



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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August 2, 2021

SENT VIA EMAIL ONLY

The Honorable Nancy Pelosi
United States House of Representatives

The Honorable Kevin McCarthy
United States House of Representatives

The Honorable Charles Schumer
United States Senate

The Honorable Mitch McConnell
United States Senate

Re: Urgent Need for Federal Legislation to Safeguard Democracy

Dear Congressional Leaders:

Following the 2020 presidential election, we witnessed something many of us considered unthinkable: an attempt by the then-sitting President of the United States, assisted by certain state elected officials, to steal a presidential election. We, the undersigned 22 attorneys general, write to emphasize that the peril to our democracy did not end on Inauguration Day, with the transfer of power from one administration to another. To safeguard our democracy, it is vital that Congress act promptly—including, if necessary, to reform the filibuster—to pass legislation protecting against *both* voter suppression and election subversion.

Each of our offices worked to ensure that the 2020 general election was conducted freely, fairly, and with integrity. Our offices challenged changes made by the United States Postal Service that slowed mail delivery and increased the risk that some votes cast by mail would not be counted. Some of our offices also defended modifications made by our internal elections administrators to ensure that voters had a fair opportunity to vote and that their votes were properly counted during a once-in-a-lifetime pandemic. We made clear that voter intimidation at the polls would not be tolerated. And our offices successfully defended democracy by opposing the effort of 18 states to overthrow the presidential election results.

Several factors contributed to the failure of former President Trump and his allies to overturn a democratic outcome. The legal arguments made by those seeking to overturn election results were generally so extraordinarily weak that they did not have even the veneer of legitimacy. Certain election officials—both Republican and Democratic—refused to buckle under pressure at critical points, placing election integrity and our democracy, ahead of partisanship. And the attack on the outcome of the 2020 presidential election, while dangerous, was inept.

Without new federal legislation strengthening protections for voting rights and preventing election subversion, we cannot confidently rely on these factors to protect the will of the voters in future elections, especially since the legal environment is growing more hostile to free and fair elections. Several states have passed laws that create new barriers to voting or make it easier to overturn election results.¹ In a statement issued on June 1 of this year, more than 100 democracy scholars explain, “[W]e have watched with deep concern as Republican-led state legislatures across the country have in recent months proposed or implemented what we consider radical changes to core electoral procedures in response to unproven and intentionally destructive allegations of a stolen election.”² They observe that “[s]tatutory changes in large key electoral battleground states are dangerously politicizing the process of electoral administration” and “seeking to restrict access to the ballot.”³ And they warn, “[T]hese laws politicizing the administration and certification of elections could enable some state legislators or partisan election officials to do what they failed to do in 2020: reverse the outcome of a free and fair election.”⁴ Further, the Supreme Court’s recent decision in *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321 (2021), substantially diminished the federal protections that remained in the Voting Rights Act after *Shelby County v. Holder*, 570 U.S. 529 (2013).

Democratic norms are being eroded, too. Following the failure of President Trump’s attempt to steal the 2020 presidential election and the insurrection at the U.S. Capitol, it was our hope that the attack on our democracy was behind us. Instead, Republican officials in Congress and around the country have continued to take steps that undermine fair elections and confidence in the integrity of vote counts and provide cover for those who attempted to subvert the will of those voters. Whether it is the so-called “audit” in Arizona and the proposed “audits” in Pennsylvania and

¹ See *Voting Laws Roundup: July 2021*, Brennan Center for Justice (July 22, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>.

² *Statement of Concern: The Threats to American Democracy and the Need for National Voting and Election Administration Standards*, New America (June 1, 2021), <https://www.newamerica.org/political-reform/statements/statement-of-concern/>.

³ *Id.*

⁴ *Id.*

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other states, the passage of restrictive voting laws in 18 states,⁵ the expulsion from House leadership of a Republican due to her insistence on telling the truth about the 2020 presidential election, or Republicans blocking an independent commission to investigate the insurrection, efforts to undermine our democracy clearly have not subsided.

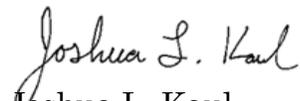
We share in the concern about what may come in future elections. Any future attempt to overturn a democratic result will now have a template to work from and more time to prepare. And such an effort is virtually certain to be conducted more competently than the attempt to overturn the 2020 presidential election.

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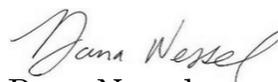
The truths upon which this nation was founded are self-evident. They are not self-executing, however. The profound challenges confronting our democracy demand that Congress act to prevent voter suppression and election subversion. Irrespective of one's views on the value of the filibuster in general, it must not be allowed to stop Congress from addressing these issues so fundamental to our Constitution and democracy.

If our offices can be of any assistance as you continue working on legislation to safeguard our democracy, please let us know.

Thank you,



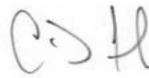
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⁵ See Brennan Center for Justice, *supra* note 1.

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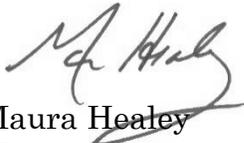
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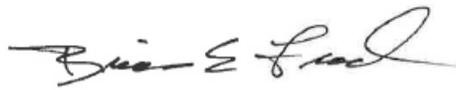
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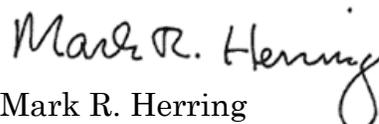
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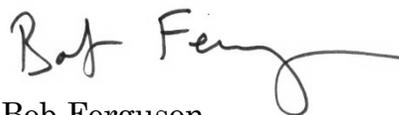
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Cc: Congressional delegations of the signatory states