

January 7, 2022

United States Senate
The Capitol
Washington, DC 20510

Dear Senator:

Yesterday marked the solemn anniversary of the January 6th insurrection, an armed assault on the Capitol and our democracy. You survived the attack. We urge you in the strongest possible terms to ensure that the freedom to vote survives the attack on democracy, too.

The former president incited the insurrection with his Big Lie disinformation campaign, aided and abetted by his associates and others. This weakens confidence in our elections and provides cover for those that wish to suppress the vote. The harm continues to metastasize.

Many states and jurisdictions made voting much more accessible in 2020, with major progress on reforms such as vote-by-mail and early voting. But the backlash, exacerbated by the Big Lie, was swift. Last year, 19 states passed 34 new laws to restrict voting access.¹ State legislators introduced more than 440 bills that would have done the same.² Many of those bills reek of Jim Crow. Partisan legislators introduced and passed these laws after voters showed up in record numbers, despite a deadly virus, to vote in an election that some of the former president's own appointees called "the most secure in American history."³ Moreover, the Supreme Court last summer weakened what was left of the Voting Rights Act—a bulwark against racial discrimination in our democratic processes—after the profound damage it did in 2013's *Shelby County* decision.

State legislative sessions are gaveling-in this month, and there are no signs that the coordinated effort to restrict voting is decelerating. More than a dozen bills to restrict voting were pre-filed as of last month, and at least 88 will carry over this year as well.⁴ Voters are preparing to participate in primaries that get underway soon, and the Congressional midterms are less than a year away.

The Senate must act urgently to protect the freedom to vote. Passing the Freedom to Vote Act and John R. Lewis Voting Rights Advancement Act is in keeping with your oath of office to support and defend the Constitution against all enemies, foreign and domestic, including those who would subvert democracy. We urge the immediate passage of these bills. Congress has the express constitutional

¹ Brennan Center for Justice at NYU Law, Voting Laws Roundup: December 2021, Dec. 21, 2021, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

² *Id.*

³ Cybersecurity & Infrastructure Security Agency, Joint Statement from Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees, Nov. 12, 2020, <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁴ Brennan Center for Justice at NYU Law, *supra* note 1.

authority to do so in the Fourteenth and Fifteenth Amendments to the Constitution and the Elections Clause (Article I, Section 4).

Some have argued that the Senate should not pass legislation that remedies voter suppression and instead reform the Electoral Count Act, the antiquated 1887 law that governs procedures relating to how Congress counts presidential electoral votes. This is a false choice. Reforming the Electoral Count Act is necessary but wholly insufficient to reverse the voter suppression infecting our democracy and sweeping some states. Reforms to how the score is counted will not unrig the rules that are stacked against voters and their participation, including when many of the new rules target voters of color, young people, and voters with disabilities. We urge you to pass the Freedom to Vote Act and John Lewis Voting Rights Advancement Act first because they meet the moment, and then advance other important issues like Electoral Count Act reform and the Protecting Our Democracy Act.

It is incredibly dangerous not to act now on the Freedom to Vote Act and John Lewis Voting Rights Advancement Act. In the years to come, many will examine this period as one of the most important junctures in our history. How the Senate responds to the attacks on the freedom to vote in the aftermath of the Big Lie, the armed insurrection, and the peril they portend for our democracy will reverberate for generations.

No Senate rule or loophole in its rules—including one that the Framers considered and rejected, such as a supermajority requirement to pass legislation—should stand in the way of the freedom to vote. The Senate has reformed its rules and procedures many times to protect the Senate’s place in our system as a deliberative body that considers, debates, and ultimately responds to the issues of our times.

We commend Leader Schumer for his commitment to protect free and fair elections by announcing action this month on voting rights. These bills are supported by most Americans irrespective of party, in keeping with the long tradition of voting rights and legislation that bolsters democracy having strong, bipartisan support. Many of the reforms in the Freedom to Vote Act were passed in states with strong bipartisan backing, and as recently as 2006, the Senate unanimously amended and extended the Voting Rights Act.

We urge all senators, irrespective of party, to keep the Freedom to Vote Act and John Lewis Voting Rights Advancement Act as strong as they are and pass them as soon as possible.

Sincerely,



Karen Hobert Flynn
President, Common Cause

Since 1970, [Common Cause](#) has been working to hold power accountable through lobbying, education, litigation, and organizing. Our non-partisan, pro-democracy work has helped pass hundreds of reforms at the federal, state, and local levels. We now have 30 state chapters and more than 1.5 million members in every congressional district around the country who are working to strengthen our democracy.