LEAGUE OF WOMEN VOTERS® OF NORTH DAKOTA

Senate Bill 2157
Senate State and Local Government Committee
February 3rd, 2023

Chair Roers and members of the Senate State and Local Government Committee, my name is Carol Sawicki, and I am submitting testimony on behalf of the League of Women Voters of North Dakota in opposition to Senate Bill 2157.

#1. This bill is unnecessary.

- Noncitizens voting illegally in the United States is extremely rare, and further, The Heritage Foundation reports that there have been zero cases of ineligible voting in North Dakota.[1]
- North Dakota voters are already required to attest that they are qualified electors before they receive a ballot, either by signing their absentee ballot application or verbally in person at the polls.
- State law has a process in place for prosecuting individuals who vote illegally. If an election official believes a person is not a qualified elector, the official may forward the voter's information to the state's attorney's office for review. Anyone convicted of voting illegally faces up to five years in jail and a fine of up to $10,000.

Therefore, this bill is unnecessary because noncitizens have not been voting in our elections and if someone were to try in the future, there is already a process in place to prosecute that person.

#2. This bill would make it harder to vote in North Dakota.

- SB 2157 would impact voters who cannot easily get updated identification or proof of citizenship due to lack of time, money, or transportation, or even the limited hours of the driver's license sites in rural areas.
- This bill would also create a chilling effect on diverse populations of voters in North Dakota and may deter eligible voters from casting a ballot even if they are US citizens.
- This bill would create undue barriers for voters across the state, including, but not limited to:
    - New American and immigrant voters, who would have an additional barrier of proving their citizenship while also opening them up to discrimination at the polls.
    - Voters in long-term care facilities who vote with a long-term care certificate[2] and who may not have access to a birth certificate, passport, or other satisfactory proof of citizenship.
    - Voters with disabilities and elderly voters who are unable to leave their homes in order to apply for the documents needed to prove their citizenship.

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[1] The Heritage Center Voter Fraud Map. https://www.heritage.org/voterfraud/search?state=ND
[2] https://vip.sos.nd.gov/pdfs/Portals/Long%20Term%20Care%20Identification%20Certificate.pdf

- If this bill passed, county election officials would need to ensure proof of citizenship requirements were met before mailing absentee ballots, making it harder for voters to receive a ballot.

Voting is the backbone of our democracy and passing this bill would serve to create barriers for eligible North Dakota voters and decrease civic participation in our state.

#3. Finally, this bill would open the state up to litigation.

- Numerous state laws that would require documentary proof of citizenship have been struck down in the courts because the requirement places an unreasonable burden upon voters, especially on voters of color.
    - In *Fish v. Schwab*, the Tenth Circuit struck down a documentary proof of citizenship law in Kansas because the state could not provide evidence to justify the burden it placed on individuals' right to vote.
    - In *Georgia Coalition for People's Agenda, Inc. v. Kemp*, a federal court in Georgia held that a documentary proof of citizenship requirement - imposed only on naturalized citizens based on outdated DMV data - created "a very substantial risk of disenfranchisement," and could not be justified in that case. In that case, Georgia's requirement has mired it in litigation for over four years. Recently, the court denied the State's motion for summary judgment and the case is moving toward trial.
    - In *League of Women Voters v. Harrington*, the federal district court in Washington, DC ruled that the implementation of documentary proof of citizenship laws in Alabama, Georgia, and Kansas violated federal law, and prevented them from going into effect.
    - In Texas and Florida, laws that used data from drivers licenses to verify voters' citizenship were struck down after thousands of naturalized citizens were incorrectly flagged for removal from the voter rolls.
    - And in Arizona, a documentary proof of citizenship law is currently the subject of ongoing litigation.

In every state where laws like this have been introduced, they have faced significant legal challenges, costing millions of dollars to litigate, and threatening to disenfranchise qualified voters. This bill is a costly solution to a problem that does not exist in our elections.

The League of Women Voters of North Dakota strongly urges committee members to give SB 2157 a Do Not Pass recommendation. Requiring documentary proof of citizenship to vote is unnecessary, makes it harder to vote, and would open the state up to costly litigation.

Thank you for your attention. I welcome any questions that you might have.

Testimony submitted by Carol Sawicki, LWVND Board Treasurer, nodaklwv@gmail.com.