The Election Registration Information Center, or ERIC

There is a movement afoot to persuade state officials in Virginia to withdraw from a multistate voter information sharing program called ERIC, which is an acronym for the Election Registration Information Center. At the State Board of Elections (SBE) meeting on April 11, 2023, all the public comments were critical of ERIC. The effort was apparently intended to influence the SBE and the Department of Elections to withdraw Virginia from the program. Certain other states have already withdrawn but, before examining why certain states are doing that, it should be clear what ERIC is and what it is not.

What is ERIC?

ERIC[1] is a data exchange program through which states can share current voter registration information among themselves so that they can maintain their voter lists as accurately as possible. It also identifies individuals who might be eligible to vote but are not yet registered. It is a non-profit charitable organization whose membership consists of 32 states and the District of Columbia.

A group of chief elections officials from seven states, including Virginia, founded ERIC in 2012, with assistance from the Pew Charitable Trusts. The members form a board of directors that controls ERIC, while the initial membership fee and annual dues pay for ERIC. ERIC can pay for advanced reporting that would be excessively costly for individual states.

ERIC prepares four reports, based on information each member submits at least every 60 days, plus three other reports. Virginia receives all seven reports each month:[2]

1. Cross-State Movers Report. Using voter registration and DMV data submitted by the members, this report identifies voters who appear to have moved between ERIC member states;

2. In-State Updates Report. This report identifies voters who appear to have moved within an ERIC member state, based on voter registration and DMV data;

3. In-State Duplicate Report. Voters who appear to have registered more than once in the same state show up on this report, based on voter registration and DMV data;

4. Deceased Report. This report identifies voters who have died, using not only voter registration and DMV data but also the relatively costly Social Security death data known as the Limited Access Death Master File;

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[1] The primary source in this paper for ERIC's activities is its website. Https://ericstates.org.

[2] https://www.elections.virginia.gov/media/formswarehouse/maintenance-reports/2022-List-Maintenance-Report_final.pdf ("2022 Annual List Maintenance Report"), p. 3. The list combines information from ERIC's website with statements in the List Maintenance Report.

5. Eligible But Unregistered (EBU) Report. Comparing DMV data with voter registration, ERIC advises member states of individuals who appear to be eligible to vote. The member states must comb through the data and eliminate those who are ineligible to vote;

6. National Change of Address (NCOA) Registry Report. ERIC obtains the US Postal Service list of those who have submitted change of address notices and compares them to voter lists in each member state, which the states then verify; and

7. Voter Participation Report. After every federal election, ERIC identifies voters who might have voted in more than one state or cast ballots in more than one state. This report is not provided automatically but only upon request by a member.[3]

The terms of ERIC membership require the states that participate to update their voting lists regularly and provide requested information. It also requires the states to contact eligible voters identified in the EBU Report at least once every two years to offer them the opportunity to register.[4] Federal statutes protect certain information used to produce the reports. Accordingly, the ERIC membership agreement prohibits the release of any report except the In-State Duplicate Report and the Deceased Report—the latter after three years from date of death.[5] A chart shows what can and cannot be released; the EBU Report cannot.[6]

It is important to note what ERIC does NOT do. It does not validate addresses and is not connected to any state voter registration system. It does not gather information from any sources other than those named above. The data it collects are stored on servers that are not connected to the internet and ERIC adheres to extensive security protocols described on its website. As a Section 501(c)(3) organization, ERIC cannot provide information or reports to any candidate or campaign, but its website goes further, stating that it has "not shared data with third parties for partisan purposes."[7]

The Annual List Maintenance Report, September 1, 2022-August 31, 2023, which is produced by the Virginia Department of Elections (ELECT) states that Virginia pays an annual fee of $37,644 to participate in ERIC [in addition to the $25,000 membership fee paid when the state joined the nascent organization]. Virginia also shares data with non-ERIC states on its borders via a memorandum of understanding. Nevertheless, the quality of the data exceeds any in other interstate exchange programs or "any program that ELECT could operate in-house with existing resources. The ERIC membership costs are less than the costs incurred if ELECT were required to create and manage an in-house program resulting in the same quality of data."[8] In remarks at the Virginia Electoral Board Association Annual Meeting in March 2023, Commissioner Susan Beals addressed the objections to ERIC, noting that recently Virginia was able, thanks to a report that ERIC generated, to identify two voters who had also voted in other states.[9]

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[3] https://ericstates.org/wp-content/uploads/documents/ERIC-Bylaw-MA-FINAL.pdf, p. 22.
[4] https://ericstates.org/wp-content/uploads/documents/ERIC-Bylaw-MA-FINAL.pdf, p. 20.
[5] https://ericstates.org/faq/.
[6]
https://ericstates.org/wp-content/uploads/documents/ERIC_Reports_Legal%20Protections_and_Disclosure_Chart.pdf
[7] https://ericstates.org/faq/.
[8] Annual List Maintenance Report, p. 3
[9] Virginia Electoral Board Association Annual Meeting, March 26, 2023.

What Are the Complaints About ERIC and Why Have States Withdrawn?

The genesis of efforts to undermine ERIC is a series of blog posts in Gateway Pundit in January 2022, claiming that liberal philanthropist George Soros had funded ERIC and the organization was really a left-wing ploy to register Democrats.[10] Conservative groups such as the Heritage Foundation had approved of ERIC and urged states to join the program.[11]

Five states have withdrawn from the list maintenance data exchange program, starting with Louisiana and Alabama. Three members withdrew in early March—Florida, Missouri, and West Virginia. Their Secretaries of State cited three main concerns. There are other, minor, issues as well.

One of the concerns is what they perceive as a left-leaning influence, particularly the allegation that George Soros, through his Open Society Foundation, funded ERIC and the fact that ERIC was the brainchild of liberal non-voting board member David Becker. They sought to eliminate the non-voting board positions. Another is that they object to the EBU Report, with its requirement that the member state offer voter registration opportunities to eligible but unregistered voters. The Missouri Secretary of State complains that the mailings to EBU voters are going to "people who made the conscious decision not to be registered."[12] Before withdrawing, Florida simply flouted the requirement and did not sent mailers to EBU voters.[13] Becker has resigned.

Some also object to the information collected and shared with ERIC on the grounds it includes "personal information" related to "minors," according to a member of the public during the public comment period at the April 11, 2023 SBE meeting. Her criticism echoed a member of Congress who worried that the DMV data being shared was in jeopardy of release.[14] In contrast, another member of the public at the SBE meeting suggested the membership agreement might violate federal law, relaying the claim that the secrecy in data sharing violates the public records mandate of the National Voter Registration Act (NVRA).[15] Another individual maintained that there are less expensive ways to conduct list maintenance, pointing out that the Crosscheck program was free. None of these statements withstands scrutiny.

Setting the Record Straight on the Objections to ERIC

- Seed funding for ERIC was provided by the Pew Charitable Trusts in 2012. At some point in the past, the Open Society Foundation, funded by billionaire philanthropist George Soros, made a $500,000 grant to the Pew Charitable Trusts for voting rights work, not ERIC. ERIC is fully and solely funded by its members and has received no

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[10]

https://www.votebeat.org/23045551/eric-electronic-registration-information-center-voter-roll-matching-program.

[11] https://www.heritage.org/electionscorecard/pages/methodology.html. It appears that the Heritage Foundation continues to support ERIC.

[12] https://www.politico.com/news/2023/03/06/voter-list-florida-republican-states-00085750.

[13] Ibid.

[14]

https://1819news.com/news/item/voter-maintenance-program-controversy-stems-from-political-rumors-federal-lawsui-02-12-2022.

[15] Ibid.

funding from Pew Trusts other than the initial grant and $288,000 for technology upgrades in 2019.[16]

- ERIC is a nonpartisan organization. The initial group of states was reported to be fairly evenly divided between red and blue. There is no evidence of a leftist agenda, unless inducing states to encourage potential voters to register is leftist.

- There is a contradiction between the criticisms that ERIC has too much personal data (especially from minors too young to vote) yet it maintains secrecy to the extent that it violates the federal NVRA. Which is right? The answer is, neither.

    o According to its website and its users, ERIC has strict security protocols and all information is encrypted. The personal information is masked.[17] The website's FAQs include the following statement: "[The EBU] report is generated by comparing MVD data to voter data and includes only individuals who have a driver's license or state ID card issued by the member jurisdiction's MVD. These reports do not include political party affiliation, age, or racial data."[18] This statement implies that underage individuals are not included in the data.

    o J. Christian Adams of the Public Interest Legal Foundation is suing some member states, claiming that the failure to make the information public violates section 8 of the NVRA. A close reading of Section 8(i), however, indicates that the information that must be public appears to be the "implementation" of list maintenance programs, not the underlying data.[19] That could be interpreted as requiring the voting lists to be publicly available, which they are in Virginia.

- As the 2022 Annual List Maintenance Report makes clear, ERIC is cost-effective for Virginia. While some are convinced that blue states intentionally killed the Crosscheck program developed and maintained by Kansas and Arkansas,[20] in fact Crosscheck was abandoned. First, it led to a high rate of false results because it compared voter lists solely on the basis of name and date of birth.[21] Second, it was plagued with security flaws, including an insecure server, weak passwords, and passwords and usernames shared on the internet.[22] In 2019 Virginia formally withdrew from Crosscheck, which it had joined in 2012, calling it "defunct".[23]

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[16] https://www.votebeat.org/23045551/eric-electronic-registration-information-center-voter-roll-matching-program.

[17] https://ericstates.org/faq/, Votebeat, n. 16.

[18] https://ericstates.org/wp-content/uploads/2023/04/ERIC-FAQ-V2.pdf.

[19] 42 USC §1973gg-6.

[20] https://1819news.com/news/item/eric-under-microscope-after-allegations-of-liberal-agenda-pt-2-02-12-2022.

[21] https://www.votebeat.org/23045551/eric-electronic-registration-information-center-voter-roll-matching-program.

[22] https://www.propublica.org/article/crosscheck-the-voter-fraud-commission-wants-your-data-keep-it-safe.

[23] https://www.elections.virginia.gov/media/formswarehouse/maintenance-reports/2019SBEListMaintenancereport.pdf, pp. 4-5.

Conclusion

ERIC is a superior means of conducting list maintenance among states. Its effectiveness, however, depends on participation. When states leave the membership, ERIC weakens. It still has more members than Crosscheck did at its peak but the persistent drumbeat of baseless opposition can only hurt voter list maintenance. Many have observed the irony that those who assert that voter fraud is a major problem are seeking to undermine the best tool we now have to keep our voter lists as clean as possible.