Testimony of Gail Niederlehner

Chairman Peterson and members of the Government Oversight Committee, thank you for the opportunity to speak in support of House Sub-bill 552, The Voter Verification Act. My name is Gail Niederlehner, and I represent many Ohio citizens who are committed to improving the security and accuracy of Ohio's elections. This bill introduces common-sense measures to ensure that only eligible citizens are permitted to vote in Ohio elections by requiring verified proof of US citizenship and voter identity.

Why is Verification Necessary?

A guiding principle of this legislation is "**safe - not sorry**" – a proactive approach to take reasonable steps today to ensure that only eligible voters participate in Ohio elections, rather than risking ineligible votes that could impact election outcomes. The bill addresses gaps in Ohio's voter registration law, where noncitizens and individuals without fully verified identities are on the voter rolls. Such gaps undermine confidence in the system and opens the door to potential fraud.

The security and accuracy measures in the bill are consistent with practices already common in many other aspects of our lives, including obtaining a driver's license, passport, or accessing federal programs like Social Security and Medicaid. Why are Ohio's elections not as important? The Voter Verification Act is designed to strengthen the security and accuracy in the election system without creating undue burdens for eligible voters.

Under Ohio law, there is no verification of US citizenship before anyone is added to the voter rolls. While an annual noncitizen review is conducted, it is insufficient in identifying all noncitizens who may be on the voter rolls – before they illegally vote or sign a petition to change Ohio's Constitution.

When a person registers to vote using a paper form, their identity is not verified until after they are added to the voter rolls. The Secretary of State conducts a Voter Verification Program that checks for mismatches to BMV and Social Security records. However, even when mismatches are found, voters remain on the rolls for at least four years, still eligible to vote by mail-in ballot from anywhere in the world and to sign a petition to amend Ohio's Constitution.

The Help America Vote Act requires applicants to register using their driver's license number if they have one; otherwise, the last four digits of social security number. Ohio law is inconsistent with this federal law by allowing either a driver's license number or last four digits of social security number to register. Ohio must comply with federal law.

Protecting the Integrity of Our Elections

Just as we take measures to protect our family and our homes, we must take measures to protect the integrity of our elections. Verified proof of citizenship and voter identity helps ensure that only legitimate voters cast ballots. This is not a partisan issue; it is a matter of safeguarding the fundamental right of citizens to vote in free and fair elections.

What the Voter Verification Act Does

The Voter Verification Act mandates Boards of Elections to place voters in provisional status if there are discrepancies between voter information and BMV or Social Security records. Once resolved, voters may cast a regular ballot.

The Act also requires Boards to verify U.S. citizenship before adding someone to the voter rolls. Additionally, a monthly review screens for voters who are citizens. If a voter is not verified to be a US citizen, their status is changed to provisional, and they are asked to provide proof of citizenship. Once verified by the Board as a citizen, the voter is permitted to cast a regular ballot. If the voter cannot provide proof of citizenship, they may request a hearing before the Board.

The Problem with Partial Verification

Recently introduced Senate Bill 324 also aims to require proof of citizenship; however, it creates a significant loophole by only verifying citizenship for voters with a driver's license or state ID. Other voters can simply provide a copy of proof of citizenship, which is not authenticated. This creates unequal protection under the law and undermines the effectiveness of the verification process. It is similar to locking the front door but leaving the back door wide open for potential criminals to gain access. HB552 closes this loophole, ensuring that every voter is properly vetted for citizenship.

Avoiding the Consequences of Inaction

A key element of the "**safe - not sorry**" philosophy is the idea that, while we can always find reasons not to act, the consequences of doing nothing are far greater than the inconvenience of taking proactive steps today. Just one instance of ineligible voting could have far-reaching consequences, further eroding public trust in Ohio's election system.

Balancing Access with Security

The goal of HB552 is not to disenfranchise voters but to ensure that only those who are legally entitled to vote in accordance with Ohio's Constitution are permitted to do so. The right to vote is sacred, and it must not be diluted by the uncertainty of who is casting ballots.

Conclusion: Safe - Not Sorry

In conclusion, I urge you to consider the "**safe - not sorry**" principle, and support The Voter Verification Act. By taking action now, the integrity of Ohio's elections is better protected to ensure that only those who are verified as eligible - can vote and sign petitions, which leads to a more secure and trustworthy election system.

Final Comments

The following are attached to my Witness Testimony for your review:

- A one page document summarizing key provisions in the HB552 Sub-bill and how it compares to SB324;
- Follow-up to the question by Representative Brown's at Sponsor Testimony (6/25/2024):
  Question: "Are Boards of Elections supposed to verify all information on absentee requests before they actually get issued a ballot? Aren't there laws already saying this is what you are supposed to do, and isn't this just a situation where some BOE employee screwed up?"

  Answer from Wayne County Board of Elections Director (7/3/2024): "If the voter submits an application for absentee ballot with identification matching that which is on the registration, they would be issued an absentee ballot."

  Key issues:
  - Verification Limitations: BOEs are not verifying ID against records at the BMV or SSA; in fact they lack this capability, which is the root of the problem. As a result, ineligible voters are being added to the voter rolls, and there are likely **over 50,000** of them.
  - How ineligible voters receive absentee ballots and vote: Ineligible voters who use the same invalid information from their voter registration to submit an absentee ballot request and an absentee ballot are considered valid by the Boards, and their votes are counted.
  - Solution: Until BOEs are required to verify ID against BMV and SS records before they add someone to the voter rolls, ineligible voters with invalid IDs will remain on the rolls. This bill seeks to address this problem by ensuring voters with invalid IDs are not permitted to vote unless they cast a provisional ballot which is confirmed to be she same as BMV and SSA records; only then will Ohio be in compliance with the Ohio Constitution of which all state legislators took an oath to uphold.

Thank you for your time and consideration.

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HB552 Sub-Bill and SB324 Comparison Highlights

Shared Goals:
- ➢ Verify US citizenship for new and existing voters.
- ➢ Require provisional ballots for mismatched voter registration information to BMV or SSA records.
- ➢ Institute tighter controls on signing a petition and it's effect on voter registrations.
- ➢ Address drop box issues.

Key Differences:	HB552	SB324
1. **Qualified Electors Clause**	Defines the qualifications that must be verified for an elector to be entitled to vote.	Not addressed in the bill
2. **Verification Sources to Make Available to Boards of Elections**	BMV, DHS (including SAVE), USCIS, SSA, federal jury pool data or naturalization records, Ohio Dept. of Job & Family Services, Health, Medicaid, Rehab and Corrections	BMV
3. **Proof of Citizenship**	Requires all proof of citizenship be verified. Excludes out-of-state DL/ID as proof of citizenship.	Does not require all proof of citizenship be verified, allowing some that may be false. Accepts out-of-state DL/ID (or copy) as proof of citizenship.
4. **Applicants/Voters Excluded from US Citizenship Verification**	None, except as limited by SOS approved verification sources: • All new applicants are verified for citizenship, • All existing voters are verified during a Monthly Citizen Review.	• SSN4 and federal form applicants that include UOCAVA are excluded from verification before they are registered; • Voters who don't change their name/address, and noncitizens not selected on the limited Annual Noncitizen Review are not verified.
5. **Identified as Noncitizen or Lack of Proof of Citizenship Documents**	Individuals claim to be US citizens but are identified as noncitizens, or lack documents may request a hearing with the Board	Not addressed in the bill
6. **US Citizenship Tracking**	Additional citizenship verification data fields	Limited new citizen verification data fields
7. **Voting Rights after Identified As Not Verified to be a US Citizen**	Voters must cast a provisional ballot until they provide proof of citizenship that is verified by the Board.	Voters can cast a regular ballot while the Board attempts to obtain proof of citizenship (which is not verified by the Board).
8. **Proof of Citizenship Presented at the Polls on Election Day**	Voters who present a US passport or DL/ID issued after 4/6/2023 without a noncitizen designation can vote a regular ballot; all others must vote a provisional ballot.	Voters who present any proof of citizenship, (or a copy), can vote a regular ballot without verification the voter is a US citizen.
9. **Registration Identity Information**	In compliance with HAVA, a current and valid Ohio DL/ID is required; if an applicant does not have one, SSN4 can be used.	This bill continues to allow Ohio DL/ID or SSN4, which is contrary to federal law.
10. **Verify voter registration information with BMV/SSA Records**	Conduct Monthly verification, plus verification immediately after the registration deadline before an election. Voters with mismatched data must vote provisional.	Duplicates current HB552 which conducts a weekly verification and voters with mismatched data must vote provisional. This aligns closer to current SOS directives.
11. **Public Information Reporting**	Transparent reporting of voter citizenship information (date, evidence, source). Voters can view provisional ballot information online.	Not addressed in the bill
12. **Register to vote and sign a petition on same day**	Not addressed in the bill	Petition signatures only count if the individual is registered on the date the petition is signed.
13. **Petition signatures from ineligible voters**	Petition signatures are only counted from voters verified as qualified to vote.	Petitions signed by any voter, whether verified as qualified to vote or not, are counted. All voter registration deficiencies are resolved by signing a petition.
14. **Drop boxes**	Requires a photo id and written affirmation when dropping off any ballot. Voters may drop off up to two ballots for family members. Outdoor receptacles are banned.	Elector assistants can drop off ballots for any voter with unverifiable affirmation and no limit on the number of ballots dropped off. Adds adjacent locations for ballot drop-off.
15. **Issues Not Related to Voter Verification**	None; issues unrelated to Voter Verification should be vetted on their own merit	Numerous additional sections unrelated to Voter Verification are included

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Sponsor Testimony Follow-up

Representative Brown's question to Representative Wiggam at Sponsor Testimony (6/25/2024): "Are Boards of Elections supposed to verify all information on absentee requests before they actually get issued a ballot? Aren't there laws already saying this is what you are supposed to do, and isn't this just a situation where some BOE employee screwed up?"

The following email exchange between Wayne County Board of Elections Director 7/3/2024 and Representative Wiggam confirms BOEs are instructed to issue and count absentee ballots that match registration records, which may not match BMV or SSA records.

---------- Forwarded message ---------
From: **Stahl, Julie** <jstahl@wayne.boe.ohio.gov>
Date: Wed, Jul 3, 2024 at 12:37 PM
Subject: RE: [EXTERNAL] BMV / SS Administration
To: Scott Wiggam <swiggam@gmail.com>

Scott:
If the absentee ballot information matches the registration form submitted, there is no "correction" to be made on our end. They would return to active status once the absentee application is received and it is confirmed that the information provided on that application matches what is in the system, which was from their original registration (whether electronic or paper).

IF the voter were to be placed in "Provisional Only" status when a BMV/SSA mismatch was identified (rather than just confirmation status), the voter would be required to vote Provisionally (in person either at our offices during early voting OR at our office/their polling location on Election Day) and would be required to show Valid Photo ID at that time. A Provisional ballot would allow the BOE to investigate any mismatches before the vote was counted.

Julie Leathers Stahl, Ohio REO
Director
Wayne County Board of Elections
200 Vanover Street
Wooster, OH 44691
Direct: 330-287-5483
www.WayneCountyOH.gov

From: Scott Wiggam <swiggam@gmail.com>
Sent: Wednesday, July 03, 2024 12:30 PM
To: Stahl, Julie <jstahl@wayne.boe.ohio.gov>
Subject: Re: [EXTERNAL] BMV / SS Administration
Thanks again - so if a voter only confirms the BMV/SSA mismatched information through a absentee ballot request (NOT correcting the information) on the registration form which was put in confirmation status, that voter can still receive a ballot and is also put in active voter status if that balot is returned?

Scott Wiggam

On Wed, Jul 3, 2024 at 12:19 PM Stahl, Julie <jstahl@wayne.boe.ohio.gov> wrote:
A BMV/SSA mismatch places the voter in confirmation status and not Provisional Only status. If the voter submits an application for absentee ballot with identification matching that which is on the registration, they would be issued an absentee ballot. This would take them out of confirmation status because it was voter-generated activity.

Julie Leathers Stahl, Ohio REO
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From: Scott Wiggam <swiggam@gmail.com>
Sent: Wednesday, July 03, 2024 12:03 PM
To: Stahl, Julie <jstahl@wayne.boe.ohio.gov>
Subject: Re: [EXTERNAL] BMV / SS Administration

Thanks Julie – If that voter does not respond to the confirmation notice but submits an absentee ballot request form AND the information on that form matches the information contained on the voter record, would that voter be sent a ballot?

Scott Wiggam

On Wed, Jul 3, 2024 at 11:02 AM Stahl, Julie <jstahl@wayne.boe.ohio.gov> wrote:
Scott:
We do not have direct access to these systems. However, when a registration is entered, an automated process matches data for these records and flags and discrepancies. Any voters with discrepancies are automatically placed in confirmation status and a notice is generated and sent to the voter to allow them to correct the discrepancy.

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From: Scott Wiggam <swiggam@gmail.com>
Sent: Wednesday, July 03, 2024 10:45 AM
To: Stahl, Julie <jstahl@wayne.boe.ohio.gov>
Subject: [EXTERNAL] BMV / SS Administration

Julie - Does the Wayne county BOE have direct access (meaning you or your employees) to BMV database and Social Security Administration database Or is that database access through the SOS office only?

Scott Wiggam