASSES, AND SERVICES
SUBCHAPTER I POSTAL RATE COMMISSION**

Sec.

3601. Establishment.

3602. Terms of office.

3603. Rules; regulations; procedures.

3604. Administration.

SUBCHAPTER II PERMANENT RATES AND CLASSES OF MAIL

3621. Authority to fix rates and classes.

3622. Rates and fees.

3623. Mail classification.

3624. Recommended decisions of Commission.

3625. Action of the Governors.

3636. Reduced rates.

3627. Adjusting free and reduced rates.

3628. Appellate review.

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.

SUBJECT: VOTERS & VOTING (93%); ELECTIONS (91%); CAMPAIGNS & ELECTIONS (90%); ELECTION LAW (79%); LEGISLATION (79%); LICENSES & PERMITS (79%); LEGISLATIVE BODIES (79%); LEGISLATORS (59%); EXECUTIVE ORDERS (59%); US STATE GOVERNMENT (59%); CIVIL RIGHTS (59%); ELECTION AUTHORITIES (59%); COUNTY GOVERNMENT (59%);

LOAD-DATE: March 09, 1993

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14 IN THE UNITED STATES DISTRICT COURT

15 FOR THE DISTRICT OF ARIZONA

16 Maria M. Gonzalez, et al.,) No. CV-06-1268-PHX-ROS(Lead)
17) No. CV-06-1362-PCT-JAT(Cons.)
Plaintiffs,) No. CV-06-1575-PHX-EHC(Cons.)
18)
19 vs.) DECLARARTION OF RAY
) MARTINEZ III
20 State of Arizona, et al,)
) (Assigned to the
21 Defendants.) Honorable Roslyn O. Silver)
22)
23)

24 In accordance with 28 U.S.C . § 1746, Ray Martinez III declares as follows:
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- 1 1. On December 9, 2003, I was confirmed by unanimous consent of the United
2 States Senate to serve a four year term on the U.S. Election Assistance
3 Commission (EAC). I was elected Vice Chairman for the EAC for 2006.
4
5 2. Prior to my service on the EAC, I practiced administrative law in Austin, Texas;
6 served as Deputy Assistant to the President for Intergovernmental Affairs at the
7 White House; and served as Regional Director for the U.S. Department of Health
8 and Human Services in Dallas. My federal public service also includes having
9 served as White House Liaison to the U.S. Department of Health and Human
10 Services, and later as Special Assistant to the President in the White House
11 Office of Political Affairs. Prior to my service in the federal government, I
12 worked for the Texas Attorney General's office.
13
14 3. I resigned from the Election Assistance Commission in August of 2006. This
15 declaration is on my own behalf and does not represent the views of the EAC or
16 the United States Government. It represents solely my personal knowledge,
17 involvement and observations on these matters while serving on the EAC.

18 **The Election Assistance Commission**

- 19 4. The EAC is an independent bipartisan commission created by the Help America
20 Vote Act of 2002 (HAVA). 42 U.S.C. 15301 (2002).
21
22 5. The EAC serves as a national clearinghouse and resource for information and
23 review of procedures with respect to the administration of federal elections. It is
24 also responsible for administering payments to states and offering assistance to
25 help them meet the requirements of HAVA, implementing improvements to
26

1 election administration, adopting voluntary voting system guidelines, accrediting
2 voting system test laboratories and certifying voting equipment.

3 **The Role of the Election Assistance Commission Under the National Voter**
4 **Registration Act**

5 6. HAVA transferred to the EAC responsibility for all functions under Section 9(a)
6 of the National Voter Registration Act of 1993 (NVRA), which were formerly
7 assigned to the U.S. Federal Election Commission (FEC). § 802, 42 U.S.C.
8 15301 (2002).

9
10 7. The NVRA required that the FEC (now the EAC): provide guidance to the states
11 on the requirements and implementation of the Act; develop a single national
12 voter registration form that contains all necessary elements for jurisdictions to
13 determine voter and voter registration qualifications (including citizenship); and
14 to file with Congress bi-annual reports tracking the overall effectiveness of the
15 Act. 42 U.S.C. § 1973gg-7 (2007).

16
17 8. In carrying out its mandate under the NVRA, the FEC created the federal voter
18 registration form (Federal Form). With respect to proof of citizenship, the
19 NVRA provided that the Federal Form will state each eligibility requirement,
20 including citizenship, contain an attestation that the applicant meets each
21 requirement, and requires the signature of the applicant, under penalty of perjury.
22 42 U.S.C. § 1973gg-(b)(1),(2) (2007).

23
24 9. In creating the Federal Form, the FEC explained that it “considered what items
25 are deemed necessary to determine eligibility to register to vote and what items
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1 are deemed necessary to administer voter registration and other parts of the
2 election process in each state.” 59 Fed. Reg. 32311, 32312 (1994).

3 10. The FEC concluded, based on its reading of the NVRA, that the Federal Form
4 should require: the applicant’s name, address, date of birth, and political party
5 preference (for closed primary states). The FEC also decided that the Federal
6 Form should “list U.S. citizenship as a universal eligibility requirement... and
7 [c]ontain an attestation on the application that the applicant, to the best of his or
8 her knowledge and belief, meets each of his or her state's specific eligibility
9 requirements.” 11 C.F.R. § 8.3 (2007).

11 11. The FEC further concluded that the Federal Form would require the signature of
12 the applicant under penalty of perjury, and would inform the applicant of the
13 legal consequences of submitting false information in a voter registration
14 application. 11 C.F.R. § 8.4 (2007).

16 12. The FEC explained in its regulations that the NVRA intended that the Federal
17 Form should be “usable anywhere in the nation, enabling persons temporarily
18 away from home (such as students and travelers) to apply to register to vote from
19 a state other than the one in which they legally reside for voting purposes[.]” 59
20 Fed. Reg. 32311, 323127 (1994).

22 13. The FEC recognized that the NVRA placed a special emphasis on ease of use of
23 the Federal Form by voter registration organizations to register any qualified
24 applicant anywhere in the country. 59 Fed. Reg. 32311, 32318.

1 14. The FEC interpreted the NVRA to require the Federal Form to be printed on a
2 postcard and easily mailed. The FEC provided that the Federal Form be printed
3 on card stock and be small in size so that it could be placed in the mail. 11
4 C.F.R. § 8.5 (2007).

5
6 15. Also in carrying out its mandate under the NVRA, the FEC promulgated
7 regulations that incorporated the statutory requirement that states “accept, use,
8 and make available,” the Federal Form. 11 C.F.R. § 8.3 (2007).

9 **HAVA’s Transfer of Responsibility for NVRA to the Election Assistance**
10 **Commission**

11 16. In 2002, Congress enacted HAVA and created the EAC. In addition, Congress
12 transferred the responsibilities of the FEC with respect to the NVRA to the EAC.

13 17. In HAVA, Congress also amended the NVRA to require that the Federal Form
14 further include: “The question ‘Are you a citizen of the United States of
15 America?’ and boxes for the applicant to check to indicate whether the applicant
16 is or is not a citizen of the United States.” HAVA further requires a statement
17 that if the applicant checked ‘no’ to the citizenship question, he or she should not
18 complete the form. Following the enactment of HAVA, the Federal Form was
19 changed by the FEC to reflect these new requirements. At this point, it was clear
20 from three places on the Federal Form that one needed to be a citizen to register
21 to vote: 1) the check-box indication; 2) the instructions by the checkbox that if
22 the applicant was not a citizen, the applicant should not complete the remainder
23 of the form; and 3) the affirmation under pain of criminal penalty above the
24 signature line that the applicant is a citizen.
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1 **The Election Assistance Commission's Guidance to Arizona Regarding**
2 **Proposition 200's Proof of Citizenship Requirements**

3 18. On December 12, 2005, following passage of Proposition 200, the Secretary of
4 State's office contacted the EAC and asked the Commission to include the state's
5 documentary proof of citizenship requirement in the state-specific instructions to
6 voter registration applicants using the Federal Form.

7 19. This was the second time since my appointment to the EAC in December 2003
8 that a state had requested that the EAC allow a substantive change to the Federal
9 Form or the state-specific instructions affixed to the Federal Form. The previous
10 occasion was a request by the State of Florida in 2005, which the EAC denied via
11 written communication from the EAC's general counsel to the State of Florida.
12

13 20. In a March 6, 2006 response to Arizona Secretary of State Jan Brewer, the
14 EAC's Executive Director explained that, consistent with the NVRA, Arizona
15 "may not mandate additional registration procedures that condition the
16 acceptance of the Federal Form" on the applicant's production of additional
17 documentary proof of citizenship.
18

19 21. The EAC's letter explained that Congress has the power to regulate federal
20 elections, the NVRA was a proper exercise of that power, and the Act requires
21 that States accept and use the Federal Form created by the EAC.

22 22. The EAC further explained that the Federal Form's "checkbox" for citizenship,
23 along with the applicant's attestation and signature under penalty of perjury, is
24 the verification method Congress has chosen to register voters for federal
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1 elections, and a state is preempted from imposing additional requirements for
2 acceptance of the Federal Form.

3 23. In its letter, the EAC noted that while Arizona had the authority to determine
4 voter and voter registrant qualifications for state elections, Arizona must comply
5 with federal regulations with regard to federal elections. Thus, Arizona, and all
6 states, must abide by the NVRA and accept the Federal Form as a stand alone
7 document.
8

9 24. In its responses to both Florida (2005) and Arizona (2006) denying requests for
10 substantive changes to the Federal Form or the state-specific instructions affixed
11 to the Federal Form, I believe the EAC acted consistently with its predecessor
12 agency, the FEC. The EAC's denial in both instances was based upon previously
13 promulgated NVRA regulations requiring all NVRA-states to accept a properly-
14 completed Federal Voter Registration Form as an adequate and sufficient voter
15 registration application.
16

17 25. On March 13, 2006, the EAC received a reply from Arizona Secretary of State
18 Jan Brewer. The letter stated that she disagreed with the EAC's position and
19 noted that Proposition 200 was supported by over one million voters.
20

21 26. Secretary of State Brewer's letter also stated that she would instruct Arizona's
22 country recorders to enforce the requirements of Proposition 200 for all voter
23 applicants, and again urged the EAC to instruct Arizona applicants using the
24 Federal Form to provide documentary proof of citizenship as required by
25 Proposition 200.
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27. Arizona Secretary of State Brewer sent the EAC a follow-up letter on June 20, 2006, reiterating her position and once again asking the EAC to incorporate Arizona's documentary proof of citizenship requirements in its instructions to the Federal Form.

28. On July 11, 2006 the EAC held a tally vote to reverse the initial determination to reject Arizona's request to include documentary proof of citizenship requirements in the instructions affixed to the Federal Form. This proposed measure failed to carry and the EAC's letter of March 6, 2006 stood as an accurate reflection of EAC policy.

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

Executed on July 12, 2007.



Ray Martinez III



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

March 6, 2006

Jan Brewer
Arizona Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, AZ 85007-2888

Dear Secretary Brewer,

This letter responds to your office's December 12, 2005 e-mail to the U.S. Election Assistance Commission (EAC) requesting that the EAC apply Arizona state policy (derived from Proposition 200) to the Federal Mail Voter Registration Form ("Federal Registration Form" or "Federal Form"). Specifically, the inquiry sought to apply proof of citizenship requirements for Arizona voter registration to the Federal Form registration process. This request was sent by Robert A. Flores, Voter Outreach Coordinator in response to the EAC's requests for updates pertaining to the Federal Registration Form. As you may know, use and acceptance of the Federal Form are mandated by the National Voter Registration Act of 1993, 42 U.S.C. §1973gg *et seq.*, (NVRA). The EAC is the Federal agency charged with regulating the development and substance of the Federal Form. (42 U.S.C. §1973gg-7(a)). After review of your request, the EAC concludes that the policies you propose would effectively result in a refusal to accept and use the Federal Registration Form in violation of Federal law (42 U.S.C. §1973gg-4(a)).

Arizona's Policy. On December 12, 2005, the office of the Arizona Secretary of State (Chief State Election Official) requested that the EAC apply new Arizona procedural requirements to the Federal Form. These new procedural requirements reflected proof of citizenship provisions recently adopted by the state in Proposition 200. Generally, proposition 200 requires Arizona registrants to submit additional proof of citizenship with their voter registration forms. This usually requires the individual to record, on the form, his or her driver's license number (or non-operating identification license) issued after October 1, 1996. If the registrant cannot provide this information (because they have no license or an older license) he or she will need to provide a copy of an alternative form of identification. These alternative forms include: a birth certificate, passport, certificate of naturalization number and other documents. This portion of Proposition 200 amended Arizona Revised Statute §§ 16-152 and 16-166, which set requirements for the State's registration form and verification of the form. The proposition did not amend Arizona's registration qualifications, found in Arizona Revised Statute §16-101. If Arizona were to apply this policy to its use and acceptance of the Federal Registration Form, the Federal Form's acceptance would be conditioned upon the receipt of supplemental documentation of citizenship. In this way, any registrant who failed to supplement their Federal Registration Form would have their form rejected, resulting in the loss of voting rights.

Federal Authority To Regulate Elections. It is a well settled matter of Constitutional law that the United States Congress, pursuant to Article I, Section 4 and

Article II, Section 1 of the U.S. Constitution, has the authority to pass laws regulating the manner in which Federal elections are held. This Federal authority has been broadly read by the Supreme Court to include the comprehensive Congressional regulation of a States' voter registration process for Federal elections. Voting Rights Coalition v. Wilson, 60 F.3d 1411, 1413-1414 (9th Cir. 1995), *cert. denied*, 516 U.S. 1093 (1996) (citing, Smiley v. Holm, 285 U.S. 355, 366 (1932)); Association of Community Organizations for Reform Now v. Edgar, 56 F.3d 791, 793 -794 (7th Cir. 1995) (citing Smiley, 285 U.S. at 366, Ex parte Siebold, 100 U.S. 371 (1879) and United States v. Original Knights of the Ku Klux Klan, 250 F.Supp 330, 351 - 355 (E.D.La 1965)); Association of Community Organizations for Reform Now v. Miller, 129 F.3d 833, 836 (6th Cir. 1995). The Constitution "explicitly grants Congress the authority either to 'make' laws regarding federal elections... or to 'alter' the laws initially promulgated by the states. Thus... article I, section 4 specifically grants Congress the authority to force states to alter their regulations regarding federal elections." Miller, 129 F.3d at 836.

In this way, while Article I, section 2 and the Seventeenth Amendment authorize States to set requirements regarding voter qualifications in a Federal election (Edgar at 794), this does not limit the Federal authority to set voter registration procedures for such elections. Voting Rights Coalition, at 1413. This is true even where States have declared voter registration to be a voting qualification (Wilson, at 1414) or where Federal registration requirements may indirectly make it more difficult for a State to enforce qualification requirements (Edgar at 794-795).

National Voter Registration Act. Consistent with its authority to regulate voter registration in Federal elections, Congress passed the NVRA. The NVRA's regulation of the voter registration process has been specifically and consistently upheld as constitutional by the Courts. Voting Rights Coalition, 60 F.3d F.3d 1411; Edgar, 56 F.3d 791; Miller, 129 F.3d 833. The NVRA mandates that States "*shall accept and use the mail voter registration application proscribed by the U.S. Election Assistance Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office.*" 42 U.S.C. §1973gg-4(a) (emphasis added). The statute further allows States to create, use and accept their own form (in addition to the Federal form) if it meets the minimum NVRA criteria for the Federal form. 42 U.S.C. §1973gg-4(b). The EAC is the Federal agency charged with creating and regulating the Federal Form.¹ The NVRA requires the Federal Voter Registration Form to specify each voter eligibility requirement, contain an attestation that the applicant meets such requirements, and require the signature of the applicant. 42 U.S.C. §1973gg-7(b)(2). The Help America Vote Act (HAVA) has added the requirement that the Federal form include two check boxes for an applicant to affirm their citizenship and age. 42 U.S.C. §15483(b)(4).

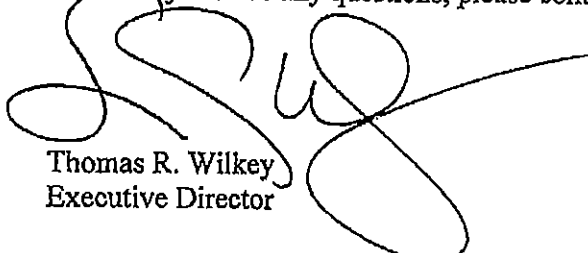
Discussion. While Arizona has authority to determine registrant/voter qualifications, the manner in which it registers voters for Federal elections is subject to Federal regulation. The Federal Government, through the NVRA and the Federal Form has regulated the process of registering voters in Federal Elections. Acceptance of the

¹ The Help America Vote Act amended the National Voter Registration Act transferring regulatory authority over the Federal Form to the EAC. (See 42 U.S.C. §15532 and 42 U.S.C. §1973gg-7(a)).

Federal Form is mandated by the NVRA. The Federal Form sets the proof required to demonstrate voter qualification. No state may condition acceptance of the Federal Form upon receipt of additional proof.

Arizona's voting qualifications remain unchanged and are contained in Arizona Revised Statute §16-101.² These qualifications are presently reflected on the Federal Form. The statutory changes Arizona has initiated in Proposition 200, which require some residents to submit documentary evidence of citizenship, do not alter the state's voter qualifications. Rather, the statutory scheme is merely an additional means to document or prove the existing voter eligibility requirement of citizenship. As such, Arizona's statutory changes deal with the manner in which registration is conducted and are, therefore, preempted by Federal law. The NVRA, HAVA and the EAC have determined the manner in which voter eligibility shall be documented and communicated on the Federal form. State voter requirements are documented by the applicant via a signed attestation and, in the case of citizenship, a "checkbox." (42 U.S.C. §1973gg-7(b)(2) and 42 U.S.C. §15483(b)(4)). This Federal scheme has regulated the area and preempts state action. Congress specifically considered whether states should retain authority to require that registrants provide proof of citizenship, but rejected the idea as "not necessary or consistent with the purpose of [the NVRA]."³ The state may not mandate additional registration procedures that condition the acceptance of the Federal Form. The NVRA requires States to both "accept" and "use" the Federal Form. Any Federal Registration Form that has been properly and completely filled-out by a qualified applicant and timely received by an election official must be accepted in full satisfaction of registration requirements. Such acceptance and use of the Federal Form is subject only to HAVA's verification mandate. (42 U.S.C. §15483).

Conclusion. While Arizona may apply Proposition 200 requirements to the use of its state registration form in Federal elections (if the form meets the minimum requirements of the NVRA), the state may not apply the scheme to registrants using the Federal Registration Form. Consistent with the above, Arizona may not refuse to register individuals to vote in a Federal election for failing to provide supplemental proof of citizenship, if they have properly completed and timely submitted the Federal Registration Form. If you have any questions, please contact the undersigned at (202) 566-3100.


Thomas R. Wilkey
Executive Director

² These qualifications require a registrant to demonstrate that he or she is (1) a citizen of the United States, (2) at least 18 years of age before the date of the next general election, (3) a resident of Arizona for at least twenty-nine days, (4) has not been convicted of a felony unless restored to civil rights and (5) has not been determined mentally incapacitated.

³ *Joint Conference Committee Report on the National Voter Registration Act of 1993*, H. Rept. 103-66 (April 28, 1993).



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

June 20, 2006

Paul S. DeGregorio, Chairman
United States Election Assistance Commission
1225 New York Avenue N.W.
Washington, DC 20005

Dear Chairman DeGregorio:

Yesterday the United States District Court for the District of Arizona in *Gonzalez v. State of Arizona*, No. CV 06-1268-PHX-ROS, held that the National Voter Registration Act's (NVRA) language regarding the Federal Mail Voter Registration Form (Federal Form) does not preempt Arizona's requirement that individuals present proof of citizenship at the time they attempt to register using that form.

As you know, the correspondence dated March 6, 2006, from the Election Assistance Commission's Executive Director, Thomas Wilkey, precipitated this lawsuit and was used as an exhibit by the plaintiffs. In that letter Mr. Wilkey asserted that Arizona's proof of citizenship requirement when registering to vote with the federal form conflicted with the NVRA. Yesterday's 15 page court opinion and order clearly ruled to the contrary:

Determining whether an individual is a United States citizen is of paramount importance when determining his or her eligibility to vote. In fact, the NVRA repeatedly mentions that its purpose and goal is to increase registration of "eligible citizens." 42 U.S.C. § 1973gg(b)(1)-(2). Providing proof of citizenship undoubtedly assists Arizona in assessing the eligibility of applicants. Arizona's proof of citizenship requirement *does not conflict* with the plain language of the NVRA.

Order at p. 9. (Emphasis added)

Given the court's sound rejection of Mr. Wilkey's analysis, I once again implore you to properly instruct Arizona voters using the Federal Form about our proof of citizenship requirement. To do otherwise would further disenfranchise Arizona voters using the federal form who unknowingly rely on your erroneous instructions. I am sure that the Commission agrees with me that we should do everything possible to properly

educate and inform voters about our new voter registration requirements, and I look forward to your cooperation in this matter.

For your convenience, I have attached the proposed Arizona instructions that were submitted by my staff to yours on December 12, 2005.

Sincerely,



Janice K. Brewer
Arizona Secretary of State

Enclosure

cc: The Honorable John McCain
The Honorable John Kyl
The Honorable Rick Renzi
The Honorable Trent Franks
The Honorable John Shadegg
The Honorable Ed Pastor
The Honorable J.D. Hayworth
The Honorable Jeff Flake
The Honorable Raul Grijalva
The Honorable Jim Kolbe
The Honorable Terry Goddard
The Honorable Sam Reed, President,
National Association of Secretaries of State
Kevin Kennedy, President,
National Association of State Elections Directors

State Instructions

Arizona

Registration Deadline — 29 days before the election.

6. ID Number. Your completed voter registration form must contain the number of your Arizona driver license, or non-operating identification license issued pursuant to A.R.S. § 28-3165, if the license is current and valid. If you do not have a current and valid Arizona driver license or non-operating identification license, you must include the last four digits of your social security number if one has been issued to you. If you do not have a current and valid driver license or non-operating identification license or a social security number, please write "NONE" on the form. A unique identifying number will be assigned by the Secretary of State.

If this is your first time registering to vote in Arizona or you have moved to another county in Arizona, your voter registration form must also include proof of citizenship or the form will be rejected. If you have an Arizona driver license or non-operating identification license issued after October 1, 1996, this will serve as proof of citizenship and no additional documents are needed. If not, you must attach proof of citizenship to the form. Only one acceptable form of proof is needed to register to vote.

The following is a list of acceptable documents to establish your citizenship:

- A legible photocopy of a birth certificate that verifies citizenship and supporting legal documentation (i.e. marriage certificate) if the name on the birth certificate is not the same as your _____ current legal name
- A legible photocopy of pertinent pages of a United States passport identifying the applicant
- Presentation to the County Recorder of United States naturalization documents or the number of the certificate of naturalization in box ~~620 on the front of this form~~
- The applicant's Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number in box ~~46 on the front of this -the voter registration form~~
- A legible photocopy of a driver license or non-operating license~~identification~~ from another state within the United States if the license indicates that the applicant has provided satisfactory proof of _____ citizenship
- A legible photocopy of a Tribal Certificate of Indian Blood or Tribal or Bureau of Indian Affairs Affidavit of Birth.

If you need to include a photocopy of proof of citizenship, please fold the proof along with the Voter Registration Application and place both items in an envelope and mail to the address provided below.

7. Choice of Party. If you are registered in a political party which has qualified for ballot recognition, you will be permitted to vote the primary election ballot for that party. If you are registered as an independent, no party preference or as a member of a party which is not qualified for ballot recognition, you may select and vote one primary election ballot for one of the recognized political parties.

8. Race or Ethnic Group. Leave blank.

9. Signature. To register in Arizona you must:

- Must be a Citizen of the United States of America
- Must be a resident of Arizona and the county listed on your registration
- Must be 18 years of age or more on or before the day of the next regular General Election
- Must not be a convicted felony, unless your civil rights have been restored
- Must not have been adjudicated incompetent

Attention: Proof of Voter Identification

(Pursuant to the Help America Vote Act of 2002)

~~If this form is submitted by mail and it is the first time you have registered to vote in your jurisdiction, you MUST submit current, valid proof of identification with this application or the first time you vote in a federal election. To send it with this application you should enclose one of the following:~~

- ~~(1) A COPY of a current and valid photo identification OR~~
- ~~(2) A COPY of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address in the jurisdiction.~~

~~Submitting your proof of identification now with the application will allow you to avoid the federal requirement to show this proof at the polling place or, if voting by mail, to avoid sending it with your mail-in ballot. If you do not provide proof of identification, you may cast a provisional ballot.~~

~~Voters may also be required to show proof of identification under State law.~~

Mailing address:
Secretary of State/Elections
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007-2888

Website: www.azsos.gov



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

March 13, 2006

Paul S. DeGregorio, Chairman
United States Election Assistance Commission
1225 New York Avenue, N.W.
Washington, DC 20005

Dear Chairman DeGregorio,

As the Secretary of State and Chief Election Officer for the State of Arizona, I have significant concerns about the March 6, 2006, letter from your executive director asserting that Arizona may not implement its proof of citizenship law with respect to voters who register using a Federal Mail Voter Registration Form (Federal Form). In my mind, such a policy is completely inconsistent, unlawful, and without merit.

The executive director's opinion is incorrect and unlawfully prevents the State of Arizona from implementing an important voting security measure with respect to those voters using the Federal Form. Arizona's proof of citizenship requirement was passed by over one million voters in 2004, and was pre-cleared by the U.S. Department of Justice (DOJ) on January 24, 2005. In addition, DOJ separately pre-cleared our Arizona Voter Registration Form on May 6, 2005, which includes the proof of citizenship instructions now required of all citizens registering to vote in Arizona. The DOJ has civil enforcement power over the National Voter Registration Act, and has expressed no concern about Arizona's proof of citizenship requirement when registering to vote.

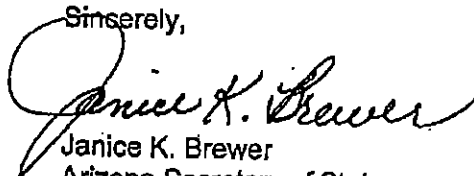
As I stated in my March 9, 2006, letter, I believe your letter provides questionable legal support for its conclusion. After consulting with the Arizona Attorney General, I will instruct Arizona's county recorders to continue to administer and enforce the requirement that all voters provide evidence of citizenship when registering to vote as specified in A.R.S. § 16-166(F).

State Capitol: 1700 West Washington Street, 7th Floor
Phoenix, Arizona 85007-2888
Telephone (602) 542-4285 Fax (602) 542-1575

Paul S. DeGregorio, Chairman
March 13, 2006
Page 2 of 2

As I requested of you in December, I urge you to instruct voters using the Federal Form to register in Arizona that they provide sufficient proof of citizenship. To do otherwise would be incredibly irresponsible and may unnecessarily disenfranchise voters using the Federal Form to register.

Sincerely,



Janice K. Brewer
Arizona Secretary of State

JKB:kt