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**Testimony Regarding a Voter Bill of Rights**

Good morning Chairman Richard Saphire, Vice Chairman Justice French, and members of the Bill of Rights and Voting Committee, thank you for allowing me the opportunity to testify on voting rights for the purposes of the Ohio Constitutional Modernization Commission. I come before you today as a Member of the Ohio General Assembly, Representing the 33<sup>rd</sup> District of the Ohio House, President of the Ohio Legislative Black Caucus, National Board Member of the National Action Network, and a concerned citizen on a crusade to make Voting Rights a permanent part of our state constitution and state constitutions across the country. Last month, I had the distinct honor to serve as one of the keynote speakers at the 50th Anniversary of Dr. Martin Luther King, Jr.'s March on Washington, where I addressed over 200,000 attendees and called for a Voter Bill of Rights to be enacted in states like Ohio.

Although women gained the right the vote in 1920 and African Americans gained the right to vote in 1965, Ohio and many other states have struggled over the years with voter suppression, intimidation, voter disenfranchisement, and thousands of uncounted ballots and law suits. Therefore, I come before you today to respectfully ask this committee to consider a Voter Bill of Rights to be added to the Ohio Constitution. This proposed constitutional amendment will secure permanent voting rights for Ohioans and ensure that our right to vote will not be infringed upon at the whim of the state legislature, regardless of the party in charge. We have seen lawmakers across the country attempt to restrict access to the ballot box by shortening early voting periods, ending Election Day registration and implementing stricter voter ID laws.

Just this year, one of my colleagues proposed legislation that would reduce the length of time for absent voting from 35 days before Election Day to 17 days, and would stop early voting the weekend and Monday before an election. This bill is in direct conflict with the decision from the

U.S. 6<sup>th</sup> Circuit Court of Appeals that ruled that early voting must be allowed on those same days during last year's presidential election.

Another attempt to restrict voter access was buried in our latest Ohio House budget. The proposed plan would have penalized Ohio universities that provide proof of residency documents to students who live on campus. Without this documentation, many students would not have been able to comply with voter ID laws, forcing them to vote provisionally.

Mr. Chair, committee members, there is a great cause for concern when, in my district of Hamilton County, over 1,900 ballots were thrown out in 2012, and in 2010, a Hamilton County judicial race was not decided until 2 years later because of a dispute of whether or not to count provisional ballots.

As you all know, the right to vote recently became more vulnerable to attack after the United States Supreme Court ruled that key parts of the Voting Rights Act were unconstitutional. Since 1965, the Voting Rights Act has been an integral part of the nation's election system. Enacted to protect the right to vote for all citizens, it has served as a safeguard against insidious practices used to prohibit African-Americans from exercising their right to vote.

While there are statutory voting protections in Ohio, if the Ohio General Assembly enacts revisions or modifications to these statutes, these protections may be changed or removed. By placing these protections in the Ohio constitution, we will ensure that voter protections can only be changed through a ballot initiative passed by the voters themselves. It is for these reasons that I am calling for a Voter Bill of Rights constitutional amendment to be launched in Ohio and in states across the country. The Voter Bill of Rights would do the following: define the right to vote as a fundamental right, establish early voting dates and times, allow the legislature to prescribe proper training and staffing for polling locations, create an online voter registration system, protect against voter ID requirements and voter registration tests, and include safeguards that ensure provisional ballots are counted.

Let me briefly outline what our concept of the Voter's Bill of Rights would contain. Beginning with the Right to Vote as a Fundamental Right

Freedom to vote is fundamental and inviolable, no less so than freedom of speech and freedom of religion. First and foremost, the Voters Bill of Rights must declare that the right of Ohioans to vote and to make their votes count is fundamental and absolutely inviolable. We believe this is necessary to ensure that the right to vote is completely free from impingement, limitation, or intrusion—by courts, by the legislature, or by other public officials. At a minimum, declaring the right to vote fundamental and absolutely inviolable would require courts uniformly to apply the highest degree of legal scrutiny to any attempts by legislators or other public officials to interfere with any qualified voter's ability to vote.

In addition, the right to vote has at least four major dimensions that deserve full constitutional protection. What's troubling is that our state constitution currently addresses only one of these four dimensions. Our concept of the Voter's Bill of Rights addresses all four.

The only dimension of the right to vote that the state constitution currently addresses is which citizens are qualified to vote. Taken together, Article V, Sections 1 and 6 of the Ohio Constitution state that to be qualified to vote, a person must be at least 18 years old, must live in the state "such time as may be provided by law," must be registered for 30 days, and must not be an "idiot" or "insane person." Our concept of the Voters Bill of Rights would reduce these requirements to only three: at least 18 years old, resident in the state for at least 30 days, and registered for at least 30 days. Any citizen who satisfies these three requirements is qualified to vote.

As I said, there are three other major dimensions of the right to vote that the Ohio Constitution does not mention at all. Unfortunately, this makes voting rights in Ohio susceptible to government impingement, limitation, or intrusion. Let me briefly address these other three dimensions of the right to vote that the Constitution does not mention and how our concept of the Voters Bill of Rights would deal with them.

First, the Ohio Constitution needs to spell out what qualified citizens must do to be recognized as able to vote. This includes not only how and when qualified citizens can register to vote, but also what voters, once they are registered, must do to receive a ballot that they can freely cast. Because the Constitution currently does not spell this out, some legislators have tried to make it more difficult for qualified voters to register to vote and to obtain ballots. Our concept of the Voter's Bill of Rights would end this by guaranteeing eligible Ohioans the broadest possible and most technologically advanced opportunities to register to vote, including online registration, which has been embraced by both sides of the aisle because of its efficiency, cost-savings, and accuracy. Furthermore, the Voter Bill of Rights would forbid any and all barriers to voter registration, such as registration tests; and protect the 940,000 Ohio residents who do not have some form of state identification by specifying the only, and very limited, proof that registered voters can be required to present in order to obtain a ballot.

Second, the Ohio Constitution needs to spell out when, how, and where registered voters may cast their votes—in other words, the time periods for voting, the methods for voting, and the locations for voting. Our concept of the Voters Bill of Rights would guarantee every registered voter the right to cast a ballot in person or by mail; would enshrine in the Ohio Constitution the same 35-day early voting by mail or in person that has proven successful in past elections in our state; would set uniform times of day when all locations in the state for in-person voting must be open, including during early voting and on Election Day itself; would require the State of Ohio to institute additional methods of casting ballots that become available through technological advancements, that ensure reliability, and that preserve voter privacy; and would authorize the legislature to pass other laws that expand but not restrict the constitutionally specified methods, time periods, and locations for voting.

Third, the Ohio Constitution needs to spell out everything registered voters must do to ensure that the votes they cast are counted. Our concept of the Voters Bill of Rights would guarantee that, as long as a registered voter casts a ballot using a method and at a time authorized by the Constitution, that ballot cannot be rejected due in any part to poll worker error, eliminating or

decreasing the risk of provisional ballots, of which there were 200,000 in the November 2012 presidential election. Our concept of the Voters Bill of Rights also would require the legislature to enact laws providing for training and other measures to minimize poll worker error, because a ballot should never be rejected due to poll worker error.

Along with these provisions, language should be included in the constitution permitting the General Assembly to pass laws to facilitate and expand upon these provisions, but not prevent them.

In my speech at the March on Washington I called for "no more temporary solutions to permanent problems." Voting is a sacred and fundamental right that should never be taken for granted. The Voter Bill of Rights should be included in the Ohio constitution as another protection to ensure that every Ohioan is able to easily register to vote and that their vote will be counted.

In closing, I would also like to acknowledge the group of individuals who helped me develop the concept of the Voter Bill of Rights: Paul DeMarco, Sylvia Brown, Don McTigue, and Lloyd Pierre-Louis, the President of the League of Women Voters, Nancy Brown, Democratic Caucus Policy Staffer, Malika Bartlett, State Director of Ohio Voice, Deidra Reese, Election Administration Director of Ohio Voice, Camille Wimbish, and Co-Chair of the Ohio Constitutional Modernization Commission, State Representative Vernon Sykes.

Chairman Richard Saphire, Vice Chairman Justice French, and members of the Bill of Rights and Voting Committee, we would welcome the opportunity to work with you on establishing a Voter Bill of Rights amendment to the constitution. Once again, thank you for allowing me the opportunity to testify on voting rights for the purposes of the Ohio Constitutional Modernization Commission.