Restoring Integrity and Trust in Elections

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Chairman Steil, Ranking Member Morelle, and Members of the Committee:

I am grateful for the opportunity to discuss voter registration list maintenance standards. This is a critically important topic that I have been immersed in for 15 years, first as an election administrator at the Virginia State Board of Elections, and now as an election lawyer representing organizations such as Restoring Integrity and Trust in Elections ("RITE") who are dedicated to ensuring states keep current and accurate voter rolls.

Voter registration is the gateway to participation in America's elections. When properly administered, our voter registration system ensures that eligible citizens can vote and those ineligible cannot. Therefore, maintaining accurate voter registration lists is foundational to the integrity of America's entire electoral system. Inaccuracies not only risk disenfranchising voters and opening opportunities for fraud, but they also burden election officials, lead to longer lines to vote, waste taxpayer dollars, and erode public trust in the democratic process.

I want to briefly highlight three voter roll maintenance issues. First, the inadequate and overly restrictive federal requirements imposed by the National Voter Registration Act ("NVRA"), the principal federal law regulating voter registration. Second, common list maintenance failures I have observed at the state and local levels. And third, the erosion of a national consensus – at least in principle – on the importance of clean voter rolls, including the expectation that voters should be registered and vote only where they reside.

Although two of the NVRA's stated purposes are to "protect the integrity of the electoral process" and "ensure that accurate and current voter registration rolls are maintained," the law largely accomplishes neither.[1] The NVRA imposes on states too low of a floor by setting a laughably lax "reasonable effort" standard for maintaining accurate voter rolls, and a ceiling that excessively limits many state list maintenance activities.

First, the floor. The NVRA provides a "safe harbor" for states to meet the minimum requirement of making a "reasonable effort to remove . . . ineligible voters."[2] For voters who have moved, states need only to rely on United States Postal Service ("USPS") National Change of

[1] 52 U.S.C. § 20501(b)(3)-(4).
[2] 52 U.S.C. § 20507(a)(4), (c)(1).

Address ("NCOA") data and initiate a lengthy cancellation process. While use of NCOA is certainly necessary, it is far from sufficient because NCOA fails to capture a sizable portion of the millions of Americans who move each year.[3]

The NVRA does not, for example, require officials to initiate cancellation procedures when USPS returns to them undeliverable election mail such as voter registration cards, absentee and mail ballots, and other informational mailings. Nor does the NVRA require states to exchange registration data with one another. This is wholly inadequate given the multitude of data sources available to election officials today.

To be clear, the NVRA permits states to go beyond the NCOA safe harbor, and many do. And to the NVRA's credit, it does not explicitly restrict the data sources officials may use for list maintenance. Still, allowing for states to use NCOA data alone sets far too low of a legal bar for ensuring accurate and up-to-date voter rolls.

Not only are the NVRA's minimum standards lacking, but the law also imposes an unreasonably low ceiling restricting states' list maintenance activities. Notwithstanding its stated purposes to ensure accurate voter lists, the NVRA thwarts state efforts to do so.

Even when a state utilizes multiple data sources to identify ineligible registrants, the NVRA makes it unnecessarily difficult to remove them, especially for those who move. These individuals must request cancellation of their registration or officials have to initiate a cumbersome confirmation mailing process and then wait for two federal general elections before removing them.[4] Unfortunately, too few voters request cancellation. The Election Assistance Commission's 2024 *Election Administration and Voting Survey* ("EAVS") found that "[n]early 70% of confirmation notices were not returned by voters."[5]

Any proposed changes to the NVRA should set a clear standard for what constitutes a voter's request for removal. Specifically, federal law should require, or at least permit, a state to consider a registration application from a voter who registers in a new state as a request for removal to the election official in their old state. Although some states have attempted to implement this common-sense approach, courts have ruled that the NVRA prohibits it.[6]

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[3] One direct mail industry publication estimates that "[a]s much as 40% of all address changes are not reported to the Postal Service[.]" Greg Brown, *Powering Correct Addresses: Going Beyond NCOA to Reach Elusive Customers*, Mailing Sys. Tech. (Mar. 23, 2023), https://mailingsystemstechnology.com/article-5064-Powering-Correct-Addresses-Going-Beyond-NCOA-to-Reach-Elusive-Customers.html.

[4] 52 U.S.C. § 20507(d).

[5] U.S. Election Assistance Comm'n, *The Election Administration and Voting Survey: 2024 Comprehensive Report* at iv (June 2025), https://www.eac.gov/sites/default/files/2025-06/2024_EAVS_Report_508c.pdf.

[6] *See Common Cause Indiana v. Lawson*, 937 F.3d 944, 959 (7th Cir. 2019) (emphasis added) (The NVRA "forbids a state from removing a voter from that state's registration list unless: (1) it hears *directly from the voter* via a "request" or a "confirm[ation] in writing" that the voter is ineligible or does not wish to be registered; or (2) the state goes through the statutorily prescribed process of (a) notifying the voter, (b) giving the voter an opportunity to respond, and (c) then waiting two inactive election cycles before removing a suspected ineligible voter who never responds to the notice.").

To streamline the cancellation process, Congress could require that voter registration applications for federal elections contain fields for registrants to list their previous registration address, along with an acknowledgement that completing the application constitutes a request to cancel their prior registration. Many states already have a similar field. Congress could also require states to transmit the information to election officials in the voter's previous jurisdiction. These changes would significantly reduce the number of duplicate interstate registrations and the backlog of inactive registrations that currently remain on the rolls for up to four years before cancellation. It would also save election officials money by reducing the number of confirmation notice mailings, most of which go unanswered anyway.

Another issue of which I have firsthand experience as a Virginia official is the impact of the NVRA's 90-day pre-federal election blackout period on systemic list maintenance activities, particularly for voters who have moved.[7] In a presidential election year, Virginia and other states hold three separate federal elections: a general, a congressional primary, and a presidential primary. As a result, the NVRA can effectively halt most systemic list maintenance activity for up to 270 days of the year.[8] Even more concerning, courts have applied the 90-day blackout to restrict states from cancelling registrations of those who were never eligible to vote in the first place, such as noncitizens.[9]

How can a state effectively maintain accurate voter rolls when federal law prevents it from doing so for significant portions of a federal election cycle, including during periods with the highest registration activity? Congress should consider either eliminating or modifying the 90-day blackout period by reducing its length and by applying it only to federal general elections, rather than federal primaries and special elections.

To be sure, safeguards are necessary to prevent officials from mistakenly removing voters on the eve of an election. But nearly half the states now offer some form of same-day registration, and many others have protections in place to ensure the few mistakenly removed voters can still vote.[10] HAVA also guarantees the right to vote provisionally in these situations.[11] So what, exactly, are we really protecting against?

Next, I would like to share a few reflections on process breakdowns I observed as a Virginia election official that are typical of those I have also encountered in other states.

First, actual processes do not frequently track stated policy and the law, and looking under the hood can be a sobering experience. During my time at the State Board of Elections, we discovered that the previous administration had neglected various basic list maintenance activities, even basic annual NCOA confirmation mailings, and that there had been breakdowns in obtaining key data

[7] 52 U.S.C. § 20507(c)(2)(A).
[8] *See* Virginia Dep't of Elections 2024 election dates: Presidential Primary held on March 5, congressional primary held on June 18, and General Election held on November 5.
[9] *See Mi Familia Vota v. Fontes*, 129 F.4th 691, 717 (9th Cir. 2025) (Ninth Circuit Court of Appeals "hold[ing] that H.B. 2243's periodic cancellation of registrations [of noncitizens] violates the 90-day Provision of the NVRA to the extent that H.B. 2243 authorizes systematic cancellation of registrations within 90 days before a federal election.").
[10] Same-Day Voter Registration, Nat'l Conf. of State Legislatures, https://www.ncsl.org/elections-and-campaigns/same-day-voter-registration (last visited July 20, 2025).
[11] 52 U.S.C. § 21082.

from other agencies. One particular egregious example occurred when we compared the state voter file with the entire Social Security Administration's Death Master File and identified approximately 10,000 deceased individuals who remained registered. For some reason, the agency had never identified these dead voters before even though the law required ongoing comparison with Social Security Administration data.[12]

Bureaucratic siloing, resistance, and finger-pointing – whether vertical, between local and state officials, or horizontal, across state government agencies – also happens far too frequently. I found that other state agencies, such as the Department of Motor Vehicles and those with vital statistics data, were simply uninterested in doing more than the bare minimum to assist election officials with list maintenance, notwithstanding state and federal laws requiring them to.

This is not just a Virginia problem. For example, a recent state legislative audit of Maryland's list maintenance activities found that the state Department of Health was providing state election officials with incomplete sets of death records, citing an unexplained "agency policy."[13] Worse, the Department of Health refused to commit to providing the missing data even after the audit findings were made public.

Notwithstanding the NVRA's requirement that states allow the public to access records concerning list maintenance programs, they routinely resist disclosure.[14] My organization, RITE, recently successfully sued Maryland for its efforts to stonewall public access, and other organizations have routinely brought similar litigation.

This type of behavior limits the public's efforts to monitor list maintenance, so it can be difficult to identify malfunctions in the system. But simply comparing the number of registered voters with the citizen voting-age population ("CVAP") reveals that there are implausibly high voter registration rates in counties across the country. That indicates at least some systemic failings. And as I observed in Virginia, it is easy for officials with multiple competing priorities to allow list maintenance procedures to run on autopilot without realizing they are broken.

Finally, it should be uncontroversial to say that ineligible voters should not remain on the voter rolls. Yet that consensus may be eroding. A clear example is a Montana law RITE helped defend that prohibits residents from maintaining multiple voter registrations, including in other states. Although the law was imperfect, its goal of preventing duplicative registrations was sound. Marc Elias, representing progressive groups, challenged the law, arguing that "[t]here are myriad reasons why maintaining a prior registration might be needed," such as "convenience," "flexibility," and other factors.[15]

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[12] Wesley P. Hester, *10,000 Deceased Voters Found on Virginia Rolls*, Richmond Times-Dispatch (Aug. 9, 2012), https://richmond.com/news/10-000-deceased-voters-found-on-virginia-rolls/article_5459df20-18f5-5281-9dcf-62b37c9c49c8.html.

[13] Office of Legislative Audits, State of Md., *Fiscal Compliance Audit: State Board of Elections (Dec. 3, 2018 – July 31, 2022)* (Oct. 31, 2023), https://www.marylandmatters.org/wp-content/uploads/2024/11/SBE23.pdf.

[14] 52 U.S.C. § 20507(i).

[15] *Mem. In Supp. Of Pl.'s Mot. For Prelim. Inj.*, at 20-21, *Mont. Pub. Interest Research Grp. v. Jacobsen*, No. 6:23-cv-00070-BMM-KD, at 20-21 (D. Mont. Nov. 6, 2023).

The Montana case, along with similar efforts to undermine bona fide residency requirements, should be a warning sign. There should be no controversy about the historically agreed-upon concepts that voters should only be registered in one place at one time and vote where they live. When basic assumptions like this are challenged, it poses a serious obstacle to finding bipartisan solutions to improve list maintenance and raises broader questions about a national commitment to having accurate, reliable, and trustworthy elections.