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STATEMENT
BY
MARY G. WILSON, PRESIDENT
LEAGUE OF WOMEN VOTERS OF THE UNITED STATES
ON
S. 1487, THE BALLOT INTEGRITY ACT OF 2007
FOR THE
SENATE RULES COMMITTEE

July 25, 2007

Madame Chair, members of the Committee, I am Mary G. Wilson, president of the League of Women Voters of the United States. I am very pleased to be here today to voice the League's strong support for the key elements of Title III of S. 1487, the Ballot Integrity Act of 2007. The League would like to commend you, Madame Chair, for your foresight in including these crucial provisions in your bill.

In my written statement, I also address Titles I and II of the bill, but I will limit my remarks here this morning to Title III as requested.

The League of Women Voters is a nonpartisan, community-based political organization that has worked for more than 87 years to educate the electorate, register voters and make government at all levels more accessible and responsive to citizens. Organized in more than 850 communities and in every state, the League has more than 150,000 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.

Our approach to election reform can be clearly stated: The League supports those reforms that will increase voter participation and protect the votes of eligible citizens. We oppose measures that undermine or raise barriers to participation by eligible voters, especially those restrictions on voting which have a disparate impact on any group of voters.

And the League takes a fact-based approach to election administration issues. Let me explain what I mean by a fact-based approach. When there is factual evidence – not myth or anecdotes – that particular practices will undermine the right to vote, then those practices must be stopped. When there is factual evidence that particular approaches to election administration will enhance voter participation or protect the votes of eligible citizens, then those approaches must be adopted. Every election official across the country must develop a pro-voter mindset.

We believe that using this fact-based approach helps in resolving one of the difficult questions in election administration reform – what is the appropriate role for the federal government? As you know, federal elections have traditionally been administered under our Constitution by the states, and many states have delegated substantial responsibilities to local units of government. We do not believe that all aspects of elections should be federalized. However, as an organization that grew out of the fight to establish voting rights for women in the United States, we are acutely aware that the right to vote is a federal right, guaranteed under the United States Constitution.

The Constitution provides for Congress to set regulations over federal elections if it so chooses. But when should it choose to do so? We suggest that a good principle to follow is that when there is factual evidence that particular practices will undermine the right to vote, then Congress should act to stop such practices. When there is evidence that particular approaches to election administration will increase voter participation or protect the votes of eligible citizens, then Congress should act to require that they be put in place. Voters in the states of Florida, Ohio, New Mexico, and California, for example, enjoy the same constitutional right to vote, and Congress has a duty to safeguard that basic right. But, the regular administration of the polling process, and experiments to find new and better ways for American citizens to vote, should be left to the states.

Many different approaches have been offered in this Congress and in the states to reform the election administration process. To focus our own efforts, in March 2007, the National Board of the League of Women Voters of the United States adopted five major points of emphasis for this year's League work on election administration issues. While there may be other valuable areas of reform that can be taken, we believe these five major points are essential elements in improving election administration and protecting the votes of all citizens, on which all of us should work:

- 1) Opposing ID and documentary proof-of-citizenship requirements in the voting and registration processes;
- 2) Improving the administration of statewide voter registration databases and guarding against wrongful or incorrect purging;
- 3) Guarding against unnecessary restrictions on voter registration;
- 4) Improving poll worker recruitment, training and supervision; and
- 5) Improving polling place management and ballot design.

I am very pleased that S. 1487 favorably addresses several of these key issues. We strongly believe that they must remain in this bill and must be included in any election reform legislation that goes to the President's desk for signature.

Let me elaborate on the points in Title III of this bill that the League finds especially vital to voters.

The League strongly supports Section 302, Third-Party Voter Registration, which protects voter registration drives from arbitrary restrictions while preserving the ability of states to guard against improper practices. The League of Women Voters has been assisting citizens in registering to vote for the 87 years of our history – long before the term “third party registration” was ever coined.

Organizations such as the League are crucial to assuring that voter registration is available to EVERY voter, but the facts also show conclusively that we are key to assuring that minority voters have access to registration. In 2004, approximately 8.5 percent of registrants had been registered by the efforts of third party organizations, according to the Bureau of the Census. The data also make clear who is impacted by restrictions on third-party voter registration efforts. In 2004, 15 percent of African-American and Hispanic registrants had been registered to vote as a result of an organized drive – a rate much higher than the 8.9 percent rate for Whites. See “The Politics of Voter Fraud,” by Dr. Loraine Minnite.

As you know several states have imposed severe restrictions on third-party registration efforts. In 2005, the League of Women Voters of Florida was forced to stop all its voter registration activities in that state because of burdensome restrictions that could have resulted in bankrupting that League. The Florida League was able to block this unreasonable restriction in the courts, but, unfortunately, this not an isolated example of a state acting in a way that undermines voter registration.

The League applauds Congress stepping up to the plate with provisions like those in Section 302 of S. 1487 to ensure that all citizens have a full opportunity to register to vote. We believe that Section 302 provides the right balance by prohibiting burdensome restrictions on third-party registration assistance while at the same time allowing states to prohibit falsification or destruction of completed forms, paying for completed forms based solely on the number of forms, and failing to submit completed forms with the specific intent of disenfranchising voters.

Section 303, Training of Poll Workers, deals with one of the most important issues in election administration. Initial studies indicate that the voter’s confidence in the election process is strongly influenced by that voter’s experience at the polling place, particularly their interactions with poll workers. In addition, well-trained poll workers are key to ensuring that all eligible voters are able to cast their votes and have those votes counted. The League strongly supports uniform procedures at polling places. Consistent, adequate training will reduce discrimination against voters and improve the experiences of all voters at the polls.

S. 1487 requires each state to establish a program for training poll workers to uniform nondiscriminatory standards. Election and education experts would cooperate in developing the program which would take into consideration guidelines provided by the Election Assistance Commission (EAC). All poll workers would be required to successfully complete a curriculum on election administration laws, including voter rights, and on the use and maintenance of voting systems. A statewide poll worker manual would be developed and distributed to all poll workers. Poll workers want to do the right thing. We need to make sure they have the right training to do their job well. This provision of S. 1487 would give poll workers the right tools.

Another provision of S. 1487 that is designed to improve voters’ experiences at the polls is Section 304, Equitable Allocation of Voting Systems, Poll Workers, and Election Resources. Shortly after the November 2006 election, I spoke with representatives from all of our state Leagues in order to learn what voters had experienced in polling places in each of the states. I heard about many good, innovative polling place operations. Unfortunately, too many of my state League leaders also reported long lines, delays, technological failures and other administrative problems at polling places.

The legislation requires that each state provide for an equitable and adequate number of voting systems, poll workers and other election resources to ensure orderly administration at each voting site. The bill requires the EAC to conduct a study on the equitable distribution of election resources and then to establish benchmarks to ensure a fair and equitable waiting time for all voters in a state and to prevent a waiting time over one hour at any voting site. The standards are to provide for a uniform and nondiscriminatory distribution of each type of election resource, taking into account, among other concerns, voting patterns and voter turnout in prior elections (including the differences between presidential and other elections), voter registration and current census data, the abilities and training of poll workers, accessibility of polling locations, and available assistive voting technologies. I am confident that, if enacted, Section 304 will reduce the number of unpleasant reports about polling places I receive from state Leagues after the next election.

With respect to the need for the measures contained in Section 306, Standards for Purging Voters, I am dismayed to say that states continue to conduct purges of eligible voters without adequate safeguards to protect against erroneous removal from voter registration lists. Whether these are faulty purges of supposed felons or the results of faulty criteria in the administration of statewide databases, the effect is the same – the incorrect removal of eligible voters. Faulty matching in the database system can also result in the incorrect rejection of voter registration applications. It is vitally important to put in place federal requirements such as those called for in Section 306 in order to ensure better management of statewide voter registration databases and to ensure that no eligible voter is rejected or removed without adequate safeguards, including notice, so that mistakes can be corrected.

The legislation requires states to set uniform and nondiscriminatory standards to ensure that no voter is erroneously removed or prevented from being added to the voter registration list for such reasons as errors or inconsistency in data, variations or inconsistencies in names, or other immaterial variations or inconsistencies. The bill includes the simple, “pro-voter” provision requiring that voters who have been erroneously removed or prevented from being added must be provided an opportunity to be restored or registered. The bill exposes to the sunshine the criteria, processes and procedures used by the election official to determine which names to remove.

Finally, the legislation provides that no individual can be removed from the list unless that individual is provided written notice this is consistent with the National Voter Registration Act, is provided in a uniform and nondiscriminatory manner, and gives clear notice of the reason for which the voter will be removed, an opportunity to cure such removal, and the contact information for the office sending the notice.

I am unable to address that part of Section 308 which mandates early voting because the League does not now have a position on whether early voting should be mandated by federal law. I note that the League has not yet seen definitive data on the effects of early voting on voter participation, either in general or for particular populations. However, if early voting is provided in the states, we do strongly support federal requirements to ensure that the entire early voting polling process provides fair and equal voting opportunities. Thus we support Section 308(b) which requires the EAC to issue guidance on the administration of early voting, including the nondiscriminatory geographic placement of polling places at which such voting occurs. We

believe that voters participating in early voting should not face more restrictive rules than those voting on Election Day, e.g., different ID requirements.

We note that the provisions of Section 304 on the equitable allocation of voting systems, poll workers, and election resources do apply to early voting. We strongly support the application of Section 304 standards to the early voting process.

Turning to Section 309, Requirements for Counting Provisional Ballots, we wholeheartedly endorse this provision, which ensures that every eligible voter who casts a provisional ballot in a federal election will have that vote counted. Currently many states do not count a provisional ballot if it is cast at the “wrong” precinct, even if the voter is eligible to vote for a particular office on the ballot, simply because the voter was not at his or her “correct” precinct. We want voters to vote. We believe the crucial question should be the eligibility of the voter to cast a vote in a federal election, not technicalities that serve to disenfranchise eligible voters.

In nearing the conclusion of my comments on Title III of S 1487, I would like to ask that an important additional component of voter protection be added to the bill. I urge you to include provisions addressing continuing concerns about ballot design. Despite the role of the “butterfly ballot” in undermining the integrity of the 2000 presidential election in Florida, no federal requirements address the issue of poorly designed ballots that confuse voters. There were again problems with poorly designed ballots in Florida in the 2006 election, and similar problems persist in other states as well.

We ask that you consider requiring the chief state election official of each state to review the design of ballots for federal elections for usability, design and accessibility (including for low-literacy citizens and for limited English proficiency citizens) before they may be used. It might also be appropriate for the EAC to set federal requirements in this area, based on the Commission’s ongoing work on ballot design, but we believe that review by the chief state election official could help prevent the most egregious errors.

Finally, there is one additional issue we would like to raise in relation to Title III of the legislation – federal funding. The League of Women Voters strongly believes that we need more resources and steady funding for elections in this country. Because responsibility for federal elections is shared between the states and the federal government, we believe that the responsibility for ongoing funding should also be shared. Conducting federal elections is perhaps the original unfunded mandate, provided in the Constitution of the United States. As Congress sets minimum standards for the conduct of federal elections, as we believe it should, Congress must also provide funding.

America needs to get real about the resources that are required to run elections in a manner consistent with our democratic ideals. You get what you pay for, and right now we are paying the price for our miserly approach to election administration. It is a price measured not in dollars but in Americans’ declining faith that the system will serve their interests fairly and efficiently. We need continued, permanent federal funding, with associated oversight, to make the transition to a 21st Century system that delivers on the promise of efficiency, security, accessibility and fairness.

We strongly support the above mentioned provisions in Title III of your bill. The League of Women Voters believes they are an essential part of any election reform legislation.

We would also like to take this opportunity to provide our general views on the major topics in Title I and II of S. 1487, which primarily address ballot verification and election audits. The underlying issue for ballot verification and audits is the credibility of American elections. As citizens distrust election results, they understandably ask for mechanisms to ensure that their votes are counted as they intended.

In an effort to assure that voters could trust the mechanisms on which they voted, at our Convention in June 2006, the delegates adopted the following position: The League of Women Voters supports only voting systems that are designed so that:

- 1) they employ a voter-verifiable paper ballot or other paper record, said paper being the official record of the voter's intent; and
- 2) the voter can verify, either by eye or with the aid of suitable devices for those who have impaired vision, that the paper ballot/record accurately reflects his or her intent; and
- 3) such verification takes place while the voter is still in the process of voting; and
- 4) the paper ballot/record is used for audits and recounts; and
- 5) the vote totals can be verified by an independent hand count of the paper ballot/record; and
- 6) routine audits of the paper ballot/record in randomly selected precincts can be conducted in every election, and the results published by the jurisdiction.

But, even after the adoption of this extensive position, the League and organizations such as ours that have the goal of assuring that Americans can vote and be sure that their vote will be accurately counted, have found that questions about voting systems are still being raised. For example, can any paper record other than a paper ballot be relied on? Can the electronic counting of paper ballots be tampered with?

I feel that nonprofit organizations such as the League have been left to sift through a complex, technical issue without having access to all the information necessary to give the voters the assurance they need.

It is time for the Congress to provide true leadership on this issue instead of offering just a series of patchwork solutions that may or may not improve the voting system. It is time for the Congress to act to restore credibility in the voting systems by establishing a nonpartisan independent panel with full authority and technical credentials to study critical issues related to the trustworthiness of elections.

This panel could be charged with examining the whole voting system and not be limited to reviewing the mechanisms on which we vote. We believe that an independent task force is needed to get to the bottom of these issues once and for all in order to restore the confidence of the voter in their voting systems.

These are the important issues in S. 1487 on which we can speak at this time, and we appreciate the opportunity to do so.

We would like to take a moment to point out the importance of something that is NOT in your legislation, Madame Chair. S. 1487 has no new requirements for voters to provide identification at the polling place. Since the League strongly opposes such requirements, we congratulate you and thank you for leaving ID requirements out of the bill. Leagues in numerous states, from Pennsylvania to Arizona, have battled against ID requirements in their legislatures and in the courts because they understand that such requirements undermine voter participation by eligible Americans.

As you know, photo ID requirements disproportionately impact those who are least likely to have current ID: the elderly, young people, people of color, rural voters, individuals with disabilities and frequent movers. A report by the Brennan Center for Justice found that 25 percent of adult African-Americans, 15 percent of adults earning below \$35,000 a year, and 18 percent of seniors over the age of 65 do not possess a government-issued photo ID.

At the polls, acceptance of an ID is determined by poll workers and election officials and such tests have historically resulted in discrimination and disenfranchisement of eligible voters. Furthermore, the lack of substantial evidence of instances where voters misrepresent their identity at the polls suggests that a photo ID requirement is simply unnecessary. Because of the deleterious impacts of an ID requirement, we could not support legislation that includes such a requirement.

In summary, Madame Chair, the League of Women Voters thanks you for the opportunity to state our views. We strongly support the key elements of Title III of the Ballot Integrity Act.

Thank you.