

Testimony



Testimony of Deborah M. Phillips Chairman, The Voting Integrity Project

Before the

**United States Senate Committee on Governmental Affairs
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I am grateful for the opportunity to appear before you today to talk about an important subject — guaranteeing and protecting the voting franchise of qualified American citizens. The Voting Integrity Project is a national non-partisan voting rights organization. Our right to vote is the glue that keeps our government together. I am here today to talk about the network of laws that are intended to ensure ease of registration and access, but have serious unintended, and sometimes ironic, consequences. I will also offer a solution.

The National Voter Registration Act of 1993 (NVRA), has produced an alarming level of deadwood and fictitious names on America's voter rolls. Such cases are now widely documented in state after state, and catalogued by me in previous testimony before the Senate and House. Such names create a source pool and invitation for fraudulent voting. Since a stolen vote dilutes the strength of a legitimate voter's ballot, vote fraud is a voter rights issue.

But in Election 2000, a new problem emerged. The largest category of voter complaints received by the Voting Integrity Project (VIP) related to the direct disenfranchisement of qualified voters who, for a variety of reasons, were not on the voter rolls. Many, who had registered by mail or through third parties, never made it on. Some were removed incorrectly because of faulty data matches and lack of due diligence by election officials prior to purging names. This, too, is a serious voting rights issue.

NVRA, or Motor Voter, as it has become known, extended the registration process beyond the control of the local office of elections. Today, virtually anyone or anything can register to vote, through the mails, without having to show any proof of qualification, identity or residence. The verification process employed by Supervisors of Election doesn't even begin until a

name is placed on the voter rolls. And the current list maintenance procedures are expensive and labor intensive. NVRA represents a vast unfunded federal mandate on the States.

To understand the process and appreciate how cumbersome and vulnerable it is, you need look no further than the charts attached to my testimony taken from the handbook of the Federal Election Commission's Office of Election Administration (FEC/OEA). The first illustrates the catchment of voter registrations that includes the Department of Motor Vehicles and other government agencies, the availability of a universal mail-in application via the Internet, and third-party (sometimes paid) collectors of registrations.

NVRA prohibits removing names solely for failure to vote or change of address within a jurisdiction. As you can see in the second FEC/OEA chart, the process for verification and list/maintenance is cumbersome and uncertain. NVRA recommends use of the U.S. Postal Service National Change of Address List (NCOA) to identify invalid registrations. Yet, that will only verify on the basis of residence. It does not reach to identity, citizenship or other qualifications. For that, an election office must obtain death notices, criminal conviction notices, mental incapacity notices, social security records and citizenship records. Such records may not be available and can be problematic, since they may be kept by widely varying formats and schedules. NVRA does permit (but does not mandate) two possible security mechanisms. The first is that States may require voters who have registered via the mail-in process to vote the first time in person. However, because of fail-safe procedures, such id requirements are easily thwarted.

The second available security check is the acknowledgment notice sent out by the election office which, if returned as undeliverable, can trigger a confirmation procedure.

Invalid registrations may easily go undetected. NVRA requires only that States make a "reasonable effort" to identify and remove such names. It does specify procedures for doing so. In many cases, such names are flagged as "inactive" but, under NVRA rules, remain on the voter rolls for two federal elections before removal. And if such a name is voted in that period, it is re-activated. Even though NVRA requires such removals to occur at least 90 days before a federal election, most state registrations do not close until 30 days before elections,

creating a 60-day window within which new registrations can be lodged, and leaving little time for due diligence.

Many states do not have centralized voter registration. Registration is maintained on a local basis. Even those states that do maintain some form of statewide voter roll may not perform routine matching procedures among the component jurisdictions. Certainly, there is no mechanism to match records of one state against another. Many voters assume that when they move, their old registration is canceled. This may not be the case even within a state, and certainly not across state borders. Thus, we believe there is an undocumented prevalence of voters who are registered in multiple jurisdictions and multiple states. With the increasing use of absentee ballots, such names can easily be voted.

Lastly, it is important to understand the cost of current list maintenance procedures is beyond many local budgets. Confirmation mailings must be "forwardable" under the rules of NVRA, thus they will not automatically yield information for list maintenance purposes. NCOA list matches must be performed through a limited number of commercial vendors, with minimum charges that become very expensive when there is a relatively small volume of records, such as a rural county. The alternative is to perform additional first-class mailings (with return address requested). Given the level of mobility of today's society, local and state voter rolls are subject to an unprecedented level of "churn."

That is why these records are building up to the point where, in many states, registered voters far outnumber voting age populations. For those determined to use invalid registrations for fraudulent voting, it is not at all difficult to identify such names. Sometimes it is as simple as requesting the "Inactive Voters" list.

Although documented and fully prosecuted cases of vote fraud are still unusual, that probably has more to do with the fact that only when margins are very close is the issue even raised. And candidate election contests alleging fraud usually do not have sufficient time or resources to build an evidentiary record sufficient for success. Prosecutors do not like election fraud cases because they take precious resources from strained budgets needed for more serious crimes.

So what is the solution? VIP believes that it may be time to

consider creating a "life-time" voter registration with stringent verification procedures. But under the current system, this is not possible. However, if all 50 states adopted central computerized voter registration systems, with uniform record keeping formats, it would be possible to create one-time registrations that would follow the voter through life regardless of where they lived. In such a system, once registered, you would remain registered for life. Registrations could be suspended for a period of time or permanently, but would remain within the database. Even death would not remove the record — only de-activate it, so that no one else could use that name for registration purposes.

Such a system would eliminate problems of deadwood, duplicate and fraudulent registrations. And would create a framework for instant verification at the polling place via on-line networks, thus guaranteeing franchise. Utilizing secure data networks, such a system could make it possible for a voter to go any official polling place and pull down their local ballot and vote.

The technology for such a system is available, and I believe this can be done without creating another layer of intrusion into privacy or lead to government abuse. The process of building such a system can begin now, with your leadership. Thank you.

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