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United States Senate

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RULES AND ADMINISTRATION
WASHINGTON, DC 20510-6325

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September 16, 2011

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder:

I am once again writing to request that the U.S. Department of Justice fully enforce the voter registration provisions established in the National Voter Registration Act of 1993 (NVRA). Since I last wrote to you in April of 2009, there is compelling new evidence that the voter registration provisions of the NVRA are not being fully complied with by social service agencies or by motor vehicle agencies in many states. This is a situation which begs for an urgent response from the Justice Department, and I urge you to take action to bring states into compliance with the law.

The NVRA was intended to ease the burden of registration on American citizens who want to participate in the political process, while at the same time helping states to create more accurate voter registration rolls. To that end, state social service agencies and state agencies that aid those with disabilities are required by Section 7 of the NVRA to provide voter registration forms and assistance to complete those forms. Section 5 places similar requirements on state motor vehicle departments. All too often, citizens eligible to vote are not being given these opportunities to register.

Recently, the state of Ohio was sued by Demos, a nonprofit, nonpartisan advocacy group, for violating Section 7 of the NVRA. Ohio settled the case with Demos, and entered into a consent decree to enforce the law and provide voter registration support to those customers. Prior to the suit, Ohio processed only about 2,000 registrations a month through social service agencies. Recent data indicates that in the year after the lawsuit, these agencies processed about 191,000 voter registration forms—15 times more registrations than prior to enforcement of Section 7. It is clear that tougher enforcement was necessary, and Ohio's stronger compliance efforts are showing real results.

Ohio is not alone. The state of New Mexico, for example, recently settled two cases against it by nonprofit voting rights groups. Both cases provide evidence that the state had not followed the law in providing voter registration and assistance for clients at state social service agencies and motor vehicle agencies.

Results of the 2011 biennial report on National Voter Registration Act by the Election Assistance Commission (EAC) indicate that a number of states report extremely low numbers of

voters registered at social service agencies. It is implausible that so few of those who receive public assistance are registering to vote. Furthermore, several states didn't even reply to the survey. Such states should receive additional scrutiny; otherwise, there is an advantage to failing to respond to the EAC.

As for state motor vehicle agencies, the EAC report again highlights what appear to be wide variations in levels of compliance with NVRA. States like Michigan, Florida and Pennsylvania seem to be in compliance, with more than a million applications submitted through motor vehicle agencies, representing more than 70 percent of new registrations. Meanwhile, other states have as little as a few thousand such applications, representing less than 20 percent of new registrations. The EAC survey is enclosed for your reference—Table 2a contains the information from both Motor Vehicle Offices and Public Assistance Offices.

The benefits of compliance also extend to the states themselves. Better compliance does not mean increased costs for state agencies. The executive director of the North Carolina State Board of Elections said in written testimony to a Senate Rules Committee hearing in 2008 that “there have not been extensive additional expenditures of funds and manpower created by the NVRA mandates.” It is clear that a stronger effort by the Department of Justice will yield similar results – increased compliance with the requirements of the law without additional costs.

I know you share my goal of offering the opportunity to cast a ballot to all eligible voters as provided for under Sections 5 and 7 of the NVRA. However, without more action by the Justice Department, this goal is unlikely to be realized. I urge you to enter into legally binding agreements with states whose results for NVRA-required voter registration are inadequate. If you have any questions, please feel free to have your staff contact my counsel at the Rules Committee, Adam Ambrogio, at 202-224-0279.

Sincerely,



Charles E. Schumer
Chairman

Enclosure