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AAJC

November 3, 2021

**PLEASE SUPPORT THE CLOTURE VOT ON THE JOHN LEWIS VOTING  
RIGHTS ADVANCEMENT ACT**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, and the **\*\*\*\* undersigned organizations, we write in strong support of moving to the John Lewis Voting Rights Advancement Act, to enable consideration of the bipartisan compromise reached today by Senators.**

The coordinated, anti-democratic campaign to restrict the vote targets the heart of the nation's promise: that every voice and every eligible vote count. For democracy to work for all of us, it must include us all. When certain communities cannot access the ballot and when they are not represented in the ranks of power, our democracy is in peril. State legislatures and local jurisdictions across the country are passing laws or enacting policies that restrict access to the ballot box. The moment is urgent, and Congress must meet the urgency and pass the John Lewis Voting Rights Advancement Act.

This bill will restore the essential provision of the Voting Rights Act that prevents the adoption of discriminatory voting practices before they go into effect, establishing a transparent process for protecting the right to vote. It will also restore and strengthen other provisions to help bring down the barriers erected to silence Black, Brown, Native, young, and new Americans and ensure everyone has a voice in the decisions impacting our lives. Importantly, the bill includes the Native American Voting Rights Act (NAVRA), which protects voting rights for Indigenous communities who face myriad, unique challenges to fully participating in our democracy.

***Shelby County v. Holder***

In 2013, the U.S. Supreme Court's ruling in *Shelby County v. Holder*<sup>1</sup> eviscerated the most powerful provision of the Voting Rights Act: the Section 5 preclearance system. This provision applied to nine states and localities in another six states. These jurisdictions were

<sup>1</sup> 570 U.S. 529 (2013).

Interim President & CEO  
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required to obtain preclearance from the Justice Department or the U.S. District Court for the District of Columbia before implementing any change in a voting practice or procedure.

Prior to the *Shelby* decision, Section 5 was immensely successful in blocking proposed voting restrictions in states and localities with histories of racial discrimination. It also ensured that changes to voting rules were public, transparent, and evaluated to protect voters against discrimination based on race and language. But, in *Shelby County*, Chief Justice John Roberts on behalf of the majority, declared that “Our country has changed.” The Court held that the formula identifying jurisdictions subject to preclearance was decades-old and outdated, functionally halting the preclearance requirement. However, the Court invited Congress to assess “current conditions” in order to update the formula for deciding which jurisdictions should be covered by preclearance today.

Despite the best efforts of The Leadership Conference and its many member organizations to protect voting rights and promote civic participation, the impact of over eight years of overt and covert anti-voter tactics has had a devastating and lasting impact. The Supreme Court’s invalidation of the preclearance formula released an immediate and sustained flood of new voting restrictions in formerly covered states. Without the Voting Rights Act’s tools to fight the most blatant forms of discrimination, people of color continue to face barriers to exercising their most important civil right, including voter intimidation, disenfranchisement laws built on top of a system of mass incarceration, burdensome and costly voter ID requirements, and purges from the voter rolls. States have also cut back early voting opportunities, eliminated same-day voter registration, and shuttered polling places.

The Leadership Conference recently commissioned 13 state reports, which were prepared by our partner civil rights organizations and allies, to document the breadth and depth of recent voting discrimination in 13 states across the country.<sup>2</sup> These reports powerfully demonstrate that Congress has an urgent imperative to restore the Voting Rights Act. Individually and collectively, they reveal that voting discrimination after *Shelby County* is pervasive, persistent, and adaptive, sometimes taking new forms which are no less pernicious. The reports document voter restrictions passed this year and cited numerous additional examples of recent voting discrimination in these states. This is the “current discrimination” on which Congress must update the preclearance formula and make several additional amendments to the Voting Rights Act so voters of color everywhere can fully participate in the political process. All the state reports have been introduced into the record of the 117<sup>th</sup> Congress in support of the John Lewis Voting Rights Advancement Act.

### ***Brnovich v. Democratic National Committee***

Furthermore, in July, the Supreme Court ruled in *Brnovich v. Democratic National<sup>3</sup> Committee<sup>4</sup>* that two discriminatory Arizona voting laws did not violate Section 2 of the Voting Rights Act. In its opinion in *Brnovich*, the Court disregards the congressional purpose of Section 2, which is to provide

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<sup>2</sup> The state reports exhaustively document current voting discrimination in the following states: Alabama, Alaska, Arizona, California, Florida, Georgia, Louisiana, Mississippi, New York, North Carolina, South Carolina, Texas, and Virginia, available at <https://andstillivote.org/the-state-of-voting-rights-in-america-reports/>.

<sup>3</sup> 141 S.Ct. 2321 (2021)

a powerful means to combat race discrimination in voting nationwide. The majority departs from decades of precedent enforcing Section 2 according to Congress' intent, and it creates new "guideposts" that will ineffectively identify and eradicate discriminatory policies and practices. The decision relies on a limited interpretation of the Voting Rights Act that will make it more difficult to challenge discriminatory voting laws. This decision underscores the need for Congress to pass the John Lewis Voting Rights Advancement Act and include provisions to restore the legislative intent of Section 2 of the Voting Rights Act.

### ***Evidence of the Need for the John Lewis Voting Rights Advancement Act***

Discriminatory voting practices are not merely the province of those states with a long history of discrimination. Pernicious practices such as voter purging and restrictive identification requirements — which disproportionately affect voters of color — occur in states throughout the nation, and they are growing in number. Shockingly, [between January 1 and September 27, 2021](#), at least 19 states have enacted 33 new laws that restrict our freedom to vote, and more than 425 bills with restrictive provisions have been introduced in 49 states in the 2021 legislative sessions.

During the 117th Congress, the Senate Committee on the Judiciary, Senate Committee on Rules, Senate Committee on Indian Affairs, House Committee on the Judiciary, and the Committee on House Administration have held a total of 19 hearings, listened to testimony from more than one hundred witnesses, and reviewed thousands of pages of reports and documents. These Committees found significant and overwhelming evidence of ongoing barriers to voter participation for people of color and language-minority voters.

The Senate Committee on the Judiciary held six hearings on voting rights:

[\*\*\*Restoring The Voting Rights Act: Protecting the Native American and Alaska Native Vote\*\*\*](#) (October 20, 2021); [\*\*\*Protecting a Precious, Almost Sacred Right: The John Lewis Voting Rights Advancement Act\*\*\*](#). (October 6, 2021); [\*\*\*Restoring the Voting Rights Act: Combating Discriminatory Abuses\*\*\*](#) (September 22, 2021); [\*\*\*Restoring the Voting Rights Act after Brnovich and Shelby County\*\*\*](#) (July 14, 2021); [\*\*\*Supreme Court Fact-Finding and the Distortion of American Democracy\*\*\*](#) (April 27, 2021); [\*\*\*Jim Crow 2021: The Latest Assault on the Right to Vote\*\*\*](#) (April 20, 2021).

The Senate Committee on Rules held one hearing:

[\*\*\*Emerging Threats To Election Administration\*\*\*](#) (October 26, 2021)

The Senate Committee on Indian Affairs held one hearing:

[\*\*\*Oversight Hearing on "Voting Matters in Native Communities"\*\*\*](#) (October 27, 2021)

The House Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Civil Liberties held six hearings on voting rights:

[\*Oversight of the Voting Rights Act: Potential Legislative Reforms\*](#) (August 16, 2021); [\*The Need to Enhance the Voting Rights Act: Practice-Based Coverage\*](#) (July 27, 2021); [\*The Implications of Brnovich v. Democratic National Committee and Potential Legislative Responses\*](#) (July 16, 2021); [\*The Need to Enhance the Voting Rights Act: Preliminary Injunctions, Bail-in Coverage, Election Observers, and Notice\*](#) (June 29, 2021); [\*Oversight of the Voting Rights Act: A Continuing Record of Discrimination\*](#) (May 27, 2021); [\*Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination\*](#) (April 22, 2021).

The House Administration's Subcommittee on Elections held five investigatory hearings with 35 witnesses, collected numerous reports and documents, and released a comprehensive [report](#).

[\*Voting In America: A National Perspective On The Right To Vote, Methods Of Election, Jurisdictional Boundaries, And Redistricting\*](#) (June 24, 2021); [\*Voting In America: The Potential For Polling Place Quality And Restrictions On Opportunities To Vote To Interfere With Free And Fair Access To The Ballot\*](#) (June 11, 2021); [\*Voting In America: The Potential For Voter ID Laws, Proof-Of-Citizenship Laws, And Lack Of Multi-Lingual Support To Interfere With Free And Fair Access To The Ballot\*](#) (May 24, 2021); [\*Voting In America: The Potential For Voter List Purges To Interfere With Free And Fair Access To The Ballot\*](#) (May 6, 2021); [\*Voting In America: Ensuring Free And Fair Access To The Ballot\*](#) (April 1, 2021).

### ***The John Lewis Voting Rights Advancement Act Restores and Modernizes the Voting Rights Act***

The Voting Rights Act of 1965 was passed with leadership from both the Republican and Democratic parties, and the reauthorizations of its enforcement provisions were signed into law each time by Republican presidents: President Nixon in 1970, President Ford in 1975, President Reagan in 1982, and President Bush in 2006. For more than half a century, protecting citizens from racial discrimination in voting has been bipartisan work.

The John Lewis Voting Rights Advancement Act fills a distinct and critical role by responding to the Supreme Court's call to update the preclearance formula which will protect the freedom to vote and ensuring elections are safe and accessible. When it comes to our elections, we all want an open and transparent process we can trust, where Americans have equal freedom to vote, whether we live in a small town or big city, or the coasts or the Midwest. Passage of the John Lewis Voting Rights Advancement Act will fulfill part of that promise of a democracy that works for — and includes — us all.

### ***The John Lewis Voting Rights Advancement Act would restore the VRA in the following ways:***

\*\* The Act would require all states and localities to provide public notice to all voters of certain voting changes.

\*\* The Act would address the *Brnovich* decision by clarifying factors that voters of color can use to prove a vote dilution or vote denial claim under Section 2 of the VRA and restoring voters' full ability to challenge racial discrimination in voting in court.

\*\* The Act would allow the Department of Justice and voters of color to challenge changes in a voting rule that would make voters of color worse off in terms of their voting rights than the status quo.

\*\* The Act would expand authority for courts to “bail-in” jurisdictions to the preclearance process and would update the ability of jurisdictions to “bail-out” of the preclearance process once they demonstrate a record of not harming voters of color.

\*\* The Act would grant the Department of Justice authority to compel the production of documents relevant to investigations of potential voting rights violations prior to filing an enforcement action.

\*\* The U.S. Attorney General would have authority to request federal observers anywhere there is a serious threat of racial discrimination in voting.

\*\* The Act would provide voters with additional protection by easing the standard for when courts can temporarily block certain types of voting changes while the change is under review in court. This is important because once a voter is discriminated against in an election, it cannot be undone.

\*\* The Act would incorporate the Native American Voting Rights Act (NAVRA) to ensure equal access to our democracy for Native Americans, Alaska Natives, and voters living on Tribal lands.

## ***Conclusion***

In 1965, Congress passed the Voting Rights Act to outlaw racial discrimination in voting, and it became our nation's most successful and consequential civil rights law. Previously, many states barred Black voters from participating in the political system through literacy tests, poll taxes, voter intimidation, and violence. By outlawing the tests and devices that prevented people of color from voting, the Voting Rights Act and its prophylactic preclearance formula put teeth into the 15th Amendment's guarantee that no citizen can be denied the right to vote because of the color of their skin.

For decades, Congressman John Lewis implored his colleagues in Congress to realize the promise of equal opportunity for all in our democratic process. When President Lyndon Johnson signed the Voting Rights Act of 1965, he declared the law a triumph and said, “Today we strike away the last major shackle of ... fierce and ancient bonds.”<sup>4</sup> But 56 years later, the shackles of white supremacy still restrict the full exercise of our rights and freedom to vote. Before his death, John Lewis wrote: “Time is of the essence to preserve the integrity and promises of our democracy.”<sup>5</sup> **It is time for Congress to honor the legacy of**

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<sup>4</sup> <https://www.presidency.ucsb.edu/documents/remarks-the-capitol-rotunda-the-signing-the-voting-rights-act>

<sup>5</sup> <https://web.archive.org/web/20200719053551/https://johnlewis.house.gov/media-center/press-releases/rep-john-lewis-demands-doj-action-anniversary-shelby-v-holder-decision>

November 3, 2021  
Page 6 of 6



**civil rights icon John Lewis and support the John Lewis Voting Rights Advancement Act.** If you have any questions or need additional information, please contact Jesselyn McCurdy at [mccurdy@civilrights.org](mailto:mccurdy@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights

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