



**Testimony of Denise Lieberman, Senior Attorney & Missouri Voter Protection Advocate for Advancement Project<sup>1</sup>, in Opposition to HS/HCS/HJR 64 & HCS/HCS/HB 1966**

May 3, 2010

Before the Senate Financial, Governmental Organizations & Elections Committee

All eligible voters in Missouri have a right to cast a ballot and have their ballot counted. Unfortunately, HS/HCS/HJR 64 & HCS/HCS/HB 1966 - the companion bills under consideration today – do not advance the integrity of our elections and stands to disenfranchise more than 200,000 eligible Missouri voters – particularly the poor, the elderly, people with disabilities and people of color. This is unnecessary, expensive and irresponsible.

These proposals represent the legislature's fourth attempt to implement an unnecessary and unduly restrictive photo ID law for voting since the Missouri Supreme Court found that such a law violated the Missouri Constitution's fundamental right to vote. Thus, the joint resolution, HJR 64, would water down the right to vote in our constitution to allow photo ID to be implemented. In addition, the resolution establishes what an advance voting system MUST look like and locks us in to a very limited system that would not help the very voters that early voting is intended to benefit. The legislature would not be able to adopt any other type of advance voting without overturning the constitutional amendment. Upon the resolution's passage at the polls, HB1966 then implements the provisions that the resolution makes constitutionally permissible. The right to vote is "at the core of Missouri's constitution"<sup>2</sup> and should be altered in only the most compelling of circumstances. None exist here.

Make no bones about it -- these measures are really about implementing the same onerous photo ID provisions that this body has been unwilling to do the past three years. The advance voting provisions are a political ploy to muddy the waters and confuse the debate -- the resolution even provides that the early voting provisions won't be enacted if the photo ID parts of the bill are struck down. Moreover, early voting is only effective if eligible voters are actually allowed to vote. This legislation stands to disenfranchise more than 230,000 eligible Missouri voters who lack or can't get one of the strict forms of non-expired Missouri or Federal ID required by HB1966.

**It is unnecessary.** Missouri law already requires voters to produce identification at the polls -- and it works. We have fair elections in Missouri and both democrat and republican secretaries of state have touted the fraud-free nature of our elections under the existing ID laws. In fact, there has never been a single instance of voter impersonation fraud in Missouri -- and study after study shows that this kind of fraud simply doesn't exist. This legislation would severely limit the kind of ID that would be allowed at

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1 Advancement Project is a non-partisan, national civil rights and racial justice action organization with a Voter Protection Program in Missouri. Through this program Advancement Project partners with local leaders, individuals, election officials, organizations, and coalitions to work toward eliminating legal and structural barriers to voting in low income and communities of color through advocacy, public education and litigation.

2 *Weinschenk v. State*, 203 S.W.3d 201 (Mo. 2006)

the polls and would not allow voters to produce a college ID, a driver's license from another state, an expired driver's license, a voter identification card, a bank statement, utility bill, or other forms of identification that can effectively verify that voters are who they say they are on Election Day. Eligible, registered voters will be turned away, even if they can verify their identity at the polls.

**It is expensive.** At a time when this legislature is working to pass a state budget in the midst of a budget crisis requiring cuts to essential services for struggling Missourians, it is irresponsible to implement this unnecessary legislation that will cost taxpayers over \$20 million to "fix" a problem that doesn't exist.

**It will disenfranchise eligible voters.** According to the fiscal note for this legislation -- as of March 2009, 253,000 REGISTERED Missouri voters do not have a photo ID on file with the state Department of Revenue, and another 126,000 have expired ID's. These ELIGIBLE VOTERS would not be allowed to cast a regular ballot, even if they can identify themselves. Studies show that some 20 million people nationwide – and 230,000 here in Missouri – lack or can't get the required ID. That's why the Missouri Supreme Court in 2006 concluded that a similar photo ID requirement posed a "a heavy and substantial burden on Missourians' free exercise of the right of suffrage."

The legislation especially burdens minorities, the poor, the elderly and people with disabilities, who are up to twice as likely to lack a non-expired photo ID.<sup>3</sup> These are the Missourians who will be disenfranchised by these measures. Do not relegate them to second-class citizenship. You have responsibility to protect the rights of all citizens, not just those with state ID.

Even if ID is provided at no cost to those who cannot afford one, the underlying documents needed to procure the ID are not cost-free, and can be difficult - sometimes impossible - to obtain. To get an ID, voters must first present documents such as a birth certificate to prove identity, citizenship, and place of residence. In some instances, voters must present a social security card, proof of residence, court documents or marriage and divorce records if names have changed. A copy of a Missouri birth certificate costs \$15, and a current passport can cost between \$85 and \$145. Seventeen states plus Puerto Rico and Guam require a photo ID before they'll issue a copy of your birth certificate. In some states, obtaining a copy of your birth certificate may cost up to \$30.

These hurdles are real. That's why the Missouri Supreme Court labeled this a "poll tax" and agreed that for "qualified voters, including the poor, elderly and disabled, these hurdles to obtaining the proper photo ID are not insignificant," finding "these concerns real rather than speculative."<sup>4</sup> No Missourian should be deprived of the right to vote because a government bureaucracy will not provide them a copy of their birth certificate.

Consider the many real Missourians who will face substantial burdens to obtaining ID under these bills, and will thus have their right to vote taken away: Voters like **Kathleen Weinschenk**, who has cerebral palsy and because of her disability is unable to make a consistent signature or mark—her signature

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3 The Brennan Center for Justice at New York University School of Law found as many as 11 percent of United States citizens – 21 million individuals – do not have government-issued photo identification. African Americans are more than twice as likely to lack adequate ID - 25 percent of African-American voting-age citizens – more than 5.5 million people – have no current government-issued photo ID. At least 15 percent of voting-age citizens earning less than \$35,000 per year do not have a non-expired government-issued photo ID. And 18 percent of American citizens age 65 and above – or more than 6 million seniors – do not have non-expired government-issued photo ID. See: Brennan Center for Justice at NYU School of Law, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification*, <http://www.federalelectionreform.com/pdf/Citizens%20Without%20Proof.pdf>

4 *Weinschenk v. State*, 203 S.W.3d 201 (Mo. 2006)

would not match the signature on her voter registration record required by the Missouri law; **Maudie Mae Hughes** and **Lillie Lewis** of St. Louis, elderly African-American women born in Mississippi who can't get a Missouri photo ID required by the law because they cannot get a copy of their birth certificates from the State of Mississippi, which says it has no record of their births – because they cannot get a copy of their birth certificates, they wouldn't be able to obtain the necessary Missouri ID required under the law; **Amanda Mullaney**, born in Kentucky to unwed parents whose name does not match the name on her birth certificate; and the late **Judge Charles Blackmar**, one judge sitting on the Missouri Supreme Court for the 2006 photo ID challenge, learned that he would not be able to cast a regular ballot because, at 84 years old, he no longer drove a car and while he had a Missouri driver's license, it was expired.

**This bad legislation is not saved by its advance voting provisions.** The legislation would not change the rules for absentee voting -- voters would still have to assert one of the limited reasons allowing them to cast an absentee ballot. Rather, the bill implements a very abbreviated 4-day advance voting period that would allow voters to go to their county courthouse or election board to vote -- and only before statewide and federal elections. And, this would only occur if the legislature appropriates funding, making for a potentially inconsistent, confusing system that voters cannot count on. Under HB 1966, advance voting could be held only between the 2nd Saturday and the Wednesday prior to statewide elections, and only during working hours, providing no relief to the working people who need it most. The bill limits advance voting sites and doesn't allow the number of advance voting sites to be dictated by the number of registered voters, limiting it to one per senatorial district. This does nothing to advance the benefits that advance voting is supposed to accomplish, prevents this legislative body from implementing any other advance voting program without a constitutional amendment, and stands to disenfranchise more than 230,000 Missouri voters through its photo ID provisions. Advance voting is a good thing in theory, but this bill doesn't cut the mustard and is not an acceptable compromise for dangerous photo ID legislation that stands to disenfranchise more than 200,000 voters.

Please refuse this needless political ploy to play on phantom fears of voter fraud to justify disenfranchising the most vulnerable among us. The Missouri Constitution “establish[es] with unmistakable clarity that the right to vote is fundamental to Missouri citizens.” The bills before you take this away for potentially hundreds of thousands of Missourians. Elections cannot be fair if eligible voters are not allowed to vote. As elected officials, you have the responsibility to protect the voting rights of all citizens, not just those who have a state ID.

Accordingly, I urge you to vote NO on HS/HCS/HJR 64 and HCS/HCS/HB 1966.

Respectfully Submitted,



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