February 28, 2020

The Honorable Marcia L. Fudge  
Subcommittee on Elections  
Committee on House Administration  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Rodney Davis  
Subcommittee on Elections  
Committee on House Administration  
U.S. House of Representatives  
Washington, D.C. 20515

Re: Removing Barriers to Native American Voting Rights

Dear Chairwoman Fudge and Ranking Member Davis:

On behalf of the American Bar Association (ABA), which is the largest voluntary association of lawyers and legal professionals in the world, I write to commend you for recently holding a hearing on barriers to Native American voting rights and on H.R. 1694, the Native American Voting Rights Act of 2019. The ABA offers the following comments and requests that they be made part of the hearing record.

The ABA has repeatedly advocated for the federal government to fulfill its unique trust and treaty obligations owed to all Native Tribes. Pursuant to this obligation, the federal government has the responsibility to ensure that Native Americans and Alaska Natives have the ability to exercise their fundamental right to vote.

In furtherance of this federal responsibility and our long-standing commitment to protecting voting rights and increasing voter participation, the ABA adopted additional policy earlier this month that acknowledges the serious voting barriers faced by Native Americans and Alaska Natives and urges specific remedial actions to remove these barriers and establish mechanisms to safeguard their future access to the polls.

Presently, 1.2 million eligible Native American voters are not registered to vote. In 2018, the Native American Voting Rights Coalition released a report that documented the obstacles that have impeded the ability of Native Americans and Alaska Natives to participate in the voting process. Language barriers, poverty, lack of access to transportation, lack of residential addresses, lack of access to mail, the digital divide, and distance are just some of the obstacles included in that report. Election laws and policies create additional barriers, such as voter identification laws and lack of polling locations on or near Tribal lands. The full report is available at: https://www.narf.org/wordpress/wp-content/uploads/2018/01/2017NAVRCsurvey-summary.pdf
To rectify voter participation barriers, the ABA urges federal, state, local, territorial, and tribal governments to enact legislation that:

(1) Provides equal access to voter registration and polling sites for Native American and Alaska Natives to increase Native American and Alaska Native access at each stage of the voting process;
(2) Ensures equal treatment for Tribal identification by directing election officials and voting precincts to treat Tribal identification cards like state and local identification cards for purposes of voting and registering to vote;
(3) Requires jurisdictions to give notice and obtain consent from Native Americans and Alaska Native Tribes before eliminating the only polling location or voter registration site on tribal lands; closing or moving a polling place or voter registration site to a location one mile or further from the current location; or other aspects of election administration; and
(4) Requires adequate language assistance by directing states to consult with Tribes on appropriate methods for furnishing instructions, assistance, and other information related to registration and voting under Section 203 of the Voting Rights Act.

The ABA also urges the federal government to improve voter outreach and access in Indian Country by:

(1) Providing Tribal leaders a direct pathway to request Federal election observers;
(2) Requiring the United States Department of Justice to conduct annual voting consultation with Indian Tribes; and
(3) Establishing a Native American Voting Rights Task Force under the Office for Civil Rights at the Office of Justice Programs of the Department of Justice, in coordination with the Department of the Interior, to provide grant funds to Tribal and state consortiums for purposes of boosting Native voter registration, education, and election participation in Tribal communities.

We note that H.R. 1694 (Lujan, D-NM), legislation that was examined during the hearing, includes provisions to accomplish each of these goals. We support this legislation without reservation and urge Congress to promptly pass it.

Thank you for the opportunity to share the views of the ABA on this timely issue.

Sincerely,

Judy Perry Martinez

cc: Members of the House Administration Subcommittee on Elections