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STATEMENT BY

ELISABETH MACNAMARA, PRESIDENT

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

FOR THE

COMMITTEE ON HOUSE ADMINISTRATION

ON

H.R. 2115, THE VOTER REGISTRATION EFFICIENCEY ACT

Tuesday, June 4, 2013

Madam Chairman, members of the Committee, I am Elisabeth MacNamara, president of the League of Women Voters of the United States. I am very pleased to be here today to voice the League's support for the basic goal of H.R. 2115 – providing a mechanism to ensure that voters are not registered in more than one state – and to make some suggestions for avoiding possible unintended consequences that could result from the legislation as currently drafted.

The League of Women Voters is a nonpartisan, community-based organization that has worked for more than 93 years to educate the electorate, register voters and make government at all levels more accessible and responsive to citizens. Formed by those who successfully fought to gain the right to vote for women, the League now is organized in more than 800 communities and in every state, with more than 140,000 members and supporters nationwide. The League has been a leader in seeking improvements in systems of election administration at the state, local and federal levels for many decades.

The Legislation

The primary purpose of H.R. 2115 is to clean state voter registration rolls of voters who have moved to another state and registered to vote in the new state. This is a worthy goal.

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The Census Bureau reports that approximately four million individuals age 16 and over moved from one state to another between 2011 and 2012. From 2005 to 2010, about 13 million individuals age 16 and over made interstate moves. Though we are not aware of solid data on the number of voters who have moved from one state and then registered to vote in another – and thus the number of registration records that would be affected by the legislation – certainly a significant number have done so.

http://www.census.gov/hhes/migration/data/cps/cps2012.html
http://www.census.gov/hhes/migration/data/cps/cps2010-5yr.html

The Census Bureau also tells us which states experience the largest number of moves, both into a state and from a state. The most common state-to-state moves in 2011 were:

- New York to Florida
- California to Texas
- California to Arizona
- Florida to Georgia
- New Jersey to New York
- New York to New Jersey
- California to Nevada
- Georgia to Florida
- California to Washington
- Texas to California

http://www.census.gov/newsroom/releases/archives/mobility_of_the_population/cb12-240.html

With this background, the League of Women Voters supports legislation to provide a mechanism to ensure that voters are not registered in more than one state. We are concerned, however, about the specific mechanisms in H.R. 2115. We believe that there may be unintended consequences from the legislation as currently written.

Concerns

Our concerns come in four areas: 1) the mechanism will likely result in inaccurate removals from voter registration lists, 2) the mechanism could interfere with and add confusion to the voter registration process at motor vehicle authorities, 3) the mechanism is technologically outdated rather than modern, efficient and cost-effective, and 4) the legislation does not deal with a larger but similar problem to the one of out-of-state registrations. In our view, these are not insurmountable problems.

I would like to further explain our concerns and make some suggestions about possible solutions.

H.R. 2115 would amend the National Voter Registration Act (NVRA) by changing the voter registration process at each state's motor vehicle authority. The mechanism in H.R. 2115 requires: a) a driver's license applicant to indicate whether the individual resides in another state or resided in another state prior to applying for the license, b) the applicant to identify the previous state, c) the driver's license applicant to indicate whether the new state is the intended state of voter registration, d) the motor vehicle authority to notify the previous state's motor vehicle authority that the applicant intends the new state to be the voting residence, and d) the recipient state motor vehicle authority to notify that state's chief election official that the applicant does not intend the state to be the residency for voter registration purposes.

Inaccurate Removals

The League is concerned that the current mechanism in H.R. 2115 will result in erroneous removals of properly registered voters because of inaccurate data for matching individuals to voter registration records in other states.

Inaccurate data results from two basic sources. First, errors are introduced through mistakes in the data entry and transmittal processes. Under H.R. 2115, errors likely will be introduced when the motor vehicle authority in one state copies the data from the applicant's paper application form and then sends it to the second state's motor vehicle authority. Errors may then be introduced when the second motor vehicle authority transmits the information to the chief election official. Errors will likely also be introduced when the chief election official copies and transmits the data to the appropriate local or other official making changes in the registration rolls.

Second, errors occur because of inadequate matching data. Many, many individuals share the same name. If this information alone is used, substantial numbers of voters will be erroneously purged from the registration rolls. Even with the addition of a birthdate, matching is likely to result in a significant number of false matches and false removals. This is because in sufficiently large populations, name-and-birthdate-based matches are practically certain to result in false positives. *See* Fatma Marouf, *The Hunt for Noncitizen Voters*, 65 Stan. L. Rev. Online 66, 69 n.13 (2012) (describing the underlying statistical phenomena).

There also may be a problem with individuals using different names as well as having their names transcribed incorrectly. For example, is Elisabeth G. MacNamara the same person as Elisabeth MacNamara? When my name is transcribed and "corrected" to Elizabeth McNamara, what will be the result? This issue can result both in false positives, where a voter would be incorrectly removed, and in false negatives, where a duplicate registration would be missed.

Finally, the typical way of checking for inaccurate removals is to provide written notice to the voter and waiting for a confirming response BEFORE a voter is removed from the registration list. The current legislation does not seem to provide for this fundamental safeguard.

In summary, there are several ways that inaccurate matches will likely occur with no meaningful check on accuracy. The result: eligible voters are likely to be removed from the rolls.

Improving Accuracy

Inaccurate removals can be addressed by improving the quality of the data. A clear and straightforward method would be to ensure that voter registration data at the motor vehicle authority is handled electronically. When an applicant enters the appropriate information electronically, and the information is then electronically transferred to other agencies, errors are not introduced by the recopying or transcribing of the information. It would be a simple step to require that the mechanism in H.R. 2115 be carried out by electronic means.

The benefits of electronic transfer of data from motor vehicle authorities to election authorities are demonstrated by the fact that many states already provide for some form of electronic transfer. Not only are there accuracy improvements, but electronic transfer is cheaper than paper-based systems.

According to the Brennan Center, "At least 23 states — Arizona, Arkansas, California, Delaware, Florida, Georgia, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, and Washington — currently or will soon have fully or substantially automated voter registration at DMVs. When voters register or update their information at DMVs, the information is electronically transmitted to election officials." http://www.brennancenter.org/analysis/vrm-states-automatic-registration

In addition, the Help America Vote Act already requires states to maintain their voter registration lists electronically on a state-wide computerized voter registration list. Requiring electronic entry and transfer as part of H.R. 2115 would build on the HAVA system rather than undermining it with out-of-date paper mechanisms.

Moreover, with electronic transfer protecting against the introduction of copying errors, it might make sense to ask the applicant for his or her driver's license number from the previous state on a voluntary basis. This could substantially reduce identity errors.

In any case, it is vitally important for the legislation to clearly maintain the notice and response safeguards in the NVRA. Under this system, a voter is not removed from the registration roll until the voter confirms the change of address. It is not sufficient protection that the individual is conducting a transaction with the motor vehicle authority in the new state simply because of the likely errors and the fact that the voter is being removed from the rolls in the old state rather than having a current registration updated.

Could Interfere With Voter Registration

We are also concerned that the current mechanism in H.R. 2115 could interfere with the voter registration process, but, again, this is a solvable problem.

The "motor voter" registration application form under the NVRA is simple, clear and unambiguous. It requires the information necessary to assess the applicant's eligibility without

adding elements that will confuse the applicant or create ambiguity for election officials processing the application.

H.R. 2115, as currently written, adds three new "requirements" for the applicant that will be confusing for the applicant, likely result in erroneous rejections, and provide ambiguous or inconsistent information to election officials. The proposed legislation requires the applicant for a driver's license to:

> 1) indicate whether the individual resides in another State or resided in another State prior to applying for the license,
> 2) identify the State involved, and
> 3) indicate whether the individual intends for the new State to serve as the individual's residence for purposes of registering to vote in elections for Federal office.

The draft legislation will result in erroneous rejections simply because the applicant is required to answer these three new questions. Even if the applicant is fully eligible to vote and fully and correctly fills out the motor voter form, failure to answer any of the three questions could result in a rejection – because these are "requirements."

In addition, errors will result from asking more questions. The NVRA limits the information that can be required as part of the voter registration application process simply because the addition of each new information requirement complicates the process. This is especially true of duplicative information, which the NVRA currently bars.

By requiring duplicative information, the draft legislation creates confusion for the applicant. For example, the motor voter form already requires the intent to register in the new state – that's what an application is. By asking the question a second time (# 3 above) the legislation simply confuses. "Didn't I already answer that?," the applicant asks. Why are they asking again? What does this mean? Might the applicant think that the declaration of an intent to register in the new state that is required by H.R. 2115 is sufficient to register to vote without going on to fully fill out the voter registration application form? Might the applicant think that by declaring two residences he or she is violating voter registration laws?

In addition, the three new questions add ambiguity for election officials. If an individual completes the motor voter form, did not reside in another state, but fails to state an intention to register with question # 3, what is an election official to do? Because there is no other state involved, question # 3 is irrelevant, but the re-asking of the intent question creates ambiguity. If the applicant did reside in another state but fails to name the state while indicating an intent to register in the new state, shouldn't the person be registered because the motor voter form is filled out and # 3 is answered in the affirmative? Or not?

And what if the applicant provides apparently conflicting answers? If the applicant indicates he or she intends for the new state to serve as the individual's residence for purposes of registering to vote, does not complete the voter registration application for the new state, but does fully fill

out the driver's license application with all the necessary information, what happens? Or if the applicant indicates he or she does not intend for the new state to serve as the voting residence but does fill out the motor voter application form, what happens?

What if an applicant says that he or she currently resides in another state but then fills out a voter registration application? Should the new state give special attention to or reject the voter registration application because of the dual residence?

In short, the amendment is confusing for applicants and election officials alike, and will cause erroneous rejections for eligible voters.

Reducing Confusion and Ambiguity

The most effective way to reduce confusion and ambiguity is to drop those elements of the proposed legislation that are duplicative of the current process under the NVRA.

This would easily be accomplished by dropping the elements of the H.R. 2115 mechanism that apply to the applicant. The requirements for the transmittal of information between states would remain as the essential and effective elements of H.R. 2115.

Please let me explain further. The information from the driver's license applicant required in H.R. 2115 is already provided by the voter registration applicant using the form under the NVRA. See http://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en9242012.pdf

H.R. 2114 requires the driver's license applicant to indicate whether the individual resides in another state or resided in another state prior to applying for the license. Item B on the national voter registration application form already asks the voter registration applicant to list the address and state if the applicant was registered to vote before at a different address.

H.R. 2114 requires the driver's license applicant to identify the previous state. As just described, the national voter registration application provides that information.

H.R. 2114 requires the driver's license applicant to indicate whether the new state is the intended state of voter registration. Under the current "motor voter system," when an applicant fills out, signs and submits a voter registration application for the new state, that constitutes the statement of intent to register in the new state.

Thus, the purpose of H.R. 2115 could be fulfilled by changing the legislative language to require that information from the voter registration application at the motor vehicle authority (under "motor voter") be transferred to another state in those instances when the applicant was registered to vote in another state. This would avoid the duplication that will confuse voters and election officials alike while maintaining a viable motor voter registration program.

Old Technology Instead of New

I would like to reemphasize at this point the importance of electronic systems. As just discussed, duplication and confusion can be reduced by using information that is already provided in the voter registration application process rather than requiring the same or similar information to be provided by the driver's license applicant a second time. Reducing duplication in this way is not difficult if the information provided is in electronic form. In contrast, H.R. 2115 is based on paper rather than electronic systems.

Paper systems are cumbersome, slow, expensive and, as described above, remarkably inaccurate. Paper-based processes require multiple re-entries of data and multiple transfers of information.

Electronic systems, in contrast, do not require humans to re-copy data since the original data from the applicant can serve in all applications. Transmittal and receipt of information is nearly instantaneous and virtually free. States that have moved to electronic entry and transmittal of voter registration information from motor vehicle authorities to election authorities have saved money and improved accuracy.

Moreover, HAVA already requires every state to have a single, computerized, statewide voter registration list. It makes no sense to ignore these electronic, computerized systems when designing new legislation to improve election administration.

In enacting new legislation, we urge the Committee to build on modern efficient electronic systems, instead of relying on 19th Century technology.

Dealing with a Larger Problem

H.R. 2115 addresses an important issue – the need to remove the names of voters who move out of state. However, the problem of updating the registration information of voters who move within a state is much larger. This is true simply because significantly more people move within a state than move out of state.

As mentioned above, approximately four million individuals age 16 and over moved from one state to another between 2011 and 2012. The Census Bureau reports that nearly 23 million such individuals moved within a state during the same period, with approximately five million moving from one county to another and 17.5 million moving within a county. From 2005 to 2010, about 65 million individuals age 16 and over moved within the same state, with 16 million of those moving to a different county.

http://www.census.gov/hhes/migration/data/cps/cps2012.html
http://www.census.gov/hhes/migration/data/cps/cps2010-5yr.html

The efficient, accurate and cost-effective updating of the registrations of intrastate movers is very important.

We strongly urge the committee to include the electronic transfer of address updates for movers within a state in H.R. 2115. As described above, a significant number of states already do this, and H.R. 2115 can bring the NVRA and the electronic systems of HAVA together in a modern system that will ensure that eligible voters are properly registered at their current addresses while cleaning the rolls of the names of individuals who no longer live at an old address.

If Congress wants to improve the accuracy of voter registration lists, which is an important goal, it should do so in a balanced, cost-effective, and accurate way by ensuring that all voters who move, both interstate and intrastate, can have their addresses update electronically.

Madame Chairman, members of the Committee, the League of Women Voters looks forward to working with further on this legislation.

Thank you very much.