

**Testimony to the U.S. House Committee on House Administration,  
Subcommittee on Elections  
Field Hearing: Voting Rights and Election Administration in the Dakotas  
Fort Yates, North Dakota  
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Thank you for the opportunity to share with this committee evidence from North Dakota about the need for the Voting Rights Act. The Voting Rights Act must be fully restored in order to protect voters and increase access to the polls for the people of North Dakota.

The League of Women Voters was founded nearly 100 years ago in 1920 by women who understood the importance of securing voting rights for women. Since 1920, the League has been empowering voters and defending democracy, ensuring that that everyone has the right, the knowledge, and the confidence to participate.

The League of Women Voters (LWV) chapters in North Dakota connect citizens with government, enhance voter participation, and work to include all voices in civil life. Our North Dakota LWV chapters facilitate and host candidate forums open to the public, assist North Dakota voters with polling place information, and provide voter information on ballot initiatives. LWV chapters in North Dakota make information about voting and its importance available across many channels of information including in person, in writing, on social media, over cable access channels, and streamed online in order to make access as broadly available as possible.

The 116<sup>th</sup> Congress has a significant opportunity to ensure civil rights and voting rights. The opportunity to strengthen the Voting Rights Act by creating a new formula that would trigger preclearance of any changes to voting laws and administrative practices is needed now more than ever. And the creation of a national notification process, that lets all voters know when changes to elections processes may occur, ensures that voters are informed prior to them showing up to the polls on Election Day.

In 1965, the Voting Rights Act (VRA) outlawed racial discrimination in voting and established procedures to protect equal access to the vote for every American citizen. Native Americans were not assured of the right to vote in the United States until the passage of this act. The VRA was subsequently reauthorized with wide bipartisan support in 1970, 1982, 1992 and 2006.

Despite a long history of support from legislators from all political parties, in 2013, the Supreme Court overturned key provisions of the VRA that triggered careful review of voting changes in political jurisdictions with a history of racial discrimination in voting processes before they could take effect. Since that decision, policy makers in states, counties, cities, and towns across the country have passed laws and adopted practices that discriminate against and disenfranchise voters of color and minorities whose first language is not English -- making it harder for them to register and more difficult to vote.

The League believes without the ill-founded decision by the Supreme Court in *Shelby v. Holder*, suppressive laws implemented or adopted between 2014-2018 would have violated the VRA. In effect, these suppressive laws shut out millions of minority voters, and have stifled the ability and protection of citizens of their right to vote. Because of these factors, there is currently no check on voter suppression.

North Dakota is one state of 35 that has tribal lands within its boundaries. There are four tribal nations with headquarters in North Dakota: Mandan, Hidatsa, Arikara Nation; Spirit Lake Nation; Standing Rock Sioux Tribe; and Turtle Mountain Band of Chippewa Indians; these four tribal nations within North Dakota span 12 counties. According to the U.S. Census Bureau, Population Estimates Program, American Indian or Alaska Native peoples comprise 5.5 percent of the population of North Dakota; approximately 55 percent of American Indians live on tribal lands.

There have been several actions in the North Dakota Legislative Assembly, the administration of laws by the North Dakota Secretary of State, and actions by the court system that have resulted in a discriminatory effect on the descendants of the people who originally inhabited North Dakota and the whole North American continent, Native Americans:

- The passage of a law, HB 1369, in the 2017 legislative assembly, that modified sections 16.1-01-04.1 and 16.1-01-04.2 of the North Dakota Century Code, relating to identification requirements for electors and identification cards;
- The less than timely implementation of the changes in the law and communication by the Secretary of State's office to voters, election officials and to tribal governments;
- The actions by the courts which let stand practices allowing tribal identification not showing residential addresses as acceptable as voter identification in the primary election as **not** acceptable as voter identification just four months later in the general election.

Survey results presented as part of court proceedings show that, in 2015:

- "Native American eligible voters in North Dakota are less likely to possess a qualifying voter ID under current North Dakota law, as compared to non-Native Americans;
- 23.5 percent of Native American eligible voters lacked an appropriate ID, compared to 12 percent of non-Native eligible voters";
- Native Americans in North Dakota are significantly less likely to possess a driver's license, the most common type of identification used at North Dakota polls;
- Native Americans lack required underlying documents to obtain an identification document that would be acceptable to vote: "among those without a valid ID, 28.9 percent do not have a birth certificate or other proof of identity required by the state, such as a passport or naturalization card; 56.7 percent do not have two documents showing a residential street address; 16.7 percent lack a social security card or W2 showing a social security number. In total, 65.6 percent of Native Americans that currently do not have a valid voter ID do not have all three types of the underlying documents they would need to obtain a voter ID."

There is no question that barriers around the requirements of a physical address presented to ascertain identification in order to vote unduly impact the communities the Voting Rights Act was designed to protect.

Restoring the VRA is necessary to ensure that our elections are free, fair, and accessible for all Americans. The problems that spurred the passage of the original Voting Rights Act of 1965 still exist. Repairing the VRA also needs to happen to address Native American voting rights.

Without continued oversight and safeguards in place to protect voters from all backgrounds, it is left to organizations like the League of Women Voters and other nonprofit voting rights groups to inform and protect voters affected by these policies and practices. Without a fully functioning Voting Rights Act, the State is able to shirk its duty to justify the changes. Congress must fulfill its obligations under the Constitution to eradicate voting discrimination by restoring the strength and effectiveness of the Voting Rights Act. The right to vote is one of the most sacred and basic rights in our country and it must be protected.

The League will continue to pursue all avenues to fight for voters' rights, but we require strong action by Congress now to repair, restore, and modernize the Voting Rights Act's protections that have helped us prevent racial and language discrimination in our elections for decades. It is the duty of our government to protect the rights of voters and to encourage participation in our political system, not create barriers that prevent involvement. As it has for nearly 100 years, the League looks forward to holding our elected leaders accountable for protecting and upholding their responsibility to ensure voters have the unobstructed ability to exercise their right to vote.

Sources:

The North Dakota Indian Affairs Commission, <http://indianaffairs.nd.gov/statistics/>

*Securing Indian Voting Rights*, Harvard Law Review, <https://harvardlawreview.org/2016/04/securing-indian-voting-rights/>

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