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**on Behalf of Demos: A Network for Ideas & Action**  
**before**  
**U.S. Election Assistance Commission**  
**March 14, 2006**

Good morning Chair DeGregorio and Commissioners Hillman, Martinez, and Davidson. My name is Brenda Wright and I am the Managing Attorney with the National Voting Rights Institute located in Boston, Massachusetts. As you may know, NVRI has entered into a collaboration with Demos: A Network for Ideas & Action, and I am happy to be presenting this testimony on behalf of Demos today. I would like to begin by extending my sincere thanks to the EAC Commissioners for holding today's presentation on the National Voter Registration Act.

As you are aware, Congress enacted the National Voter Registration Act in 1993 to "increase the number of eligible citizens who register to vote in elections for Federal office" and to "protect the integrity of the electoral process." While the NVRA is best known for its "motor voter" provision, Section 7 of the Act requires states to designate as voter registration agencies all offices that provide public assistance benefits, including Food Stamps, Medicaid, Temporary Assistance for Needy Families (TANF), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Specifically, voter registration opportunities and materials must be provided with each application, recertification, and change of address form relating to public assistance benefits. In addition to recognizing the inherent suitability of public assistance agencies for large-scale voter registration, Congress included the public assistance provisions because of a basic concern for equity in the voter registration system.

The NVRA is indeed a landmark piece of legislation. The public assistance provisions remain the only federal law to require the government to proactively engage low-income citizens in our democratic system. Unfortunately, however, the work of the NVRA Implementation Project – a joint effort of Demos, Project Vote, and ACORN – has revealed that many states are failing to implement the public assistance provisions of the NVRA.<sup>1</sup> One result is the perpetuation of disparities in voter registration rates by income. In 2004, according to the U.S. Census Bureau, only 59 percent of citizens in households earning \$15,000 or less per year are registered to vote – versus 85 percent in households earning over \$75,000.<sup>2</sup>

Poor state implementation of Section 7 of the NVRA is neither inevitable nor irreversible. The work of the NVRA Implementation Project has shown that, sometimes by making a few small procedural enhancements, public assistance agencies can improve compliance with the law as well as provide more effective and efficient voter registration services. I am here today to speak about the experiences of the NVRA Implementation Project and to offer recommendations on

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<sup>1</sup> NVRA Implementation Project, *Ten Years Later: A Promise Unfulfilled: The National Voter Registration Act in Public Assistance Agencies, 1995-2000* (authored by Brian Kavanagh, Steve Carbo, Lucy Mayo & Mike Slater), September 14, 2005, available at <http://www.demos.org/pub634.cfm>.

<sup>2</sup> *Id.* at 4.

how the Election Assistance Commission can help to improve implementation of the public assistance provisions of the NVRA.

The NVRA Implementation Project was launched in 2004 to improve states' compliance with the public assistance provisions of the NVRA. Using nationwide data collected by the Federal Election Commission and the Election Assistance Commission, we found that voter registration applications from public assistance agencies had fallen 59% by 2003-2004 as compared with 1995-1996, while applications from all other sources increased by 22%.<sup>3</sup> Eighteen of 40 states reported decreases exceeding the national figure, and 11 states, including Alaska, Arkansas, Connecticut, Indiana, Iowa, Louisiana, Mississippi, Missouri, Texas, Utah, and Virginia, reported declines of over 80%.<sup>4</sup>

While caseloads in some public assistance programs have declined overall since the NVRA went into effect, these declines are not sufficient to explain the declines in voter registration applications through public assistance agencies. For example, in the Food Stamp Program, average monthly participation was about 9.15 million households in 2003 compared with 10.88 million in 1995, a 15.9% decline.<sup>5</sup> As we have seen, the decline in voter registration applications from public assistance offices during the same period nationwide was 59%. Additionally, Medicaid enrollment has increased 32.4% from June 1997 to June 2004.<sup>6</sup> Field observations revealed the dynamics behind states' sometimes drastic decreases in voter registration activity at public assistance agencies:

- **Worst cases** – Demos, Project Vote, and ACORN have encountered public assistance offices that fail to offer voter registration services at all. In some instances the failure is limited to specific offices or programs. In other instances, entire agencies have been ignoring the NVRA's mandates. Field observers in one state, for example, visited three offices within the state, none of which had any knowledge of the NVRA-required declination form.
- **Partial failures** – Some offices seem to offer voter registration, but fail to do so at all required points of contact. The most common violation is offices failing to offer voter registration services to clients changing their addresses, even though the NVRA specifically requires that voter registration be offered in this instance.
- **Incorrect wording** – Congress took great pains to specify the language that must appear on forms distributed at public assistance agencies. Some agencies use forms with incomplete or inaccurate information on voter registration. For example, incorrect language may not fully inform clients that they must re-register if they have changed their address since last registering.

The NVRA Implementation Project has been providing technical assistance to fourteen states over the past two years to improve compliance with the law and to create more effective and efficient voter registration services. The Project's experience has shown that the implementation of small procedural changes can make a significant difference. While supporting and best practices may go beyond the minimum requirements of the law, we have found that when

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<sup>3</sup> *Id.* at 5.

<sup>4</sup> *Id.*, Appendix, at 16.

<sup>5</sup> USDA-National Agricultural Statistics Service, Agricultural Statistics 2005, Table 13.7.

<sup>6</sup> Kaiser Family Foundation, "Medicaid Enrollment in 50 States," June 2004, Figure 1.

designed and implemented in a thoughtful manner, many best practices not only increase voter registration activity, but also streamline the tasks performed by agency workers.

Successful supporting and best practices include:

- The Commissioner of the agency issuing a memo reminding all staff of their responsibilities under the NVRA.
- Ensuring that caseworkers encourage clients to complete voter registration applications within the office. An excellent data set from Pennsylvania as well as anecdotal evidence suggest that there is a large gap between the number of clients completing the voter registration application in the office and the number taking the application with them to complete at a later time.
- Designating a voter registration coordinator in each public assistance office and one coordinator for the entire agency.
- Posting signs about voter registration in office waiting rooms and instructing workers to wear voter registration buttons. Demos is happy to provide these materials upon request.
- Assigning waiting-room voter registration responsibilities to a caseworker or receptionist in every office.
- Providing comprehensive and regular training to all employees on their responsibilities under the NVRA.
- Including voter registration materials in all mailings sent to clients who apply or recertify their benefits by mail.
- Using an automated, web-based system to improve tracking of all agency voter registration activities.

While comprehensive data are sometimes difficult to obtain, the numbers we do have from states that have made recommended changes are encouraging. For example, after implementing many of our recommended procedural changes, Iowa was able to increase the number of voter registrations received from public assistance agencies by 3000%.<sup>7</sup> In 2005 Demos worked with New Jersey's WIC program to clarify their understanding of the law and to aid in the development of new procedures. As a result, they expect a 350% increase in the number of individuals who will be offered voter registration services.

As the body charged with reviewing implementation of the NVRA and making recommendations for improvements in federal and state procedures, the EAC can play a powerful role to enhance implementation of the public assistance provisions of the law. I would like to take this opportunity to strongly encourage the EAC to send a letter to governors, chief elections officials, and public assistance administrators reminding them of the requirements of Section 7 of the NVRA. Such a letter should also suggest and describe best and supporting practices that facilitate effective implementation of the law. Demos is available for assistance in drafting this letter.

The EAC's main charge under the NVRA is to produce a biennial report for Congress assessing the impact of the NVRA on the administration of elections for the preceding two years and to include recommendations for improvements in state and federal procedures. The EAC's report

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<sup>7</sup> *Id.* at 10.

has the potential to serve as a centralized clearinghouse for best practices, providing states with real world-tested solutions for effective and efficient NVRA implementation. While previous FEC and EAC reports have provided important insight into the functioning of the NVRA, the analysis of data has been treated in isolation with little attention paid to states' performance in previous years and trends over time. A more comprehensive analysis, including an expansion of the data collected (which will be discussed later) would be helpful in identifying states that have implemented the law with great success as well as states that are experiencing problems.

I would like to take this opportunity to express our concerns with the survey the EAC currently uses to collect information on the NVRA from states' chief elections officials. While the current survey questions gather basic information such as the number of registrations received from public assistance offices, more complete data tracking would facilitate a much more comprehensive analysis of the impact of the NVRA. We recognize that the current survey questions are codified in the EAC's Regulations and that additional survey questions may require amending the Regulations. However, the value of including additional survey questions is worth the additional effort that amending the regulations would entail.

A serious limitation of the current survey is that it does not allow us to contextualize voter registration data. Our experience in working with states is that the raw number of applications from public assistance agencies means little without knowing the number of initial applications, recertifications, and address changes completed by the agency. For example, knowing that a state registered 1000 individuals in its public assistance offices provides little insight into the effectiveness of the state's voter registration procedures. If that office only had 1001 client interactions requiring an offer of voter registration services, it is doing a fantastic job. However, if 100,000 individuals completed NVRA-covered transactions, registering only 1000 of these individuals may be indicative of a serious failure to implement the law. Furthermore, it is wholly possible, and demonstrable in the case of Philadelphia, that as office traffic rises faster than the number of applications completed, an increase in the raw number of applications is actually accompanied by a decrease in the percentage of clients completing voter registration applications.

It is also important to note that this figure is different than agency *caseload*, a number that does not capture changes of address or initial applicants who were denied benefits but are still required to be offered the opportunity for voter registration upon application. It is also important to know what percentage (or the raw number) of an agency's interactions are conducted via telephone, mail, or internet. These remote interactions may not be covered by the federal NVRA and, while some states include remote interactions in their enabling legislation, many do not. It is thus important to have this number when calculating an agency's NVRA-covered traffic flow. Finally, any information on how often a recipient is required to renew or recertify benefits is helpful in evaluating an agency's performance. Collecting this additional information is necessary not only to gain insight into states that may not be in full compliance, but also to identify states that are able to register a significant percentage of their agency traffic. Our experience has shown that many underperforming states are eager to hear about and implement practices that have led to success in other states.

Our work has also taught us that public assistance agencies are under-funded and, despite their good intentions, are often unable to track more data than is currently required. However, collecting information on office traffic is not likely to place an undue burden on cash-strapped public assistance agencies. We know that the federal government already requires agencies to track this information for the Food Stamp program and we suspect that it is tracked for Medicaid and WIC as well. Even if Food Stamps were the only program for which this data were available, its traffic flow could serve as a proxy measurement for general public assistance use because it is the most widely used of the public assistance programs. Additionally, for each office designated as a voter registration agency, it would be helpful to know the individual programs that are administered by that office. This is essential to ensuring that each program covered by the NVRA is offering voter registration services. Finally, it would be helpful to know how many completed voter registration forms were submitted by each public assistance agency or office. Again, collecting such information would facilitate identifying offices that may be having difficulties or are especially successful in implementing the law.

A comprehensive list of recommended additions to EAC's survey to the states is attached to this testimony.

All previous FEC/EAC reports on the NVRA note substantial failures on the part of states to provide accurate and complete information. Gaining an accurate understanding of the effectiveness of the NVRA is contingent upon states providing complete data to the EAC in a timely fashion. Whatever steps can be taken to encourage states to provide complete information as mandated by the Regulations should be strongly considered.

Finally, since the EAC itself does not have powers of enforcement, we strongly urge the EAC to request as a priority that the Department of Justice take action to investigate states' failure to adequately implement Section 7 of the NVRA. The NVRA Implementation Project has sent information to DOJ on several occasions describing states' non-compliance with the law and requesting that DOJ take action. Accompanying the release of the Project's report, 30 members of Congress, led by Representative John Conyers sent a letter to U.S. Attorney General Alberto Gonzales requesting that DOJ take "immediate and aggressive" action to investigate states' compliance with the public assistance provisions of the NVRA. To the best of our knowledge, DOJ has provided no response to these requests. Any steps the EAC can take in working with the DOJ to investigate and enforce NVRA compliance are strongly encouraged.

The National Voter Registration Act is one of the most important pieces of election legislation passed in the previous fifteen years. It remains the only piece of federal legislation to mandate the government to proactively engage citizens in the democratic process. Unfortunately, while a great deal of attention is paid to the Act's "motor voter" provisions, the NVRA's public assistance provisions have been allowed to deteriorate largely unnoticed. The work of the NVRA Implementation Project has documented the serious failure on behalf of many states to adequately implement the law as well as the simple steps that can be taken to significantly improve compliance. Demos applauds the EAC for holding today's important hearing and looks forward to providing ongoing support in the effort to provide the most effective voter registration services.

Thank you for this opportunity to speak before you today. Please do not hesitate to contact me with any further questions.