

have no inflationary impact on prices and costs in the operation of the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 39, UNITED STATES CODE

PART III—MODERNIZATION AND FISCAL ADMINISTRATION

CHAPTER 24—APPROPRIATIONS AND ANNUAL REPORT

§ 2401. Appropriations

(a) * * *

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

PART IV—MAIL MATTER

CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

3621. Authority to fix rates and classes.

3629. Reduced rates for voter registration purposes.

§ 3627. Adjusting free and reduced rates

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

§ 3629. Reduced rates for voter registration purposes

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

in residence. Use of the Post Office change of address system is optional.

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

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

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

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

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

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

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

MINORITY VIEWS ON H.R. 2

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

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

CHART 1.—VOTER TURNOUT PRESIDENTIAL ELECTIONS, 1972-92

Year	Number of persons voting	Percent of eligible voters
1972	77,718,554	55.21
1976	81,555,789	53.35
1980	86,515,221	52.56
1984	92,552,680	53.10
1988	91,594,693	50.15
1992	104,552,736	55.90

Source: Federal Election Commission Data.

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

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

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are extremely costly to the states, political parties, candidates and others who depend on them for effective voter contact."¹

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

By mandating compliance with the provisions of this bill, the Congress would be imposing enormous costs on states, many of which are already facing financial crises. During the Subcommittee on Elections hearing on this bill, the costs imposed on California alone were estimated at over \$26 million per year. The estimate nationwide was between \$200 million and \$250 million per year.²

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

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

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

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

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

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

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

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

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

¹ Statement of Mr. Swift, Chairman of the Subcommittee on Elections, Congressional Record, February 6, 1990, p. H 255.

² Testimony of Tony Bernhard, Yolo County Clerk and Co-Chair of the California County Clerks' Election Legislation Committee, before the Subcommittee on Elections, January 26, 1991.

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

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

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

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

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

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

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

BILL THOMAS.
 NEWT GINGRICH.
 PAT ROBERTS.
 BOB LIVINGSTON.
 BILL FARRETT.
 JOHN BOEHNER.

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APPENDIX C

THE SENATE COMMITTEE REPORT ON THE ACT

108 ^D CONGRESS <i>1st Session</i>	Calendar No. 8	SENATE	REPORT 103-6
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ESTABLISHING NATIONAL VOTER REGISTRATION PROCEDURES FOR FEDERAL ELECTIONS, AND FOR OTHER PURPOSES

FEBRUARY 25 (legislative day, JANUARY 5), 1993.—Ordered to be printed

Mr. FORD, from the Committee on Rules and Administration,
submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany S. 460]

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 driver's license—so-called "motor-voter" registration; (b) by use of a uniform mail application; and (c) by application in person at an

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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 Committee's 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 Committee's hearings in the 102d 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 choosing 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 Con-

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 Committee's 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 driver's 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 driver's license would be an ideal way to register most people of voting age throughout the country.

The driver's 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 existing 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 driver's 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

gress 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 exercise 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 Committee's 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.

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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 State's Department of Motor Vehicles. In some States, the voter registration process is done on the same form as the application for a drivers 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 Alaska's Department of Motor Vehicles (DMV) has been accepting voter registration applications since 1983. A separate voter registration form is available at the State's 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 driver's license was developed by April 1985.

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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 driver's 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 person's 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 applicant's failure to sign the portion of the form containing the oath or attestation of eligibility to vote, shall be interpreted as an applicant's 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 Committee's 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

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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 State's 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.

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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 State's 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 driver's license.

Louisiana. In 1989, the State legislature authorized a pilot project that would allow employees of the State's 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, Maine's DMV will accept applications for voter registration and forward them to the Secretary of State's 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 driver's 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 State's 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 driver's 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 State's 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

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 applicant's 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 Committee's hearings in the 102nd Congress by Ralph Munro, Secretary of State of Washington, if the same scrutiny of driver's 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

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 State's 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 DMV's 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 driver's 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

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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.¹ 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 because 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.

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.² 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."

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 card 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."

¹ 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.

² During the Committee's 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 Committee's 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 Committee's 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.

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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 Oregon's 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 the applicant's 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.³ 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.

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.

³ 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.

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 driver's 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 complements 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 agency's 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 widespread 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 Committee's 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 driver's 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