

United States Senate
WASHINGTON, DC 20510

February 17, 2021

The Honorable Joseph R. Biden
President
1600 Pennsylvania Ave NW
Washington DC, 20500

Dear President Biden:

We write to convey our commitment to working with you to strengthen our democracy. We believe that responding to the challenges currently facing our elections and campaign finance system will require both legislative and executive responses, and we look forward to partnering with you in these efforts.

In some ways, the 2020 election showed the resilience of our democracy. We saw record turnout in the midst of a pandemic and the Cybersecurity and Infrastructure Security Agency, the Election Assistance Commission, and state and local election officials concluded it was “the most secure in American history.”¹ Still, we saw widespread voter suppression strategies, especially targeting communities of color, and record levels of dark money spent to unduly influence voters. We also saw unprecedented attacks on the integrity of our election that culminated in the January 6 attack on the Capitol. These are symptoms of ongoing and deeply rooted inequities that we must confront together.

We are committed to advancing the *For the People Act*, S. 1, through the legislative process and working with you to see that it is signed into law. The sweeping reforms included in the bill to increase access to voting, get dark money out of our politics, and restore trust and accountability in government have never been more important.

As we work to swiftly pass this transformational legislation, we urge you to take steps to strengthen our democracy. The White House, in conjunction with cabinet departments and independent agencies, already has the authority to take significant steps to make it easier for Americans to vote, stop voter suppression tactics, and reform our campaign finance system. We urge you to consider the following priorities as you take bold action to bolster our democracy.

¹ Joint Statement from Elections Infrastructure Government Coordinating Council and the Election Infrastructure Sector Coordinating Executive Committees, Cybersecurity and Infrastructure Security Agency (November 12, 2020) <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>

- Improving enforcement of the *National Voter Registration Act (NVRA)*. Currently, the NVRA requires state motor vehicle agencies and certain other agencies to provide citizens the opportunity to register to vote. However, many experts and stakeholders are concerned that states are not adequately implementing the law. We urge the Administration to work with federal agencies that provide services to populations that are less likely to be registered to vote – such as the Indian Health Service, Department of Veterans Affairs, U.S. Citizenship and Immigration Services, and Social Security Administration – to provide opportunities to register to vote as part of routine interactions. Additionally, states currently submit data to the Election Assistance Commission (EAC) on the number of voters registered through these transactions, but not the total number of transactions. We urge your Administration to require states to submit additional data on the total number of transactions to the EAC to help the Department of Justice (DOJ) better enforce the NVRA.
- Prioritizing the prosecution of voting rights and campaign finance law violations. Under the previous administration, DOJ's Civil Rights Division was gutted and voter suppression was not prosecuted. At the same time, deadlock at the Federal Election Commission (FEC) has allowed special interests to circumvent campaign finance requirements with little if any penalty. The DOJ retains jurisdiction over knowing and willful violations and we urge you to empower the DOJ Civil Rights Division to prosecute voter suppression efforts, which were especially prevalent during the 2020 elections, as well as campaign finance law violations.
- Expanding *Voting Rights Act (VRA)* protections. Following the U.S. Supreme Court's *Shelby County v. Holder* decision, voter suppression efforts have increased dramatically in states across the country. Section 3 of the VRA allows plaintiffs who present evidence of voting discrimination to request that a jurisdiction or state seek approval from DOJ (or D.C. District Court) for future changes to its voting laws. While Congress will work to pass the *John Lewis Voting Rights Advancement Act* and restore Section 5 preclearance, Section 3 preclearance is currently the last mechanism in the VRA to mandate advance review of voting changes in jurisdictions with histories of discrimination. In order to prevent further voter suppression and discrimination, DOJ should expand the use of Section 3 preclearance when appropriate for jurisdictions that engage in voter suppression.
- Strengthening sanctions on foreign entities that interfere in federal elections. The Intelligence Community continues to warn that our elections remain a target for foreign adversaries, and under the previous administration there was a persistent lack of consequence for election interference. The Treasury Department should impose sanctions on foreign entities that interfered in federal elections and establish a formal process for imposing sanctions on foreign entities and individuals that interfere in future elections. We also urge your Administration to investigate the use of sanctions under existing authorities, including cyber-related authorities, where appropriate, and to recommend to Congress if additional authorities are needed to counter election-related attacks on our democracy.

- Improving implementation of the *Foreign Agents Registration Act (FARA)*. FARA is intended to help prevent foreign interference by requiring individuals representing the interests of foreign governments to disclose their relationships and authorizing the DOJ to prosecute violations. In 2016, the DOJ’s Inspector General found widespread noncompliance with FARA’s reporting requirements and so improving the enforcement unit is critical for preventing foreign interference. More recently in 2018, Special Counsel Robert Mueller indicted 13 Russian nationals spreading online election disinformation under FARA, and many legal experts have pointed to the renewed importance of strict FARA enforcement to counter evolving interference threats. DOJ should substantially increase the staffing of the FARA enforcement unit in order to enhance implementation of the law.
- Reinstating disclosure of donor information for 501(c)(4)s that engage in issue advocacy. For decades, the Internal Revenue Service (IRS) and Treasury Department required non-profit groups that engage in issue advocacy to identify, in confidential filings, the names of individual donors who make significant financial contributions. This helped combat foreign spending in elections, but the previous administration rolled back that requirement. The IRS should reverse its 2018 decision and reinstate the requirement that these organizations confidentially report information to the IRS on donors who contribute \$5,000 or more. In 2018, every Democratic Senator signed a letter urging the IRS to reverse its decision.
- Improving coordination between the FEC and other federal agencies. The current Memorandum of Understanding (MOU) between the DOJ and FEC for referring potential campaign finance violations is ambiguous and the FEC has limited investigative ability, especially in criminal violations. In 2020, the DOJ contended the MOU had been nullified, but that they continued to follow the “spirit” of it, while the FEC contended the MOU is still in effect. The DOJ has previously stated that an updated MOU would have a positive effect and would reflect on the good cooperation and working relationship between the two agencies. We urge you to direct the DOJ and FEC to update or draft a new MOU for information sharing and case referrals. Additionally, we urge you to direct the DOJ, Treasury, and other appropriate departments to provide investigative assistance to the FEC in enforcement matters involving foreign funds.
- Ensuring voter registration services and ballot access for voters with disabilities. Voters with disabilities are one of the most underserved groups by our electoral system and are routinely confronted with significant obstacles to casting their ballots. We urge you to instruct federal agencies charged with providing voter registration services to guarantee these services are readily accessible for voters with disabilities. Additionally, your Administration could direct the National Institute for Standards and Technology to analyze barriers for voter services and develop recommendations for converting the federal voter registration form to be fully accessible by individuals with disabilities.

- Providing incarcerated people with appropriate election information and voter registration services. The Bureau of Prisons and U.S. Marshals Services should supply eligible incarcerated and soon-to-be-released people with election information and voter registration services. This would include allowing third-party voter registration organizations to aid those who are eligible in a manner consistent with both state and federal law. In addition, we urge you to direct the Bureau of Prisons to provide voter registration and election information and services as part of release services.
- Modernizing Vote.gov. As the primary federal online source for qualified voters to register to vote and access state and federal election information, Vote.gov must be modernized to optimize accommodation for all who rely on its resources. We urge you to direct the General Services Administration to work with the EAC and improve Vote.gov by ensuring the site has a user-friendly interface for voter registration forms, is compliant with accessibility standards under federal disability rights laws, and is available in different languages.
- Creating a comprehensive, end-to-end ballot tracking system to provide all uniformed and overseas voters the capability to track their ballots. Voter participation rates among military and overseas voters are consistently low and studies by the Federal Voting Assistance Program have reported low voter confidence in our elections from military and overseas voters. The Department of Defense (DOD) and Military Postal Service should create a comprehensive, end-to-end ballot tracking system to provide all uniformed and overseas voters the capability to track their ballots. End-to-end ballot tracking would also give these voters increased confidence that their votes have been accurately received and counted. Additionally, DOD could analyze and recommend a new method to automatically register enlisted service members to vote, with the consent of the voter, since the DOD already has current and reliable registration data for uniformed and overseas voters.

Using the authority of the Executive Branch to address these priorities will significantly improve equal access to the ballot box and ensure that our democracy is working for the people. We look forward to working with you on these reforms and to enact the *For the People Act*. Together, through both legislative and executive actions, we can build a stronger, more inclusive democracy.

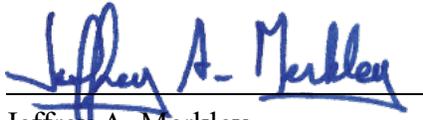
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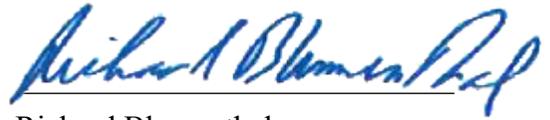
Amy Klobuchar
United States Senator



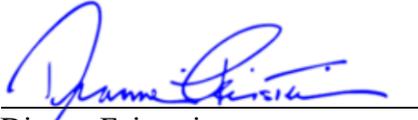
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United States Senator



Jeffrey A. Merkley
United States Senator



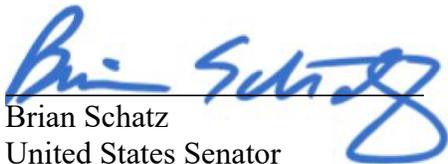
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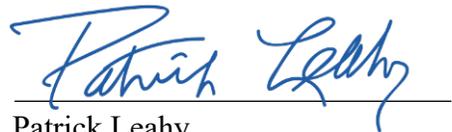
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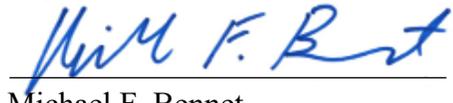
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