

**OVERSIGHT OF THE VOTING RIGHTS ACT:  
THE EVOLVING LANDSCAPE OF VOTING  
DISCRIMINATION**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL  
RIGHTS, AND CIVIL LIBERTIES  
OF THE  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTEENTH CONGRESS  
FIRST SESSION

THURSDAY, APRIL 22, 2021

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# OVERSIGHT OF THE VOTING RIGHTS ACT: THE EVOLVING LANDSCAPE OF VOTING DISCRIMINATION

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Thursday, April 22, 2021

U.S. HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS,  
AND CIVIL LIBERTIES

COMMITTEE ON THE JUDICIARY

*Washington, DC*

The Subcommittee met, pursuant to call, at 9:05 a.m., in Room 2141, Rayburn House Office Building, Hon. Steve Cohen [chairman of the subcommittee] presiding.

*Present:* Representatives Cohen, Nadler, Raskin, Ross, Johnson, Garcia, Bush, Jackson Lee, Johnson, Jordan, McClintock, Roy, and Owens.

*Also Present:* Representative Bishop.

*Staff Present:* David Greengrass, Senior Counsel; John Doty, Senior Advisor; Moh Sharma, Member Services and Outreach Advisor; Jordan Dashow, Professional Staff Member; Cierra Fontenot, Staff Assistant; John Williams Parliamentarian; Keenan Keller, Senior Counsel; James Park, Chief Counsel; Will Emmons, Professional Staff Member; Betsy Ferguson, Minority Senior Counsel; Caroline Nabity, Minority Counsel; and Kiley Bidelman, Minority Clerk.

Mr. COHEN. The Committee on the Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time. I welcome everyone to today's hearing on Oversight of the Voting Rights Act: The Evolving Landscape of Voter Discrimination.

Before we continue, I would like to remind Members we have established an email address and distribution list dedicated to circulating exhibits, motions, or other written materials that Members might want to offer as part of our hearing today. If you would like to do so, [Judiciarydocs@mail.house.gov](mailto:Judiciarydocs@mail.house.gov) is the appropriate place to send them. We will then distribute them to Members and staff as quickly as possible.

I would now like to recognize Ranking Member Johnson for unanimous consent request.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chair. I ask unanimous consent that our House Judiciary colleague, Mr. Bishop from North Carolina be able to participate in the hearing this morning.

Mr. COHEN. He shall be permitted to introduce his favorite son.

Mr. JOHNSON of Louisiana. Thank you very much.

Mr. COHEN. Hearing no objection, we welcome Mr. Bishop to participate in today's hearing, recognize and introduce Lieutenant Governor Robinson. He will be able to question our witnesses if he is yielded time by a Subcommittee Member.

Mr. BISHOP. Thank you, Mr. Chair.

Mr. COHEN. You are very welcome. Finally, I would like to ask all Members and Witnesses, both those in person and those appearing remotely, to mute their microphones when you are not speaking. This will help prevent feedback, other technical issues. You may, of course, unmute yourself any time you seek recognition.

I will now recognize myself for an opening statement. The late beloved and great Representative, John R. Lewis, my hero, my dear friend, my partner in making good trouble, and my honored colleague, shed his blood and almost died defending the right to vote, and seeking the right to vote. He often said, as he did in 2013, that the right to vote is the most powerful, nonviolent tool we have in a democracy. I risked my life defending that right. Some died in the struggle. If we are ever to actualize the true meaning of equality, effective measures, such as the Voting Rights Act, are still a necessary requirement of democracy.

The right to vote is the right that guarantees all other rights in our democracy. Unfortunately, the voting rights of African-Americans, Latinos, Native Americans, Asian Americans, and other Members of racial and language minorities, have been threatened and undermined throughout our Nation's history. The Voting Rights Act with an effective preclearance provision went a long way towards righting that wrong.

Sadly, since the Supreme Court's effective neutering of the preclearance provision, voting rights for minorities, once again, is under sustained assault in many parts of our country. The Act's preclearance provision requiring certain jurisdictions with a history of voting discrimination against racial and language minority groups predominantly, though, not exclusively, in the Deep South, the States of the old confederacy, to obtain approval of any changes to their voting laws or procedures from the Department of Justice or the U.S. District Court for the District of Columbia before such changes could take effect.

There were good reasons for that. History repeats itself often, and, unfortunately, in the Deep South, from where I hailed, that has gone on pre-Civil War, post-Civil War, pre-turn of the century, post-turn of the century, pre-election of 2020, and post-election of 2020. This mechanism ensures that the new voting rules and practices in jurisdictions with a history of discrimination were fair to all voters.

It rightly prevented potentially discriminatory voting practices from taking effect before they could harm minority voters and affect the election. In this way, preclearance proved to be a significant means of protection for the rights of minority voters, and for what America's about, everybody getting a chance to vote.

This is why Congress had repeatedly reauthorized the preclearance provision on an overwhelmingly bipartisan basis. Most recently, in 2006, when the House passed reauthorization by a vote of 390–33, and the Senate by 98–0, a time when there were George Bush compassionate Republicans, a result due, in no small part, to the substantial efforts also of then-House Judiciary Committee Chair James Sensenbrenner, and then Subcommittee Ranking Member Jerry Nadler.

Unfortunately, the Supreme Court effectively gutted the VRA’s preclearance requirement in 2013 in the case of *Shelby County of Alabama v. Holder*, when it struck down the geographic coverage formula that determined which jurisdictions would be subject to the preclearance requirement.

As a result, the preclearance provision remains dormant unless and until Congress adopts a new coverage formula. Last Congress, I chaired seven hearings of this Subcommittee during which we gathered substantial evidence establishing extensive and detailed record of continued and ongoing voter suppression efforts, particularly by those subjurisdictions that were once subject to the preclearance.

Old habits don’t die easy. Old times, they are not forgotten. So, the effective absence of preclearance since the Shelby County decision is gone. For example, in the wake of Shelby County, North Carolina passed a sweeping voter suppression law that Federal appeals court ultimately held to be unconstitutional, finding it intentionally, quote, “targeted African-Americans with almost surgical precision,” unquote.

Of course, that was after the election. No preclearance so the damage had been done. We also heard about recent measures to make it difficult or impossible for minority voters to exercise their right to vote. These measures included polling place closures and relocations, the purging of voter rolls that disproportionately target racial and ethnic minority voters, discriminatory photo ID laws, and the restrictions on ex-felon voting, all of which are designed to make it harder for African-Americans and other racial and ethnic minorities to vote.

Things only seemed to have gotten worse in this regard since the 2020 election, when in response to the widespread but baseless claims of voter fraud, the big lie, there was no evidence of widespread voter fraud in the 2020 election. State legislators, though, have introduced a slew of measures to curtail access to the ballot with a disproportionate impact on minority voters.

Stacey Abrams laid that out clearly and abundantly to Senator Ted Cruz, when he asked about—excuse me, Senator John Kennedy, when he asked about racial effects of the Georgia law, and she went on and she went on and she went on, until he said, enough. I get it.

I don’t think he got it. According to the Brennan Center for Justice at New York University Law School as of a month ago, there was pending legislation in 47 States to restrict voting, and four States had already enacted restricted voting laws. These States include Georgia, States that have been subject to preclearance, pre-Shelby County where it is now a crime to give food or water to someone standing in line waiting to vote, outside the hundred-foot

border, but it makes it a crime to do it within that 100-foot border food, to give food or water.

Many of these legislative proposals will limit absentee voting, and impose stricter voter ID requirements, while others would make voting registration harder, expand voting roll purges, or adopt flawed practices that would risk improper purges, reduce the amount of days for early voting, and cut back on those early voting periods, according to the Brennan Center report.

In the absence of effective preclearance regime, it is unsurprising that discriminatory measures that have and will continue to undermine the voting rights of racial and language minority voters and erode our democracy. The 2020 election was an election which we should be proud of because of the output of the voters, the desire to vote was the greatest ever. This should be hailed as a great victory of democracy, and, yet we are looking at it as a failure and trying to retreat.

While section 2 of the Voting Rights Act which prohibits discrimination of voting remains in effect, it is, by itself, less effective, significantly more cumbersome, and often prohibitively expensive way to enforce the Act. Most importantly, plaintiffs cannot invoke section 2 until after an alleged harm has taken place requiring discrimination victims to rely solely on such a remedy effectively neuters the Act.

Even this provision is currently at significant risk in two pending cases before the Supreme Court that could result in section 2 being substantially curtailed, or even struck down as unconstitutional. The onus, therefore, is on Congress to create a new coverage formula to restore the Act's most important enforcement mechanism, its preclearance requirement, and to find other ways to strengthen the Act. Nothing less than the fairness and integrity of our democracy is at stake.

I thank our witnesses, and I look forward to their testimony. I now recognize the Ranking Member of the Subcommittee, the gentleman from Louisiana, Mr. Mike Johnson, for his opening statement.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chair. Good morning and thanks to everybody for being here. Today's hearing is about the Voting Rights Act, and voting, as we all know and agree, is a fundamental right in this country and, indeed, blood has been shed to secure and sustain it.

The election clause of the U.S. Constitution, it is article I, section 4 gives State legislators the authority to prescribe the times, places, and manner of holding elections. This means States are responsible for administering elections within their respected jurisdictions. This is an important part of our tradition. Enshrined in the 15th Amendment, it says States must also ensure that voting is accessible and available to every American citizen of voting age.

To ensure the integrity of our system, States are also required to administer elections that are free from fraud and administrative errors. We had a unique election in 2020, and everybody knows it. The COVID-19 pandemic presented new challenges for that election cycle, and as a result of that, occasioned by the pandemic, there were some pretty dramatic alterations to how States administered their elections.

For example, despite known vulnerabilities, many States implemented widespread, all mail-in voting. As a result of the 2020 election, many States have enacted or proposed changes to change their State election laws now. These changes seek to enhance election integrity and increase the public's confidence in the election process.

By any objective measure, all of us can agree, we know by common experience, we know by talking to our friends and neighbors and constituents, that there is a lot of concern about the integrity of our election system. There was a lot of controversy in 2020, and that has had some dire consequences.

So, the States are trying to address it in a meaningful and reasonable way. The big example that everyone is seeing, one of the first out of the gates, is the State of Georgia. They recently enacted Senate bill 202, which expands early weekend voting and codifies the use of drop boxes.

In Texas, another example, State lawmakers proposed legislation that would, quote, "make it easier to vote and hard to cheat," unquote. I mean, who could oppose that?

In Iowa, recently enacted legislation will provide State election officials with the revised parameters for Election Day voting periods, absentee voting, and database maintenance. All these State measures seek to promote and preserve the sanctity of the ballot box and our election system.

The majority in this Congress, at least many of them, seem to be on a quest to mischaracterize the purpose and effect of these new State laws. Some would rather spread misinformation to instill fear, and, sadly, division among America's voters.

They would rather pressure corporate America to react and boycott certain States because of baseless allegations of what they call voter suppression. It is a misleading narrative, and that misleading narrative about these changes is also having dire consequences. It is confusing people, and it is causing more division. These changes to the election laws, they say, will cause massive voter suppression or constitute Jim Crow 2.0. Those are wildly inappropriate and unfounded accusations.

We want to be clear: Republicans, all our colleagues, all Republicans across the country want every legally cast ballot to count. We know that that is essential to our system. We want to close the door to fraud, and illegally cast ballots at the same time, so that all voters of all parties can trust the outcome and know that every election is free and fair.

My friends, this is the only way we can preserve our republic. On July 4, we are about to have our Nation's birthday. It is only going to be the 245th anniversary, or 245th year as a Nation. We are still an experiment on the world stage. The Founders were clear about this. They were setting up a new form of government, a constitutional republic like ours with our democratic principles.

We don't know how long this form of government can last, but what they were certain about, and what we know today, is that to preserve it, you have to maintain its foundations, and one of those critical foundations to have a government of, by, and for the people as Lincoln said, is that you must have faith in the election system.

So, I hope today we can have a productive conversation about the Voting Rights Act, and how we can best assist States in enhancing voter protections and increase the integrity of our elections. I look forward to hearing from our witnesses today. Thank you, Mr. Chair.

I yield back.

Mr. COHEN. Thank you, Mr. Johnson. I now recognize the Chair of the Full Committee, the gentleman from New York, Mr. Nadler, largely responsible for passage of the last Voting Rights Act. Mr. Nadler, you are recognized.

Chair NADLER. Thank you, Mr. Chair.

Mr. Chair, the Voting Rights Act is rightly regarded by many as our Nation's most important civil rights law. Many Americans, including our late beloved colleague John Lewis shed their blood in support of its passage. The institutions of government, including this one in which we have the honor of serving, better reflect our Nation's diversity because of its vigorous enforcement.

During today's hearing, we will hear about how this progress remains under threat in the continued aftermath of the Supreme Court's disastrous 2013 *Shelby County v. Holder* decision, and why we need to restore the Voting Rights Act to its full vitality. Without question, the VRA has been an unqualified success. It helped to reduce discriminatory barriers to voting and expanded electoral opportunities for people of color to Federal, State, and local offices, thereby opening the political process to every American.

Despite evidence of the VRA's success, however, the Supreme Court in 2013, *Shelby County*, substituted its own judgment for that of Congress in rejecting Congress' conclusion that the record supported the VRA's reauthorization. This decision effectively gutted the Act's most important enforcement mechanism, its section 5 preclearance provision. Specifically, it struck down the formula for determining which States and localities are subject to preclearance, which had the effect of striking down the preclearance provision itself, as there is no longer a basis for subjecting decisions to its requirements. Although, it left it up to Congress to pass a valid preclearance section.

Before the VRA, States and localities passed a host of voter suppression laws, secured in the knowledge that it could take many years before the Justice Department could successfully challenge them in court, if at all. As soon as one law is overturned another would be enacted, essentially setting up a discriminatory game of Whack-A-Mole. Section 5 of the VRA broke this legal log jam by requiring States and localities with a history of discrimination against racial and ethnic minority voters to submit changes to their voting laws to the Justice Department or to a court for approval prior to taking effect.

In the absence of preclearance, predictably the game of Whack-A-Mole has returned. Within 24 hours of the *Shelby County* decision, both Texas attorney general and North Carolina's general assembly announced they would reinstitute Draconian voter ID laws. Both States' laws were later held in Federal court to be intentionally racially discriminatory, but during the years between their enactment and the Court's final decision, many elections were conducted while the laws remained in place.



Since the Shelby County decision, we have seen a dramatic rise in the number of voter suppression measures. Burdensome proof of citizenship laws, significant scale-backs to early voting periods, restrictions on absentee ballots, and laws that make it harder to restore the voting rights of formerly incarcerated individuals, are just a small sample of recent voting changes that have a disproportionate impact on minority voters.

Indeed, there is now renewed effort underway in the States to enact just these types of voter suppression measures. This time justified under the pretense of addressing the baseless allegations of voter fraud in the 2020 election that have been promoted by former President Trump and his allies, the big lie. To be clear, there is simply no evidence that significant voter fraud or voting irregularities, in any way, affected the outcome of the 2020 elections, and every single court that has ruled on that, there were 62 cases, has found the same thing, unanimously.

Yet, after having promoted these false allegations to the public, many legislators announced citing a decline in trust in elections to justify Draconian voter restrictions. The Ranking Member said that many people doubted the accuracy of our elections. Sure, because they have been told systemically by Mr. Trump and his allies that nonexistent voting fraud occurred.

According to a recent Brennan Center for Justice report just this year as of March 24, State legislators in 47 States have introduced 361 bills with restrictive provisions. There are at least 55 restrictive voting laws currently moving through the legislative process in 24 States. Four States have already enacted new restrictive voting laws. One particularly egregious example is SB202, a Georgia law that imposes numerous new burdens on voting, including onerous identification requirements for absentee voting, restrictions for early voting, and most notoriously, criminal penalties for offering food or water to voters waiting in long lines to vote.

Notably, Georgia was previously subject to the VRA's pre-clearance regime. While such actions may violate other provisions of the VRA, time and experience have proven that it takes far longer, and is far more expensive to pursue after-the-fact legal remedies. Once a vote has been denied while the court proceedings proceed for several years, it cannot be recast. The damage to our democracy is permanent. Yet, even section 2 of the VRA, which prohibits voting discrimination nationwide, after the fact, now may be under threat at the Supreme Court. In a consolidated case currently before the Court, the justices are being asked to uphold two Arizona election laws that were challenged under section 2 as discriminatory to Native American, Latino, and African-American voters.

It is quite possible that the Court, in deciding these cases, could hamstring future plaintiffs' ability to even bring or prove a section 2 claim by imposing a new legal standard that may place additional hurdles that many plaintiffs are unable to meet. The Court could even go so far as to strike section 2 down as unconstitutional.

Congress cannot continue to let these challenges to the VRA go unanswered. This landmark law is a bulwark of American democracy. It is, at its heart, a necessary remedy to cure the scourge of voting discrimination by preventing our Nation from backsliding

into a time when denying racial and ethnic minorities the right to vote was a matter of government policy. Though progress has been made, too many Americans are still denied the right to vote because of their race, ethnicity, or language or minority status and, the threat of a backslide is ever present.

Reauthorization of the VRA historically has been a strongly bipartisan effort. That is why it is my hope that Members on both sides of the aisle, and in both Chambers of Congress will come to together and pass legislation to restore the law to its full strength.

I thank the Chair for holding this important hearing, which will provide another opportunity to renew our understanding of the importance of the Voting Rights Act, as well as the challenges it continues to face. I look forward to hearing from the excellent witnesses participating in today's panel.

I yield back the balance of my time.

Mr. COHEN. Thank you, Mr. Chair.

We welcome our witnesses today. We thank them for participating in today's hearing. I will recognize each of them before their statements, and then recognize them for their oral testimony thereafter. Each of your written statements will be entered in the record in its entirety, and we ask you to summarize your statements in 5 minutes.

I understand there are some types of lighting system that you can see here for those witnesses in the Chamber, in the Committee room, and if it is green, that means you are on; if it is yellow, that means you got a minute to go; and if it is red, that means you should be finished.

On television there is a spot—not television. On smartphone or your iPhone or iPad or whatever, there is a Webex view that should show you how much time you have left on the screen.

Before proceeding with the testimony, I would like to remind all the Witnesses appearing here that you are under penalty of the law if your testimony is not truthful, and your answers to the Subcommittee aren't truthful. Any false statement would subject you to prosecution under section 1001 of title 18 of the U.S. Code.

Our first witness is Julián Castro. The only thing better than one Castro is two Castros, and you are shadowed by your other Castro and we welcome you to the Committee room, Mr. Congressman Castro.

Mr. Castro served as Secretary of Housing and Urban Development from 2014 to 2017 during the Obama Administration. Prior to that, he was the mayor of San Antonio, Texas, from 2009 to 2014, also a candidate for the Democratic nomination for President in 2020.

Today, he serves on the board of the LBJ Foundation, is an advocate for the protection of voting rights for Latinos and other Americans, and he is also known as the twin brother of our colleague, the honorable, distinguished, erudite leader, Representative Joaquín Castro.

Secretary Castro received his J.D. from Harvard Law School and his B.A. from Stanford University, and I suspect his brother did, too. I think it was kind of a tag team.

Secretary Castro, you are recognized for 5 minutes.

### STATEMENT OF HON. JULIÁN CASTRO

Mr. CASTRO. Thank you, Mr. Chair, to Chair Cohen, to Chair Nadler, to Vice Chair Ross, Ranking Member Johnson, and all the Members of the committee. I am honored to address this Committee on the fundamental and timely issue of safeguarding the franchise.

Mr. COHEN. The rules say you must have your mask on.

Mr. CASTRO. Will do.

My testimony this morning, as you noted, Mr. Chair, is a family affair in more ways than one. My brother, Joaquin, is your colleague and serves as a Representative of the 20th Congressional District. Joaquin and I grew up on the west side of the San Antonio, Texas, a working class, predominantly Mexican American neighborhood. We were raised by our mother, Rosie Castro, who was an outspoken activist in the Mexican American civil rights movement in the 1970s. She became an activist because she felt her community was being overlooked, and that the rights of Latinos like her were not being protected and advanced.

It is fitting that I join you today to discuss the Voting Rights Act, because just under 50 years ago, my mother was compiling data and research on behalf of the Mexican-American legal defense and education fund for a presentation on the exact same topic that would be used in preparation for testimony to this very committee.

She and many other advocates believed that there had not been enough progress on voting rights for Latinos, and that the 1965 Voting Rights Act had left gaps that States and local communities were exploiting to disenfranchise and suppress voters. Unfortunately, five decades later, I am here for very much the same reason.

In my home State of Texas today, there is an all-out assault on the right to vote. For generations, Texas has been a testing ground for devious ways to restrict access to the polls. Since the Shelby decision in 2013, the State has cut more polling locations than any State in the Nation. Texas enacted a strict voter ID law that permits firearm licenses to be used to vote, but prohibits the use of student IDs, and lawmakers have used things like voter registration deadlines, restricted voting hours, and limitations on early voting to chip away at the franchise of millions of people.

In fact, on the very day the 1965 Voting Rights Act was signed into law, President Lyndon B. Johnson sued his home State of Texas to block the poll tax, a policy Texas would be the last to eliminate. Only through a ballot referendum passed by the voters in 1966, the 24th Amendment, which prohibited the poll tax, was ratified by the States in 1964, but Texas did not actually ratify the amendment until 2009.

Today, the legislature in my home State continues to debate a new round of voting bills that are defended by lawmakers with the same justification used to defend the poll tax. Under the guise of voter integrity, lawmakers have introduced legislation that would slash voting hours and the number of voting machines at polling locations, make it much more difficult to vote by mail, and even allow partisan poll watchers to film voters as they cast a ballot. This is nothing new for Texas.

Just hours after the Supreme Court's 2013 Shelby decision effectively eliminated the preclearance requirement of the Voting Rights Act for States like Texas, State leaders advanced a photo ID law that had been rejected by the Justice Department just 1 year earlier. The new law, which is still in place today, swiftly disenfranchised 600,000 registered voters that didn't have the requisite ID, a disproportionate number being Black or Latino.

The elimination of preclearance has allowed Texas to become the most difficult State to vote in the Nation, as well as one of the most gerrymandered. More than ever, we need stronger Federal protections that restore and realize the voting rights of our citizens. We need an updated Voting Rights Act to make good on the promise of the 15th amendment that no citizen be denied the right to vote based on race.

Voting rights shouldn't be a partisan issue. As recently as 2006, the Senate voted unanimously, and the House nearly unanimously, to renew every section of the Voting Rights Act, including the preclearance provision. Congress knew in each of the four times they reauthorized the VRA, that we must protect the rights of voters and reaffirm the American principle of antidiscrimination. They knew then this timeless truth: The right to vote shouldn't depend on the color of one's skin, how much money one has, or what State one lives in.

It is a right guaranteed to every eligible American citizen. It is the cornerstone of our democracy, and it is what the late Representative John Lewis—for whom the new Voting Rights Act is named—described in his final letter as, quote: "The most powerful, nonviolent change agent you have in a democratic society." I urge you to pass the John Lewis Voting Rights Act.

Thank you.

[The statement of Mr. Castro follows:]

**The House Committee on the Judiciary, Subcommittee on the Constitution,  
Civil Rights, and Civil Liberties**

*Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination*

*Sec. Julián Castro*

Thursday, April 22nd at 9:00 am ET

Thank you, Mr. Chairman.

Chairman Nadler, Chairman Cohen, Vice Chair Ross, Ranking Member Johnson, and Members of the Committee.

I'm honored to address this committee on the fundamental and timely issue of safeguarding the franchise.

My testimony this morning is a family affair in more ways than one. My brother, Joaquin, is your colleague, as he represents Texas' 20th Congressional District.

Joaquin and I grew up on the west side of San Antonio, Texas, a working class, predominantly Mexican-American neighborhood. We were raised by our mother, Rosie Castro, who was an outspoken activist in the Mexican American Civil Rights movement of the 1970s. She became an activist because she felt her community was being overlooked, and that the rights of Latinos like her were not being protected and advanced.

It's fitting that I join you today to discuss the Voting Rights Act because just under 50 years ago, my mother was compiling data and research on behalf of the Mexican American Legal Defense and Educational Fund for a presentation on the exact same topic, that would be used in preparation for testimony to this very committee.

She and many other advocates believed that there had not been enough progress on voting rights for Latinos, and that the 1965 Voting Rights Act had left gaps that states and local communities were exploiting to disenfranchise and suppress voters. Unfortunately, five decades later, I am here for the same reason.

In my home state of Texas today there is an all out assault on the right to vote. For generations, Texas has been a testing ground for devious ways to restrict access to the polls. Since the Shelby decision in 2013, the state has cut more polling locations than any state in the nation. Texas enacted a strict voter ID law that permits firearm licenses to be used to vote, but prohibits the use of student IDs. And lawmakers have used things like voter registration deadlines, restricted voting hours, and limitations on early voting to chip away at the franchise of millions of people.

In fact, on the very day the 1965 Voting Rights Act was signed into law, President Lyndon B. Johnson sued his home state of Texas to block the poll tax, a policy Texas would be the last to

eliminate, but only through a ballot referendum passed by the voters in 1966. The 24th Amendment, which prohibited the poll tax, was ratified by the states in 1964. But Texas did not actually ratify the amendment until 2009.

Today, the legislature in my home state continues to debate a new round of voting bills that are defended by lawmakers with the same justification used to defend the poll tax. Under the guise of “voter integrity,” lawmakers have introduced legislation that would slash voting hours and the number of voting machines at polling locations, make it much more difficult to vote by mail, and would even allow partisan poll watchers to film voters as they cast a ballot.

And this is nothing new for Texas.

Just hours after the Supreme Court’s 2013 *Shelby* decision effectively eliminated the “preclearance” requirement of the Voting Rights Act for states like Texas, state leaders advanced a photo ID law that had been rejected by the Department of Justice just one year earlier. The new law, which is still in place today, swiftly disenfranchised 600,000 registered voters that didn’t have the requisite ID—a disproportionate number being Black or Latino.

The elimination of preclearance has allowed Texas to become the most difficult state to vote in in the nation, as well as one of the most gerrymandered. More than ever, we need stronger federal protections that restore and revitalize the voting rights of our citizens. We need an updated Voting Rights Act to make good on the promise of the 15th Amendment—that no citizen be denied the right to vote based on race.

Voting rights shouldn’t be a partisan issue. As recently as 2006, the Senate voted unanimously, and the House nearly unanimously, to renew every section of the Voting Rights Act—including the preclearance provision. Congress knew in each of the four times they reauthorized the VRA that we must protect the rights of voters and reaffirm the American principle of antidiscrimination.

They knew then this timeless truth: the right to vote shouldn’t depend on the color of one’s skin, how much money one has, or what state one lives in. It’s a right guaranteed to every eligible American citizen. It’s the cornerstone of our democracy. And it’s what the late Representative John Lewis—for whom the new Voting Rights Act is named—described in his final letter as “the most powerful nonviolent change agent you have in a democratic society.”

I urge you to pass the John Lewis Voting Rights Act.

Thank you.

Mr. COHEN. Thank you very much, Secretary Castro. Good to have you back, and I want you to know that the choice neighborhood grant that we got when you were there is doing great. Thank you.

Our next witness is the Reverend William J. Barber, the second. In a moment, I will recognize Representative Ross who understandably as the vice chair of this Subcommittee and a North Carolinian, and a friend who wants to introduce Reverend Barber.

Before so, I would like to say a few words. Reverend Barber is an amazing man, who, as a young man, has already consumed the mantle as, in my opinion, the premier spokesperson in the United States of America on civil rights issues.

On Saturday, he was in Memphis, Tennessee, stopping off on his way to Jackson, Mississippi, to start a new Poor People's Campaign. In Memphis, he spoke about racial environmental injustice with the Byhalia pipeline going through a minority neighborhood and potentially threatening our precious aquifer where we get our drinking water. The previous rally before Reverend Barber came, Vice-President Gore spoke. He told us it was racist, it was reckless, and it was a rip-off.

Reverend Barber told us not here, not now, not ever on our watch. We thank you for coming to Memphis. Believe Memphis.

I now recognize Congresswoman Ross.

Ms. ROSS. Thank you, Mr. Chair, and I am delighted to have Reverend Dr. William Barber with us today. I am privileged to have known, worked with, and worshipped with Reverend Barber for years, and it is really, truly an honor to introduce him.

Reverend Barber serves as the President of the Repairers of the Breach. He is Co-Chair of the Poor People's Campaign, bishop with a fellowship of affirming ministries, visiting professor at Union Theological Seminary, pastor at Greenleaf Christian Church, where I have worshipped, and the author of four books.

Reverend Barber previously served as President of the North Carolina NAACP, and he currently sits on the national NAACP Board of Directors. Reverend Barber has made it his life mission to lift people up. He has been a championing for voting rights and peoples' rights, both in North Carolina and on the national stage. He led the charge in securing same-day voter registration in North Carolina in 2007. While I was the one who introduced the bill in the general assembly, I know that it would not have passed without Reverend Barber's advocacy and leadership.

Reverend Barber is the architect of the moral movement, which began as a weekly Moral Monday protest at the North Carolina General Assembly in 2013, and I served in the general assembly at that time. During these gatherings, which I witnessed on Monday nights, protesters found themselves locked out of the general assembly, and arrested for exercising their First amendment right to petition the government for redress of grievance, even though, there was never a threat to those inside. I never felt threatened.

Recently, Reverend Barber helped relaunch the moral movement as part of the nationwide Poor People's Campaign, which was famously begun by Reverend Dr. Martin Luther King, Jr., and triggered the historic civil rights protest across the Nation. Reverend Barber is a MacArthur Foundation Genius Award recipient, with

a national following and countless speaking credits to his name. He continues to lead services at his modest church in Goldsboro, North Carolina. He is the embodiment of a life lived in service to others, and I am honored to welcome him to this committee.

I yield back, Chair Cohen.

Mr. COHEN. Thank you, Congresswoman Ross, for that personal introduction. Without further ado, Reverend Barber, you are recognized for 5 minutes.

I think you are muted. You are muted.

**STATEMENT OF REVEREND WILLIAM J. BARBER II, Ph.D.**

Rev. BARBER. Thank you, Chair Cohen, for your great work, and thank you to my dear friend, the Representative Congresswoman Ross.

The threat of free exercise of the ballot by the Negro and White masses is what created a segregated society. This is what happened when the Negro and White masses of the south threatened to unite and build a great society, a society where greed and poverty would be done away with. The ballot to suppress the vote and the ballot to suppress labor rights has been the tactic used by the southern White aristocracy to hold on to their money and their power, Martin Luther King, 1968.

In the wake of this moment, an organized coup attempt emboldened by hate, lies, and racism on January the 6, 2021, at the U.S. Capitol, the people of America and this Congress set up the crossroads of a historic moment, calling for us to fight for the sole of our democracy, and enact full protections of our sacred right to vote by expanding voting rights and fully restoring the Voting Rights Act, section 5 preclearance.

As we come together this morning less than a hundred days since the inauguration of a new American Government, at least 361 deals have been introduced in 47 legislatures to suppress the right to vote. In my State of North Carolina, we have labored for over 8 years defending against an all-out attack on voting rights.

In North Carolina, the majority that gained power in North Carolina General Assembly in 2010, they quickly redrew both State legislative districts and U.S. congressional districts in their favor, illegally, using race as a primary indicator of voters who opposed their agenda. After years of heroic fighting, both in the streets and in the courts by the forward together moral movement, a unanimous U.S. Supreme Court would issue a remarkable *per curiam* decision, striking down as a sweeping unconstitutional racial gerrymandering, the maps that created an unaccountable legislative super majority in the State House. It was described by one judge as an unconstitutionally constituted legislature.

This unconstituted legislature that was set in place in 2011, and then in 2013, the Supreme Court gutted the Voting Rights Act in *Shelby v. Holder*, by eliminating section 5. In just a matter of hours after the ruling was handed down, the unconstitutionally constituted extremist super majority of a North Carolina General Assembly announced that because Shelby had rid them of the headache of the Voting Rights Act preclearance protections, they could now move forward with what would become to know as the monster voter suppression law.



A sweeping omnibus voter suppression bill that erected a slate of stringent, racially discriminatory barriers to the ballot. The law eliminated same-day registration, preregistration for 16- and 17-year-olds, out of precinct ballots, the first week of early voting, and instituted one of the Nation's most stringent voter ID laws.

This monstrous voter suppression law, the worst of its kind in the Nation after Shelby, was only possible because preclearance protection was no longer in place. After years of organizing and legal battles and even civil disobedience and arrest, the monster voter suppression law was eventually struck down as intentionally racially discriminatory.

In July 2016, a unanimous panel of the U.S. Court of Appeals for the Fourth Circuit hailed that the law targeted African-Americans with almost surgical precision and imposed cures for problems that did not exist.

As we sit here today, North Carolina's legislature is still trying to implement voter suppression laws, and Republican persons from our State have refused to push for restoration of the Voting Rights Act. Today marks for 2,858 days or 7 years, 9 months, and 28 days.

We cannot continue this assault on the right to vote. We are living in a time when voters of color hold increased potential for political power, more than 30 percent of America's eligible voters. We are also living in a time in which America is home to 140 million poor and low-income people, over 43.5 percent of the population in the richest country in the world.

This includes 39 million children, 74.2 million women, 60.4 percent, or 26 million Black people, and over 66 million White people. Increasing the harm on these 140 million individuals and people of color in this Nation comes whenever the right to vote is restricted or undermined. As Dr. King said, it is used as a tool whenever there is a threat for Black and White, and we might say today brown, Asian, and indigenous, to come together and vote in a way that transforms our political power and economic power in this country.

We must pass and fully restore and expand the Voting Rights Act, section 5 preclearance, and we must do it now.

[The statement of Reverend Barber follows:]

**Written Testimony of Rev. Dr. William J. Barber II, Repairers of the Breach  
before the  
U.S. House of Representatives  
Committee on The Constitution, Civil Rights and Civil Liberties**

**“Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination”**

Thursday, April 22, 2021

Thank you for the opportunity to speak before you today. My name is Rev. Dr. William Barber II. I am President and Senior Lecturer of Repairers of the Breach, and Co-Chair of the *Poor People's Campaign: A National Campaign for Moral Revival*.<sup>1</sup> I am also a leader of the Forward Together Moral Movement, a civil and human rights movement that began in North Carolina and has since been embraced across the South and across the country, and the immediate past president of the North Carolina State Conference of the NAACP.<sup>2</sup>

In the wake of the organized *coup* attempt emboldened by hate, lies, and racism on January 6, 2021 at this U.S. Capitol,<sup>3</sup> the people of America and this Congress sit at the crossroads of a historic reckoning calling us to Restore the Soul of our Democracy and enact full protections of our sacred right to vote. Our Constitution says that we must establish justice. Our Constitution requires equal protection under the law, and our Constitution commands that you cannot deny or abridge the right to vote on account of race or color. When you suppress the right to vote, in essence, you are suppressing people's humanity, you are saying that they are not worthy of full citizenship. To suppress the right to vote is to suggest, in theological terms, that other people do not have the same *Imago Dei*, “the image of God” in you. **The brazen, surgically targeted vote suppression sweeping this country is both unconstitutional and immoral. It results in what we should understand to be an impoverished democracy: a democracy deprived of the wealth and representation of its peoples’ voices and the expressive force and legitimacy of the true will of its people.**

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<sup>1</sup> *Repairers of the Breach* is a nonpartisan 501c3 tax exempt, not-for-profit organization that seeks to build a moral agenda rooted in a framework that uplifts our deepest moral and constitutional values to redeem the heart and soul of our country. The Poor People's Campaign: A National Call for Moral Revival unites tens of thousands of people across the country to challenge the evils of systemic racism, poverty, the war economy, ecological devastation and the nation's distorted morality.

<sup>2</sup> The *NC NAACP* is a nonpartisan, nonprofit organization composed of over 100 local branches and 20,000 individual members throughout the state of North Carolina. The Forward Together Moral Movement is a multiracial movement of blacks, whites and Latinx seeking a just and inclusive democracy.

<sup>3</sup> Rev. William Barber and Rev. Liz Theoharris, “Statement from the Poor People's Campaign: A National Call for Moral Revival on the Events of January 6th,” *Poor People's Campaign*, last modified January 9, 2021, accessed April 21, 2021, <https://www.poorpeoplescampaign.org/january-6th-statement/>.

As we come together this morning, less than 100 days since the inauguration of a new American government, at least 361 bills have been introduced in 47 state legislatures to suppress the right to vote.<sup>4</sup> From Georgia<sup>5</sup> to Texas, from Tennessee, to Iowa, to Mississippi,<sup>6</sup> and in my home state of North Carolina,<sup>7</sup> I stand alongside courageous state-based leaders rising up to fight these targeted attempts to silence the votes of people of color, indigenous people, and low-income voters. The proposed laws target access to the ballot by the very people who overcame the most extreme obstacles — including the devastation of an unprecedented global pandemic — to make our voices heard,<sup>8</sup> shattering voter turnout records in 2020, and changing the course of history.<sup>9</sup>

It is unsurprising, but should shock the conscience, that a recent Washington Post analysis found that if these bills succeed, it would amount to *“the most sweeping contraction of ballot access in the United States since the end of Reconstruction, when Southern states curtailed the voting rights of formerly enslaved Black men...”*<sup>10</sup>

Together we have lived through the first two Presidential elections, in 2016 and 2020, without the full protections of the Voting Rights Act since its passage in 1965. Our democracy and our people can afford no further assault. Today, we must pledge anew to immediately restore the full protections of the right to vote for all Americans in the name and spirit of all those who have given their lives and their blood to this cause. We must stand in covenant across generations with those who have held faithful belief that America, though originating in the sins of exclusion, will be

<sup>4</sup> State Voting Bills Tracker 2021, Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>. Accessed 21 Apr. 2021.

<sup>5</sup> On March 24, 2021 Georgia passed the “Election Integrity Act of 2021” or SB 202. SB 202 will disenfranchise voters. Among other restrictions, SB 202 shortens early voting during run-off elections, reduces the time to request and return absentee ballots, limits the use of absentee drop boxes, prohibits mobile voting booths unless there is a state of emergency, and bans non-poll workers from giving food or water to voters standing in line. <https://www.legis.ga.gov/api/legislation/document/20212022/201121> (Section 26, lines 1172-1219); (Section 42, lines 2226-2239); (Section 20, lines 776-778); (Section 33, lines 1887-1889).

<sup>6</sup> “Special Report: The GOP’s National Effort to Make Voting More Difficult.” NC Policy Watch, 31 Mar. 2021. <http://www.ncpolicywatch.com/2021/03/31/special-report-the-gops-national-effort-to-make-voting-more-difficult/>

<sup>7</sup> Newton, et al. Election Integrity Act. Senate Bill 326, 22 Mar. 2021, <https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S326v1.pdf>.

<sup>8</sup> “Unleashing the Power of Poor and Low-Income Americans.” Poor People’s Campaign, <https://www.poorpeoplescampaign.org/resource/power-of-poor-voters/>.

<sup>9</sup> Desilver, Drew. “Turnout Soared in 2020 as Nearly Two-Thirds of Eligible U.S. Voters Cast Ballots for President.” Pew Research Center, 28 Jan. 2021, <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>.

<sup>10</sup> Gardner, Amy, et al. “How GOP-Backed Voting Measures Could Create Hurdles for Tens of Millions of Voters.” Washington Post, <https://www.washingtonpost.com/politics/interactive/2021/voting-restrictions-republicans-states/>.

reconstructed, its breaches repaired, to realize the abundant, soaring promise of a Democracy truly of, by, and for all people of this nation.

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We are living at a time when voters of color hold increased potential for political power. More than 30 percent of America's eligible voters — the largest percentage in our nation's history — are people of color.<sup>11</sup> From 2000 to 2018, the national eligible voter population grew by 40.3 million — and Latinx, Black, Asian voters or voters of another non-white race or ethnicity comprise 76% of this increase.<sup>12</sup>

We are also living at a time in which America is home to 140 million poor and low-income people — over 43.5% of the population — in the richest country in the history of the world. This includes 39 million children, 74.2 million women, 60.4% or 26 million Black people, 64.1% or 38 million Latinx people, 40.8% or 8 million Asian people, 58.9% or 2.14 million Native and Indigenous people, and 33.5% or 66 million white people.<sup>13</sup>

Increasing the harm on these 140 million individuals and people of color in this nation, since 2010, we have experienced an onslaught of attacks on voting rights in state legislatures: racialized voter suppression and gerrymandering have helped to smuggle state leaders into office, who then turn around and pass policies that hurt the poor and marginalized. Life-giving social programs are being eviscerated to make way for increased spending on war, militarizing our border, and tax payouts to Wall Street.

And yet, African Americans, Latinx, Asian Americans, and whites are coming together in historic numbers to form fusion coalitions to elect representatives of choice. At the same time, particularly

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<sup>11</sup> Steve Phillips. "Brown is the New White: How the Demographic Revolution Has Created a New American Majority" (The New Press, 2016), citing U.S. Census data. (According to the latest Census data, the nation's citizen voting age population has reached over 220 million eligible voters. Of these, over 27 million (12.3%) are African-American, over 23.6 million (10.7%) are Latinx, 8.7 million (4.0%) are Asian and Pacific Islander, and among others, 155.8 million (70.8%) are white).

<sup>12</sup> Igielnik, Ruth, and Abby Budiman. "The Changing Racial and Ethnic Composition of the U.S. Electorate." Pew Research Center, 23 Sept. 2020, <https://www.pewresearch.org/2020/09/23/the-changing-racial-and-ethnic-composition-of-the-u-s-electorate/>.

<sup>13</sup> Shailly, Gupta Barnes. "Explaining the 140 Million: Breaking Down the Numbers Behind the Moral Budget." Kairos, 26 June 2019, <https://kairoscenter.org/explaining-the-140-million/>; Hartley, Robert Paul. *Unleashing the Power of Poor and Low-Income Americans*. 11 Aug. 2020, <https://www.poorpeoplescampaign.org/wp-content/uploads/2020/08/PPC-Voter-Research-Brief-18.pdf>.

across the South, we are experiencing the worst restrictions on voting rights since the 19th century. Our democracy is plagued by disillusionment and distrust spurred by generations of disenfranchisement, indifference toward, or the outright vilification of excluded people by elected officials. In the 21st century, two presidential elections have been decided by the Electoral College, contradicting the popular vote. In 2018, in an election where voter turnout reached its highest level in a midterm election in 100 years, more than half of eligible voters did not vote.<sup>14</sup> In every election in the last decade, millions of Americans were excluded from voting due to past felony convictions, a vestige of white supremacist-originated voter suppression that must be confronted and eliminated root and branch in our country.<sup>15</sup>

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In my state of North Carolina, we have labored for more than a decade defending against an all-out attack on voting rights. This attack began as backlash against the multi-racial coalition that came together in 2008 to elect our nation's first African American President but was given free license when the Supreme Court gutted the protections of the Voting Rights Act in *Shelby County v. Holder* in 2013.<sup>16</sup> As the Committee knows, North Carolina has not stood alone as a testing ground in the struggle to protect the right to vote. I provide this detailed testimony focused on the battleground of North Carolina to illustrate the stark necessity of immediate action by Congress.

When North Carolina's 15 electoral college votes were given to America's first African American President in 2008, shockwaves coursed through a racially polarized, white-dominated Republican Party that had, since the time of Nixon, banked on winning elections in Southern states through campaign strategies that stoked racial tensions in order to appeal to white voters. When this "Southern Strategy" failed to deliver in 2008 and was instead defeated by the strength of a multiracial fusion coalition, corporate and far-right interests<sup>17</sup> scrambled to invest unprecedented sums of money in state legislative races, resulting in an extremist takeover of North Carolina's government in 2010 that would ultimately embed unprecedented racial gerrymanders that targeted the right to vote of African Americans.

<sup>14</sup> Emily Stewart, "2018's Record-Setting Voter Turnout, in One Chart," Vox, accessed November 19, 2018, <https://www.vox.com/policy-and-politics/2018/11/19/18103110/2018-midterm-elections-turnout>.

<sup>15</sup> At least 1 in 44 adults or 2.27 percent of the U.S eligible voting population is disenfranchised due to a felony conviction. 6.2 percent of the adult African American population is disenfranchised compared to 1.7 percent of the non-African American population. See Christopher Uggen, et. al., "Locked Out, 2020 Estimates of people denied voting rights due to felony convictions", October 30, 2020, accessible at: <https://www.sentencingproject.org/wp-content/uploads/2020/10/Locked-Out-2020.pdf>

<sup>16</sup> *Shelby County v. Holder*, 133 S. Ct. 2612 (2013).

<sup>17</sup> Mayer, Jane. "State for Sale." The New Yorker, <https://www.newyorker.com/magazine/2011/10/10/state-for-sale>.

As is now well known, the majority that gained power in the North Carolina General Assembly in 2010 quickly redrew both state legislative districts and U.S. congressional districts in their favor, illegally using race as a primary indicator and proxy for voters who opposed their agenda. “Stacking and packing” black voters in as few districts as possible, the extremists who hijacked the Republican party consolidated power, illegally gerrymandering congressional seats and succeeding in obtaining a state legislative supermajority for themselves by 2012. The 2011 districts segregated white and Black voters by mechanically adding Black voters to election districts in concentrations not authorized or compelled under the Voting Rights Act, thereby “bleaching” adjacent districts of voters of color and frustrating their ability to vote in alliance with a growing, multiracial fusion electorate that both bridges racial divides and mitigates the effects of racially polarized voting.

Half a decade later, in June 2017, after years of heroic fighting both in the streets and in the courts by the Forward Together Moral Movement and North Carolinians, a unanimous U.S. Supreme Court issued a *per curiam* decision affirming the striking down of the maps that created this unaccountable supermajority as a sweeping unconstitutional racial gerrymander;<sup>18</sup> and in November 2018, the people of North Carolina finally held long-awaited elections under the court-ordered remedial maps.

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The unconstitutional racial gerrymander, set in place in 2011, created a governing body in North Carolina filled with the very legislators against which the Supreme Court has cautioned: legislators who believed their “primary obligation is to represent only the members’ of a particular racial group,<sup>19</sup> namely, a polarized base of white voters divided from the multiracial community. It did not surprise us then, and will not surprise you now, to learn that one of the first items on the agenda of this extremist supermajority was a bill to restrict access to the ballot, which came to be known as the “monster voter suppression law.”<sup>20</sup>

The best safeguard protecting voters of color in North Carolina and across the nation from the enactment of racially discriminatory voting laws under consideration by racially gerrymandered state legislatures, like the one in North Carolina, in 2012 was the law that so many in the civil

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<sup>18</sup>*North Carolina v. Covington*, 198 L. Ed. 2d 110 (U.S. 2017) (*per curiam*) (affirming lower court holding that 28 North Carolina state legislative districts were unconstitutional racial gerrymanders). The U.S. Supreme Court also upheld the striking down as unconstitutional racial gerrymandering in North Carolina’s congressional districts in *Cooper v. Harris*, 137 S. Ct. 1455 (2016).

<sup>19</sup> *Shaw v. Reno*, 509 U.S. 630, 648 (1993).

<sup>20</sup> N.C. Sess. L. 2013-381 (Aug. 12, 2013), *invalidated by NC NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

rights movement had fought, bled, and died for: the Voting Rights Act. In North Carolina and across this nation, it was therefore devastating when, in the Summer of 2013, the Supreme Court gutted the heart of that critical piece of civil rights legislation in *Shelby County v. Holder*, leaving previously-covered jurisdictions vulnerable to voter suppression efforts, despite the fact that they remained sites of struggle for voting rights.<sup>21</sup> For example, in the 30 years prior to the *Shelby County* ruling, the U.S. Department of Justice objected more than 60 times to more than 150 voting changes in North Carolina on grounds that they were racially retrogressive. Without the protection of preclearance, Voting Rights Act violations from that period would have resulted in disenfranchisement. Instead, African Americans and other voters of color participated in North Carolina elections at historic numbers.

Dissenting from the majority opinion in *Shelby County*, Justice Ginsberg wrote that, “[t]hrowing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”<sup>22</sup>

In North Carolina, without preclearance protections, we were immediately – and continue to be – soaked in a deluge of voter suppression efforts. In just a matter of hours after the 2013 *Shelby County* ruling was handed down, leadership of the North Carolina General Assembly announced that because *Shelby County* had rid them of the “headache” of the Voting Rights Act’s preclearance protections, they could now move forward with the “full bill.”<sup>23</sup> The legislature introduced a sweeping, omnibus voter suppression bill that erected a slate of stringent, racially discriminatory barriers to the ballot. **The law eliminated same-day registration, pre-registration for 16- and 17-year-olds, out-of-precinct ballots, the first week of early voting, and instituted one of the nation’s most stringent voter ID requirements, among other restrictions.** This “monster voter suppression law” – the worst of its kind in the nation – was only possible because preclearance protection was no longer in place.

The Forward Together Moral Movement’s “Moral Mondays” organized a weekly people’s peaceful assembly and protest at our statehouse, ultimately resulting in arrests of over 1,200 people engaging in nonviolent civil disobedience. We stood united to oppose the General Assembly’s suppressive and regressive laws and express our first amendment right to instruct our legislature.

<sup>21</sup> At the date of the *Shelby County* decision, fifteen states were covered by Section 5 in whole or part, and nine of those were Southern states from the former Confederacy: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas and Virginia. Forty counties in North Carolina were subject to Voting Rights Act federal preclearance requirements, which covered statewide elections.

<sup>22</sup> *Shelby Cty.* 133 S. Ct. at 2650 (J. Ginsburg, dissenting).

<sup>23</sup> Jim Rutenberg, *Disenfranchised: A Dream Undone*, N.Y. Times (July 27, 2009), available at: <https://www.nytimes.com/2015/07/29/magazine/voting-rights-act-dream-undone.html>.

After years of organizing and legal battles led by the Forward Together Moral Movement, the “monster voter suppression law” was ultimately struck down as intentionally racially discriminatory. **In July 2016, a unanimous panel of the U.S. Court of Appeals for the Fourth Circuit held that the law “target[ed] African Americans with almost surgical precision” and “impose[d] cures for problems that did not exist.”**<sup>24</sup> **This landmark decision became final when, in May 2017, the Supreme Court denied the leadership of the North Carolina General Assembly’s petition for certiorari in the case.**

Yet, the resurgence of voter suppression legislation in North Carolina did not end there. In the summer of 2018, undeterred by the federal courts’ 2016 ruling striking down its previous attempt to enact photo voter ID as *intentionally racially discriminatory*, and the federal courts’ 2017 ruling that it was the product of one of the largest unconstitutional racial gerrymanders “ever encountered,”<sup>25</sup> a General Assembly tainted by racially discriminatory intent used its power gained by racial gerrymander to put a photo voter ID requirement in the North Carolina Constitution.

It did so by leveraging its illegal supermajority to place the proposed photo voter ID constitutional amendment on the 2018 ballot in one of the last acts of the final regular session of its six-year run. Then, after the vaguely and misleading voter ID constitutional amendment was passed by statewide vote in the 2018 election, instead of allowing the elected legislature to take their seats, the same tainted and illegally-constituted legislature convened a December 2018 lame-duck special session to enact implementing legislation for the voter ID amendment, N.C. Sess. L. 2018-144, (SB824) overriding a gubernatorial veto.

As I testify today, North Carolina’s discriminatory photo voter ID requirement, as enshrined in the state constitution and implemented through law, is, once again, being fought by the people of North Carolina in the courts. On February 22, 2019, in an important ruling, the Wake County Superior Court found for the NC NAACP and Forward Together Moral Movement in a state case challenging the voter ID constitutional amendment. The court voided the 2018 voter ID amendment, holding that the General Assembly may only propose amendments to the state constitution “insofar as it has been bestowed with popular sovereignty,” and struck down the challenged amendments on the ground that “the unconstitutional racial gerrymander tainted the three-fifths majorities required by the state constitution before an amendment proposal can be submitted to the people for a vote, breaking the requisite chain of popular sovereignty between North Carolina citizens and their representatives.”<sup>26</sup> While this order, the effect of which has since been stayed, remains pending before the state Supreme Court, challenges to the photo voter ID

<sup>24</sup> *NC NAACP v. McCrory*, 831 F.3d 226 (4th Cir. 2016), *cert. denied*, 581 U.S. \_\_\_, 137 S.Ct. 1399 (2017).

<sup>25</sup> *Covington v. North Carolina*, 270 F. Supp. 3d 881, 892 (M.D.N.C. 2019).

<sup>26</sup> *NC NAACP v. Moore*, 18 CVS 9806 Order (Wake Cty. Super. Ct. Feb. 22, 2019).



implementing legislation as illegal both in its racially discriminatory intent and racially discriminatory results remain pending before federal and state courts, as well.<sup>27</sup>

On December 31, 2019, Judge Biggs of the Middle District of North Carolina granted the North Carolina State Conference of the NAACP's Motion for a Preliminary Injunction to halt implementation of Senate Bill 824. **The Court held that the state of North Carolina likely engaged in intentional racial discrimination when it passed Senate Bill 824.** On February 18, 2020, the North Carolina Court of Appeals also issued an injunction of S.B. 824, pending a final decision by the court. The court recognized that the law had already been enjoined by the federal court, but noted that "the federal district court's injunction is merely temporary." The court agreed with Plaintiffs – and with Judge Biggs' ruling in the Middle District – that the law was likely passed with a discriminatory intent, and also held that the law "likely will have a negative impact on African Americans because they lack an acceptable ID at a greater rate than white voters."<sup>28</sup> This ruling by a three-judge panel was unanimous. While the federal preliminary injunction has been overturned in 2021 by a panel of the Fourth Circuit, the case is still pending trial and a final decision by the Middle District of North Carolina, and the state injunction remains in place today. As a result, there is currently no discriminatory photo voter ID in North Carolina.

North Carolinians also await a final ruling from the Wake County Superior Court in *Community Success Initiative, et al. v. Moore et al.*, which we hope will bring an end to North Carolina's racially discriminatory felony disenfranchisement scheme. In 2019, Community Success Initiative, along with other organizational and individual plaintiffs, brought a state constitutional challenge to the practice of disenfranchising those who have previously been convicted of a felony until they had completed their term of probation or post-release supervision.<sup>29</sup> In North Carolina, over 50,000 individuals are currently prohibited from voting because they have a prior felony conviction, and in many cases are disenfranchised solely due to their inability to pay fines and fees.<sup>30</sup> Black individuals represent 22 percent of North Carolina's voting age population, but make up 42 percent of individuals who are disenfranchised while on probation or post release supervision.<sup>31</sup> In September 2020, a three-judge panel ruled that North Carolina's felony disenfranchisement scheme **does violate sections of the state Constitution, and that thousands of people on community supervision whose inability to pay fines and fines extended their probation can**

<sup>27</sup> See *NC NAACP v. Cooper*, 18-cv-01034 (M.D.N.C. filed Dec. 20, 2018); *Holmes v. Moore*, 18CV15292 (Wake Cty. Super. Ct. filed Dec. 18, 2018).

<sup>28</sup> *Holmes v. Moore*, No. COA19-762 (Feb. 18, 2020).

<sup>29</sup> Plaintiffs' Complaint, *CSI v. Moore*, 19CVS 15941 (November 20, 2019).

<sup>30</sup> Expert Report of Dr. Frank Baumgartner at 5, Table 1, *CSI v. Moore*, 19 CVS 15941 (May 11, 2020).

<sup>31</sup> *Id.* at 7, Table 2.

**register to vote.**<sup>32</sup> While this ruling was a partial victory, the fight continues. Tens of thousands of people on community supervision remain disenfranchised because the ruling only applied to those who still owe fines and fees. The Plaintiffs will return to court in 2021 to continue to fight to expand the “we” in “we the people” and create a more inclusive democracy.

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As I have detailed in Congressional testimony in further detail in the past,<sup>33</sup> in addition to legislative action, showing no chagrin at the Fourth Circuit’s finding of intentional race discrimination, extremists in the state continued to attempt to suppress the vote in North Carolina during the 2016 General Election, as North Carolina, along with states across the country, entered the first presidential election in 50 years without the full protections of the Voting Rights Act, and those efforts have continued through the present day.

For example, despite the Fourth Circuit’s ruling requiring the restoration of the first seven days of the early voting period, North Carolina Republican Party Chairman Dallas Woodhouse produced and distributed a memo to Republican members of the county boards of election (who were then in the majority in each county in the state), instructing them to make “party-line” decisions in drafting new early voting plans, including voting **against** Sunday hours for voting and maintaining decreased numbers of hours and sites particularly on weekends.<sup>34</sup> This directive was given—and to a large degree carried out—notwithstanding the Fourth Circuit’s clear instruction in *NC NAACP v. McCrory* that “using race as a proxy for party . . . constitutes discriminatory purpose.”<sup>35</sup>

<sup>32</sup> Order on Injunctive Relief, *CSI v. Moore*, 19 CVS 15941 (September 4, 2020).

<sup>33</sup> *What Have We Learned: Lessons from the First Election Post-Shelby County Decision: Congressional Briefing*, Nov. 16, 2016 (statement of Rev. Dr. William Barber II, President of NC NAACP).

<sup>34</sup> Colin Campbell, *NC Republican Party seeks ‘party line changes’ to limit early voting*, News & Observer (Aug. 17, 2016) available at: <http://www.newsobserver.com/news/politics-government/election/article96179857.html>

<sup>35</sup> For example, in Guilford County, where over 30% of voters are African American, voters had 16 early voting sites available to them in the first week of early voting in 2012, but in 2016, only one site was open, resulting in lines reported of over 3 hours. Zachary Roth, *NBC News Analysis: North Carolina Counties That Cut Early Voting Sites See Lower Turnout*, NBC News (Oct. 2016), available at: <https://www.nbcnews.com/politics/2016-election/analysis-north-carolina-counties-cut-early-voting-sites-see-lower-n671246>.

In Winston-Salem, Greensboro, and Durham, early voting sites previously available on or near Historically Black Colleges and Universities, either were not opened at all in 2016 or only open on Election Day. In Nash County, a polling site that served disproportionately African American voters in Rocky Mount was not included in the first week early voting plan, over significant protests by the African-American community. Overall, in just the 40 counties in North Carolina that were formerly covered by preclearance, there were at least 158 fewer polling places open during the 2016 presidential election than in 2012, despite the fact that the state’s population has grown. Leadership Conference Education Fund, *The Great Poll Closure* (Nov. 2016) at 10, available at <http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf>.

During the 2016 presidential election, we also saw the resurgence of another age-old voter suppression scheme in the form of mass mailings used to sweep up and purge eligible African-American voters from the voter registration rolls. Just days prior to the start of the 2016 early voting period, Grace Bell Hardison, a 100-year-old African-American woman who was disenfranchised under Jim Crow laws but had been a faithful voter for decades, received notice that her registration was being challenged by a white neighbor, and that the county board of elections would be holding a hearing on her eligibility to vote. Further investigation quickly uncovered that thousands of eligible voters in at least three counties in North Carolina were being removed through similar mail-based challenges, in violation of the National Voter Registration Act. On the eve of the election, Ms. Hardison and the NC NAACP filed suit and together we won an emergency injunction to stop the illegal purges and restore the removed voters.<sup>36</sup>

In other counties in North Carolina, efforts to prevent eligible voters from casting a ballot were even more blatantly hostile taking the form of voter intimidation. In Chatham County, when the local NAACP branch and African-American churches organized a “Moral March” to the polls during the early voting period, they found “KKK,” “White Power,” and a swastika painted on the street leading to the A.M.E. church hosting the march. On the day of the event, onlookers shouted derogatory phrases parroting slogans from President Trump’s campaign and photographed the voters participating in the event.

Efforts at voter intimidation continued in 2020. For instance, on February 15, 2020, during the early voting period in North Carolina, a group of demonstrators gathered and protested an event held in the Chatham County Agriculture and Conference Center, where local groups Chatham for All and Abundance NC were hosting a panel discussion called “The Civil War Today.” These demonstrators displayed flags supporting the Confederacy, the League of the South (which has been designated as a violent hate group by the Southern Poverty Law Center) and in support of then-President Donald Trump – and reportedly yelled racial slurs – in the same area that voters had to traverse to access the designated polling place for early voting.<sup>37</sup> There is photographic evidence that at least some of these demonstrators were located directly in front of the entrance to the polling location. These events happened in the county that historically lynched more African Americans than any other in North Carolina during the Jim Crow era. Repairers of the Breach, the NC NAACP, the North Carolina Poor People’s campaign, along with voting and civil rights organizations like Forward Justice, have documented these and other instances of voter

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<sup>36</sup> *NC NAACP v. NC State Bd. Of Elections*, 1:16CV1274, 2016 U.S. Dist. LEXIS 153249 (M.D.N.C. Nov. 4, 2016); see also Ari Berman, *North Carolina Republicans Tried to Disenfranchise a 100-Year-Old African-American Woman*, *The Nation* (Oct. 17, 2016), available at <https://www.thenation.com/article/north-carolina-republicans-tried-to-disenfranchise-a-100-year-old-african-american-woman/>.

<sup>37</sup> NC NAACP Letter to State Board General Counsel Katlyn Love (February 15, 2020). Available at <https://www.naacpldf.org/wp-content/uploads/2-24-20-Coalition-Letter-to-SBOE-re-Voter-Intimidation-in-Chatham-County.pdf>.

intimidation based on race across the state of North Carolina, and appealed to the State Board of Elections to take emergency action to ensure that voter intimidation would be proactively addressed in our state.<sup>38</sup>

During the 2020 General Election, the Poor People's Campaign partnered with the NAACP Legal Defense Fund and Forward Justice to create a poll monitoring program across 10 states on election day 2020, in order to protect against and report instances of voter suppression and intimidation.<sup>39</sup> Through those efforts we documented and took action on a host of similarly troubling instances of voter intimidation and obstacles to the ballot that have no place in our democracy. One instance that has left images reminiscent of the civil rights movement seared in my mind took place on October 31, 2020, when a peaceful "Souls to the Polls" march in Graham, NC ended with primarily African American voters being pepper-sprayed and physically blocked from completing their walk to the early voting site in Alamance County.<sup>40</sup>

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**Voters in North Carolina, across the South, and nationwide are caught in a storm of voter suppression without the cover of preclearance and full voting rights protections. The people have had to depend on costly, protracted, and difficult litigation to ensure our most fundamental rights.**

We are certainly proud of the victories we have won. In North Carolina, thousands have stood together, regardless of race, color, economic status, or political party to defend the sacred right to vote – at times following in the footsteps of those who came before us and putting our bodies on the line in acts of nonviolent civil disobedience. We know this is a deeply moral issue that affects us all. **But these are battles that should never have occurred at all and justice delayed too often results in justice denied. The sanctity of our electoral system should not depend on whether or not we can find the means to take those who would undermine our democracy to court, time and time again.**

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<sup>38</sup> NC NAACP Coalition Letter to North Carolina State Board of Elections (September 24, 2020). Available at <http://forwardjustice.org/wp-content/uploads/2020/09/September-24-2020-Letter-re-Voter-Intimidation-Response-SBOE.pdf>.

<sup>39</sup> "Poor People's Campaign Activates Rapid Response Operation against Voter Suppression with Attorneys, Poll Monitors in Battleground States & South." Poor People's Campaign. Available at <https://www.poorpeoplescampaign.org/about/press/poor-peoples-campaign-works-with-attorneys-poll-monitors-to-build-rapid-response-against-voter-suppression/>

<sup>40</sup> "Police used pepper spray to break up a North Carolina march to a polling place." CNN, (November 1, 2020). Available at <https://www.cnn.com/2020/10/31/us/north-carolina-police-pepper-spray-polls/index.html>.

County-by-county across the South, in state legislatures and in the highest offices nationwide, old voter suppression schemes have found new champions. These champions – federal and state actors and private parties alike – have been emboldened by the erosion of those institutions that have been historically entrusted with protecting access to the ballot, and by the utter demolition of the preclearance protections that were at the heart of the Voting Rights Act.

They are emboldened by the fact that, because Congress has refused to restore the Voting Rights Act, the U.S. Attorney General and the U.S. Department of Justice have less power to protect voting rights now than they would have had in 1965. Without preclearance protections, extremists in these states have attempted and will continue to attempt to disenfranchise voters of color in ways that are difficult to stop.

**Southern states hold 160 of 538 electoral votes and 138 of 435 Congressional House seats, as well as the highest concentrations of people of color of any region in the country. We must recognize that the South, due to our unique history, is still a distinctive region and remains uniquely susceptible to voter suppression abuses where racially polarized voting persists and where the poverty and systemic racism remain intertwined. The end of the Southern Strategy based on racial division is at hand. But we must address systemic voter suppression if we are to realize the promise of our democracy.**

There has never been a more critical moment for expanding Americans' access to the ballot box and for reducing the corrupting influence of big money in politics. Our experience in North Carolina — and the evidence of a tidal wave of voter suppression across this nation — makes absolutely clear that the right to vote remains under attack and that it is imperative upon us to eliminate the discriminatory and burdensome barriers to the ballot box so that we can have full participation in the important issues of our day.

After a massive fusion movement of poor and low-wealth people helped shift the political landscape in the 2020 election, more than 360 voter suppression bills have already been introduced in 47 states to limit voting access including voting by mail, early voting and voting on Election Day.<sup>41</sup> In our March 2021 editorial,<sup>42</sup> renowned voting rights attorney Penda Hair and I emphasized “designing a voting system to exclude voters because of their race or the political party they tend to support is illegal under the Constitution.” Study after study<sup>43</sup> has found that no election

<sup>41</sup> State Voting Bills Tracker 2021 | Brennan Center for Justice. Available at <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

<sup>42</sup> Barber, William, and Penda Hair. “Only Congress Can Save Our Democracy.” Democracy Docket, 17 Mar. 2021. Available at <https://www.democracymarket.com/2021/03/only-congress-can-save-our-democracy/>.

<sup>43</sup> Levitt, Justin. “A Comprehensive Investigation of Voter Impersonation Finds 31 Credible Incidents out of One Billion Ballots Cast.” Washington Post. Available at [www.washingtonpost.com](https://www.washingtonpost.com),

fraud of the type that these barriers proposed could impact exists.<sup>44</sup> In more than sixty lawsuits brought across the country by Trump and his supporters, courts consistently and resoundingly rejected claims of voter fraud. Yet the false drumbeat of voter fraud propaganda led to an armed insurrection on January 6th aimed at overturning our democratically elected government.

The strategic stoking of the myth of voter fraud mixed with racism and hate placed our democracy at risk of armed insurrection, and the more than 360 voter suppression proposals already advanced in statehouses this year place our democracy at risk of overthrow by voter suppression.

The protections of the Voting Rights Act – for which our ancestors bled and died – have never been more critical than in this renewed and emboldened era of voter suppression that has swept North Carolina, the South, and this country. The premise of *Shelby County* – that there is no longer a need for preclearance of voting changes – has been proven woefully wrong in North Carolina and many other formerly covered jurisdictions. The facts compel immediate, full restoration of the Voting Rights Act.

To aid this committee and the nation in seeing a vision for change that would respond to the grave threats to our democracy, the *Poor People's Campaign: A National Call for Moral Revival* identified and released the following necessary investments in democracy and equal protection under the law, which we believe are inextricably interlinked, morally and constitutionally:

- We demand the immediate full restoration and expansion of the Voting Rights Act, an end to racist gerrymandering and redistricting, early registration for 17-year-olds, automatic registration at the age of 18, early voting in every state, same-day registration, the enactment of Election Day as a holiday, and a verifiable paper record. We demand the right to vote for the currently and formerly incarcerated.
- We demand adequate funding for polling places to accommodate the full participation of the electorate.
- We demand statehood, voting rights and representation for the residents of Washington D.C.

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<https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>.

<sup>44</sup> Minnite, Lorraine. The Politics of Voter Fraud. Available at [http://www.projectvote.org/wp-content/uploads/2007/03/Politics\\_of\\_Voter\\_Fraud\\_Final.pdf](http://www.projectvote.org/wp-content/uploads/2007/03/Politics_of_Voter_Fraud_Final.pdf).

- We demand the reversal of state laws preempting local governments from passing minimum wage increases, and the removal of Emergency Financial Management positions that are unaccountable to the democratic process.
- We demand that First Nations, Native Americans and Alaskan Native people retain their tribal recognition as nations, not races, to make substantive claims to their sovereignty.
- We demand a clear and just immigration system that strengthens our democracy through the broad participation of everyone in this country. This includes providing a timely citizenship process that guarantees the right to vote. It also requires protecting immigrants' abilities to organize for their rights in the workplace and in their communities without fear of retribution, detention, and deportation.
- We demand equality and the safety of all persons, regardless of sexual orientation and gender identity.
- We demand equal treatment and accessible housing, health care, public transportation, and adequate income and services for people with disabilities.

If there is any further information that I can provide to this body to aid in its work to consider the impact of this grave issue, I stand sincerely and steadfastly ready to assist.

Mr. COHEN. Amen. Thank you, Reverend Barber.

Our next witness is Mark Robinson. Mr. Robinson is the Lieutenant Governor Mark Robinson of the State of North Carolina, and I recognize our guest member, Mr. Dan Bishop, Representative Dan Bishop, to introduce Lieutenant Governor Robinson.

Mr. BISHOP. Thank you, Mr. Chair.

Mark Keith Robinson burst on to the public scene April 3, 2018, in a public comment delivered to the city council of Greensboro, North Carolina, on the subject of the reflex of government to diminish Second amendment rights of law-abiding citizens in response to shootings that occur.

The viral video of that event was well-received, and his message was powerful on the subject matter he spoke to, but the real thunderclap was a point in the message when Mr. Robinson told the city council, it is about time you start listening to the majority. Let me tell you who that is. I am the majority is what Mark Robinson said in words that galvanized the public.

Over months that followed, he emerged as a national figure, and demonstrated himself to be a thoughtful and learned student of history, and he brought a fresh perspective, and he revealed himself as a natural communicator. In the ensuing 2 years, the enthusiastic response to Mr. Robinson led him to run for and he was elected as the first Black Lieutenant Governor in North Carolina's history fittingly as a Republican.

No person in public life today better articulates the essence of our core freedoms and opportunities or more effectively debunks the absurd wokism that afflicts our political discourse than Mark Robinson. Lieutenant Governor Robinson epitomizes the promise of American liberty and opportunity, and I can think of no one better to cut through the hyper partisan exaggerations we have heard in recent discourse over voter integrity, and to provide an honest assessment of the best ways to ensure that all Americans can realize the American dream, regardless of their background, then Lieutenant Government Robinson.

Lieutenant Governor, thank you for being here today and I look forward to hearing your testimony.

Mr. COHEN. You are recognized for 5 minutes.

#### **STATEMENT OF THE HON. MARK ROBINSON**

Mr. ROBINSON. Thank you, Chair Cohen, and Ranking Member Johnson and all the Members of the Committee for allowing me to speak today. I am honored to sit before this Committee and testify before this body on such an important topic, a topic that hits close to home for me. You see, I am the first Black Lieutenant Governor of North Carolina, and I hail from Greensboro, home of the Woolworth's sit-ins, an epicenter for civil rights movement. I grew up poor as the ninth of 10 children in a home marred by alcoholism, but I had a mother who was a strong woman of faith and she sustained us. She was also a woman who lived through the terrible-ness of Jim Crow and witnessed, first-hand the sacrifices made by those who ensured that Black voices would be heard in government. I know right now, she is up in heaven smiling as she sees her son here sitting in this Committee hearing. Today I am not



here to talk about myself. I am here to talk about voter discrimination and election integrity.

The subject of this hearing is the Evolving Landscape of Voter Discrimination, and it certainly has throughout our Nation's history. Let me say that I am very proud of the history in this Nation of my people. My people were put in the belly of ships, bound in chains, and endured the middle passage. My people were whipped, beaten, and sold as property during slavery. During Reconstruction and throughout Jim Crow, Black people were intimidated, harassed, and even killed to keep them from having a voice in government. Symbols like chains, nooses, and burnt crosses are not just symbols of death; they are symbols of forced and coerced silence.

The sacrifices of our ancestors, so I could have the opportunity to become the first Black Lieutenant Governor of my State, to see a Black man sit in the White House for two terms, and for millions of us to be leaders in business, athletics, government, and culture, add up to an incredible story of victory.

Today, we hear Georgia law being compared to Jim Crow, that Black voices are being silenced, and that Black voices are being kept out. How? By bullets? By bombs? By nooses? No, by requiring a free ID to secure the vote. Let me say that, again. By requiring a free ID to secure the vote. How absolutely preposterous.

Am I to believe that Black Americans who have overcome the atrocities of slavery, who were victorious in the civil rights movement, and now sit in the highest levels of this government cannot figure out how to get a free ID to secure their votes; that they need to be coddled by politicians because they don't think we can figure out how to make our voices heard? Are you kidding me?

The notion that Black people must be protected from a free ID to secure their votes is not just insane, it is insulting. Just a few days ago—excuse me—and let me tell you something about this. This doesn't have anything to do with justice. This has everything to do with power. Just a few days ago, the Vice-President Went to the very place that I mentioned, the Woolworth's counter in Greensboro. You know who wasn't there? You know who wasn't invited? My good friend, Clarence Henderson, who is a civil rights icon. He sat at that counter and endured the suffering and pain to make sure that Black voices were heard. Why was he left out? Because he is of a different political persuasion.

You might ask why this is so? I will tell you plainly, the goal of some individuals in government is not to hear the voices of Black Americans at all; it is to hear the voices that fit their narratives and ultimately help keep power with one group, and that is what this assault is all about. It is about power.

Just look at H.R. 1. It is despicable. The entire thing is designed to keep one party in power and assure they stay there indefinitely. How do they plan to do that? By taking voter rights of States given by the Constitution to govern their own elections, to mandate a partisan wish list that comes down from that Federal Government.

Some of these items include using government dollars to fund campaigns to give an advantage to one party, mandating that felons are allowed to vote, including illegal immigrants on voter rolls, and, of course, trying to ban States from having voter ID. The last thing I will say is this: Many people know that I am a strong pro-

ponent of the Second Amendment, and I always will be. I believe that the right to keep and bear arms should always be available to law-abiding citizens, but the first line of defense in maintaining the integrity of the Second amendment is having an ID to show and requiring that ID when you purchase that firearm, in the same way I believe that voter ID is our first line of defense for protecting the integrity of the right to vote, and that is what this should be about. It should be about integrity, not power.

Thank you.

[The statement of Mr. Robinson follows:]



**North Carolina Lieutenant Governor Mark Robinson**

Written Testimony

Subcommittee on the Constitution, Civil Rights, and Civil Liberties  
 Hearing: *"Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination"*

Thank you Chairman Cohen and Ranking Member Johnson, and all of the members of the committee for allowing me to speak today.

I am honored to sit before this Committee and testify before the most consequential deliberative body in the world on such an important topic- a topic that hits close to home for me.

You see, I am the first black Lieutenant Governor of North Carolina, and I hail from Greensboro, home of the Woolworths Diner Sit-ins, an epicenter of the civil rights movement.

I grew up poor as the 9th of 10 children in a home marred by alcoholism and sustained by a mother's faith in God. A woman who lived through Jim Crow, and witnessed first-hand the incredible sacrifices made to ensure that black generations to come would have a voice in government.

I know right now she is up in Heaven, very proud to see her son sitting here in this committee hearing. But today, I'm not here to talk about myself, I'm here to talk about voter discrimination, election integrity, and the role of the citizens and the government.

The title of this hearing is: "Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination" and it certainly has throughout our nation's history.

My people were put in the belly of ships, bound by chains, and endured the middle passage. My people were whipped, beaten, and sold as property. In Reconstruction and throughout Jim Crow, black people were intimidated, harassed, and even killed to keep them from having a voice in government. Symbols like chains, nooses, and burnt crosses are not just symbols of death, they are symbols of forced and coerced silence.

The sacrifices of our ancestors so I could have the opportunity to become the first black lieutenant governor of my state, to see a black man sit in the White House, and for millions of us to be leaders in business, athletics, and culture is incredible.

Now today we hear comparisons of Georgia law compared to Jim Crow, that black voices are being silenced, and that black voices are being kept out.

How? By fear of a noose or chains? To be fired from work? To be ostracized by their communities? No. A free ID to vote. Let me say that again, a free ID to vote.

How absolutely preposterous. Am I to believe that black Americans who have overcome the atrocities of slavery, who were victorious in the civil rights movement, and who now sit in the highest levels of government cannot figure out how to get a free ID to vote?

That we need to be coddled by politicians because they don't think we can figure out how to make our voices heard? Are you kidding me!?

The notion that black people must be protected from a Free ID to vote is not just insane, it's insulting.

And let me tell you something. It has nothing to do with justice and everything to do with power.

Just a few days ago the Vice President went and visited the very place I mentioned earlier, the lunch counter in Woolworth's, to see the place where history was changed. You know who wasn't invited to be there with her? My good friend and Civil Rights Icon Clarence Henderson. The person whose picture is in history books, the person who actually sat in the chair and endured to make sure that black voices were heard.

You might ask why that is so and I will tell you plainly. The goal of some individuals in government is not to hear the voices of all black Americans, it is to hear the voices of those that fit their narrative, and ultimately that help keep one group in power.

And that's what this is all about, power.

Look at HR 1 that passed the House. It is despicable. The entire thing is designed to keep one party in power and to ensure that they stay there indefinitely.

How do they plan to do that? By taking away the rights of the states given by the constitution to hold elections, and to mandate a wish list by the federal government. Some of these items include using government dollars to fund campaigns in order to give an advantage to one party, mandating that felons are allowed to vote, including illegal immigrants on voter rolls, and of course, banning states from having voter ID.

The last thing I want to say is this. Many people know I am a proponent of the 2nd amendment, and I always will be. I believe that protecting the rights of law-abiding citizens to keep and bear arms is vital, and that the first line of defense for doing so is identification. In the same way, I believe that Voter ID is our first line of defense for protecting the integrity of our elections- and that's what this should be about, integrity, not power.

Mr. COHEN. Thank you. Our final witness is Jacqueline De León. Ms. De León is the staff attorney with the Native American Rights Fund, and a member of the Isleta Pueblo. As staff attorney at NARF, she helped lead field hearings across Indian Country on Native American voting rights, co-authored NARF's report, "Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters," and practices ongoing voter rights litigation. She has testified before Congress on multiple occasions detailing voting rights issues in Indian Country. Ms. De León received her J.D. from Stanford Law School and her B.A. from Princeton University. She checked clerked for Judge William H. Walls of the United States District Court for the District of New Jersey and Chief Justice Dana Fabe of the Alaska Supreme Court.

Ms. De León, you are recognized for 5 minutes.

#### STATEMENT OF JACQUELINE DE LEÓN

MS. DE LEÓN. Good morning, Chair Cohen and Ranking Member Johnson, and Members of the subcommittee. My name is Jacqueline De León, and I am a member of the Isleta Pueblo, and I am a staff attorney with the Native American Rights Fund known as NARF, the Nation's largest and oldest nonprofit law firm dedicated to advancing the rights of Native Americans.

Thank you for having me testify on the pressing need for Federal action to fully restore the Voting Rights Act. In 2018, the Native American Voting Rights Coalition completed a series of nine field hearings across Indian Country, which I co-led. We heard from approximately 125 witnesses generating thousands of pages of transcripts about voting in Federal and State elections. Our findings are extensively documented in a report I released in June of 2020 and am humbled to be carrying their stories with me here today. We are updating that report and will provide the Subcommittee with a copy as soon as it is completed.

NARF has also successfully brought a number of seminal Native American voting rights cases in the last 4 years, including challenges to North Dakota's voter ID law, a challenge to Montana's ballot collection ban, a challenge to Alaska's witness signature requirement during a pandemic, and a 2020 lawsuit challenging the refusal to open an in-person polling location on the Blackfeet reservation.

In that case, county officials were given the option of all mail-in voting because of the pandemic. Pondera County chose to keep in-person voting at their county seat, which ensured access for the over 90 percent White residents, but denied in-person voting to Blackfeet Tribal Members who do not get mail delivered to their home, and who would have had to travel 120 miles to vote.

Only after we sued did the county agree to on-reservation voting access. Relying upon the 14th and 15th Amendments and the VRA, Native American voters have filed nearly 100 lawsuits with a success rate of over 90 percent. These cases have been litigated in front of judges appointed by Republican and Democratic presidents, and yet, the overwhelming staff pattern compel relief. In short, the facts are so bad, we nearly always win.

Today, many Native American reservations are rural, distant from the nearest off-reservation border town, because of official

policies to forcibly remove, segregate them on remote and undesirable land. Travel to voting services, DMVs, and post offices, can be hundreds of miles away. Due to ongoing discrimination and governmental neglect, many Native Americans live in overcrowded homes, but do not have addresses, do not receive mail, and are located on dirt roads that can be impassable in winter in November.

There are Native Americans today that cannot access basic government services. The need for Federal action is urgent and compelling. This year, legislators in States across the country are capitalizing upon these vulnerabilities and making it unreasonably difficult for Native Americans to vote.

NARF is monitoring over 100 discriminatory bills introduced in 14 States with sizeable Native American populations. Arizona, in particular, has taken advantage of the suspension of section 5, introducing at least 27 proposed bills that make it too hard for Natives to vote. A fully functioning Voting Rights Act would force objective review of these laws. Instead, NARF is preparing for costly and time-consuming litigation.

Finally, in case there is any doubt that Native Americans face overt discrimination on the basis of race, NARF has collected extensive evidence of racism faced by Native American voters. For example, this past election, the weekend before election day, a man who won the local costume contest in a town bordering the Fort Peck Reservation. He was dressed in a Ku Klux Klan attire.

As a Tribal member like me, this is why satellite voting sites are so important for our Tribal Members. Not everyone is comfortable going into places in Glasgow, and not everyone in Glasgow is going to make our Tribal Members feel welcome. These racist attitudes are not just the work of private individuals. Voting officials also discriminate against Native Americans. Less than 10 years ago in South Dakota, Native Americans were forced to vote out of a chicken coop. In 2018, a San Juan County clerk in Utah committed fraud to kick a Native American candidate off the ballot who was only reinstated after a Federal Court ordered it.

Overt discrimination remains a present-day problem in need of present-day solutions. It is no surprise that experiences like these have provoked a widespread distrust of Federal, State, and local governments among Native Americans. Today, I place my trust in the Federal Government, and in this Committee to provide the protection Native Americans need and deserve, so they may vote safely and free from racist discrimination. Despite widespread voter suppression in Indian Country, we do not have the resources to bring every case. I urge this Committee to do the necessary work of investigating and recording these injustices, and to craft a coverage formula that restores the Voting Rights Act.

Thank you, and I look forward to your questions.

[The statement of Ms. De León follows:]



**Written Statement of Jacqueline De León  
Staff Attorney for the Native American Rights Fund  
Before the House Committee on the Judiciary, Subcommittee on the Constitution, Civil  
Rights, and Civil Liberties  
United States House of Representatives  
April 22, 2021**

Thank you Chairman Cohen and Ranking Member Johnson, and Members of the Subcommittee, for having me testify today. My name is Jacqueline De León, I am a member of the Isleta Pueblo, and I am a staff attorney with the Native American Rights Fund (“NARF”). Thank you for having me testify on the state of Native American voting rights and the pressing need for federal action to fully restore the Voting Rights Act.

Since 1970, NARF has provided legal assistance to Indian tribes, organizations, and individuals nationwide who might otherwise have gone without adequate representation. NARF has successfully asserted and defended the most important rights of Indians and tribes in hundreds of major cases, and has achieved significant results in such critical areas as tribal sovereignty, treaty rights, natural resource protection, Indian education, and voting rights. NARF is a non-profit 501(c)(3) organization that focuses on applying existing laws and treaties to guarantee that national and state governments live up to their legal obligations.

NARF is headquartered in Boulder, Colorado, with branch offices in Washington, D.C., and Anchorage, Alaska. NARF is governed by a volunteer board of directors composed of thirteen Native Americans from different tribes throughout the country with a variety of expertise in Indian matters. A staff of seventeen staff attorneys handles over fifty major cases at any given time, with most of the cases taking several years to resolve. Cases are accepted on the basis of their breadth and potential importance in setting precedents and establishing important principles of Indian law. Voting rights cases fall under NARF’s priority area of promoting Native American human rights. Unfortunately, there remains much work to be done.

***Background***

Throughout history, States have actively resisted Native American participation in American democracy. For example, even after the passage of the Fifteenth Amendment, Minnesota’s Constitution prohibited Indians from voting unless they “adopted the language, customs and habits of civilization.”<sup>1</sup> South Dakota passed a law in 1903 that prevented Indians

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<sup>1</sup> Minn. Const., art. VII, § 1(4) (1858).

from voting while “maintaining tribal relations.”<sup>2</sup> In North Dakota, the State Supreme Court in 1920 granted only those Indians who had assimilated the right to vote because they “live the same as white people . . . [and requiring] that they have severed their tribal relations.”<sup>3</sup> In 1928, the Arizona Supreme Court held that Indians, despite being United States citizens, were excluded from registering to vote because they were wards of the federal government.<sup>4</sup> That decision equated Native Americans with incompetents and stood for twenty years.

Like African Americans, Native Americans who were fluent only in their Native languages but unable to read or write in English because they were denied equal educational opportunities, were disenfranchised by literacy tests designed to keep them from voting. An Arizona statute stipulated that only individuals who could read the U.S. Constitution in English could vote.<sup>5</sup> When Alaska became a state in 1959, the state’s new constitution required that a voter “shall be able to read or speak the English language as prescribed by law.”<sup>6</sup>

Whether through state constitutional provisions, residency requirements, requirements to abandon tribal culture, taxation, guardianship, or literacy tests, states and local jurisdictions with substantial Native populations have, like states in the South in the Jim Crow era, been quite creative in crafting various stratagems and legal devices that denied the right to vote to Native Americans. It was not until the passage of the Voting Rights Act (“VRA”) that Native Americans were promised full legal access to the franchise. That promise has not been realized for Native Americans, preventing them from securing equal access to federal and state elections.

Today, many Native American reservations are located in extremely rural areas, distant from the nearest off-reservation border town. This was by design, official government policies forcibly removed Native Americans and segregated them onto the most remote and undesirable land. As a result of these policies, travel to county seats for voting services can be an astounding hundreds of miles away. Services such as DMVs and post offices can also require hours of travel. As detailed extensively below, the impacts of discrimination are not only in the past. Due to ongoing discrimination and governmental neglect, many Native Americans live in overcrowded homes that do not have addresses, do not receive mail, and are located on dirt roads that become impassable with inclement weather. Lack of broadband internet, cell phone coverage, or the economic means for transportation to in-person assistance means there are Native Americans that cannot access basic government services.<sup>7</sup>

Too often, these vulnerabilities are exploited by state laws and county rules that undermine the ability for Native Americans to cast their ballot. As a result, voting in Native communities is difficult and can even be impossible. This exploitation of vulnerabilities can be intentional and the

<sup>2</sup> S.D. Codified Laws § 26 (1903).

<sup>3</sup> *Swift v. Leach*, 178 N.W. 437 (N.D. 1920).

<sup>4</sup> *Porter v. Hall*, 271 P. 411, 417 (1928), *overruled in part by Harrison v. Laveen*, 196 P.2d 456 (1948).

<sup>5</sup> *Ariz. Rev. Stat. Ann.* § 16-101(A)(4)–(5) (1956).

<sup>6</sup> *Alaska Const. art. V*, § 1 (1959).

<sup>7</sup> A summary of these barriers is provided in testimony I previously submitted on February 22, 2020, in support of the Native American Voting Rights Act before the House Committee on Administration Subcommittee on Elections, available here: <https://www.congress.gov/116/meeting/house/110464/witnesses/HHRG-116-HA08-Wstate-DeLeonJ-20200211-U1.pdf>.



result of overt racist discrimination. Federal action is needed to protect Native Americans from this abuse. A fully functioning and restored Voting Rights Act would provide relief.

### ***Field Hearings***

To better understand the barriers preventing Native American access to the ballot, in 2015, NARF began the Native American Voting Rights Coalition, or NAVRC, a coalition of national and regional grassroots organizations, academics, and attorneys advocating for the equal access of Native Americans to the political process. It was founded to facilitate collaboration between its members on coordinated approaches to the many barriers that Native Americans face in registering to vote, casting their ballot, and having an equal voice in elections. Led by NARF, in April 2018 the NAVRC completed a series of nine field hearings in seven states on the state of voting rights in Indian Country. I, along with my colleague, NARF's pro bono counsel, Dr. James Tucker, had the honor of attending all of these hearings. We heard from approximately 125 witnesses from dozens of tribes in the Continental United States generated thousands of pages of transcripts with their testimony about the progress of the Native Americans in non-tribal elections, and the work that remains to be done.

The field hearings were conducted at the following locations: Bismarck, North Dakota on September 5, 2017; Milwaukee, Wisconsin on October 16, 2017; Phoenix, Arizona on January 11, 2018; Portland, Oregon, on January 23, 2018; on the tribal lands of the Rincon Band of Luiseño Indians north of San Diego, California, on February 5, 2018; Tulsa, Oklahoma on February 23, 2018; on the tribal lands of the Isleta Pueblo just outside of Albuquerque, New Mexico on March 8, 2018; Sacramento, California on April 5, 2018; and on the tribal lands of the Navajo Nation in Tuba City, Arizona on April 25, 2018. Field hearings were not conducted in Alaska because the Alaska Advisory Committee to the U.S. Commission on Civil Rights already had a similar effort underway. Coalition members also were familiar with Alaska's barriers after several years of voting rights litigation there.

Witnesses included tribal leaders, community organizers, academics, politicians, and Native voters. They shared their experiences in voter registration and voting in federal, state, and local (non-tribal) elections. I am humbled to be carrying their stories with me here today.

The testimony provided consistent evidence that across this country Native Americans are faced with unjust barriers that prevent them from having equal access to the ballot box. We were able to identify common factors discouraging political participation, including: (1) geographical isolation; (2) physical and natural barriers; (3) poorly maintained or non-existent roads; (4) distance and limited hours of government offices; (5) technological barriers and the digital divide; (6) low levels of educational attainment; (7) depressed socio-economic conditions; (8) homelessness and housing insecurity; (9) non-traditional mailing addresses such as post office boxes; (10) lack of funding for elections; (11) and overt and intentional racial discrimination against Native Americans. In addition to this daunting list of factors, language is "one of the closing gaps in the election process" for Native American voters. Under the 2011 determinations of jurisdictions that required language assistance, Native American languages were the second most common language group after Spanish. Section 203 language assistance protections were

required in 33 political subdivisions in five states. This rose to 35 jurisdictions in nine states in the 2016 determinations.

These barriers are extensively documented in a report that I co-authored with Dr. Tucker and Professor Daniel McCool, released in June of 2020, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*.<sup>8</sup> We are updating that report with the litigation brought in the 2020 election cycle and the outcome of the 2021 legislative sessions in states with significant Native populations. We will provide this subcommittee with the updated report as soon as it is completed.

### ***Litigation***

Besides leading the NAVRC, NARF has also successfully brought a number of seminal Native American voting rights cases in the last four years, including challenges to North Dakota's voter ID law,<sup>9</sup> a challenge to Montana's ballot collection ban,<sup>10</sup> a challenge to Alaska's witness signature requirement during a pandemic,<sup>11</sup> and a 2020 lawsuit challenging a county in Montana's refusal to open an in person polling location on the Blackfeet reservation.<sup>12</sup>

It is worth pausing to reflect on the egregious facts underlying the refusal to provide a polling place in Pondera County, Montana this past election. In Montana, in response to the global pandemic, county officials were given the option of conducting their elections by mail. Yet, Pondera County chose to maintain its in-person polling location at their county seat ensuring access for the over 90 percent white residents. Blackfeet tribal members requested in-person access as well. After all, the homes on the Blackfeet reservation do not receive residential mail delivery and so Native Americans are forced to travel to their rural post office a significant distance away that is only open limited hours to get their mail and ballots. County officials refused, instead insisting that Blackfeet tribal members travel 120 miles round trip to the county office in Conrad, Montana to vote. NARF was forced to bring a suit on behalf of the Blackfeet in federal court alleging violations of the Constitution and VRA. Only after suit was filed did Pondera County agree to provide on-reservation access.

This recent successful litigation aligns with the longstanding trend of successful outcomes in Native American voting rights cases. Relying upon the Fourteenth and Fifteenth Amendments, and various sections of the VRA, Native American voters have filed nearly a hundred lawsuits in an effort to gain equal access to election procedures and to have an equal opportunity to elect candidates of their choice. Prior to the last election cycle, out of the known 94 Native American voting rights cases there have been victories or successful settlements in 86 cases, and partial

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<sup>8</sup> Dr. James Thomas Tucker, Jacqueline De León, Dr. Daniel McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, Native American Rights Fund (2020), available at [https://vote.narf.org/wp-content/uploads/2020/06/obstacles\\_at\\_every\\_turn.pdf](https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf).

<sup>9</sup> *Brakebill v. Jaeger*, No. 1:16-CV-008, 2016 WL 7118548, at \*1 (D.N.D. Aug. 1, 2016); *Spirit Lake Tribe v. Jaeger*, No. 1:18-cv-00222 (D.N.D.) (Complaint filed Oct. 30, 2018).

<sup>10</sup> *W. Native Voice v. Stapleton*, DV-2020-377 (Mont. Dist. Ct. Sept. 25, 2020).

<sup>11</sup> *Arctic Village Council et al vs. Meyer, Kevin, et al*, DRC 3AN-20-7858CI (Alaska Super. Ct., October 5, 2020).

<sup>12</sup> *Blackfeet Nation v. Pondera Cty.*, 4:20-cv-00095-DLC (D. Mont. Oct. 14, 2020), ECF No. 9-1.

victories in two cases. That is a success rate of over 90 percent.<sup>13</sup> These cases have been litigated in front of judges appointed by Republican and Democratic Presidents, and yet the overwhelming factual patterns established in Native American voting rights cases compel relief. In short, the facts are so bad we nearly always win.

Despite widespread voter suppression and discrimination in Indian Country, we do not have the resources to bring every case. Litigation is costly and time consuming, and voters are often disenfranchised while litigation is pending. For example, the effort and resources necessary to mount a legal challenge to North Dakota's voter ID law were significant. In North Dakota, the state required addresses with IDs on them despite knowing that Native Americans throughout North Dakota lacked addresses on their homes.<sup>14</sup> This led to widespread disenfranchisement of Native Americans. This discrimination was deeply felt. As our Plaintiff, United States veteran Elvis Norquay, explained in his testimony before the House Administration Subcommittee on Elections last year, "[i]n November of 2014 I went to the KC hall to vote but was turned away. I voted many times for years before being turned away. I was always happy to go vote. Being turned away brought me down."<sup>15</sup>

Following a violation of the 14th amendment in which the federal judge held "it is clear that a safety net is needed for those voters who simply cannot obtain a qualifying ID with reasonable effort,"<sup>16</sup> the total sought for Plaintiffs' attorneys' fees and litigation expenses was \$1,132,459.41. This sum represents \$832,977 in attorneys' fees and \$299,482.41 in litigation expenses, including expert reports. Thousands of attorney hours over almost two years were expended in order to build a legal record and respond to numerous motions filed by the State in defense of the law. After the successful outcome in that case, the North Dakota legislature *again* enacted a voter ID law that had the same disenfranchising effects. NARF was again forced to bring litigation. Eventually, NARF waived its attorney fee motion for the second half of the case in order to help secure a successful settlement.

This whack-a-mole pattern of repeated violations of Native American voting rights is common across Indian Country. For example, numerous lawsuits alleging voting rights violations have been filed in South Dakota, including the only Section 2 case brought on behalf of plaintiffs under the US Department of Justice during the Trump administration.<sup>17</sup> In Montana, repeated

<sup>13</sup> *Obstacles*, at 39.

<sup>14</sup> On April 16, 2019 I testified before the House Administration Subcommittee on Elections as to the details of North Dakota's voter ID law, available at:

[https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/Jacqueline De Leon Testimony.pdf](https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/Jacqueline%20De%20Leon%20Testimony.pdf).

<sup>15</sup> February 22, 2020 Testimony of Elvis Norquay, House Administration Subcommittee on Elections, available at: [HHRG-116-HA08-Wstate-Norquay E-20200211-U1.pdf \(congress.gov\)](https://www.congress.gov/records/hrgs/hhr-116-08-wstate-norquay-e-20200211-u1/pdf).

<sup>16</sup> *Brakebill v. Jaeger*, No. 1:16-cv-008, 2016 WL 7118548 at 10 (D.N.D. Aug. 1, 2016) (order granting preliminary injunction).

<sup>17</sup> See Settlement Agreement, *Janis v. Nelson*, Civ. 5:09-cv-05019-KES-LLP-RLW(D.S.D. May 25, 2010), ECF No. 143 (remedying compliance issues with HAVA); *Brooks v. Gant*, No. Civ-12-5003-KES, 2012 WL 871262 (D.S.D. Mar. 14, 2012) (settlement for closer early voting locations); *Poor Bear v. Jackson*, 2015 WL 1969760 (settlement for a satellite office on the reservation); Consent Decree, *United States v. Chamberlain Sch. Dist.*, Civ. Action No. 4:20-cv-4084 (D.S.D. June 18, 2020), ECF No. 4 (consent decree settling at-large method of election for the school board in district with substantial Native population); Compl., *Rosebud Sioux Tribe v. Barnett*, Case No. 20-cv-5058 (Sept. 16, 2020) (2020 complaint alleging violations of the National Voter Registration Act).

successful litigation has challenged the disenfranchisement of Native Americans.<sup>18</sup> In Utah, San Juan County has had near constant, successful, voting rights litigation brought against it since the United States first brought suit on behalf of the Navajo in 1983.<sup>19</sup>

The suspension of Section 5 of the Voting Rights Act following the invalidation of the coverage formula in *Shelby County, Ala. v. Holder*,<sup>20</sup> negatively impacted Indian Country. Arizona and Alaska, both with substantial Native American and Alaska Native populations, were previously covered under Section 5, which meant protection for Native voters.

For example, in 2008, Alaska attempted to eliminate polling locations in the Alaska Native communities of Tatitlek, Pedro Bay, and Levelock and force Native voters to travel to predominately white communities to cast their ballots. These non-Native communities were not only a significant distance away, but were also only available by boat or plane. Because Alaska was forced to submit its proposal for review under Section 5, the DOJ responded with several detailed More Information Requests (MIR) about the impact on Native American voters. In response, Alaska withdrew its discriminatory proposals.<sup>21</sup>

In Arizona, the loss of Section 5 resulted in disenfranchisement of Native Americans. When Section 5 was still in effect in 2011, Arizona attempted to preclear restrictive ballot collection regulations. Bans on ballot collection, also disparagingly referred to as “ballot harvesting”, can disproportionately and severely impact Native communities. Because of high poverty rates, lack of access to transportation, and lack of mail delivery, Native Americans often pick up and drop off mail for each other.

For example, last year, NARF and the ACLU challenged Montana’s ballot collection ban, which was found unconstitutional under the Montana Constitution.<sup>22</sup> In Montana, four out of the five Native Nations that brought suit do not have residential mail service. The court found it compelling that poverty, lack of working vehicles, car insurance, and money for gas mean that tribal members often pick up and drop off mail, including ballots, for neighbors, friends, and acquaintances. Native people pool resources because, as the Chairwoman of the Confederate

<sup>18</sup> *Wandering Medicine v. McCulloch*, No. 1:12-cv-135 (D. Mont. Oct. 10, 2012) (defendants agreed to establish satellite offices on reservations); Consent Decree, *Jackson v. Bd. of Trs. of Wolf Point*, No. 4:13-cv-00065-BMM, (D. Mont. Apr. 9, 2014), ECF No. 70 (permanent injunction barring a -75.24% deviation from ideal population size in school board race); *W. Native Voice v. Stapleton*, DV 2020-377, slip op. (ballot collection ban declared unconstitutional); *Blackfeet Nation v. Pondera Cty.*, 4:20-cv-00095-DLC (D. Mont. Oct. 14, 2020), ECF No. 34 9-1 (county agreed to open satellite election offices and ballot drop boxes).

<sup>19</sup> Consent Decree, *United States v. San Juan Cty.*, No. 2:12-cv-00039-RJS (D. Utah Nov. 9, 2015), ECF No. 261-1; *Navajo Nation v. San Juan Cty.*, 929 F.3d 1270, 1274 (10th Cir. 2019) (affirming the District Court’s resolution of vote-dilution case filed in 2011); *Graveyes v. Cox*, No. 4:18-CV-00041, 2018 WL 3830073, at \*9 (D. Utah Aug. 9, 2018) (injunctive relief granted for likely violation of candidates due process rights); Order re Stip. Settlement, *Navajo Nation Human Rights Comm’n v. San Juan Cty.*, No. 2:16-cv00154-JNP, (D. Utah Feb. 22, 2018), ECF No. 199 (county agreed to maintain polling places and provide language assistance).

<sup>20</sup> 570 U.S. 529 (2013).

<sup>21</sup> Brief for the Alaska Federation of Natives, Alaska Native Voters and Tribes as Amicus Curiae, p. 35, *Shelby County v. Holder*, 570 U.S. 529 (2013), available at: [https://narf.org/bloglinks/shelby\\_county\\_brief.pdf](https://narf.org/bloglinks/shelby_county_brief.pdf).

<sup>22</sup> *W. Native Voice v. Stapleton*, DV 2020-377, slip op.

Salish and Kootenai Tribes testified, “[s]ometimes we have to make choices between buying a tank of gas, or you know, buying food for our family.”<sup>23</sup>

Likewise, in Arizona, Native Americans lack residential addresses, are disproportionately poor, lack access to vehicles, and depend on each other to pick up and drop off mail. Therefore, after the Arizona Attorney General had submitted its voting revisions, S.B. 1412, to the DOJ for preclearance, the DOJ precleared most of the bill, except the provisions regulating third party ballot collection. After the DOJ issued a MIR to determine if the ballot collection ban was discriminatory on the basis of race, Arizona withdrew its request. Following *Shelby*, however, Arizona again attempted to pass stringent ballot collection regulations and eventually succeeded in H.B. 2023.<sup>24</sup> Because preclearance was not available to stop H.B. 2023’s implementation, advocates were forced to litigate the law. The 9th Circuit determined H.B. 2023 was intentionally discriminatory and violates the 15th Amendment and Section 2 of the Voting Rights Act.<sup>25</sup> That case is currently on appeal to the United States Supreme Court, with oral arguments completed on March 2, 2021.

When enforceable, Section 5 protects Native voters from discriminatory laws and reduces the costs of repeated litigation. Section 5 remains a viable provision of the Voting Rights Act. The Supreme Court expressly issued “no holding on §5 itself, only on the coverage formula.”<sup>26</sup> Given the pervasive need in Indian Country, I urge this committee to take up the Court’s invitation to “draft another formula based on current conditions”<sup>27</sup> so that Section 5 can come back into effect, fully restoring the VRA.

#### ***Current Proposed Legislation***

The need for federal action is urgent and compelling. This year, legislators in states across the country have targeted vulnerable Native American voters. NARF is monitoring bills introduced in states with sizeable Native American populations. In just 14 states – Alaska, Arizona, California, Michigan, Minnesota, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Washington, and Wisconsin – legislators have introduced over 100 bills that either will disenfranchise Native American voters altogether or will make it more difficult for them to vote.<sup>28</sup>

Some of these bills contain stringent voter identification provisions, restrict ballot collection, remove drop boxes, remove in-person polling locations, purge voters, eliminate same-day registration, and deny registration because of previous convictions. Native Americans already do not have enough access to residential mail delivery, fully functional roads, and must travel unreasonable distances to their polling locations or DMVs. As a result, they are disproportionately disenfranchised by these burdensome laws.

<sup>23</sup> *Id.* at 15.

<sup>24</sup> *Democratic Nat’l Comm. v. Hobbs*, 948 F.3d 989, 1008–09 (9th Cir.), *cert. granted sub nom. Arizona Republican Party v. Democratic Nat’l Comm.*, 141 S. Ct. 221, 207 L. Ed. 2d 1165 (2020), and *cert. granted sub nom. Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 222, 207 L. Ed. 2d 1165 (2020).

<sup>25</sup> *Id.* at 1046.

<sup>26</sup> *Shelby Cty., Ala. v. Holder*, 570 U.S. at 557.

<sup>27</sup> *Id.*

<sup>28</sup> State Voting Bills Tracker 2021, Brennan Center for Justice, available at: <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

Legislators in Arizona, which, again, previously had to preclear its voting laws with the Department of Justice under Section 5, have taken full advantage of the suspension of Section 5 to the detriment of Native American voters. Even after hearing ample testimony that the legislation will impede Native voters' access to the franchise, Arizona continues to advance a greater number of destructive bills than nearly every other state. At least twenty-seven proposed bills out of Arizona would make it more difficult for Native Americans to vote.<sup>29</sup> A fully functioning Voting Rights Act would force objective review of these laws before they are able to take effect. Instead, NARF is preparing for costly and time consuming litigation.

### ***Overt Racial Discrimination***

Finally, in case there is any doubt that Native Americans face overt discrimination on the basis of race, NARF has collected extensive evidence of the racism faced by Native voters. Native Americans continue to experience overt discrimination in their everyday lives and when they attempt to vote.

This past election, the weekend before Election Day, a man visited several bars in Glasgow, roughly ten miles from the Fort Peck Reservation's Western border, in full KKK attire. None of the other bar patrons were phased, and many even supported him. Indeed, the "costume" was the winner at a local Halloween costume contest.<sup>30</sup> Though mostly associated with the Deep South, the KKK has been prominent since at least the 1920s in Glasgow, Plentywood, and Bainville—all locations that border the Reservation. A primary goal of the KKK in Glasgow was to undermine Native voting rights.<sup>31</sup> As the General Counsel to the Fort Peck Tribes relayed to me following the incident, "[t]his is why satellite voting sites are so important for our tribal members. Not everyone is comfortable going into places in Glasgow, and not everyone in Glasgow is going to make our tribal members feel welcome."

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<sup>29</sup> Arizona: HB 2358 (purges eligible voters if they change their address); HB 2369 (requires mail ballots to be notarized); HB 2370 (repeal of permanent early voting list); HB 2373 (identifiers required for voter registration groups); HB 2560 (removal of permanent early voting list); HB 2569 (prohibition on private funding for elections); HB 2701 (bans vote by mail and limits ids); HB 2720 (allows the legislature to overturn the results of a presidential election); HB 2722 (limits polling places); HB 2792 (request required for early ballots); HB 2793 (request required for voter registration); HB 2794 (modifications prohibited to election deadlines); HB 2798 (requires early voters to send back signature cards); HB 2799 (voter registration roll purge); HB 2800 (granting the legislature plenary authority over elections); HB 2811 (prohibition on same day registration); HB 2826 (allows legislature to certify election results before transmitting to the secretary of state); HB 2875 (requires permanent early voters to reconfirm that they want a ballot before every election); SB 1003 (shortens window to cure ballot due to missing signature); SB 1069 (makes the permanent early voting list non-permanent); SB 1106 (creates new ways to remove eligible voters from the rolls and new criminal penalties for unsuspecting voters); SB 1358 (prevents county from conducting registration drive on nongovernment property); SB 1485 (purges voters from permanent early voting list for failing to vote); SB 1503 (requires all ballots mailed to voters to be hand-delivered to designated sites/drop boxes); SB 1593 (shortens the early voting period and discards ballots not postmarked 5 days before the election); SB 1678 (eliminate permanent absentee voting); and SB 1713 (requires additional information to vote).

<sup>30</sup> <https://www.greatfalltribune.com/story/news/2020/11/02/montana-r-man-kkk-costume-reportedly-wins-glasgow-bar-contest/6130962002/>.

<sup>31</sup> "Official Circular" (6 December 1924), Ku Klux Klan collection, MS 131, Box 2, Folder 163 Eastern Washington State Historical Society, Spokane, Washington, available at: <https://www.northwestmuseum.org/collections/research-archives/>

In Arizona, racial tensions are so fraught between the Kaibab Band of Paiute Indians and the border town that the pipes sending water to the reservation are regularly blocked by border town residents.<sup>32</sup> In Utah, a Field Hearing witness' Native grandson attempted to play baseball and was accosted by a non-Native woman who "started screaming at him, 'Who in the hell do you think you are? You think you're that good? You damn welfare people are starting to take over.'"<sup>33</sup>

These racist attitudes do not stop at residents. Voting officials also discriminate against Native Americans. For example, the registration offices and polling places that primarily service Native American communities can be hostile. All of these incidents took place within the last 10 years:

- In South Dakota, Native American voters were forced to vote in a repurposed chicken coop with no bathroom facilities and feathers on the floor.<sup>34</sup>
- In Wisconsin Native American voters were forced to vote where a sheriff's office was located.<sup>35</sup>
- In South Dakota, Native American voters were forced to walk past a sheriff who kept his hand on his gun while standing in the entrance to the only polling place on a reservation (see image).

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<sup>32</sup> *Obstacles*, at 108.

<sup>33</sup> *Obstacles*, at 44.

<sup>34</sup> *Obstacles*, at 87 (quoting Donita Loudner's testimony, "You go take them in there to vote, and it was a chicken coop. It was an old chicken coop. It still had dirt on the floor. You go in there, and it had enough for one desk. And you had three people sitting around there, and you could barely come in. There was no place to vote. You had to take it outside to vote. You could see the -- where the chickens used to lay: You know, those little boxes. They would still have those around outside. And no bathroom facilities. . . . So I went in front of the county commission in Hughes County, our county seat or our county capital. And I got on the agenda, and I asked them, 'Whatever happened with, you know, these funds that they set down for us? You guys got a chicken coop.'")

<sup>35</sup> *Obstacles*, at 45.





*In South Dakota, a law enforcement officer inside the entry of a polling place on the Pine Ridge satellite voting office during the 2014 election. Photo by Donna Semans, Four Directions.*

- In South Dakota, the approximately 1,500 Crow Creek Reservation residents comprise about 90 percent of Buffalo County's population. Nevertheless, to register to vote or run for office, tribal members have to drive 40 miles round trip to Gann Valley, which has a population of about 12, all non-Natives. While Gann Valley's 12 residents had full voting access, Buffalo County's Auditor/Register of Deeds refused to provide an on-reservation early polling site to service the Crow Creek Reservation's substantially larger population, even after Help America Vote Act ("HAVA") funding was secured to cover the full cost of the voting site.<sup>36</sup>

And, too often, modern day experiences echo past instances of discrimination. In 1986, in a VRA and Constitutional case having to do with an unfair at-large voting system in Montana the court also uncovered evidence that voter registration was intentionally withheld from Native voters. The Court recounted how "an Indian testified that he was given only a few voter registration cards and when he asked for more was told that the county was running low. Having driven a long way to get the cards, he asked his wife, who is white, to go into the county building and request some cards. She did and was given about 50 more cards than he was."<sup>37</sup> We heard remarkably similar testimony at the September 5, 2017 Field Hearing. A Native community activist from

<sup>36</sup> *Obstacles*, at fn. 270.

<sup>37</sup> *Windy Boy v. Big Horn Cty.*, 647 F. Supp. 1002, 1008 (D. Mont. 1986).



Montana testified how when she went to return voter registration cards the clerk would complain and hassle her for the number of voter registration cards returned. There was no law, but the clerk stated that only 70 registration cards could be returned at one time and in 2016 dropped that number to 40.<sup>38</sup>

In Utah, in 2018, the San Juan County clerk committed fraud in an attempt to kick the Native American candidate off of the ballot. The District Court reinstated the Native candidate to the ballot and found the clerk likely violated the Native candidate's constitutional rights.<sup>39</sup> Yet, no charges were brought against the clerk. Even more frustratingly, this deception echoes a 1972 case of discrimination in the very same county where a clerk misled two Navajo candidates about filing deadlines in order to undermine their candidacy. The Federal Courts were forced to order those candidates back on the ballot as well.<sup>40</sup>

It is no surprise that experiences like these have provoked a widespread distrust of the state and federal government by Native Americans. In the fall of 2016 and spring of 2017, NAVRC oversaw one of the most comprehensive in-person surveys ever conducted in Indian Country about barriers faced by Native voters. A total of 2,800 Native voters in four states completed the in-person survey.<sup>41</sup> In all four states, Native voters expressed the greatest trust in their tribal governments. Although the federal government was identified by respondents as the most trusted of non-tribal governments (federal, state, local), the level of trust ranged from a high of just 28 percent in Nevada to a low of only 16.3 percent in South Dakota.<sup>42</sup> Trust of local government in South Dakota was notably bad with only 5.02% of respondents indicating they most trusted the local government, which is especially significant considering it is the local governments that are most often responsible for the administration of elections.

Today, I place my trust in the federal government, and in this Committee, to provide the protections Native Americans need and deserve so they may vote safely and free from racist discrimination. I urge this committee to do the necessary work of investigating and recording these injustices and to craft a coverage formula that restores the Voting Rights Act.

Thank you for inviting me here today. I am prepared to answer any questions.

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<sup>38</sup> *Obstacles*, at 80.

<sup>39</sup> *Grayeyes v. Cox*, No. 4:18-CV-00041, 2018 WL 3830073, at \*9 (D. Utah Aug. 9, 2018).

<sup>40</sup> *Yanito v. Barber*, 348 F. Supp. 587, 593 (D. Utah 1972).

Mr. COHEN. Thank you so much. We will now go into our question phase, and I will first recognize myself for 5 minutes of questioning.

We have heard a lot to date from the other side and the other side's witnesses about the State legislators making the laws, and that is our system. That is the system that gave us counting beans in a jar. That is the system that gave us a system where African Americans were denied the right to vote for many years, and every opportunity in every way possible. We can't just fold up our hands and give it to the State legislators because, if we did that, we know we would be back in Jim Crow times.

Reverend Barber, the entire State of North Carolina was technically not subject to the Voting Rights Act preclearance provision. Some of it was, of course. Most of it, I think, but dozens of individual counties were covered at the time cited before *Shelby County v. Holder* in 2013. How have discriminatory voting practices evolved over time in the State of North Carolina since the Shelby County decision?

Rev. BARBER. Well, thank you, Chair Cohen.

Can you hear me?

Mr. COHEN. Yes, sir.

Rev. BARBER. Thank you so much. Jim Crow like James Crow, Esquire, that dresses up in a suit today, always claim it to be benign and nonracial, but when examined under the microscope of the Constitution, they are always found to be racist. What we know is, more than 60 times prior to the Shelby decision, that we in North Carolina have to fight racialize voter discrimination.

Now, I will admit, we had to fight Democrats and Republicans, let's be honest about that, since 1965. Since the case, since Shelby, we have had the worst voter suppression laws since the days of all-out Jim Crow attempted to be passed and passed and implemented, and placed on the people of North Carolina only to later, after extended legal battles, to be found as the Court said surgical racism, and what is absurd is for someone to say that a Supreme Court, the majority which were appointed by Republicans, and the Fourth Circuit, which was a three panel, two Whites, one African-American, absurd when they found, under the law, that this was surgical, surgical racism, and that is the ugliness of it.

If preclearance would have been in place, they would not have made it. Those laws would not have made it on the books and undermined the voting rights of African-Americans, Black people, Brown people, indigenous people, poor people, in North Carolina.

Lastly, if Republicans are so sure that they are not engaging in racism, they would have no problem with preclearance because all preclearance does is checks it out before it is implemented into law.

Mr. COHEN. Thank you, Reverend Barber. It was said here by, I believe, your Lieutenant Governor, that there is nothing wrong with an ID; that it is not racist at all. It is simple to get. Personally, I dread the idea of getting a real ID, which we will eventually have to get because in Memphis, it is a long way to drive to get to a place to get a real ID, and a long line, and I don't want to deal with it.

Are there not a lot of people possibly in rural North Carolina, and even inner-city North Carolina, who might not have access to

cars to make it easy, people born a long time ago and getting an ID is difficult?

Rev. BARBER. Well, it is worse than that. First, this is not just about an ID. It is about strict photo ID that will say, for instance, a gun ID is valid, but an ID from a college or university is not. Even when you claim its free, we have a restriction. You cannot make someone have to spend money, even gas money, new form of a poll tax to try to make someone go get something that is not needed and that is being implemented for a problem that is not a problem. The problem of fraud, the claim of fraud is fraudulent in and of itself.

Lastly, Chair Cohen, what we should also recognize is that Republicans and Democrats in North Carolina long ago settled on something called "signature attestation" with a 5-year felony. That is what we did in North Carolina. You have to sign and affirm. When you first—after you get registered, it is proven that you are who you are. Then when you come, you have to sign a signature attestation with the penalty of a 5-year felony, and there was no instances of fraud.

This whole issue of fraud happened after North Carolina voted for President Obama in 2008, and then there was all these claims that something went wrong. Nothing went wrong. People just had the right to expanded vote through same-day registration and early voting, and they chose to vote. I ask the question always, Representative Cohen, that the judge asked when we went to court. He looked at the Republican lawyer and asked this question: Why is it that you do not want people to vote? Just answer that for me. Why is it that you do not want people to vote? That is the fundamental question. That is why we need the Voting Rights Act preclearance restored.

Mr. COHEN. Thank you, Reverend Barber. My time is up, but I will answer your question. A Republican lawyer before the Supreme Court recently in a case on voting rights said, "We can't win if everybody votes."

Mr. Johnson, you are recognized.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chair.

I just want to say, Lieutenant Governor Robinson, I think your testimony this morning was so compelling, and I wish every American could see it. We will clip that video, and I promise you we will get it out there, because you are sharing the truth.

We have just heard in the last 5 minutes, Reverend Barber has lamented today what he sees as the situation in North Carolina. Of course, we all agree it is a shame that Democrat-controlled State governments established Jim Crow laws to prevent Black Americans from voting and exercising other freedoms.

North Carolina is your State too, Lieutenant Governor Robinson. You are the first Black Lieutenant Governor in the history of the State. You are wildly popular there, and we can all see why this morning.

I just want to ask you for your perspective. Let me ask you, is there rampant voter discrimination occurring around this country and/or specifically in North Carolina.

Mr. ROBINSON. Absolutely, no, there is not.

Mr. JOHNSON of Louisiana. Is your microphone on? Make sure that button—there you go.

Mr. ROBINSON. There absolutely is not. I am confident in that.

This entire thing goes, again, back to this whole issue—and it always goes back to the issue—whenever we talk about this issue, it always goes back to the ID issue. Having that ID to vote puts up that first firewall to create the integrity that we need for our elections.

I just can't express—let me just tell you a story. I have a father-in-law who was in prison for 43 years, a Black man, imprisoned for 43 years. The very first thing he did when he got out of prison was get a driver's license.

Where is this “no access” to IDs that exists? Why do we look at poor people and Brown people and think that they are less than and that they can't figure out how our systems work, they can't figure out where the DMV is, they can't figure out where this agency is to go down and get this ID that is being offered?

I can't express to you how insulting this is, for someone to look at me and actually say that the reason why we don't need IDs to vote is because you and your people can't find your way down to get one, that there are restrictions somehow. The notion is absolutely asinine and ridiculous.

So, I would say, absolutely, unequivocally not. There is no rampant discrimination against voters. There is none. There is—it doesn't exist. I mean, in some corners it might exist, sure, in some far-off place, and maybe once or twice somewhere somebody might get in someone's mind. A systematic effort to suppress the votes of Black people? That is preposterous. It is just as preposterous as the notion that as a Black American I can't get a free ID to vote.

Mr. JOHNSON of Louisiana. Thank you for that clarity and conviction.

Let me ask you another question. The Election Clause of the Constitution, Federal Constitution, gives State legislatures the authority, as you know, to prescribe the times, places, and manner of holding elections within their jurisdictions. The Constitution, thus, leaves it to the States to administer elections within their boundaries.

Let me ask you, from your perspective as a Lieutenant Governor, are States still best situated to determine how to run elections, or should we just federalize this whole thing and put Congress in charge?

Mr. ROBINSON. Absolutely the States should remain in charge, because, from my vantage point, we are looking at a bill here that is 880 pages—some 880 pages of a partisan, unconstitutional power grab.

The Federal Government—there are a lot of things in here that they will argue and say, “Oh, it is just a—it is just—we are just insinuating this.” We understand how that works with the Federal Government. There is an insinuation, and then there is a request, and then there is a demand.

We need to stop it at the insinuation. We need to stop this at the insinuation that somehow the people in Washington, DC, know better than the people in North Carolina. You do not. We will not tolerate it.

Mr. JOHNSON of Louisiana. Everybody over here is saying “amen.”

This is some refreshing common sense, isn't it?

Let me ask you one more question. We only have 40 seconds or so. When it comes to voting, do you believe we need to give citizens greater responsibility when exercising their right to vote?

Mr. ROBINSON. Absolutely. Again, I said I am a huge proponent of the Second Amendment, but the very first thing with the Second amendment is that ID you show when you go to buy that firearm. There is something I tell everybody. Before you partake of the Second Amendment, you need to take a look in the mirror and ask yourself, am I responsible enough to own a firearm? If the answer is no, don't buy one.

When it comes to voting, you have 4 years for President, 6 years for Senate, and 2 years for House of Representatives. I have complete confidence in the people of the United States of America and the people of my State that in those 2, 4, or 6 years they can do due diligence, get that ID, find out where they are voting, make a date, and be there on the date. I have full and complete confidence in them that they can do that. I think the rules should reflect that.

Mr. JOHNSON of Louisiana. Hallelujah. Thank you for being here. I yield back.

Mr. COHEN. Before I recognize Mr. Nadler, I want to correct myself. I don't like false—what was said before the Supreme Court by the Republican attorney was not that we cannot win elections. What he said to Justice Amy Coney Barrett was, “Because these laws disqualifying, say, out-of-precinct ballots would put us at a competitive disadvantage relative to Democrats. Politics is a zero-sum game. And every extra vote they get through unlawful interpretation of section 2 hurts us. It's the difference between winning an election and losing.”

A remarkable moment for the—pivotal moment for voting rights. State Republicans have advanced a spate of laws trying to change the law. So, in essence, they said it, but something different.

Mr. Nadler, you are recognized for 5 minutes.

Chair NADLER. Thank you, Mr. Chair.

Lieutenant Governor Robinson—and briefly, because I have a lot of questions—how do you justify counting for voting purposes a hunting license but not a State-college-issued ID?

Mr. ROBINSON. We can argue about those semantics all day long, whether or not that hunting license is provided, directed by the government, whether or not that hunting ID is given on the basis of a person being a resident of the State—

Chair NADLER. A State college ID, how do you not qualify that?

Mr. BISHOP. Your microphone, Governor.

Mr. ROBINSON. Oh, I am sorry.

Mr. BISHOP. Yeah.

Mr. ROBINSON. My microphone was not on.

Again, we could argue about the semantics about what type of ID should be accepted. That is an open and honest conversation that we can have, and I don't mind having that conversation.

From my purview as Lieutenant Governor and if I made the decision, it would be a State-issued ID only. That is it.

Chair NADLER. Thank you.

Reverend Barber, some of my colleagues would argue that the Voting Rights Act's success demonstrates that it is no longer needed, that the U.S. has elected an African-American President and Vice President, that minority representation in elected government has increased substantially, and that the minority vote has played decisive roles in elections and have much higher turnout rates than when the Voting Rights Act was first enacted decades ago.

What is your response to that argument?

Rev. BARBER. My response is that the facts don't play it out. Not the facts that somebody said are the facts without them being facts, but under the microscope of the courts and the Constitution.

Remember, in North Carolina, the law was tried under the courts. The Supreme Court, a predominantly Republican Supreme Court, and a three-panel Federal district court said that what they did after the Shelby decision was voter suppression—surgical voter suppression and intentional voter suppression.

This is not hyperbole. This is not about semantics. It is not just about photo ID. They attempted to eliminate same-day registration, preregistration of 16- and 17-year-olds, out-of-precinct ballots, the first week of early voting, and instituted one of the Nation's most stringent photo ID laws.

We did not have a conversation about it. The courts looked at it under the microscope of the Constitution after the Shelby decision and said, "This is surgical. This is intentional racism." That is what the court said, and that showed that we need preclearance.

There should be no fear of preclearance. If you are not discriminating, you would not be afraid of the preclearance portion of the Voting Rights Act.

Chair NADLER. Thank you, Reverend.

Secretary Castro, many of the so-called election integrity laws that are currently making their way through State legislatures are practices that have been shown to suppress minority voter turnout, such as restrictions on absentee voting, restrictions on early voting, more stringent voter ID requirements, or laws that make it easier for officials to purge voters from voter registration rolls.

How do these proposals for so-called election integrity laws discriminate against minority voters?

Mr. CASTRO. That is a great question, Chair Nadler.

They work all together. It is not just about a photo ID requirement. It is much more than that. They work all together to have a disparate impact on people of color, whether we are talking about my home State of Texas or a number of other States.

Today, in the Texas legislature, for instance, we have House Bill 6 and Senate Bill 7 that, among other things, limit the hours of early voting. They prohibit drive-through voting, which Harris County, as Representative Jackson Lee knows well, instituted recently. They take other steps like further criminalizing what can even be innocuous activities of helping somebody, assisting somebody to early-vote. They allocate a new formula for—they establish a new formula for allocating how voting centers in counties with a population over 1 million people are supposed to be distributed according to State legislative districts.

So, this is an entire ecosystem of discrimination that goes into shaving, essentially, off the ability of somebody to conveniently access the ballot.

This is clear, that in Texas, from closing 750 polling locations since 2012, to seeing—I believe now we are 47th in—43rd or 47th in voter turnout. The proof is in the pudding. They have accomplished what they have wanted to accomplish.

Chair NADLER. Thank you.

My time has expired.

Mr. COHEN. Thank you. Thank you.

I now recognize Mr. Jim Jordan, the Ranking Member of the Full Committee.

Mr. JORDAN. Thank you, Mr. Chair.

Lieutenant Governor Robinson, I want to thank you for your service to your State and for your powerful testimony. We appreciate all that you do.

I want to yield to your fellow member here from your great State of North Carolina, Mr. Bishop.

Mr. BISHOP. I thank the gentleman from Ohio.

Lieutenant Governor Robinson, Democrats have characterized State laws adopting photo ID, like Georgia—which really liberalized just about everything about its voting system except to require consistent use of voter ID recently—and Democrats have characterized that as Jim Crow 2.0.

Mr. ROBINSON. Right.

Mr. BISHOP. You just heard the Chair a moment ago attempt to draw an equivalence between the old “beans in a jar, guess how many there are” as a means of depriving Blacks of the right to vote in Jim Crow as the same thing as voter ID.

Mr. ROBINSON. Right.

Mr. BISHOP. What do you make of that?

Mr. ROBINSON. Again, I am not a—I don’t understand the logic.

A lot of folks are saying that this is not just about voter ID. Let’s go ahead and cut down to brass tacks. Yes, it is. Yes, it is. It is about voter ID, because we understand that voter ID is that first line of defense in maintaining election integrity.

It is the same way if someone came in here and said, “Hey, let’s get rid of the ID requirement to buy firearms.” Boy, this place would go crazy, because we would know that would be ridiculous. So, it is about that. It is about the voter ID laws.

That notion that this is somehow Jim Crow, I think some folks need a history lesson about what happened during Jim Crow. During Jim Crow, it wasn’t just a poll tax. It wasn’t just a jar of beans, guess how many jars of beans in it. If you stepped outside the line during Jim Crow, you would find yourself swinging from a tree or buried somewhere behind somebody’s barn or all cut up or burned out of your house.

Requiring an ID to vote is just simple American responsibility. In our State, I call it commonsense legislation for the common good. It keeps us all honest. To say that somehow poor people, Black people can’t be involved in that responsibility, again, is insulting. It is insulting.

So, I completely agree with you that it is not the same thing, not even close, not even on the same scale. It is not even in the same arena.

Mr. BISHOP. Lieutenant Governor Robinson, in North Carolina, in 2018, the voters of North Carolina amended our State constitution by a fairly overwhelming vote to require photo ID. Since that time, an enabling law passed by the General Assembly which goes well beyond, sir, what you said you would consider to be valid ID.

Mr. ROBINSON. Absolutely.

Mr. BISHOP. It includes student IDs.

Mr. ROBINSON. Absolutely.

Mr. BISHOP. It even has been amended to include the ID that someone holds if they receive public assistance—are all allowed.

Mr. ROBINSON. Absolutely.

Mr. BISHOP. Judges have delayed the effectiveness of that law on the grounds that it is racist. What do you say to that, sir?

Mr. ROBINSON. I would say to that it is a perfect example of what is going on here today. We have a few elitists who believe that they know better than the people of the State of North Carolina. A few people, two or three judges, that said, I know that 55–60 percent of the people of North Carolina said they want voter ID, but I don't think so, and I am a king, and I know better than you, so I am going to strike that law down.

That is the same thing we see going on in this chamber right now. That is the same thing we see with H.R. 1. Folks who sit high, look low, say, I know better than you, I know your State better than you, I know your people better than you, I am going to make the decisions for you.

Again, not going to happen. Not going to happen. That old saying, “Not going to happen, Captain,” it is alive and well in North Carolina. It is not going to happen.

Mr. BISHOP. Lieutenant Governor Robinson, Reverend Barber says in North Carolina there has been a continuous since 2010—the worst voter-suppression campaign laws have been passed and implemented.

Sir, how did you become the first Black Lieutenant Governor elected in this past election if the people of North Carolina, through their elected representatives, are working to suppress voters of African-Americans?

Mr. ROBINSON. It is not about voter suppression. I am going to tell you what my campaign was about. My campaign was about suppressing the lies from the left. That is what it was about. When I told the people of North Carolina the truth, they heard it, and they came running, and they pushed my name. Not just White people, but all people that believe in our message.

Again, I am going to reiterate this statement one more time: What is going on in this room right now is all about this right here and the power grab that it ensues.

Mr. BISHOP. Thank you, sir.

Yield back.

Mr. COHEN. I believe Ms. Ross would be next, because Mr. Raskin is on the floor voting.

Ms. Ross, you are recognized for 5 minutes.

Ms. ROSS. Oh, thank you very much, Mr. Chair.



Since I have served in the General Assembly during some of the time of some of these voter suppression laws, it is just déjà vu all over again.

I have been working on voting rights issues for decades. I led redistricting cases as a civil rights attorney. I chaired the Elections Committee in the North Carolina General Assembly. I joined with Reverend Barber in leading the successful effort to institute same-day voter registration and early-voting sites in the State.

Given this experience, I want to begin by correcting a misunderstanding that Members of both parties have, and that is that expanding voting rights only helps Democrats at the ballot box. We have to look no farther than our Lieutenant Governor here, who won with expanded voting rights in North Carolina, to see that North Carolina, a very purple State, elects people of both parties when we expand voting rights.

In 2020, because the courts allowed our laws to stay in place and struck down voter suppression, North Carolina offered the longest voting period in the country. The State board of elections mailed absentee ballots to voters 60 days before the November 3 election, earlier than any other State; in-person early voting was open for 19 days prior to the election; and same-day registration was allowed at all early-voting locations, despite the efforts of the General Assembly to shut this down.

Because of this ease, 75 percent of voters in North Carolina cast ballots, the vast majority of whom voted prior to election day, in large part because of the coronavirus pandemic.

Because of, not despite, this ease and access, Donald Trump, our Lieutenant Governor, and a collection of Republican judges secured statewide victory in the State, along with Members of the Council of State. North Carolina's experience proves that Republicans can and do win with an expanded electorate if they focus on generating enthusiasm and not blocking access to the ballot box.

American voters are a lot smarter than many politicians believe. When candidates run on their records and policies rather than relying on antidemocratic efforts to shrink the electorate, they can win big, regardless of party affiliation. We made that argument when we got same-day voter registration at early-voting sites.

So, I have a question for Dr. Barber, not about these voting laws, but about the redistricting process that we are about to see all over the country, again, without having the protections of section 5 of the Voting Rights Act.

So, the Census is coming in late, and we are going to have to have an abbreviated period for doing redistricting. North Carolina, as we know, has a history of going to the Supreme Court over and over again.

Tell me what you think will happen without section 5 of the Voting Rights Act in North Carolina under this abbreviated period.

Rev. BARBER. What will happen is what happened before, in 2010, where we had racialized voter suppression. That was even with section 5. Now, certainly, with section 5 gone, we have seen all evidence that there will be further attempt to use the redistricting period as another way of voter suppression and another way of disenfranchisement.

Again, the courts have ruled—and I know my colleague from North Carolina keeps wanting to say it is just hyperbole, but the courts have ruled, the Supreme Court ruled, that our gerrymandering was racialized gerrymandering. Then another court said it allowed an unconstitutionally constituted legislature.

Let me say, Representative Ross, just because African Americans get elected does not mean there is not discrimination going on, because that is why you examine it under the court—not just what people say, but under the court. Fact of the matter is, the courts have said time and time again—even after the ending of Shelby, it has said that North Carolina has engaged in intentional and surgical racism.

Ms. ROSS. Thank you, Mr. Chair, and I yield back.

Mr. COHEN. Thank you, Congresswoman Ross.

I now recognize Mr. Roy from Texas for 5 minutes.

Mr. ROY. I thank the Chair.

Look, I am always interested when we talk about this subject that people just sort of gloss over the history, and they start throwing negative commentary towards the Shelby County decision.

I know there are a number of Members in this room who were here for the debate in 2006 leading up to the reauthorization of Voting Rights Act at that time. I, too, was here, as a Staffer on the Senate Judiciary Committee. So, I lived it. I lived through and read through all those volumes of papers and went through all the analysis.

The fact is, as we put into the record in the additional views in the Senate Judiciary Committee, the fact is, the formula that was being followed was an outdated formula that was 40 years old. It was being based on data from 1965, 1968, 1972, and it was not updated for the time in 2006 when this was passed. That is clearly what the Court said.

Yet, my colleagues on the other side of the aisle want to suggest that somehow this is all about perpetuating racism, it is about perpetuating the harms that clearly existed—as the distinguished gentleman from North Carolina made very clear in his review of the history of what the Jim Crow South actually looked like.

Listening now to my colleagues on the other side of the aisle—and I saw this happen and unfold in the Senate Judiciary Committee, where my friend Mike Lee was engaging with Senator Durbin, talking about Jim Crow 2.0. I was just on the floor of the House of Representatives, and we were talking about DC statehood, and we are hearing the same thing about Jim Crow 2.0.

We are talking about comparing the historic wrongs that occurred, that this country worked hard to reform and fix, that the Voting Rights Act was so critical in doing in 1965, we are seeing that being compared now to passing laws trying to make sure our election system can be believed and trusted and that voter identification can be used and that mail-in ballots that have bipartisan agreement that they have higher rates of fraud, that maybe we should do something to ensure that we have trust and belief in those mail-in ballots.

The record, when we put it in at the time, in 2006, it is really important for people to note that, when the Voting Rights Act was adopted, the average registration rate for Black voters in the seven

original covered States was only 29.3 percent. Today—that was 2006—the voter registration rate among Blacks, for example, in covered jurisdictions is over 68 percent, higher than the 62 percent found in noncovered jurisdictions.

There are examples where the counties in Florida, where there were covered counties and noncovered counties. Interestingly, we noted in the submission, while Florida has five counties that are subject to section 5 coverage, none of these counties were implicated by the accounts of discrimination submitted to the record in 2006. Yet there were five noncovered counties in Florida that were pointed out in the list of accounts that was produced in the record in 2006.

All of this is arbitrary. Everything that is being done is arbitrary, and that is why the Court kicked it out. That is the fact, and that is what we know.

Now what do we have? The legislation being put forward now for voting rights authorization and expansion counts any change to a State's voter ID law as a mark against it. Thirty-six States already have voter ID laws. That is what is being done. It is very specific; it is very purposeful. That is what is actually happening.

The Voting Rights Act punishes States for improving the processes they use to clean up and maintain accurate voting rolls. They are making that an actual element. They are trying to compare that—making sure that voting rolls, which have currently massive numbers of dead people registered, people who aren't in the State, people who have moved, where you can't have faith in the voting rolls—somehow that is going to be made equivalent to the Jim Crow South, for which the Voting Rights Act was so important in 1965.

It undermines the Voting Rights Act to suggest, as Senator Durbin did, that if you oppose section 5 preclearance and you opposed the absurdity of basing section 5 preclearance on 40-year-old data that somehow you are against the Voting Rights Act. That is what happens. Those are the political talking points.

I would just ask our witness and Lieutenant Governor from North Carolina if you could help me understand. Was the 13th, 14th, and 15th Amendments to the United States Constitution passed and moved by Republicans or Democrats?

Mr. ROBINSON. That would be Republicans.

Mr. ROY. Right. Was the movement to—you might put your microphone on, sir.

Mr. ROBINSON. That would be Republicans.

Mr. ROY. Was the move for the 1964 Civil Rights Act and 1965 Voting Rights Act led heavily by Republicans or Democrats?

Mr. ROBINSON. That would be Republicans.

Mr. ROY. So, as we sit here today and as we are being accused by many of our colleagues on the other side of the aisle of wanting to somehow perpetuate the Jim Crow South, when, in fact, what we are trying to do is perpetuate laws that you can believe in, that you have so eloquently discussed, do you see any merit in that whatsoever.

Mr. ROBINSON. Absolutely not.

If I could have a moment just to add something.

When you talk about that history, that history is clear who stood on which side. At every turn in history, it is clear. It is not even in dispute. It is not in dispute now.

What we want is integrity. We don't want power. We want integrity. We want the right thing to be done. We want to encourage citizens to be responsible. We want to have the best election system in the world. Third-World countries, places like India, where the poverty rate is staggering, they have to show that finger when they go vote.

It is time that we modernize our election system in this country and stop playing all these silly games based on race. Please, stop using me, as a Black man, as your pawn—and, yes, I said it—to push your agenda. I am sick of it. It happened a long time ago in this country, and I am tired of it.

Ms. JACKSON LEE. Mr. Chair, I would ask that the witness answer the question.

Ms. ROSS. His time has expired. His time has expired.

Ms. JACKSON LEE. His time has expired.

Mr. ROY. Mr. Chair.

Mr. COHEN. Time has expired.

Mr. ROY. Mr. Chair.

Mr. COHEN. I recognize Mr. Hank Johnson for 5 minutes.

Mr. ROY. Mr. Chair? I just have a unanimous consent request to insert something in the record.

Mr. COHEN. Your 5 minutes has expired.

Mr. JOHNSON of Louisiana. Unanimous consent to insert something in the record.

Mr. ROY. It is a consent request.

Mr. COHEN. Five minutes to Mr. Johnson.

Mr. JOHNSON of Louisiana. You have already said that we could enter that in the record. You said it in your opening, Mr. Chair. What changed?

Mr. COHEN. Mr. Johnson, can you hear me.

Mr. ROY. So, we are not going to insert something in the record.

Mr. COHEN. —you are recognized for 5 minutes.

Mr. JOHNSON of Louisiana. So, Republicans can't enter anything in the record? I just need clarification.

Mr. ROY. So, the Chair doesn't want us to be able to insert stuff in the record.

Mr. COHEN. Maybe in a few minutes but not right now.

Mr. ROY. Oh, because—okay. Because when I had my time closing, I didn't want to insert it at the time, insert it when I spoke.

Mr. COHEN. Mr. Johnson, we are going to go in proper order. You are recognized for 5 minutes.

Mr. ROY. Wow, this is a great way to run a hearing. Impressive.

Mr. COHEN. What is wrong.

Mr. JOHNSON of Louisiana. I think Mr. Johnson's video is frozen.

Mr. COHEN. Ms. Garcia, can you hear me? I guess you can't. Can you hear me?

Ms. GARCIA. Yes, I can.

Mr. COHEN. You are recognized for 5 minutes.

Ms. GARCIA. Thank you, Mr. Chair.

Thank you to all the witnesses who have joined us today.

[Audio malfunction.]

Mr. COHEN. Ms. Garcia, we cannot hear you. Is your volume—could you turn your volume up?

Ms. GARCIA. Is that better?

Mr. COHEN. That is better.

Ms. GARCIA. Okay. Wonderful.

Mr. COHEN. Start the clock over. You are on.

Ms. GARCIA. Mr. Chair, thank you.

It is important to note that the Voting Rights Act was enacted at a time when many African Americans, Latinos, and other minorities in southern States had been denied their right to vote. Even when attempting to register, organize, or even assist others in their attempt to register to vote, it meant risking their jobs, homes, and racial violence.

Fast-track years later, and it is appalling to know that the right to vote remains under constant attack. Last year, the American people overwhelmingly and undoubtedly voted to elect President Biden and Vice-President Harris and Democrats to lead our country. Yet, we witnessed former President Trump's efforts and his enablers' attempts to discredit the 2020 election results by publicly promoting baseless claims that the vote was marred by fraud and irregularities.

While those who insisted there was election fraud were given ample opportunity to put forth competent evidence and then trust the American legal system to decide those issues, those flaming the fans of election fraud were seriously mistaken.

Even our own Lieutenant Governor in Texas went so far as to offer a million dollars—a million dollars—as a reward to anyone who would come forward and prove fraud. Well, I am sure he still has his million dollars, because no reward was ever made.

These baseless claims were pushed far enough to lead a mob to desecrate our U.S. Capitol, threaten Members of Congress with their lives, and nearly pushed our country to the brink of destruction. This was not about “stopping the steal.” It has been about stopping the lies that have cost lives.

Yet, we are witnessing State legislators in 47 States that have introduced over 360 bills with restrictive voting provisions. I agree with my colleague and friend, Senator Castro, that, in our home State of Texas, there is an all-out assault on their right to vote.

I agree with Reverend Barber; these are surgically targeted to get at the options for voting and methods of voting that work the best in our minority communities. These discriminatory bills are not about voter security. They are about voter suppression, by preserving partisan political advantage by burdening minority communities.

Let me just say to those who think that it is really simple to just go out there and get the voter ID as someone who is the eighth of 10 children, born in my own aunt's house, not by a doctor but delivered by a midwife I really don't have a birth certificate. I have a baptismal certificate, because, being Catholic, they did take me over to get baptized.

So, there are many people still like me, particularly older Americans, in many rural parts of our States, areas around the country that can't produce an ID.

I can tell you, I have been through questions when I vote, that, even as a State Senator, they would not accept my Senate ID because I had forgotten my driver's license. I had to remind them that, as a State Senator, one of the qualifications is that you are born in the State of Texas, that you are a certain age, that, obviously, if I could stand for election, I could vote.

There are things that are still happening on the ground, and we must put them to a stop.

So, my question first goes to Secretary Castro.

Secretary Castro, could you tell me why section 5 of the Voting Rights Act and the preclearance provisions are just so important in States like Texas to stop some of the shenanigans that are going on around the State and that are being considered? Right now, as you and I sit here, our legislature is enacting even more restrictive provisions. Can you tell me why the VRA is just so important?

Mr. CASTRO. Yes. Thank you for your leadership on this, Representative Garcia.

Texas has a very strong, clear, consistent pattern of enacting laws that disenfranchise particularly voters of color. Before the Voting Rights Act came along, after the Voting Rights Act came along, and then after the Shelby County decision in 2013, just since that time, Texas has taken a number of steps—and some of which I have mentioned: Closing 750 polling locations that tended to be in areas where there are concentrations of Black and Brown voters; requiring photo ID. When they did that, right away, there were 600,000 Texans who were registered to vote that did not have the requisite ID. They were disproportionately Black and Brown.

On top of that, HB6 and SB7, today, that would absolutely have a negative impact on the ability of voters, particularly Black and Brown voters, to cast a ballot.

One of the things I haven't mentioned, but let me just give you another example, because this really is about far more than voter ID. If it were only about voter ID, that would be all that is in the legislation that is being proposed in Texas, North Carolina, or Georgia. It is way beyond that. We can tell that.

Harris County, in the last election, allowed for voting overnight for shift workers. It doesn't matter whether they are Democrat, Republican, or independent, who they are, but shift workers to be able to vote, if they had to, at 1:00 a.m., 4:00 a.m. It was wildly successful. This legislation in Texas would strip the ability of Harris County to do that.

Now, what does it matter whether somebody, if they go through the same procedures, if they are eligible to vote, votes at 2:00 a.m. in the morning because that is when they can most conveniently do it because they have a job that requires that they do it at that time? What does it matter if they do it at 2:00 a.m. or they do it at 10:00 a.m. in the morning? It doesn't. This is part of a consistent pattern Texas has shown to disenfranchise Black and Brown voters.

Mr. COHEN. Thank you, Mr. Secretary.

Thank you, Ms. Garcia.

Ms. GARCIA. Thank you. I yield back.

Mr. COHEN. I now recognize Mr. Roy for the purpose of introducing a unanimous consent request.

Mr. ROY. Yeah, Mr. Chair, thank you.

I would ask unanimous consent to insert in the record the additional views of Senators John Cornyn and Tom Coburn from 2006 from the Committee report from the Senate Judiciary Committee.

Mr. COHEN. Without objection, shall be done.

[The information follows:]





**MR. ROY FOR THE RECORD**

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# XI. ADDITIONAL VIEWS OF MR. CORNYN AND MR. COBURN

We regret that these views will be filed post-enactment. The expedited process prohibited normal order, but we believe the following considerations should accompany the Act's passage.

The Voting Rights Act of 1965 is arguably the most important and effective civil rights legislation ever enacted. Indeed, when signing the landmark legislation into law, Lyndon Johnson, the President of the United States and former member of the Senate from the state of Texas, described the act's passage as "a triumph for freedom as huge as any victory that has ever been won on any battlefield."<sup>1</sup> President Johnson's words captured the importance of the act's passage and underscore that it was a hard-fought victory at a tense time in American history.

It is no secret why the Voting Rights Act was necessary. It was adopted at the height of the civil rights movement, when numerous jurisdictions throughout the United States had actively engaged in the intentional, systematic disenfranchisement of blacks and other minorities from the electoral process. As the committee report and the extensive record reflects, these jurisdictions engaged in the discriminatory use of tests and devices such as literacy, knowledge and moral character tests—tests specifically designed to be failed. Even worse, violence and brutality were commonplace. Blacks were beaten and killed simply for attempting to exercise their right to participate in the democratic process, and civil rights activists were thwarted at every turn in their attempt to enact reform. This type of bigotry and hatred at the polls, coupled with escalating violence and the murder of activists, is the backdrop against which the Voting Rights Act was adopted.

S. 2703, the legislation that has passed out of committee, is another step in our nation's long road toward equal justice under the law for all Americans. The legislation provides for the reauthorization of the expiring provisions of the Voting Rights Act—provisions that are designed to protect against discrimination at the polls. For these reasons, and because we believe that there are certain political subdivisions across the nation that would further benefit from federal oversight, we joined our colleagues in voting for this legislation.

However, we do hold some significant reservations about a number of important issues. These concerns can generally be categorized as follows: (1) the record of evidence does not appear to reasonably underscore the decision to simply reauthorize the existing Section 5 coverage formula—a formula that is based on 33 to 41 year old data, and (2) the seemingly rushed, somewhat incomplete legislative process involved in passing the legislation pre-

<sup>1</sup>Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965. Volume II, entry 394, pp. 811–815. Washington, DC: Government Printing Office, 1966.

vented the full consideration of numerous suggested improvements to the Act.

In short, while we support reauthorization generally, we reluctantly conclude that the final product is not the best product we might have produced had we engaged in a more thorough debate about possible improvements. We also conclude that it would have been beneficial if the Section 4 coverage formula had been updated in order to adhere to constitutional requirements—an update that would have preserved, strengthened and expanded the Act to ensure its future success.

#### 1. EVIDENCE IN THE RECORD CALLS FOR AN UPDATED COVERAGE FORMULA

The good news is that the Act fulfilled its promise. Today, we live in a different—albeit still imperfect—world. Today, no one can claim that the kind of systematic, invidious practices that plagued our election systems 40 years ago still exist in America. And the Act resulted in almost immediate, measurable improvements with respect to covered jurisdictions. However, simply reauthorizing the expiring provisions with the existing coverage formula—based on 33 to 41 year old data—may not have been the best approach given the evidence today in 2006.

#### *Increased Voter Registration and Turnout Rates in Covered Jurisdictions*

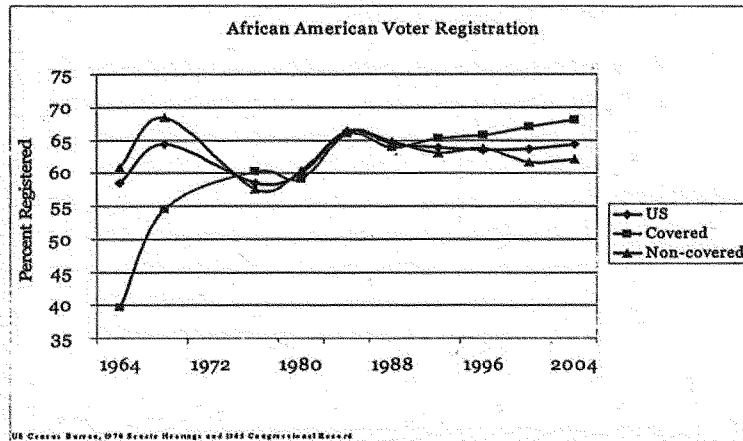
In 1965 when the Voting Rights Act was adopted the average registration rate for black voters in the seven original covered states was only 29.3 percent.<sup>2</sup> Today, the voter registration rate among blacks, for example, in covered jurisdictions is over 68.1 percent of the population—higher than the 62.2 percent found in non-covered jurisdictions.<sup>3</sup> As the chart below indicates, voter registration data since the Act's original passage in 1965 shows that covered jurisdictions have demonstrated equal or higher voter registration rates among black voters as non-covered jurisdictions since the mid 1970's.<sup>4</sup> Voter turnout data is equally encouraging, with 60 percent of black citizens casting votes in both covered jurisdictions and non-covered jurisdictions.<sup>5</sup>

<sup>2</sup> Senate Report 162, at 44 (April 21, 1965).

<sup>3</sup> 2004 Election Data from the U.S. Census Bureau. Reflects the percentage as a percent of the population, as compared to as a percent of the Citizen Voting Age Population. Those numbers are 69.9 percent and 67.9 percent. In addition, certain assumptions were made to account for partially covered jurisdictions—North Carolina and Virginia were considered “covered” for this calculation because of their significant number of covered counties.

<sup>4</sup> Id.

<sup>5</sup> Id.



Further, statistician Keith Gaddie reported registration of black citizens in Alabama during the 2004 elections was 72.9% of the voting age population,<sup>6</sup> in Georgia, 64.2%,<sup>7</sup> in Louisiana, 71.1%,<sup>8</sup> in Mississippi, 76.1%,<sup>9</sup> in South Carolina, 71.1%,<sup>10</sup> and in Virginia, 57.4% of the voting age population. Voter turnout rates were equally improved. For example, in 2004 Alabama had a 63.9% turnout rate of registered black voters,<sup>11</sup> Georgia had a 54.4% turnout rate,<sup>12</sup> Louisiana had a 62.1% turnout rate,<sup>13</sup> Mississippi had a 66.8% turnout rate,<sup>14</sup> South Carolina had a 59.5% turnout rate,<sup>15</sup> and Virginia had a 49.6% turnout rate.<sup>16</sup>

#### *Declining Objections by the Department of Justice*

Another important indicator of the success of the Act is the continual decline of objections issued by the Department of Justice to plans submitted under section 5 for pre-clearance. The Supplemental Views submitted by the Chairman of the Committee includes a chart depicting DOJ objections since 1982. It is worth noting that both total objections and objections as a percent of submissions have declined significantly over that time, and as we understand, since the original passage of the Act.

Our review of the data indicates that the continual decline has occurred under both Republican and Democrat Presidential administrations, dropping from 67 objections out of 2848 in 1982 to only 19 objections out of 3,999 submissions in 1995. Perhaps most tell-

<sup>6</sup> Understanding the Benefits and Costs of Section 5 Pre-Clearance: Before the Senate Comm. on the Judiciary, 109th Cong. 5 (2006) (Submitted testimony by Professor Keith Gaddie on May 17, 2006: The Bullock-Gaddie Voting Rights Studies: An Analysis of Section 5 of the Voting Rights Act. See Table 2 on Alabama.)

<sup>7</sup> Id. See Table 2 on Georgia.

<sup>8</sup> Id. See Table 2 on Louisiana.

<sup>9</sup> Id. See Table 1 on Mississippi.

<sup>10</sup> Id. See Table 1 on South Carolina.

<sup>11</sup> Id. See Table 3 on Alabama.

<sup>12</sup> Id. See Table 3 on Georgia.

<sup>13</sup> Id. See Table 3 on Louisiana.

<sup>14</sup> Id. See Table 2 on Mississippi.

<sup>15</sup> Id. See Table 2 on South Carolina.

<sup>16</sup> Id. See Table 2 on Virginia.

ing is the fact that in 2005, there was only 1 objection out of 3,811 pre-clearance submissions.<sup>17</sup>

While some maintain that the analysis may be skewed since *Bossier v. Parrish II* removed “discriminatory purpose” from the equation, the fact is that the trend has been a declining number of objections in covered jurisdictions over time. We believe this is something to celebrate as an indication of the success of the Act.

*Anecdotal Accounts Submitted Implicate only a Portion of Covered Political Subdivisions*

The volume of testimony and submissions amassed during the House and Senate hearings was overwhelming. Indeed, when the Senate Judiciary Committee held its first hearing, the House Judiciary Committee Chairman said, “I am here today to present this Committee with the results of our examination, which includes almost 8,000 pages of testimony that comprise 9 of the 10 hearing records compiled by the House Judiciary Committee.” Our understanding is that ultimately the Senate received almost 10,000 pages from the House of Representatives.

Numerous witnesses suggested that the primary rationale for continued coverage based on the existing formula was over 10,000 pages of accounts of discrimination compiled. Senate Judiciary staff analyzed the report during the course of hearings seeking to find all accounts of discrimination alleged in the report. The result of that effort—a 283 page summary of examples of discrimination—is included as Appendix 3 to the Committee Report.

While we take no position on the existence of discrimination alleged in the accounts in the record, at face value the anecdotes submitted implicate only a fraction of the total number of covered political subdivisions.<sup>18</sup> For example, of the 254 counties in Texas, only 22 are implicated by the accounts of discrimination submitted in the record. This analysis admittedly excludes any accounts of statewide discrimination (e.g. a redistricting plan)—because including such examples are indicative of the state policy not the local political subdivision.

COUNTIES SPECIFICALLY IMPLICATED IN HOUSE AND SENATE RECORD ACCOUNTS OF DISCRIMINATION<sup>19</sup>

State	Number of Counties Implicated	Total Number of Counties in the State	Percentage of Counties Implicated (Percent)
Alabama .....	13	67	19.40
Alaska .....	5	27	18.52
Arizona .....	6	15	40.00
California .....	10	58	17.24
Colorado .....	2	64	3.13
Florida .....	5	67	7.46
Georgia .....	27	159	16.98
Illinois .....	8	102	7.84
Indiana .....	1	92	1.09
Kentucky .....	3	120	2.50
Louisiana .....	2	64	3.13

<sup>17</sup>Id.

<sup>18</sup>It was not possible for our staffs to investigate and verify each and every account of discrimination submitted.

**COUNTIES SPECIFICALLY IMPLICATED IN HOUSE AND SENATE RECORD ACCOUNTS OF  
DISCRIMINATION<sup>19</sup>—Continued**

State	Number of Counties Implicated	Total Number of Counties in the State	Percentage of Counties Implicated (Percent)
Maryland .....	1	23	4.35
Massachusetts .....	2	14	14.29
Michigan .....	5	83	6.02
Minnesota .....	2	87	2.30
Mississippi .....	8	82	9.76
Missouri .....	1	114	0.88
Montana .....	6	56	10.71
New Jersey .....	5	21	23.81
New Mexico .....	3	33	9.09
New York .....	8	62	12.90
North Carolina .....	15	100	15.00
Ohio .....	2	88	2.27
Pennsylvania .....	3	67	4.48
Rhode Island .....	1	5	20.00
South Carolina .....	23	46	50.00
South Dakota .....	14	66	21.21
Texas .....	22	254	8.66
Virginia .....	14	134	10.45
Washington .....	1	39	2.56
Wisconsin .....	3	72	4.17
Wyoming .....	1	23	4.35

<sup>19</sup> Data collected from a review of the record by Senate Judiciary Committee staff.

**COUNTIES SPECIFICALLY IMPLICATED IN PARTIALLY COVERED JURISDICTIONS**

State	Covered Counties Implicated	Preclearance Counties	Percentage of Preclearance Counties Implicated (Percent)
California .....	3	4	75
Florida .....	0	5	0
Michigan .....	2	2	100
New York .....	3	3	100
North Carolina .....	9	40	22.5
South Dakota .....	2	2	100
Virginia .....	14	123	11.38

Interestingly, while Florida has 5 counties that are subject to Section 5 coverage, none of these counties were implicated by the accounts of discrimination. Yet there were 5 non-covered counties in Florida that were pointed out in the list of accounts. If reauthorization of Section 5 coverage is based on the accounts in the record, it does not seem that the coverage formula in Florida as re-authorized could possibly be appropriate.

In the Senate Judiciary Committee mark-up, Senator Durbin argued in favor of reauthorization by stating that, “[w]e have gathered thousands of pages of reports and evidence.”<sup>20</sup> While there are, in fact, thousands of pages in the record—it is important to clarify that there are a limited number of examples of discrimination and that the examples offered do not implicate the majority of

<sup>20</sup> Unofficial Transcript: Special Executive Business Meeting to Consider S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006: Senate Committee on Judiciary, 109th Cong. 19 (2006) (Oral statement of Senator Dick Durbin on July 19, 2006).

covered political subdivisions. In all, of 893 covered counties, 139 are directly implicated in the accounts of discrimination scattered throughout those “thousands of pages.”

There is no question that if those accounts are accurate, that those 139 counties are deserving of coverage under Section 5, and possibly numerous others upon review. That is precisely the reason we voted for this legislation. But it would have been advisable for the committee or the Senate as a whole to consider an updated coverage formula to ensure that the appropriate jurisdictions were covered according to constitutional requirements. That kind of deliberative process simply was not allowed to occur.

It strikes us that much of this is great news. Increased voter registration rates for African American voters in covered jurisdictions, reduced numbers of objections sustained, increased numbers of minority elected officials, fewer counties implicated with discriminatory activity, and generally a decreasing distinction, if any, between covered jurisdictions and non-covered jurisdictions means that there is strong and compelling evidence that, in fact, the Voting Rights Act has largely achieved the purposes that Congress had hoped for and that millions of people who had previously been disenfranchised had prayed for.

In light of this strong indication that the act has largely achieved the purposes that Congress had intended, of course, the logical question before us was whether these provisions under section 5 should have been reauthorized.

## 2. THE LEGISLATIVE PROCESS FAILED TO PRODUCE THOROUGH DELIBERATION

### *Misunderstood Timing and Nature of Re-Authorization*

From the beginning of the reauthorization process, two critical facts were repeatedly ignored or misunderstood: (1) that the Voting Rights Act is, in fact, permanent and only certain temporary provisions are set to expire; and (2) that the expiring provisions were not set to expire until the summer of 2007—and thus there was plenty of time to work on improving the Act.

The misunderstanding about the permanence of the Voting Rights Act—particularly by the press—is perhaps most troubling. In truth, the act’s core provision, section 2, prohibits the denial or abridgement of the right of any citizen to vote on account of race or color, is permanent, and applies nationwide. That provision will never expire, and it is not affected by the reauthorization language we review today.

This is an important distinction because it caused a great deal of confusion in the public. In fact, according to the Department of Justice, the agency “received numerous inquiries concerning a rumor that [was] intermittently circulating around the nation . . . According to this rumor, the Voting Rights Act will expire in 2007, and as a result African Americans are in danger of losing the right to vote in that year.”<sup>21</sup> In truth, as the DOJ points out, “[t]he voting rights of African Americans are guaranteed by the United States Constitution and the Voting Rights Act, and those guaran-

<sup>21</sup> [www.usdoj.gov](http://www.usdoj.gov), U.S. Department of Justice, Civil Rights Division Voting Section, Voting Rights Act Clarification.

tees are permanent and do not expire.”<sup>22</sup> Instead, we are addressing (a) temporary provisions that were originally set to expire in 5 years, and that were adopted to subject certain jurisdictions to Federal oversight of the voting laws and procedures until the intent of the Voting Rights Act was accomplished, as well (b) certain temporary, later-added provisions designed to protect voters from discrimination based upon limited English proficiency.

We believe that this misunderstanding about the nature and timing of the expiration of certain provisions of the Voting Rights Act contributed to an unnecessarily heightened political environment that prohibited the Senate from conducting the kind of thorough debate that would have produced a superior product.

*Expedited Process Reduced Focus on the Issue*

Chairman Specter readily ceded to requests that were made to try to create a complete record. The Chairman worked hard to hold a sufficient number of fair and balanced hearings, but given our busy schedule on the Senate floor, it was not always easy for Members to attend and participate. An artificial rush to move the House version of the Voting Rights Act through the Senate on an expedited basis began more than a full year prior to the earliest expiration of any provisions of the Act.

The Senate Judiciary Committee held nine hearings with a total of forty-six witnesses. Eight of those hearings were held in nine work weeks—and during times when many Committee members had other obligations. Indeed, four hearings were held during a substantial floor debate on the issue of immigration—legislation that directly involved most Judiciary Committee members in one way or another. Two hearings were interrupted by roll-call votes on the floor.

The timing of our hearings and the expedited nature of the process was prohibitive to Senators who otherwise would have participated. Member attendance at these hearings was low. Indeed, at each of the first two hearings on Section 5, only one Senator was able to attend. Five Committee Members were unable to attend any of the hearings, while five others attended only a portion of one hearing. This is not meant as criticism to the Members that were unable to attend—indeed we unfortunately missed a number of hearings. Rather, it is meant to shed light on the process, a process that prohibited the kind of engaged discussion we would have preferred.

The only way many Senators could ask thoughtful questions of witnesses at the hearings was through written questions, and many were submitted. In fact, Senators submitted a total of 610 follow-up questions. Unfortunately, however, when the Senate marked up the legislation, we were told that 107 written questions to 10 witnesses were outstanding. Further, questions had not yet even been submitted for the final hearing—a hearing we had held just one week prior regarding the important issue of how the Supreme Court’s decision in *LULAC v. Perry* may have influenced our legislation.

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<sup>22</sup> Id.



*Suggested Improvements Not Considered*

Over the course of the many hearings we held, we heard from a variety of witnesses—from across the political spectrum and across racial lines. Many witnesses, from all sides of the debate, suggested improvements to the Act.

For example, Loyola law professor Rick Hasen suggested in his testimony before the committee several specific ways to amend the Act. For example, he suggested that “Congress should make it easier for covered jurisdictions to bail out from coverage under Section 5 upon a showing that the jurisdiction has taken steps to fully enfranchise and include minority voters,” and that Congress should impose a shorter time limit, perhaps 7 to 10 years for extension. The bill includes a 25-year extension, and the Court may believe it is beyond “congruent and proportional” to require, for example, the State of South Carolina to pre-clear every voting change, no matter how minor, through 2031.<sup>23</sup>

Similarly, Samuel Issacharoff, Professor of Constitutional Law at the New York University School of Law, suggested five ways to improve the Act during his oral testimony:

First, I would recommend that the unit of coverage be moved from the States to political subdivisions of the States . . . Second, I think that is important, as Professor Hasen said a minute ago, to liberalize the bailout provisions . . . Third, I think that if we were to start from scratch today, we might consider a different kind of administrative mechanism other than the preclearance, and one way of thinking about this is that preclearance is extremely onerous and applies an ex ante and ahead-of-time review much like the FDA to any proposed change. One could also imagine a Securities and Exchange Commission type reporting system that covered jurisdictions who have not actively violated the Act in the last 5 years, or some defined period, would be required to post on a website any proposed change and the reasons for it and be subject to either affirmative litigation under Section 2 or simply a false statement litigation . . . Fourth, I would expand the jurisdictional reach of Section 5 by allowing this disclosure regime to be applied to any jurisdiction that has been found guilty of a Section 2 violation or that has engaged in affirmative actions against minority voters. And, finally, I think that there is reason for concern with the language on the overruling of *Georgia v. Ashcroft*, and I think that the reason for the concern is that the current statute faces a climate very different from that in 1965 in that you have real bipartisan competition in most of the covered jurisdictions today, which means that certain features of conduct, State conduct, will not go by unattended, will not simply pass muster without anybody realizing. And I would recommend removing statewide redistricting from Section 5 overview altogether. That has been an area of some con-

<sup>23</sup> Unofficial Transcript: An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization: Before the Senate Comm. on the Judiciary, 109th Cong. 25 (2006).

trovercy with the Department of Justice, and it has been an area where there is plenty of litigation in every redistricting anyway, and I don't think Section 5 worked particularly effectively there.<sup>24</sup>

We believe it would have been beneficial for the long-term viability, constitutionality and success of the Voting Rights Act had for the Senate Judiciary Committee to engage in a serious, reasoned debate over some of these suggested possible improvements as well as any other ideas. These improvements would underscore the Act's original purpose, and would modernize it to reflect today's reality. They would possibly expand the coverage of section 5 to jurisdictions where recent abuses have taken place or, perhaps, have improved the so-called bailout procedures for those jurisdictions that had a successful record of remedying, indeed eliminating discrimination when it comes to voting rights.

One idea that was offered was to update the coverage formula. We don't know if that is a good idea or not, but we would like to know. Some suggest that such an update would "gut" or otherwise undercut the effectiveness of the Act—something that certainly would not be our intention. But we are skeptical that this would be the result. The amendment that was voted on in the House, for example, would have updated the coverage trigger to the most recent three Presidential elections from the current trigger of the 1964, 1968, and 1972 elections.

As we understand it, coverage, after an update to cover the most recent three Presidential elections, would look something like the chart included at the end of our views, entitled "Effect of Basing Section Coverage on Recent Election Data." This chart reflects the effect of implementing a new coverage formula. In other words, rather than basing coverage on election data that is several decades old, where nine states are completely covered and a handful of other political subdivisions around the country are covered, one would see coverage of different jurisdictions around the country based on the updated formula. The intent would be to reflect the problems where they really exist and where the record demonstrates some justification for the assertion of Federal power and intrusion into the local and State electoral processes.

If this map is an accurate reflection of the effects of updating the trigger to the most recent three Presidential elections, it certainly changes the coverage. But we would suggest, just looking at the jurisdictions on the map, it hardly guts it. Another alternative might have been to use the very evidence provided in the House and Senate record—as discussed above—that implicates 139 of the currently covered counties as well as 45 of the non-covered counties throughout the nation.

The primary point is not that any of these methods is necessarily the right approach, but that it would have been beneficial for us to have had a full discussion of ways to improve the Act to ensure its important provisions were narrowly tailored and applied in a congruent and proportional way, something the Supreme Court will

<sup>24</sup> Unofficial Transcript: An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization: Before the Senate Comm. on the Judiciary, 109th Cong. 37 (2006).

take into consideration when it considers the renewed Act. We believe we could have done it had we taken the time to do it.

*Legislative Language Seemingly a Foregone Conclusion*

Probably our most significant concern is that this important legislation was—unfortunately—a bit of a foregone conclusion. As we described above, the hearings held in the Senate were quite informative. There were numerous perspectives—numerous ideas offered on how to improve the Act from witnesses across the ideological and racial spectrum and those both supportive of the reauthorization and concerned with the reauthorization.

From the outset, the default seemed to be to accept the House product without deliberation. In fact, the findings in the Senate-dropped version of the bill were adopted PRIOR to a single hearing being held in the Senate Judiciary Committee. Despite the fact that each hearing had a very balanced panel and many amendment ideas were offered by witnesses, it was clear that no amendment would be given serious consideration because of the political nature of the bill and the expedited, rushed process. As described earlier in our views, the Committee marked up the legislation with 107 written questions to 10 witnesses outstanding, as well as before questions were even submitted to our final panel. Unfortunately, we proceeded without the benefit of a complete record despite the fact that we had plenty of time to receive the answers from witnesses and fully consider their implications and input.

And the questions that Senators asked revealed that they were interested in at least considering amendments. Many Senators asked which amendments to consider and how to properly draft such amendments. However, when the House of Representatives passed H.R. 9, their version of the Voting Rights Act, without any amendments on July 13, 2006, it became clear that the Senate would pass a bill without any amendments. If there had been any doubt prior, the text of the bill became a foregone conclusion for the Senate after House passage.

The process that led to a vote on the floor reveals that not a single change was permitted to be made to the legislation passed in the Senate. While the Committee approved by voice vote an amendment offered by Senator Leahy to incorporate Mr. Cesar Chavez's name into the title of the Act, it became clear that the Committee would not accept any amendments that changed the substance of the bill, including the amendments circulated by Senator Coburn. In fact, Senators expressed concern about any amendments that would slow the expedited passage of the Act. The Judiciary Committee reported out the Senate's version of the Fannie Lou Hamer, Rosa Parks, Coretta Scott King and Caesar Chavez Voting Rights Act Reauthorization and Amendments Act of 2006, S. 2703, without substantive amendment.

Yet, Majority Leader Frist had already used Rule 14 of Senate procedure to place H.R. 9 on the calendar, and we were told that it was the House legislation would be called up for a full vote on the Senate floor the following afternoon. The rules adopted for floor debate allowed for eight hours of discussion evenly divided by the Republicans and Democrats and ruled out the ability to offer amendments on the floor. The process prevented any amendments

on the floor so that the same Act that the House of Representatives approved would pass the Senate and there would be no conference. While a Member may have been able to object and require a vote on an amendment, the outcome was a foregone conclusion, and thus it would have been futile.

Finally, even the production of this committee report—something that normally is of the utmost significance for such important, complicated legislation—has been short circuited. Indeed, the report will not be filed until several days after the passage of the legislation and just before it is signed into law. We remain convinced that these views are critical to a full understanding of the legislative process behind enactment and thus include them in the Committee Report.

#### CONCLUSION

We decided to support the extension of the expiring changes, even though it would have been preferable and even constitutionally advisable for us to review the application of the Act's pre-clearance and other provisions. Unfortunately, the Act's language was a foregone conclusion, and we were unable to have the kind of debate and discussion and perhaps amendment process that might have been helpful to protect the act against future legal challenges. We wish we would have had the opportunity to improve the Act—because we are confident that with a little work, we could have done just that.

We cannot help but fear that the driving force behind this rushed reauthorization process was the reality that the Voting Rights Act has evolved into a tool for political and racial gerrymandering. We believe that is unfortunate and that political re-districting should be driven by objective parameters and should not use race to further the objectives of political parties.

Nonetheless, we voted for reauthorization because of the unparalleled success of the Voting Rights Act in the past in securing the opportunity to vote. Few issues are as fundamental to our system of democracy and the promise of equal justice under law as the Voting Rights Act. The Act was specifically designed to “foster our transformation to a society that is no longer fixated on race,” to an “all-inclusive community, where we would be able to forget about race and color and see people as people, as human beings, just as citizens.”<sup>25</sup>

It is our sincere hope that we will move beyond distinctions based on race in our policymaking, lest we, in the words of Justice Anthony Kennedy, make “the offensive and demeaning assumption that voters of a particular race, because of their race, think alike, share the same political interests, and will prefer the same candidates at the polls.”

The question in the end is this: Is this bill that we have passed the very best possible product? We would conclude that it is not. Yet, in response to the question: Is this the very best that we can do under the circumstances?” We reluctantly conclude that it is. And that is why we supported it in Committee and on the floor.

<sup>25</sup> *Georgia v. Ashcroft*, 539 U.S. 461, 490 (2003).

## EFFECT OF BASING SECTION COVERAGE ON RECENT ELECTION DATA

The table below reflects the results we believe would occur from updating the Section 4 coverage formula to 2000 and 2004 Presidential Election data from the current formula based on the 1964, 1968 and 1972 election years. The original figure to be included in this Committee Report was a map depicting the counties covered. The purpose of the map was to demonstrate the significant coverage that would be retained in currently covered jurisdictions as well as the fact coverage would be expanded. However, GPO is unable to print such a map into the record, so in its place we have included the following table. As pointed out in the additional views, we do not suggest that this coverage formula is the best or preferred formula, but that it would have been a reasonable alternative and should have been given appropriate consideration in the Senate.

JOHN CORNYN.  
TOM COBURN.

VOTER TURNOUT DATA REPRESENTS THE PERCENTAGE OF  
THE CITIZEN VOTING AGE POPULATION

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
AL	Barbour County	Y	Y	48.72%	45.89%	1
AL	Bibb County	Y	Y	47.28%	45.89%	1
AL	Blount County	Y	Y	48.68%	45.89%	1
AL	Butler County	Y	Y	49.92%	45.89%	1
AL	Calhoun County	Y	Y	45.78%	45.89%	1
AL	Chambers County	Y	Y	48.85%	43.19%	1
AL	Cherokee County	Y	Y	47.50%	42.12%	1
AL	Cleburne County	Y	Y	47.83%	45.89%	1
AL	Coffee County	Y	Y	47.67%	45.89%	1
AL	Coosa County	Y	Y	49.18%	45.89%	1
AL	Covington County	Y	Y	47.46%	45.89%	1
AL	Crenshaw County	Y	Y	46.62%	45.89%	1
AL	Dale County	Y	Y	44.70%	45.89%	1
AL	DeKalb County	Y	Y	49.04%	43.39%	1
AL	Elmore County	Y	Y	48.84%	45.89%	1
AL	Escambia County	Y	Y	42.96%	40.16%	1
AL	Franklin County	Y	Y	49.57%	45.89%	1
AL	Geneva County	Y	Y	48.99%	45.89%	1
AL	Houston County	Y	Y	49.21%	45.89%	1
AL	Jackson County	Y	Y	49.39%	43.93%	1
AL	Lauderdale County	Y	Y	47.77%	45.89%	1
AL	Lawrence County	Y	Y	47.20%	45.89%	1
AL	Lee County	Y	Y	47.95%	44.22%	1
AL	Limestone County	Y	Y	48.46%	45.89%	1
AL	Macon County	Y	Y	49.61%	45.89%	1
AL	Marion County	Y	Y	48.73%	45.89%	1
AL	Marshall County	Y	Y	46.87%	45.89%	1
AL	Mobile County	Y	Y	48.96%	45.89%	1
AL	Montgomery County	Y	Y	48.98%	45.89%	1
AL	Pike County	Y	Y	47.90%	45.89%	1
AL	Randolph County	Y	Y	47.56%	45.89%	1
AL	Russell County	Y	Y	46.98%	40.89%	1
AL	Talladega County	Y	Y	42.43%	45.89%	1
AL	Tuscaloosa County	Y	Y	48.38%	45.89%	1
AL	Walker County	Y	Y	47.64%	45.89%	1
AL	Winston County	Y	Y	49.61%	45.89%	1

## EFFECT OF BASING SECTION COVERAGE ON RECENT ELECTION DATA

The table below reflects the results we believe would occur from updating the Section 4 coverage formula to 2000 and 2004 Presidential Election data from the current formula based on the 1964, 1968 and 1972 election years. The original figure to be included in this Committee Report was a map depicting the counties covered. The purpose of the map was to demonstrate the significant coverage that would be retained in currently covered jurisdictions as well as the fact coverage would be expanded. However, GPO is unable to print such a map into the record, so in its place we have included the following table. As pointed out in the additional views, we do not suggest that this coverage formula is the best or preferred formula, but that it would have been a reasonable alternative and should have been given appropriate consideration in the Senate.

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VOTER TURNOUT DATA REPRESENTS THE PERCENTAGE OF  
THE CITIZEN VOTING AGE POPULATION

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
AL	Barbour County		Y		48.72%	1
AL	Bibb County	Y	Y	47.28%	45.89%	1
AL	Blount County		Y		48.68%	1
AL	Butler County		Y		49.92%	1
AL	Calhoun County		Y		45.78%	1
AL	Chambers County	Y	Y	48.85%	43.19%	1
AL	Cherokee County	Y	Y	47.50%	42.12%	1
AL	Cleburne County		Y		47.83%	1
AL	Coffee County		Y		47.67%	1
AL	Coosa County		Y		49.18%	1
AL	Covington County		Y		47.46%	1
AL	Crenshaw County		Y		46.62%	1
AL	Dale County		Y		44.70%	1
AL	DeKalb County	Y	Y	49.04%	43.39%	1
AL	Elmore County		Y		48.84%	1
AL	Escambia County	Y	Y	42.96%	40.16%	1
AL	Franklin County		Y		49.57%	1
AL	Geneva County		Y		48.99%	1
AL	Houston County		Y		49.21%	1
AL	Jackson County	Y	Y	49.39%	43.93%	1
AL	Lauderdale County		Y		47.77%	1
AL	Lawrence County		Y		47.20%	1
AL	Lee County	Y	Y	47.95%	44.22%	1
AL	Limestone County		Y		48.46%	1
AL	Macon County		Y		49.61%	1
AL	Marion County		Y		48.73%	1
AL	Marshall County		Y		46.87%	1
AL	Mobile County		Y		48.96%	1
AL	Montgomery County		Y		48.98%	1
AL	Pike County		Y		47.90%	1
AL	Randolph County		Y		47.56%	1
AL	Russell County	Y	Y	46.98%	40.89%	1
AL	Talladega County		Y		42.43%	1
AL	Tuscaloosa County		Y		48.38%	1
AL	Walker County		Y		47.64%	1
AL	Winston County		Y		49.61%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
<b>AL Count</b>						<b>36</b>
AR	Arkansas County	Y	Y	46.76%	41.02%	1
AR	Ashley County	Y	Y	49.75%	47.46%	1
AR	Bradley County	Y	Y	46.06%	42.74%	1
AR	Chicot County	Y	Y	49.23%	44.12%	1
AR	Clark County		Y		47.75%	1
AR	Clay County	Y	Y	47.25%	43.59%	1
AR	Columbia County		Y		48.89%	1
AR	Conway County		Y		48.16%	1
AR	Craighead County	Y	Y	46.57%	41.05%	1
AR	Crawford County		Y		46.90%	1
AR	Crittenden County	Y	Y	43.51%	38.14%	1
AR	Cross County		Y		44.39%	1
AR	Dallas County		Y		49.27%	1
AR	Desha County	Y	Y	44.82%	41.86%	1
AR	Drew County	Y	Y	45.31%	43.15%	1
AR	Faulkner County		Y		46.22%	1
AR	Franklin County		Y		47.02%	1
AR	Fulton County		Y		45.84%	1
AR	Grant County		Y		49.62%	1
AR	Greene County	Y	Y	47.95%	44.73%	1
AR	Hempstead County	Y	Y	45.43%	44.84%	1
AR	Hot Spring County		Y		48.56%	1
AR	Howard County	Y	Y	47.05%	44.14%	1
AR	Independence County	Y	Y	49.39%	45.40%	1
AR	Izard County		Y		48.17%	1
AR	Jackson County	Y	Y	46.82%	42.59%	1
AR	Jefferson County		Y		44.03%	1
AR	Johnson County	Y	Y	46.35%	43.69%	1
AR	Lawrence County	Y	Y	49.49%	44.84%	1
AR	Lee County	Y	Y	47.66%	44.49%	1
AR	Lincoln County	Y	Y	36.20%	31.56%	1
AR	Logan County	Y	Y	49.36%	48.83%	1
AR	Lonoke County		Y		48.16%	1
AR	Marion County		Y		48.15%	1
AR	Miller County	Y	Y	46.76%	46.62%	1
AR	Mississippi County	Y	Y	42.71%	34.69%	1
AR	Monroe County		Y		44.95%	1
AR	Nevada County	Y		48.18%		1
AR	Ouachita County		Y		48.98%	1
AR	Pike County	Y	Y	40.98%	47.76%	1
AR	Poinsett County	Y	Y	41.17%	38.37%	1
AR	Polk County		Y		48.54%	1
AR	Pope County		Y		46.10%	1
AR	Prairie County		Y		48.43%	1
AR	Pulaski County		Y		48.01%	1
AR	Randolph County	Y	Y	48.35%	43.01%	1
AR	Sebastian County		Y		49.84%	1
AR	Sevier County	Y	Y	44.53%	42.37%	1
AR	St. Francis County	Y	Y	47.22%	40.24%	1
AR	Union County		Y		46.60%	1
AR	Washington County		Y		46.54%	1
AR	White County	Y	Y	49.46%	44.14%	1
AR	Woodruff County		Y		41.08%	1
AR	Yell County	Y	Y	45.83%	45.81%	1
<b>AR Count</b>						<b>54</b>
AZ	Apache County		Y		45.83%	1
AZ	Cochise County		Y		41.16%	1
AZ	Gila County		Y		47.14%	1
AZ	Graham County	Y	Y	46.10%	41.95%	1
AZ	La Paz County	Y	Y	35.06%	31.15%	1
AZ	Maricopa County		Y		45.44%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
AZ	Mohave County	Y	Y	43.73%	38.45%	1
AZ	Navajo County	Y	Y	45.43%	40.53%	1
AZ	Pima County	Y	Y		49.14%	1
AZ	Pinal County	Y	Y	43.18%	33.02%	1
AZ	Santa Cruz County	Y	Y		47.26%	1
AZ	Yuma County	Y	Y	39.49%	31.71%	1
<b>AZ Count</b>						<b>12</b>
CA	Del Norte County	Y	Y	44.04%	42.00%	1
CA	Fresno County	Y	Y	49.16%	49.48%	1
CA	Imperial County	Y	Y	41.45%	38.87%	1
CA	Kern County	Y	Y	47.46%	47.29%	1
CA	Kings County	Y	Y	35.32%	35.48%	1
CA	Lake County	Y	Y		49.10%	1
CA	Lassen County	Y	Y	41.28%	40.42%	1
CA	Madera County	Y	Y	46.71%	46.70%	1
CA	Merced County	Y	Y	44.26%	45.88%	1
CA	Mono County	Y	Y		48.77%	1
CA	Riverside County	Y	Y	47.72%	49.10%	1
CA	San Bernardino County	Y	Y	45.37%	45.98%	1
CA	San Joaquin County	Y	Y	47.66%		1
CA	Stanislaus County	Y	Y	46.90%	48.27%	1
CA	Tulare County	Y	Y	45.20%	46.36%	1
CA	Yuba County	Y	Y	43.89%	43.20%	1
<b>CA Count</b>						<b>16</b>
CO	Adams County	Y	Y		46.35%	1
CO	Bent County	Y	Y		44.59%	1
CO	Crowley County	Y	Y	33.01%	32.40%	1
CO	Fremont County	Y	Y	48.31%	44.17%	1
CO	Lincoln County	Y	Y		47.92%	1
CO	Prowers County	Y	Y		49.47%	1
<b>CO Count</b>						<b>6</b>
FL	Bradford County	Y	Y	49.13%	42.76%	1
FL	Columbia County	Y	Y		44.34%	1
FL	DeSoto County	Y	Y	43.05%	38.45%	1
FL	Dixie County	Y	Y		43.80%	1
FL	Duval County	Y	Y		47.87%	1
FL	Gadsden County	Y	Y		46.07%	1
FL	Glades County	Y	Y	47.96%	42.97%	1
FL	Hamilton County	Y	Y	46.82%	39.61%	1
FL	Hardee County	Y	Y	43.26%	38.26%	1
FL	Hendry County	Y	Y	48.82%	41.64%	1
FL	Jackson County	Y	Y		45.24%	1
FL	Lafayette County	Y	Y		47.94%	1
FL	Levy County	Y	Y		49.08%	1
FL	Liberty County	Y	Y		44.60%	1
FL	Madison County	Y	Y		44.81%	1
FL	Okeechobee County	Y	Y	47.52%	40.71%	1
FL	Orange County	Y	Y		46.18%	1
FL	Osceola County	Y	Y		48.91%	1
FL	Polk County	Y	Y		48.48%	1
FL	Suwannee County	Y	Y		48.85%	1
FL	Taylor County	Y	Y		47.19%	1
FL	Union County	Y	Y	42.72%	37.01%	1
<b>FL Count</b>						<b>22</b>
GA	Appling County	Y	Y	49.41%	49.71%	1
GA	Atkinson County	Y	Y	48.63%	44.05%	1
GA	Bacon County	Y	Y		40.47%	1
GA	Baldwin County	Y	Y	41.43%	35.06%	1



State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
GA	Banks County	Y	Y	48.02%	43.31%	1
GA	Barrow County	Y	Y	44.57%	37.44%	1
GA	Bartow County	Y	Y	48.54%	42.41%	1
GA	Ben Hill County	Y	Y	46.36%	37.95%	1
GA	Berrien County	Y	Y	45.88%	37.71%	1
GA	Bibb County	Y	Y	44.59%	44.59%	1
GA	Bleckley County	Y	Y	44.25%	44.25%	1
GA	Brantley County	Y	Y	49.08%	43.89%	1
GA	Brooks County	Y	Y	43.08%	38.55%	1
GA	Bryan County	Y	Y	44.52%	44.52%	1
GA	Bulloch County	Y	Y	41.34%	34.72%	1
GA	Burke County	Y	Y	46.82%	46.82%	1
GA	Butts County	Y	Y	44.42%	38.15%	1
GA	Calhoun County	Y	Y	45.13%	38.59%	1
GA	Camden County	Y	Y	45.60%	34.46%	1
GA	Candler County	Y	Y	44.08%	41.13%	1
GA	Carroll County	Y	Y	46.90%	40.84%	1
GA	Catoosa County	Y	Y	49.86%	45.38%	1
GA	Charlton County	Y	Y	41.97%	37.99%	1
GA	Chatham County	Y	Y	45.18%	45.18%	1
GA	Chattahoochee County	Y	Y	11.82%	11.80%	1
GA	Chattooga County	Y	Y	38.54%	33.57%	1
GA	Clarke County	Y	Y	46.61%	37.24%	1
GA	Clayton County	Y	Y	46.99%	40.83%	1
GA	Clinch County	Y	Y	45.62%	39.22%	1
GA	Coffee County	Y	Y	45.70%	36.71%	1
GA	Colquitt County	Y	Y	39.61%	34.90%	1
GA	Cook County	Y	Y	42.45%	35.72%	1
GA	Crawford County	Y	Y	47.19%	39.46%	1
GA	Crisp County	Y	Y	40.98%	36.66%	1
GA	Dade County	Y	Y	44.16%	44.16%	1
GA	Dawson County	Y	Y	49.77%	49.77%	1
GA	Decatur County	Y	Y	44.48%	38.73%	1
GA	Dodge County	Y	Y	48.40%	41.83%	1
GA	Dooly County	Y	Y	45.03%	41.63%	1
GA	Dougherty County	Y	Y	49.46%	42.33%	1
GA	Douglas County	Y	Y	47.67%	47.67%	1
GA	Early County	Y	Y	47.81%	40.91%	1
GA	Echols County	Y	Y	36.83%	39.65%	1
GA	Effingham County	Y	Y	49.87%	40.85%	1
GA	Elbert County	Y	Y	49.93%	39.09%	1
GA	Emanuel County	Y	Y	47.97%	41.14%	1
GA	Evans County	Y	Y	42.86%	42.31%	1
GA	Floyd County	Y	Y	46.54%	40.95%	1
GA	Franklin County	Y	Y	45.89%	37.67%	1
GA	Fulton County	Y	Y	46.36%	46.36%	1
GA	Gilmer County	Y	Y	44.03%	44.03%	1
GA	Glynn County	Y	Y	45.42%	45.42%	1
GA	Gordon County	Y	Y	46.20%	39.93%	1
GA	Grady County	Y	Y	47.38%	40.54%	1
GA	Greene County	Y	Y	49.05%	49.05%	1
GA	Habersham County	Y	Y	47.14%	37.59%	1
GA	Hall County	Y	Y	44.19%	44.19%	1
GA	Hancock County	Y	Y	46.95%	40.49%	1
GA	Haralson County	Y	Y	48.80%	43.26%	1
GA	Harris County	Y	Y	49.09%	49.09%	1
GA	Hart County	Y	Y	49.82%	43.14%	1
GA	Heard County	Y	Y	40.93%	40.93%	1
GA	Henry County	Y	Y	46.86%	46.86%	1
GA	Houston County	Y	Y	47.51%	47.51%	1
GA	Irwin County	Y	Y	46.89%	40.85%	1
GA	Jackson County	Y	Y	45.42%	38.97%	1
GA	Jasper County	Y	Y	49.56%	48.04%	1
GA	Jeff Davis County	Y	Y	47.56%	47.56%	1
GA	Jefferson County	Y	Y	45.24%	45.24%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
GA	Jenkins County	Y	Y		42.93%	1
GA	Johnson County	Y	Y		48.33%	1
GA	Jones County	Y	Y		47.24%	1
GA	Lamar County	Y	Y		43.84%	1
GA	Lanier County	Y	Y	45.45%	36.50%	1
GA	Laurens County	Y	Y		43.06%	1
GA	Lee County	Y	Y	48.75%	46.32%	1
GA	Liberty County	Y	Y	38.44%	24.89%	1
GA	Lincoln County	Y	Y		49.32%	1
GA	Long County	Y	Y	43.57%	35.33%	1
GA	Lowndes County	Y	Y	45.24%	38.01%	1
GA	Lumpkin County	Y	Y	49.45%	43.38%	1
GA	Macon County	Y	Y	47.42%	43.58%	1
GA	Madison County	Y	Y	48.51%	42.80%	1
GA	Marion County	Y	Y		44.86%	1
GA	McDuffie County	Y	Y	49.46%	42.93%	1
GA	McIntosh County	Y	Y		49.41%	1
GA	Meriwether County	Y	Y	48.65%	40.92%	1
GA	Miller County	Y	Y		45.80%	1
GA	Mitchell County	Y	Y	42.07%	33.84%	1
GA	Monroe County	Y	Y		47.27%	1
GA	Montgomery County	Y	Y	48.20%	41.89%	1
GA	Murray County	Y	Y	37.54%	32.87%	1
GA	Muscogee County	Y	Y	48.64%	39.37%	1
GA	Newton County	Y	Y	49.84%	41.56%	1
GA	Oglethorpe County	Y	Y		46.83%	1
GA	Paulding County	Y	Y		43.47%	1
GA	Peach County	Y	Y	48.02%	42.11%	1
GA	Pickens County	Y	Y	48.94%	47.32%	1
GA	Pierce County	Y	Y	48.56%	41.49%	1
GA	Pike County	Y	Y		49.65%	1
GA	Polk County	Y	Y	44.21%	37.79%	1
GA	Pulaski County	Y	Y	48.13%	46.54%	1
GA	Putnam County	Y	Y		44.52%	1
GA	Quitman County	Y	Y		46.05%	1
GA	Rabun County	Y	Y		46.78%	1
GA	Randolph County	Y	Y		45.45%	1
GA	Richmond County	Y	Y	49.00%	40.04%	1
GA	Schley County	Y	Y		44.36%	1
GA	Screven County	Y	Y		42.95%	1
GA	Seminole County	Y	Y	48.33%	41.90%	1
GA	Spalding County	Y	Y	47.80%	36.78%	1
GA	Stephens County	Y	Y		43.28%	1
GA	Stewart County	Y	Y		49.97%	1
GA	Sumter County	Y	Y	48.23%	41.27%	1
GA	Tattnall County	Y	Y	38.98%	34.35%	1
GA	Taylor County	Y	Y		43.54%	1
GA	Telfair County	Y	Y	42.58%	38.55%	1
GA	Terrell County	Y	Y	49.77%	40.17%	1
GA	Thomas County	Y	Y	48.10%	39.08%	1
GA	Tift County	Y	Y	45.07%	39.06%	1
GA	Toombs County	Y	Y	48.34%	40.90%	1
GA	Treutlen County	Y	Y		39.09%	1
GA	Troup County	Y	Y		42.75%	1
GA	Turner County	Y	Y	44.63%	37.39%	1
GA	Twiggs County	Y	Y		47.00%	1
GA	Upson County	Y	Y	48.46%	40.86%	1
GA	Walker County	Y	Y	44.88%	41.37%	1
GA	Walton County	Y	Y		44.56%	1
GA	Ware County	Y	Y	42.73%	36.51%	1
GA	Warren County	Y	Y		46.16%	1
GA	Washington County	Y	Y		43.35%	1
GA	Wayne County	Y	Y	45.82%40	.92%	1
GA	Wheeler County	Y	Y	39.33%	33.41%	1
GA	White County	Y	Y		46.39%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
GA	Whitfield County	Y	Y	49.52%	45.37%	1
GA	Wilcox County	Y	Y	38.32%	36.05%	1
GA	Worth County	Y	Y	46.36%	38.89%	1
GA Count						137
HI	Hawaii County		Y		49.17%	1
HI	Honolulu County	Y	Y	46.34%	41.91%	1
HI	Maui County	Y	Y	48.88%	44.78%	1
HI Count						3
ID	Elmore County	Y	Y	42.37%	35.19%	1
ID	Madison County		Y		45.77%	1
ID	Owyhee County	Y	Y	49.83%	49.21%	1
ID	Payette County		Y		49.75%	1
ID Count						4
IL	Brown County	Y	Y	44.89%	47.35%	1
IL	Coles County		Y		47.45%	1
IL	McDonough County		Y		49.22%	1
IL Count						3
IN	Allen County		Y		48.96%	1
IN	Blackford County		Y		46.30%	1
IN	Cass County	Y		48.60%		1
IN	Clinton County		Y		46.83%	1
IN	Daviess County	Y	Y	49.80%	46.89%	1
IN	DeKalb County		Y		47.88%	1
IN	Delaware County		Y		48.28%	1
IN	Elkhart County	Y	Y	48.16%	44.75%	1
IN	Fayette County		Y		44.82%	1
IN	Grant County		Y		47.35%	1
IN	Henry County		Y		49.87%	1
IN	Jackson County		Y		48.44%	1
IN	Jennings County		Y		47.80%	1
IN	Kosciusko County		Y		48.34%	1
IN	LaGrange County	Y		37.74%	36.75%	1
IN	LaPorte County		Y		48.47%	1
IN	Lawrence County		Y		46.85%	1
IN	Marion County		Y		45.36%	1
IN	Miami County		Y		48.63%	1
IN	Monroe County		Y		42.51%	1
IN	Montgomery County		Y		47.71%	1
IN	Morgan County		Y		45.62%	1
IN	Noble County	Y	Y	48.37%	45.00%	1
IN	Owen County	Y	Y	43.65%	40.72%	1
IN	Parke County		Y		49.29%	1
IN	Putnam County	Y	Y	46.29%	43.50%	1
IN	Randolph County		Y		49.77%	1
IN	Scott County	Y	Y	49.28%	46.39%	1
IN	Shelby County		Y		48.62%	1
IN	Steuben County		Y		46.12%	1
IN	Sullivan County	Y	Y	49.19%	49.14%	1
IN	Switzerland County		Y		48.56%	1
IN	Tippecanoe County	Y	Y	45.13%	42.42%	1
IN	Vigo County		Y		45.00%	1
IN	Wabash County		Y		48.98%	1
IN	Washington County		Y		49.09%	1
IN	Wayne County		Y		47.15%	1
IN Count						37
KS	Butler County		Y		49.78%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
KS	Finney County	Y	Y	48.90%	43.31%	1
KS	Ford County	Y		49.36%		1
KS	Geary County	Y	Y	41.59%	36.31%	1
KS	Leavenworth County		Y		46.78%	1
KS	Riley County	Y	Y	43.07%	37.43%	1
KS	Seward County	Y	Y	44.99%	43.50%	1
KS	Wyandotte County		Y		46.70%	1
KS Count						8
KY	Allen County		Y		49.00%	1
KY	Barren County		Y		48.35%	1
KY	Bell County	Y	Y	48.03%	46.92%	1
KY	Bourbon County		Y		49.78%	1
KY	Boyd County		Y		49.84%	1
KY	Boyle County		Y		48.85%	1
KY	Bracken County		Y		49.00%	1
KY	Breathitt County	Y	Y	49.39%	42.47%	1
KY	Carroll County		Y		46.69%	1
KY	Carter County		Y		44.26%	1
KY	Casey County		Y		47.26%	1
KY	Christian County	Y	Y	45.15%	34.79%	1
KY	Clay County	Y	Y	42.14%	36.94%	1
KY	Elliott County		Y		47.20%	1
KY	Estill County	Y	Y	48.36%	40.69%	1
KY	Floyd County		Y		47.68%	1
KY	Fulton County		Y		47.86%	1
KY	Gallatin County		Y		43.81%	1
KY	Grant County		Y		44.78%	1
KY	Grayson County		Y		47.30%	1
KY	Hardin County		Y		46.05%	1
KY	Harlan County	Y	Y	46.15%	42.48%	1
KY	Harrison County		Y		49.36%	1
KY	Hart County	Y	Y	49.58%	46.66%	1
KY	Henderson County		Y		47.80%	1
KY	Henry County		Y		49.32%	1
KY	Hopkins County		Y		46.84%	1
KY	Jackson County		Y		48.74%	1
KY	Johnson County		Y		45.56%	1
KY	Knott County		Y		48.61%	1
KY	Knox County		Y		42.28%	1
KY	Laurel County		Y		46.29%	1
KY	Lawrence County		Y		45.60%	1
KY	Lee County	Y	Y	46.95%	45.21%	1
KY	Leslie County		Y		47.47%	1
KY	Letcher County	Y	Y	47.04%	46.70%	1
KY	Lewis County		Y		43.37%	1
KY	Lincoln County	Y	Y	47.74%	44.10%	1
KY	Logan County		Y		47.62%	1
KY	Madison County		Y		43.21%	1
KY	Marion County		Y		45.60%	1
KY	Martin County	Y	Y	49.02%	49.27%	1
KY	Mason County		Y		46.69%	1
KY	McCreary County	Y	Y	45.07%	38.89%	1
KY	Meade County		Y		49.47%	1
KY	Menifee County	Y	Y	49.91%	45.82%	1
KY	Morgan County	Y	Y	46.80%	39.41%	1
KY	Muhlenberg County		Y		48.66%	1
KY	Owsley County		Y		49.71%	1
KY	Pendleton County		Y		46.79%	1
KY	Perry County		Y		49.58%	1
KY	Pike County		Y		47.70%	1
KY	Powell County	Y	Y	48.87%	44.93%	1
KY	Rockcastle County	Y	Y	48.66%	41.81%	1
KY	Rowan County	Y	Y	49.04%	41.60%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
KY	Simpson County	Y	Y		48.41%	1
KY	Todd County	Y	Y		48.18%	1
KY	Union County	Y	Y		46.32%	1
KY	Warren County	Y	Y		47.97%	1
KY	Wayne County	Y	Y	49.67%	44.08%	1
KY	Webster County	Y	Y		48.24%	1
KY	Whitley County	Y	Y	48.13%	44.44%	1
KY	Wolfe County	Y	Y		46.67%	1
KY Count						63
LA	Allen Parish	Y	Y	47.21%	43.40%	1
LA	Avoyelles Parish	Y	Y	49.45%	48.33%	1
LA	East Carroll Parish	Y	Y		49.59%	1
LA	Terrebonne Parish	Y	Y		49.99%	1
LA	Vernon Parish	Y	Y	44.68%	37.96%	1
LA	West Feliciana Parish	Y	Y	41.38%	40.48%	1
LA Count						6
MA	Suffolk County	Y	Y		48.07%	1
MA Count						1
MD	Allegany County	Y	Y		44.55%	1
MD	Baltimore City	Y	Y	47.47%	40.43%	1
MD	Caroline County	Y	Y	48.85%	41.94%	1
MD	Cecil County	Y	Y		46.93%	1
MD	Dorchester County	Y	Y		49.07%	1
MD	Garrett County	Y	Y		47.84%	1
MD	Somerset County	Y	Y	43.78%	38.29%	1
MD	St. Mary's County	Y	Y		48.11%	1
MD	Washington County	Y	Y		47.41%	1
MD Count						9
MI	Branch County	Y	Y		47.19%	1
MI	Chippewa County	Y	Y		48.14%	1
MI	Grafton County	Y	Y		47.45%	1
MI	Isabella County	Y	Y	47.00%	42.51%	1
MI	Luce County	Y	Y		46.24%	1
MI	Mecosta County	Y	Y		47.59%	1
MI	St. Joseph County	Y	Y		49.93%	1
MI Count						7
MO	Butler County	Y	Y		46.74%	1
MO	Crawford County	Y	Y		49.64%	1
MO	DeKalb County	Y	Y	43.09%	44.38%	1
MO	Dunklin County	Y	Y	49.09%	43.36%	1
MO	Jasper County	Y	Y		49.17%	1
MO	Johnson County	Y	Y		47.58%	1
MO	Madison County	Y	Y		49.28%	1
MO	McDonald County	Y	Y		44.65%	1
MO	Mississippi County	Y	Y		46.60%	1
MO	Pemiscot County	Y	Y	49.81%	43.41%	1
MO	Pulaski County	Y	Y	36.00%	36.13%	1
MO	Randolph County	Y	Y		49.33%	1
MO	St. Francois County	Y	Y	49.99%	44.73%	1
MO	Taney County	Y	Y		49.52%	1
MO	Washington County	Y	Y		48.42%	1
MO Count						15
MS	Alcorn County	Y	Y		48.34%	1
MS	Attala County	Y	Y		49.63%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
MS	Bolivar County		Y		47.39%	1
MS	Coahoma County		Y		46.81%	1
MS	Covington County		Y		49.96%	1
MS	DeSoto County		Y		46.05%	1
MS	Forrest County	Y	Y	47.67%	41.34%	1
MS	Greene County		Y		44.02%	1
MS	Hancock County		Y		45.59%	1
MS	Harrison County	Y	Y	46.20%	38.30%	1
MS	Hinds County		Y		48.89%	1
MS	Itawamba County		Y		49.83%	1
MS	Jackson County		Y		48.18%	1
MS	Jasper County		Y		49.45%	1
MS	Jefferson County		Y		49.06%	1
MS	Lafayette County	Y	Y	47.31%	41.51%	1
MS	Lauderdale County		Y		45.47%	1
MS	Leake County		Y		46.01%	1
MS	Lee County		Y		46.17%	1
MS	Leflore County	Y	Y	49.10%	42.73%	1
MS	Lowndes County		Y		44.04%	1
MS	Marshall County		Y		49.35%	1
MS	Monroe County		Y		48.45%	1
MS	Neshoba County	Y	Y	49.06%	44.34%	1
MS	Newton County		Y		48.20%	1
MS	Oktibbeha County	Y	Y	49.35%	45.11%	1
MS	Panola County		Y		47.29%	1
MS	Pearl River County		Y		46.69%	1
MS	Pontotoc County		Y		49.57%	1
MS	Prentiss County		Y		44.37%	1
MS	Quitman County		Y		49.64%	1
MS	Rankin County		Y		48.96%	1
MS	Scott County		Y		47.49%	1
MS	Simpson County		Y		48.37%	1
MS	Sunflower County	Y	Y	41.61%	34.09%	1
MS	Tate County		Y		47.08%	1
MS	Tishomingo County		Y		47.74%	1
MS	Tunica County	Y		45.08%	37.83%	1
MS	Washington County	Y	Y	47.87%	42.71%	1
MS Count						39
MT	Glacier County		Y		48.43%	1
MT Count						1
NC	Anson County	Y	Y	49.38%	42.51%	1
NC	Avery County		Y		49.49%	1
NC	Bertie County		Y		49.33%	1
NC	Bladen County		Y		45.78%	1
NC	Burke County	Y	Y	46.56%	47.04%	1
NC	Caldwell County		Y		44.80%	1
NC	Caswell County		Y		47.35%	1
NC	Chowan County	Y	Y	48.73%	44.70%	1
NC	Cleveland County		Y		46.04%	1
NC	Columbus County		Y		45.88%	1
NC	Craven County		Y		47.41%	1
NC	Cumberland County	Y	Y	45.77%	36.46%	1
NC	Davidson County		Y		48.02%	1
NC	Duplin County	Y	Y	48.60%	44.55%	1
NC	Edgecombe County		Y		45.73%	1
NC	Franklin County		Y		47.15%	1
NC	Gaston County	Y	Y	45.24%	42.47%	1
NC	Gates County		Y		44.98%	1
NC	Granville County	Y	Y	48.35%	42.72%	1
NC	Greene County	Y	Y	43.88%	43.39%	1
NC	Halifax County	Y	Y	47.30%	40.43%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
NC	Harnett County	Y	Y	45.40%	37.76%	1
NC	Hertford County	Y	Y	48.38%	47.27%	1
NC	Hoke County	Y	Y	42.28%	38.16%	1
NC	Hyde County		Y		48.67%	1
NC	Jackson County		Y		45.71%	1
NC	Johnston County		Y		48.34%	1
NC	Lee County		Y		48.89%	1
NC	Lenoir County		Y		48.53%	1
NC	Martin County		Y		49.71%	1
NC	McDowell County	Y	Y	49.42%	44.02%	1
NC	Montgomery County		Y		47.95%	1
NC	Nash County		Y		47.90%	1
NC	Northampton County		Y		49.32%	1
NC	Onslow County	Y	Y	37.64%	28.04%	1
NC	Pasquotank County	Y	Y	49.80%	42.07%	1
NC	Pender County		Y		46.02%	1
NC	Perquimans County		Y		49.23%	1
NC	Person County		Y		44.29%	1
NC	Pitt County		Y		43.44%	1
NC	Randolph County		Y		45.98%	1
NC	Richmond County	Y	Y	48.20%	42.09%	1
NC	Robeson County	Y	Y	39.12%	35.44%	1
NC	Rockingham County		Y		47.27%	1
NC	Rowan County		Y		46.52%	1
NC	Rutherford County		Y		45.87%	1
NC	Sampson County		Y		46.04%	1
NC	Scotland County	Y	Y	44.32%	36.64%	1
NC	Surry County	Y	Y	49.45%	44.88%	1
NC	Swain County		Y		44.84%	1
NC	Vance County		Y		41.84%	1
NC	Warren County		Y		45.36%	1
NC	Washington County		Y		48.62%	1
NC	Wayne County	Y	Y	49.84%	41.89%	1
NC	Wilkes County		Y		49.28%	1
NC	Wilson County		Y		47.26%	1
NC Count						56
ND	Benson County	Y	Y	49.00%	48.68%	1
ND	Divide County		Y		44.09%	1
ND	Rolette County		Y		45.12%	1
ND	Sioux County	Y	Y	44.31%	43.54%	1
ND Count						4
NE	Thurston County		Y		46.57%	1
NE Count						1
NJ	Cumberland County	Y	Y	49.21%	46.56%	1
NJ	Hudson County		Y		47.60%	1
NJ Count						2
NM	Chaves County		Y		45.64%	1
NM	Cibola County	Y	Y	39.58%	40.44%	1
NM	Curry County	Y	Y	46.00%	39.79%	1
NM	Dona Ana County		Y		44.31%	1
NM	Eddy County		Y		49.94%	1
NM	Grant County		Y		49.96%	1
NM	Guadalupe County		Y		48.12%	1
NM	Hidalgo County		Y		49.17%	1
NM	Lea County		Y		40.37%	1
NM	Lincoln County		Y		47.12%	1
NM	Luna County	Y	Y	47.89%	45.21%	1
NM	McKinley County	Y	Y	45.52%	34.67%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
NM	Otero County	Y	Y	49.95%	40.47%	1
NM	Rio Arriba County		Y		42.57%	1
NM	Roosevelt County		Y		45.10%	1
NM	San Juan County		Y		46.07%	1
NM	San Miguel County		Y		42.89%	1
NM	Sierra County	Y	Y	49.86%	45.20%	1
NM	Taos County		Y		49.58%	1
NM	Torrance County		Y		43.41%	1
NM	Valencia County		Y		48.66%	1
NM Count						21
NV	Clark County		Y		42.90%	1
NV	Humboldt County		Y		48.88%	1
NV	Lyon County		Y		49.38%	1
NV	Pershing County	Y	Y	42.03%	38.00%	1
NV Count						4
NY	Allegany County	Y	Y	48.61%	49.92%	1
NY	Bronx County		Y		41.77%	1
NY	Franklin County	Y	Y	45.30%	45.10%	1
NY	Jefferson County	Y	Y	45.47%	45.21%	1
NY	Kings County		Y		44.59%	1
NY	Orleans County		Y		49.63%	1
NY	Queens County		Y		45.15%	1
NY	Richmond County		Y		46.87%	1
NY	St. Lawrence County	Y	Y	47.87%	47.20%	1
NY Count						9
OH	Fayette County		Y		43.93%	1
OH	Holmes County	Y	Y	41.53%	36.60%	1
OH	Madison County		Y		48.74%	1
OH	Marion County		Y		49.92%	1
OH	Pickaway County		Y		44.48%	1
OH	Ross County		Y		46.82%	1
OH Count						6
OK	Adair County	Y	Y	49.20%	41.40%	1
OK	Atoka County	Y	Y	45.78%	40.94%	1
OK	Beckham County	Y	Y	48.97%	44.20%	1
OK	Blaine County		Y		46.10%	1
OK	Bryan County		Y		43.27%	1
OK	Caddo County	Y	Y	47.99%	43.51%	1
OK	Carter County		Y		49.31%	1
OK	Cherokee County		Y		47.11%	1
OK	Choctaw County		Y		46.96%	1
OK	Cleveland County		Y		49.84%	1
OK	Comanche County	Y	Y	40.97%	36.20%	1
OK	Craig County		Y		48.43%	1
OK	Creek County		Y		48.78%	1
OK	Delaware County		Y		48.13%	1
OK	Garvin County		Y		48.60%	1
OK	Grady County		Y		49.07%	1
OK	Greer County	Y	Y	47.00%	44.65%	1
OK	Hughes County	Y	Y	49.82%	42.30%	1
OK	Jackson County	Y	Y	48.93%	41.87%	1
OK	Kiowa County		Y		48.62%	1
OK	Latimer County		Y		46.53%	1
OK	Le Flore County	Y	Y	48.47%	43.18%	1
OK	McCurtain County	Y	Y	45.53%	42.87%	1
OK	Muskogee County		Y		48.57%	1
OK	Nowata County		Y		49.43%	1
OK	Okfuskee County	Y	Y	47.64%	43.02%	1



State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
OK	Oklahoma County	Y	Y		48.03%	1
OK	Okmulgee County	Y	Y		45.65%	1
OK	Osage County	Y	Y		48.80%	1
OK	Ottawa County	Y	Y		46.92%	1
OK	Pawnee County	Y	Y		48.73%	1
OK	Payne County	Y	Y		47.51%	1
OK	Pittsburg County	Y	Y		48.95%	1
OK	Pontotoc County	Y	Y		49.02%	1
OK	Pottawatomie County	Y	Y		46.29%	1
OK	Seminole County	Y	Y		43.16%	1
OK	Sequoyah County	Y	Y	49.55%	43.57%	1
OK	Texas County	Y	Y		49.30%	1
OK Count						38
OR	Malheur County	Y	Y		48.59%	1
OR	Umatilla County	Y	Y		48.59%	1
OR Count						2
PA	Adams County	Y	Y		49.89%	1
PA	Armstrong County	Y	Y		49.23%	1
PA	Berks County	Y	Y		49.30%	1
PA	Blair County	Y	Y		45.37%	1
PA	Cameron County	Y	Y		49.93%	1
PA	Carbon County	Y	Y		46.72%	1
PA	Centre County	Y	Y		46.65%	1
PA	Clarion County	Y	Y		48.71%	1
PA	Clearfield County	Y	Y		47.62%	1
PA	Clinton County	Y	Y	47.47%	40.57%	1
PA	Columbia County	Y	Y		43.38%	1
PA	Crawford County	Y	Y		49.16%	1
PA	Fayette County	Y	Y	47.98%	43.20%	1
PA	Fulton County	Y	Y		49.23%	1
PA	Greene County	Y	Y	48.64%	43.15%	1
PA	Huntingdon County	Y	Y	49.61%	44.84%	1
PA	Indiana County	Y	Y		44.88%	1
PA	Luzerne County	Y	Y		47.82%	1
PA	Lycoming County	Y	Y		47.10%	1
PA	McKean County	Y	Y	49.89%	45.52%	1
PA	Mifflin County	Y	Y	47.48%	41.90%	1
PA	Monroe County	Y	Y	46.99%	47.22%	1
PA	Montour County	Y	Y		47.57%	1
PA	Northumberland County	Y	Y		45.20%	1
PA	Perry County	Y	Y		49.73%	1
PA	Schuylkill County	Y	Y		49.18%	1
PA	Snyder County	Y	Y		45.19%	1
PA	Tioga County	Y	Y		47.12%	1
PA	Union County	Y	Y	47.45%	40.92%	1
PA	Venango County	Y	Y		47.15%	1
PA Count						30
SC	Abbeville County	Y	Y	49.61%	43.07%	1
SC	Aiken County	Y	Y		48.98%	1
SC	Allendale County	Y	Y	45.64%	41.12%	1
SC	Anderson County	Y	Y	49.67%	45.78%	1
SC	Bamberg County	Y	Y		44.87%	1
SC	Barnwell County	Y	Y		49.27%	1
SC	Berkeley County	Y	Y	49.64%	42.85%	1
SC	Charleston County	Y	Y		48.39%	1
SC	Cherokee County	Y	Y	47.50%	42.35%	1
SC	Chester County	Y	Y	47.62%	42.07%	1
SC	Chesterfield County	Y	Y	44.48%	40.52%	1
SC	Clarendon County	Y	Y		47.36%	1
SC	Colleton County	Y	Y	48.98%	48.62%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
SC	Darlington County		Y		44.26%	1
SC	Dillon County	Y	Y	41.90%	41.64%	1
SC	Dorchester County		Y		49.83%	1
SC	Edgefield County		Y		47.61%	1
SC	Fairfield County		Y		48.72%	1
SC	Florence County		Y		44.99%	1
SC	Georgetown County		Y		49.41%	1
SC	Greenwood County	Y	Y	47.27%	43.28%	1
SC	Horry County		Y		48.84%	1
SC	Jasper County	Y	Y	46.30%	45.15%	1
SC	Lancaster County	Y	Y	44.42%	45.74%	1
SC	Laurens County	Y	Y	45.10%	39.81%	1
SC	Lee County		Y		45.46%	1
SC	Marion County		Y		48.00%	1
SC	Marlboro County	Y	Y	41.13%	37.22%	1
SC	McCormick County		Y		45.65%	1
SC	Newberry County	Y	Y	45.19%	46.69%	1
SC	Oconee County		Y		46.92%	1
SC	Orangeburg County		Y		48.54%	1
SC	Pickens County	Y	Y	46.53%	41.18%	1
SC	Richland County		Y		49.22%	1
SC	Spartanburg County	Y	Y	49.65%	44.93%	1
SC	Sumter County	Y	Y	48.68%	41.34%	1
SC	Union County		Y		48.70%	1
SC	Williamsburg County		Y		42.78%	1
SC	York County		Y		45.61%	1
SC Count						39
SD	Bennett County		Y		49.21%	1
SD	Brookings County		Y		49.86%	1
SD	Buffalo County		Y		34.52%	1
SD	Clay County		Y		47.55%	1
SD	Corson County		Y		47.03%	1
SD	Dewey County		Y		46.24%	1
SD	Shannon County		Y		28.62%	1
SD	Todd County		Y		29.61%	1
SD	Ziebach County		Y		48.23%	1
SD Count						9
TN	Bedford County	Y	Y	47.07%	46.73%	1
TN	Benton County		Y		49.17%	1
TN	Bledsoe County	Y	Y	48.67%	44.22%	1
TN	Bradley County		Y		44.61%	1
TN	Campbell County	Y	Y	45.08%	40.63%	1
TN	Cannon County		Y		49.45%	1
TN	Carroll County		Y		48.15%	1
TN	Carter County	Y	Y	45.68%	42.99%	1
TN	Cheatham County		Y		48.86%	1
TN	Chester County		Y		48.94%	1
TN	Claiborne County	Y	Y	44.30%	39.60%	1
TN	Cocke County	Y	Y	45.59%	39.78%	1
TN	Davidson County		Y		49.84%	1
TN	Decatur County		Y		48.21%	1
TN	DeKalb County		Y		47.96%	1
TN	Dickson County		Y		49.31%	1
TN	Dyer County	Y	Y	49.25%	43.19%	1
TN	Fentress County		Y		47.87%	1
TN	Franklin County		Y		49.16%	1
TN	Gibson County		Y		47.13%	1
TN	Giles County		Y		45.63%	1
TN	Grainger County	Y	Y	44.47%	39.21%	1
TN	Greene County	Y	Y	47.93%	43.00%	1
TN	Grundy County	Y	Y	44.98%	42.94%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
TN	Hamblen County		Y		46.28%	1
TN	Hancock County	Y	Y	48.71%	39.81%	1
TN	Hardeman County	Y	Y	48.60%	41.43%	1
TN	Hardin County	Y	Y	48.84%	44.73%	1
TN	Hawkins County	Y	Y	46.89%	41.73%	1
TN	Haywood County		Y		45.28%	1
TN	Henderson County		Y		43.66%	1
TN	Hickman County	Y	Y	48.82%	43.44%	1
TN	Humphreys County		Y		49.19%	1
TN	Jefferson County	Y	Y	45.91%	41.79%	1
TN	Johnson County	Y	Y	43.78%	40.39%	1
TN	Lake County		Y		34.27%	1
TN	Lauderdale County	Y	Y	42.73%	37.58%	1
TN	Lawrence County		Y		49.39%	1
TN	Lincoln County		Y		44.79%	1
TN	Macon County	Y	Y	46.98%	43.83%	1
TN	Marion County		Y		48.56%	1
TN	Marshall County		Y		47.67%	1
TN	Maury County		Y		46.42%	1
TN	McMinn County	Y	Y	46.00%	44.95%	1
TN	McNairy County		Y		48.19%	1
TN	Meigs County	Y	Y	46.64%	40.81%	1
TN	Monroe County	Y	Y	48.94%	44.64%	1
TN	Montgomery County	Y	Y	48.73%	41.49%	1
TN	Morgan County	Y	Y	46.54%	40.59%	1
TN	Overton County		Y		48.75%	1
TN	Perry County		Y		49.85%	1
TN	Polk County		Y		45.37%	1
TN	Putnam County		Y		47.54%	1
TN	Rhea County	Y	Y	48.36%	45.45%	1
TN	Rutherford County		Y		47.70%	1
TN	Scott County	Y	Y	46.82%	42.42%	1
TN	Sequatchie County		Y		45.75%	1
TN	Sevier County		Y		46.74%	1
TN	Sullivan County		Y		46.86%	1
TN	Tipton County		Y		45.84%	1
TN	Unicoi County		Y		46.17%	1
TN	Union County	Y	Y	45.85%	44.14%	1
TN	Warren County	Y	Y	49.18%	46.73%	1
TN	Washington County		Y		45.54%	1
TN	Wayne County	Y	Y	44.24%	40.18%	1
TN	Weakley County		Y		43.95%	1
TN	White County		Y		44.21%	1
TN Count						67
TX	Anderson County	Y	Y	38.31%	35.28%	1
TX	Andrews County		Y		49.67%	1
TX	Angelina County		Y		49.12%	1
TX	Aransas County		Y		49.72%	1
TX	Atascosa County	Y	Y	41.68%	42.10%	1
TX	Bastrop County	Y	Y	48.93%	47.40%	1
TX	Bee County	Y	Y	38.19%	33.90%	1
TX	Bell County	Y	Y	48.23%	39.22%	1
TX	Bexar County	Y	Y	47.60%	44.77%	1
TX	Bowie County		Y		45.67%	1
TX	Brazoria County		Y		49.37%	1
TX	Brazos County	Y	Y	46.16%	42.97%	1
TX	Brooks County		Y		46.40%	1
TX	Brown County		Y		47.14%	1
TX	Burleson County		Y		49.74%	1
TX	Caldwell County	Y	Y	45.59%	42.43%	1
TX	Calhoun County		Y		47.61%	1
TX	Cameron County	Y	Y	35.61%	35.53%	1
TX	Camp County		Y		48.71%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
TX	Cass County		Y		48.49%	1
TX	Castro County		Y		46.86%	1
TX	Cherokee County	Y		47.84%	45.33%	1
TX	Childress County	Y	Y	37.92%	36.52%	1
TX	Concho County	Y	Y	37.68%	33.90%	1
TX	Coryell County	Y	Y	32.80%	28.14%	1
TX	Crosby County		Y		42.00%	1
TX	Culberson County	Y		46.90%		1
TX	Dallam County	Y	Y	45.90%	44.40%	1
TX	Dallas County		Y		47.29%	1
TX	Dawson County	Y	Y	43.23%	44.34%	1
TX	Deaf Smith County	Y	Y	47.15%	44.28%	1
TX	Delta County	Y	Y	49.21%	48.02%	1
TX	DeWitt County	Y	Y	43.60%	41.23%	1
TX	Dickens County	Y	Y	48.01%	39.52%	1
TX	Duval County	Y		47.70%		1
TX	Eastland County	Y	Y	49.07%	46.96%	1
TX	Ector County	Y	Y	45.71%	42.47%	1
TX	El Paso County	Y	Y	43.40%	39.27%	1
TX	Erath County		Y		47.15%	1
TX	Falls County	Y	Y	46.71%	43.93%	1
TX	Fannin County	Y	Y	47.96%	44.39%	1
TX	Floyd County		Y		47.31%	1
TX	Foard County		Y		46.80%	1
TX	Freestone County		Y		49.59%	1
TX	Frio County	Y	Y	34.60%	37.02%	1
TX	Gaines County	Y	Y	48.57%	42.28%	1
TX	Gonzales County	Y	Y	46.95%	49.53%	1
TX	Gray County		Y		48.72%	1
TX	Grayson County		Y		49.77%	1
TX	Gregg County		Y		49.29%	1
TX	Grimes County	Y	Y	43.33%	39.89%	1
TX	Hale County	Y	Y	43.31%	38.06%	1
TX	Hall County	Y		48.48%		1
TX	Hardeman County		Y		44.63%	1
TX	Harris County		Y		49.61%	1
TX	Hartley County		Y		47.12%	1
TX	Hays County		Y		48.49%	1
TX	Henderson County	Y	Y	48.97%	47.66%	1
TX	Hidalgo County	Y	Y	36.31%	37.42%	1
TX	Hill County		Y		46.79%	1
TX	Hockley County	Y	Y	47.05%	43.53%	1
TX	Hopkins County		Y		48.36%	1
TX	Houston County		Y		47.52%	1
TX	Howard County	Y	Y	43.64%	39.65%	1
TX	Hunt County	Y	Y	47.84%	45.17%	1
TX	Jack County	Y	Y	45.46%	45.26%	1
TX	Jackson County		Y		48.72%	1
TX	Jasper County	Y	Y	49.72%	45.64%	1
TX	Jefferson County		Y		48.65%	1
TX	Jim Wells County	Y	Y	45.12%	45.62%	1
TX	Johnson County	Y	Y	47.14%	44.58%	1
TX	Jones County	Y	Y	38.22%	37.77%	1
TX	Karnes County	Y	Y	40.07%	36.77%	1
TX	Kaufman County	Y	Y	49.73%	47.58%	1
TX	Kleberg County	Y	Y	45.61%	41.91%	1
TX	La Salle County		Y		49.78%	1
TX	Lamar County	Y	Y	47.69%	43.70%	1
TX	Lamb County	Y	Y	42.59%	46.66%	1
TX	Lampasas County	Y		48.73%		1
TX	Liberty County	Y	Y	41.41%	41.33%	1
TX	Limestone County	Y	Y	47.99%	45.22%	1
TX	Live Oak County	Y	Y	46.08%	42.46%	1
TX	Lubbock County		Y		43.03%	1
TX	Lynn County		Y		48.27%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
TX	Madison County	Y	Y	42.13%	36.84%	1
TX	Marion County		Y		46.50%	1
TX	Matagorda County	Y		49.30%		1
TX	Maverick County	Y	Y	44.23%	45.29%	1
TX	McCulloch County		Y		49.58%	1
TX	McLennan County		Y		46.24%	1
TX	Medina County	Y	Y	49.03%	47.38%	1
TX	Milam County	Y	Y	49.28%	48.77%	1
TX	Mitchell County	Y	Y	34.85%	33.85%	1
TX	Moore County		Y		48.79%	1
TX	Nacogdoches County	Y	Y	49.43%	46.27%	1
TX	Navarro County	Y	Y	49.73%	46.19%	1
TX	Newton County		Y		45.04%	1
TX	Nolan County	Y	Y	48.93%	47.06%	1
TX	Nueces County	Y	Y	48.03%	45.26%	1
TX	Orange County		Y		48.55%	1
TX	Palo Pinto County		Y		47.02%	1
TX	Parmer County	Y	Y	47.84%	48.05%	1
TX	Pecos County	Y	Y	42.17%	39.26%	1
TX	Potter County	Y	Y	36.91%	33.34%	1
TX	Rains County	Y	Y	47.88%	48.78%	1
TX	Red River County		Y		48.62%	1
TX	Reeves County	Y	Y	44.61%	38.62%	1
TX	Runnels County		Y		49.77%	1
TX	Rusk County		Y		48.46%	1
TX	San Jacinto County	Y	Y	44.38%	47.40%	1
TX	San Patricio County	Y	Y	45.54%	41.28%	1
TX	Scurry County	Y	Y	46.76%	44.53%	1
TX	Smith County		Y		49.92%	1
TX	Starr County	Y	Y	38.83%	37.44%	1
TX	Stephens County		Y		47.03%	1
TX	Swisher County	Y	Y	38.55%	43.25%	1
TX	Taylor County		Y		47.66%	1
TX	Terry County	Y	Y	46.92%	46.48%	1
TX	Titus County		Y		48.22%	1
TX	Tom Green County		Y		46.83%	1
TX	Tyler County	Y	Y	48.69%	44.76%	1
TX	Uvalde County	Y		49.94%		1
TX	Val Verde County	Y	Y	44.19%	46.12%	1
TX	Victoria County	Y	Y	49.64%	47.47%	1
TX	Walker County	Y	Y	35.90%	29.22%	1
TX	Waller County		Y		48.50%	1
TX	Webb County	Y	Y	40.39%	34.47%	1
TX	Wharton County	Y	Y	49.52%	48.34%	1
TX	Wichita County	Y	Y	48.94%	44.71%	1
TX	Wilbarger County		Y		44.72%	1
TX	Willacy County	Y	Y	39.47%	40.42%	1
TX	Winkler County	Y	Y	48.81%	46.74%	1
TX	Wise County	Y	Y	49.86%	48.59%	1
TX	Wood County		Y		49.37%	1
TX	Zapata County	Y	Y	40.62%	39.42%	1
TX	Zavala County	Y	Y	43.84%	48.52%	1
TX Count						136
UT	Tooele County		Y		48.86%	1
UT	Weber County		Y		48.91%	1
UT Count						2
VA	Accomack County	Y	Y	46.02%	42.82%	1
VA	Amherst County		Y		48.39%	1
VA	Bedford city		Y		49.53%	1
VA	Bland County	Y	Y	49.45%	48.55%	1
VA	Bristol city	Y	Y	48.96%	45.53%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
VA	Brunswick County	Y	Y	47.85%	41.15%	1
VA	Buchanan County	Y	Y	49.15%	46.72%	1
VA	Buckingham County	Y	Y	48.06%	45.21%	1
VA	Buena Vista city	Y	Y	48.79%	40.05%	1
VA	Carroll County		Y		47.81%	1
VA	Charlottesville city		Y		36.21%	1
VA	Clifton Forge city		Y		45.18%	1
VA	Covington city	Y	Y	48.62%	45.33%	1
VA	Culpeper County		Y		49.41%	1
VA	Danville city		Y		49.78%	1
VA	Dinwiddie County		Y		49.39%	1
VA	Fredericksburg city	Y	Y	48.80%	43.77%	1
VA	Galax city	Y	Y	49.82%	46.24%	1
VA	Grayson County		Y		47.94%	1
VA	Greene County		Y		49.31%	1
VA	Greensville County	Y	Y	44.32%	41.33%	1
VA	Halifax County		Y		49.53%	1
VA	Hampton city		Y		43.97%	1
VA	Harrisonburg city	Y	Y	34.37%	31.35%	1
VA	Henry County		Y		49.02%	1
VA	Hopewell city	Y	Y	49.53%	43.11%	1
VA	King George County		Y		48.55%	1
VA	Lee County		Y		48.08%	1
VA	Lexington city	Y	Y	37.45%	35.55%	1
VA	Lunenburg County		Y		44.93%	1
VA	Lynchburg city		Y		47.32%	1
VA	Manassas Park city		Y		41.80%	1
VA	Martinsville city	Y	Y	48.99%	48.57%	1
VA	Mecklenburg County	Y	Y	49.98%	46.38%	1
VA	Montgomery County	Y	Y	45.69%	41.23%	1
VA	Newport News city		Y		45.41%	1
VA	Norfolk city	Y	Y	40.43%	35.77%	1
VA	Norton city		Y	48.94%		1
VA	Nottoway County		Y		45.97%	1
VA	Page County		Y		45.07%	1
VA	Patrick County		Y		49.31%	1
VA	Petersburg city	Y	Y	49.57%	44.14%	1
VA	Portsmouth city		Y		47.80%	1
VA	Prince Edward County	Y	Y	45.33%	40.80%	1
VA	Prince George County		Y		45.51%	1
VA	Pulaski County		Y		45.56%	1
VA	Radford city	Y	Y	38.30%	32.69%	1
VA	Richmond city		Y		43.90%	1
VA	Richmond County	Y	Y	44.99%	41.59%	1
VA	Roanoke city		Y		46.55%	1
VA	Rockbridge County		Y		48.83%	1
VA	Rockingham County		Y		48.23%	1
VA	Russell County		Y		45.31%	1
VA	Smyth County	Y	Y	48.33%	45.36%	1
VA	Southampton County		Y		49.80%	1
VA	Staunton city		Y		44.92%	1
VA	Sussex County	Y	Y	45.85%	39.15%	1
VA	Tazewell County	Y	Y	49.49%	46.92%	1
VA	Warren County		Y		48.00%	1
VA	Waynesboro city		Y		48.61%	1
VA	Westmoreland County		Y		47.52%	1
VA	Williamsburg city	Y	Y	42.82%	35.54%	1
VA	Winchester city		Y		45.44%	1
VA	Wise County	Y	Y	43.62%	43.19%	1
VA	Wythe County		Y		47.32%	1
VA Count						65
WI	Menominee County		Y		45.15%	1

State	County	2004 Coverage	2000 Coverage	2004 Turnout	2000 Turnout	Count
<b>WI Count</b>						1
WV	Berkeley County	Y			41.19%	1
WV	Boone County	Y			46.73%	1
WV	Braxton County	Y			46.85%	1
WV	Brooke County	Y			46.57%	1
WV	Cabell County	Y			41.82%	1
WV	Calhoun County	Y			44.49%	1
WV	Clay County	Y			46.54%	1
WV	Fayette County	Y	Y	45.51%	39.40%	1
WV	Gilmer County	Y	Y	49.33%	48.34%	1
WV	Greenbrier County	Y			47.47%	1
WV	Hampshire County	Y	Y	48.26%	40.32%	1
WV	Hardy County	Y			46.61%	1
WV	Jefferson County	Y			45.23%	1
WV	Kanawha County	Y			48.97%	1
WV	Lewis County	Y	Y		46.71%	1
WV	Lincoln County	Y	Y	47.95%	44.10%	1
WV	Logan County	Y	Y		49.19%	1
WV	Marshall County	Y	Y		49.35%	1
WV	McDowell County	Y	Y	38.19%	34.90%	1
WV	Mercer County	Y	Y	45.53%	38.07%	1
WV	Mineral County	Y			47.32%	1
WV	Mingo County	Y			46.98%	1
WV	Monongalia County	Y			42.03%	1
WV	Monroe County	Y			44.16%	1
WV	Nicholas County	Y			42.19%	1
WV	Ohio County	Y			48.45%	1
WV	Pocahontas County	Y			48.21%	1
WV	Preston County	Y			46.77%	1
WV	Raleigh County	Y	Y	48.72%	38.98%	1
WV	Randolph County	Y			43.62%	1
WV	Ritchie County	Y			47.87%	1
WV	Roane County	Y	Y		47.64%	1
WV	Summers County	Y	Y	48.11%	45.70%	1
WV	Taylor County	Y			46.18%	1
WV	Upshur County	Y	Y	49.35%	44.98%	1
WV	Wayne County	Y			49.53%	1
WV	Webster County	Y	Y	47.90%	44.22%	1
WV	Wetzel County	Y			46.67%	1
WV	Wyoming County	Y	Y	44.64%	39.54%	1
<b>WV Count</b>						39
<b>Total Counties Covered Under Proposed Formula</b>						1010

Mr. COHEN. Mr. Owens—

Ms. GARCIA. Mr. Chair?

Mr. COHEN. Yes, ma'am?

Ms. GARCIA. Could I ask unanimous consent to submit for the record an article from the Houston Chronicle on "Texas Voting Bills Target Democratic Strongholds, Just Like Georgia's New Laws," for the record.

Mr. COHEN. Without objection, that will be done as well. Thank you, Ms. Garcia.

Ms. GARCIA. Thank you, sir.

[The information follows:]



**MS. GARCIA FOR THE RECORD**

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4/22/2021

Texas voting bills target Democratic strongholds, just like Georgia's new laws

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## POLITICS // TEXAS POLITICS

## Texas voting bills target Democratic strongholds, just like Georgia's new laws



Jeremy Wallace, Austin Bureau

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Aubrey Calaway, 23, waits to vote outside Victory Houston polling station in Houston on Friday, Oct. 30, 2020.

<https://www.houstonchronicle.com/politics/texas/article/texas-voting-laws-georgia-bills-democrat-16104283.php>

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4/22/2021

Texas voting bills target Democratic strongholds, just like Georgia's new laws

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 The location was one of the Harris County's 24-hour locations.

Elizabeth Conley, Houston Chronicle / Staff photographer

After major corporations criticized Georgia for adopting voter restrictions in the wake of Democratic wins there, the spotlight is shifting to Texas as Republican lawmakers advance similar legislation.

And just as Georgia Republicans sought to rein in Fulton County – a heavily Democratic county that includes the city of Atlanta – Texas Republicans are targeting large counties run by Democrats with measures that provide possible jail time for local officials who try to expand voting options or who promote voting by mail.

That same push is happening in Arizona and Iowa, said Lawrence Norden, director of the Election Reform Program at the Brennan Center for Justice at New York University Law.

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**"All of these bills share a common purpose: to threaten the independence of election**

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workers whose main job should be to ensure fair elections free from political or other interference,” Norden said.

The Senate is particularly intent on preventing a repeat of 2020, when the interim Harris County clerk, Chris Hollins, promoted novel approaches such as 24-hour voting sites and drive-thru polling places as safe alternatives to indoor voting amid the coronavirus pandemic. The Democrat-leaning county saw historic turnout that helped

Joe Biden come within 5.5 percentage points of the incumbent, Republican Donald Trump.

## VOTING RESTRICTIONS, TEXAS VS. GEORGIA

Provisions in a new Georgia law to restrict voting match some of the proposals now being considered by the Texas Legislature in two bills, Senate Bill 7 and House Bill 6.

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“Out of thin air they decided on drive-in voting,” charged Lt. Gov. Dan Patrick, a conservative Republican who runs the Senate and has been a leading voice in urging lawmakers to tighten voting laws in the name of preventing fraud.

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Harris County officials, on the other hand, say drive-thru voting was preapproved by administrators at the Texas Secretary of State’s office.

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“In 2020 we did everything we could within the bounds of the law to ensure that we were going to have a free, a fair, a safe and an accessible election in Harris County,” Hollins said.

House Bill 6, which passed out of a committee and will next go before the full Texas House, would open up election officials to felony charges if they were to solicit a voter to fill out an application for an absentee ballot. Election officials could also face felonies for submitting false information on a provisional ballot, or if they are proven to intentionally have failed to count a valid ballot. Another provision would subject election officials to misdemeanor charges for blocking partisan poll watchers from

having access to observe voting.

Legislation approved by the Texas Senate, SB 7, would also make it a crime for election workers to deny a partisan poll watcher the chance to sit or stand near enough to observe voting.

That Senate bill includes a proposal to allow poll watchers to video record voter activity at polling places. Election law expert David Becker of the Center for Election Innovation and Research told CBS News that provision would make Texas elections less secure, not more so.

The Texas bills still have a way to go to become law. Both chambers have to pass identical versions, and Republican Gov. Greg Abbott has to sign off.

**POLL WATCHING WEAPONIZED?:** LULAC, NAACP decry bill allowing partisan activists to record Texas voters without consent

Right now, the House and Senate versions are light years apart, with the Texas House not touching many of the most controversial items the Senate is pushing.

For instance the House bill doesn't do anything to end late night voting, 24-hour voting or drive-thru voting. The House bill also doesn't make any attempt to reduce early voting locations in certain sections of cities or counties as the Senate bill would do.

Still, civil rights advocacy groups worry about what the bills have in common, particularly giving far more power to poll watchers. In both bills, county election officials would have less control over poll watchers, even if they are being disruptive. And they worry about the tone of the language in the bills that are trying to promote an idea that somehow there is massive fraud in Texas elections, which is not true.

“It’s like a show to try to claim they are doing something to crack down on voter fraud aimed a people who have bought into the conspiracy theory of the presidential election being stolen,” said James Slattery, a senior staff attorney for the Texas Civil Rights Project.

## Security or suppression?

It is not clear whether the corporate opposition will change the debate in Austin. Nearly 200 companies, including HP, Microsoft, PayPal, Target, Twitter, Uber and Under Armour, signed a statement this month that took aim at state legislation “threatening to make voting more difficult” and said “elections are not improved” when lawmakers impose new barriers.

So far, Texas Republicans are firing back, criticizing the corporations for buying into the Democratic narrative, with the blustery Patrick accusing Houston Mayor Sylvester Turner and Harris County Judge Lina Hidalgo of “lying” about what’s in the GOP election packages.

“Senate Bill 7 is not voter suppression, it’s voter security,” Patrick said during a more than 30-minute press conference in which he repeatedly slammed the media, Harris County officials, American Airlines, and Democrats including former U.S. Rep. Beto O’Rourke as a “nest of liars” for saying the legislation seeks to disenfranchise people of color.

In Georgia, Republicans in the state legislature took a similar position against Fulton County – that state’s largest county.

**HOUSTON HIGHLIGHTED:** Video shows GOP targeting Houston minority communities with poll watcher ‘brigade’

Fulton County officials had longer voting hours than many other counties and even created a mobile voting center that would set up shop in parking lots of churches and libraries with voting machines to help with long lines or polling site glitches. The new Georgia law bars those.

The overlapping debates in Georgia and Texas over election legislation has left some confused over what each state is doing.

During a marathon session of the Senate last week, state Sen. Bryan Hughes, R-Mineola, went out of his way to explain some of the distinctions. He noted that there is nothing in SB 7 that would make it a crime to give people food and water while they are standing in line to vote, as the Georgia bill does.

“Not in the bill,” Hughes said. “Never going to be in the bill.”

There are other key differences between the new Georgia law and the bills Texas is considering.

While both bills prohibit local election officials from sending out absentee ballot applications, Georgia’s law requires voters to submit a driver’s license number to get a ballot – a provision that doesn’t exist in either of the bill in Texas.

But the Texas Senate has proposed putting a clearer notice on absentee ballots for people who claim a disability. It includes a warning that voters could face a felony if they lie about not being in the county during voting or having a disability when they do not.

Another key difference is with early voting. While Georgia blocked early voting after 7 p.m., the Texas Senate would allow voting until 9 p.m. The Texas House bill doesn’t touch the issue at all.



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Written By  
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Jeremy Wallace has covered politics and campaigns for more than 20 years. Before joining the Hearst Texas newspapers in 2017 he covered government and politics for the Tampa Bay Times, The Miami Herald and the Sarasota Herald-Tribune. Previously he covered Congress for the Boston Globe and Detroit Free-Press. Originally from San Antonio, he attended the University of North Texas and earned his bachelor's degree from the University of Missouri. You can follow him on Twitter, @JeremySWallace, or email him at [jeremy.wallace@chron.com](mailto:jeremy.wallace@chron.com).

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BY ALEX STUCKEY

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### INTERACTIVES

Mr. COHEN. Mr. Owens, you are recognized for 5 minutes.

Mr. OWENS. Thank you. Thank you, Mr. Chair and the Ranking Member.

The soft bigotry of low expectations of the 1990s has now evolved in 2021 to hardcore racism. We now have elected officials, Black and White, who have no shame, that will State that being Black—if you are Black and poor, you are incapable of doing what every other American does to function and progress. Simply, if you are Black and poor, progress, success, travel, education, a bank account, visiting this body is not for you.

Lieutenant Governor Robinson, today's Democratic Party wants us to believe that your mother's journey from poverty to a son now sitting as a national leader is impossible. They want us to believe that my grandfather's journey from poverty to his son in 1950 getting a Ph.D. is impossible.

Hardcore racism is very simply this. It seems that the Democratic Party thinks it is impossible for poor and Black people to get an ID for voting, but it is not even questionable to get a welfare check or public assistance. I think the next hearing should probably deal with considering welfare IDs as Jim Crow.

Lieutenant Governor Robinson, an Atlanta Journal-Constitution poll found that 63 percent of Black respondents agreed with requiring voter ID. Why do you think Democrats allege that it is so difficult for Black people to get an ID, that will suppress their vote?

Mr. ROBINSON. As a Republican, I can't speak for Democrats.

Mr. BISHOP. Microphone.

Mr. ROBINSON. So, I don't know why they can do that.

Mr. BISHOP. Microphone, Lieutenant Governor. Your mike.

Mr. ROBINSON. Sorry. I will repeat my prior statement.

As a Republican, I can't speak for how Democrats think, so I can't actually answer that question.

I can tell you this. For me, what it all boils down to is responsibility. You mentioned something that people often say, the soft bigotry of low expectation. I no longer call that soft bigotry. I call that the hard bigotry of low expectation.

I will go back to my mom. You referred to folks in your past. The way I saw my mom succeed was to be responsible. My mom did not wait on the Federal Government to feed her children. My mom had a fifth-grade education. When my father died, she had never worked outside the house. She got a job as a custodian to take care of her children.

I look at my own life. The more responsible I became as a young man, the more successful I became as a young man.

So, I would say this: I can't say how anyone else thinks, but certainly for myself and my party, I believe we all believe it is about responsibility.

Ultimately, responsibility drives freedom. Responsibility drives excellence. I believe, when you talk about voter integrity, when you talk about our voting laws and our voting system, responsibility will drive us towards a perfect or nearly perfect voting system, where any question of fraud can be purged and whoever wins, wins fairly.

Mr. OWENS. Lieutenant Governor Robinson, thank you for your life, your message. It is a message that all Americans need to hear,

particularly our race at this particular time. So, thank you so much for that.

I want to yield my remaining time to the gentleman from North Carolina.

Mr. BISHOP. I thank the gentleman.

Lieutenant Governor Robinson, in your comments, you mentioned that, in Vice-President Harris's visit to North Carolina just this past week, she visited the Greensboro location of the Woolworth's lunch counter, famous site of the desegregation conflict.

Mr. ROBINSON. Yes.

Mr. BISHOP. Our mutual friend, Clarence Henderson, was omitted—even though he was local, he was omitted from that event.

Mr. ROBINSON. Yes.

Mr. BISHOP. I want to ask you about yourself. We hear that this is a lot, about Democrats are solicitous of the opportunities for people of color and Republicans are not, which I think you stand as repudiation of just by your office and what you are doing these days.

Has the Governor of North Carolina, the Democrat Governor, Roy Cooper, reached out to you to celebrate your election, your unprecedented election, and integrate you into his Administration?

Mr. ROBINSON. Only once. Me and the Governor are diametrically opposed politically, but I can tell you this. I made this plain. Just as in the case with Mr. Henderson and the Vice President, I think those are perfect times when we can take a step back and realize our common interests as Americans.

Certainly, at that moment, I think that would have been a unifying message, to have this Republican Black man who actually sat at the lunch counter there with the Democratic Vice President, a woman of color, who is the first woman Vice President. It would have been a unifying moment for the country. The country could have seen that, despite our political differences, we can set those political differences aside to highlight the best of us. What we would have seen there would have been the best of us.

The same way is true in North Carolina. I desperately want to work with our Governor in North Carolina. I want to sit down in his office. I want to share my ideas; I want him to share his ideas. I want us to highlight the best of us, not the worst of us. Oftentimes that is very difficult. In our case, it turns out that the opposite has happened.

Mr. BISHOP. Yield back.

Mr. COHEN. Thank you, Mr. Owens.

Mr. Johnson, you are recognized for 5 minutes.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair. Thank you for holding this hearing.

Voters should not have to jump through hoops or traverse a cynically complicated obstacle course just to vote. The right to vote is not a privilege; voting is a fundamental right. The Voting Rights Act of 1965 was passed to enable Black people in America to exercise that fundamental right that had been historically denied to us by States like Texas, North Carolina, and, of course, Georgia.

In 2013, the U.S. Supreme Court gutted the preclearance provision of the VRA. Having been freed from the restrictions of section 5, those same jurisdictions that had historically denied the right to

vote to Black Americans immediately sprang into action into resuming their sordid history of passing laws to suppress the right to vote.

Georgia legislators used Donald Trump's "big lie" as their justification for passing Senate Bill 202, but the American people know that it was just a pretext and another big lie.

When over half the States in the Union are hell-bent on developing more ingenious ways to suppress the minority vote, while the other half are endeavoring to make voting easier for all, we find ourselves with a democracy that is simultaneously becoming more backward and undemocratic and more progressive. To quote Abraham Lincoln, "Our democracy cannot continue half-slave and half-free." The stark contrast between the active voter suppression going on in States, including the State of Georgia, with the automatic voting in States like Oregon illustrates that principle.

It is time that we, as the people's House, rise to this threat to our democracy and pass the John Lewis Voting Rights Advancement Act, which will be reintroduced soon by our colleague, the gentlelady from Alabama, Congresswoman Terri Sewell. Congress must make clear once and for all that voting is a right that must be protected at all costs.

At the time of the Shelby County decision, the entire State of Georgia was subject to the section 5 preclearance regime of the Voting Rights Act. After that decision, Georgia kicked its goal of suppressing Black voters into high gear.

This year, Georgia enacted the latest round of Jim Crow 2.0, an assault on voting rights, some of the most restrictive in the country.

A Gwinnett County Republican official, a county partly within my district in Georgia, was quoted earlier this year as saying that he wants laws that limit no-excuse absentee voting, quote, "so we at least have a shot at winning," end quote.

Reverend Barber, given your extensive experience with civil rights, educate us as to why these changes to voting in Georgia would specifically help Republicans in the State?

Rev. BARBER. Well, whether in Georgia, Arizona, or North Carolina, what we know, when these kinds of laws are examined, is that they not only hurt Black people, Brown people, and indigenous people, but they also hurt poor White people.

One of the ways we know this is because, for instance, in North Carolina, Representative Johnson, this is what the General Assembly did and probably what they did in Georgia. They asked for all the data on how early voting, same-day registration, 16-, 17-year-old voting, so forth and so on, impacted Black voters, and then they made their decision on which parts of the law they would create or would erase based on that data. That is why the Court said that it was surgical racism. It was not just happenstance.

Mr. JOHNSON of Georgia. Well, Pastor Barber, I know that the State of Georgia looked critically at the ways in which voter turnout was accomplished and then endeavored to restrict those ways to suppress those who voted because of those tactics.

Rev. BARBER. Exactly.

Mr. JOHNSON of Georgia. So, Lieutenant Governor Robinson, you said that in America there is no longer an effort to suppress the votes of Black people. When did we get to that point?

Mr. ROBINSON. I am sorry. You were asking me that question?

Mr. JOHNSON of Georgia. Yes. You are—

Mr. ROBINSON. Yes.

Mr. JOHNSON of Georgia. Yeah. When did we get to that point? You—

Mr. ROBINSON. I can't put my finger exactly on when that happened, but I know that it is not happening now.

Mr. JOHNSON of Georgia. All right.

You know that it is no longer happening now.

Would you agree that there was a need for the 1965 Voting Rights Act?

Mr. ROBINSON. Absolutely. Democrats made that possible with their institution of Jim Crow.

Mr. JOHNSON of Georgia. So, your argument, is that sometime between 1965 and today that voter suppression went away?

Mr. ROBINSON. Yes, because—

Mr. JOHNSON of Georgia. Is that what you are telling me.

Mr. ROBINSON. Because great progress has been made in this country amongst our Black people and that is obvious.

Mr. JOHNSON of Georgia. All right.

Okay. Well, thank you, sir. Thank you.

Ms. De León, Senate Bill 202, signed into law by Georgia's Republican Governor, Brian Kemp, last month—

Mr. COHEN. Hank, we are over time, I am afraid.

Mr. JOHNSON of Georgia. Okay. All right. I yield back. Thank you, Mr. Chair. I didn't realize that.

Mr. COHEN. Do we have voting starting?

We will try to keep going. We have 30 minutes for the vote.

The next person—who on the Republican side who is next? Everyone has done their questioning?

All right. The next is—Mr. Raskin, are you ready?

Mr. RASKIN. Yes, I am.

Mr. COHEN. You are recognized for 5 minutes, Mr. Raskin.

Mr. RASKIN. Okay. Then forgive me; we have been debating DC statehood on the floor. It is a great moment for America when we get to extend voting rights and self-representation to 712,000 tax-paying, draftable U.S. citizens.

So, those people who are here on both sides of the aisle who are championing voting rights should presumably be out there organizing for DC statehood. Unfortunately, we are not getting any support from across the aisle today on that.

Mr. Chair, thank you for calling the hearing.

I did catch the distinguished Lieutenant Governor of North Carolina speaking very strongly on behalf of the driver's license and the photo ID for voting. He said that the reason that he supported it is because it works—even as a champion of the Second Amendment, he said it works for the purchase of firearms.

So, I just want to make sure I have his argument right.

Do you support the use of photo ID for all voters in all circumstances? Then do you support the use of photo ID, driver's licenses, for all firearm purchases?

Mr. ROBINSON. Yes, sir, in both, I do.

Mr. RASKIN. Okay. So, you would support H.R. 8, the Universal Violent Criminal Voter—rather, firearm purchase law, which is being opposed by Republicans in Congress? I just want to make sure you are on our side on that.

Mr. ROBINSON. Love this—love the bait-and-switch thing here. Love it. It is great. Fantastic.

Mr. RASKIN. Well, where I am—

Mr. ROBINSON. You are leaving out a myriad of things that that bill covers, sir, so we are not even going to discuss that, because you are leaving out a myriad of things. I am talking about a commonsense issue of making sure we don't sell guns to people who have been adjudicated legally.

Mr. RASKIN. Excuse me—

Reclaiming my time. Mr. Chair.

Mr. ROBINSON. We are not talking about a bill.

Mr. COHEN. The Congressman has the time.

Mr. RASKIN. Reclaiming my time.

The Lieutenant Governor said that he supported the use of photo ID for all firearm purchases. That is precisely the purpose of H.R. 8, which says we will close the internet loophole, we will close the private gun show loophole, and we will close the private gun sale loophole.

I just want to make sure he is being consistent in his argument. He wants it—for everybody trying to vote and everybody trying to get a firearm, he wants a photo ID to be used, correct?

Mr. ROBINSON. I believe that all FFLs should have—should require—all FFLs should require an ID when people are coming in to purchase a firearm.

Mr. RASKIN. No, no. All firearm purchases.

You support—I think the logic of your argument is that we should have universal use of photo ID for the purchase of firearms. At least, you based your entire argument about why we should do voting that way on firearms. So, I just wanted to make sure that is your position.

Reverend Barber, let me come to you, if I could. Can you explain why voting is the heart of the American political creed in a way—we understand it is the right preservative of all other rights. If you don't have the right to vote, you can't defend yourself in other ways. Yet, at the same time, there has been a constant undertow of efforts to deny people their voting rights, with grandfather clauses; literacy tests; poll taxes; making people wait in line for 6 hours, 8 hours; rolling back early voting; rolling back weekend voting.

Why do we have this constant struggle in our country? It doesn't exist in a lot of democratic countries where it is a universal commitment to give everybody the right to vote to make sure everybody is registered. What is different about America?

Rev. BARBER. Well, what is different has been the issue of race and the issue of economics. Dr. King said it was the very threat of the possibility of Black masses and White masses joining together to overcome the White aristocracy that created voter suppression and segregation in the first place.

There have been a lot of distortions that have been put out here in this hearing. My grandfather was a Republican, but he was a Lincoln/Teddy Roosevelt Republican. He was not a Strom Thurmond Republican.

What we have seen is that, ever since the Southern Strategy, the Strom Thurmond-type Republicans, Jesse Helms-type Republicans decided that, particularly in the South, they were going to use that strategy and use ways of implementing voter suppression.

Whether you call it Jim Crow 2 or Jane Crow or Jane Crow, Esquire, it is always an attempt to Act benign, to Act like it does not undermine the right to vote, but, in fact, it does—

Mr. RASKIN. Okay—

Rev. BARBER. —for Black, Brown, and then it disables our ability to change the political system and the economic system in this country for the good of all people.

Mr. RASKIN. So, I have one final question I want to ask you, if I could?

There are more than 350 bills now around the country trying to roll back people's voting rights and restrict their voting rights in America today. Explain how a new Voting Rights Act, an updated Voting Rights Act, would protect people against their right to vote being impinged on in this—

Rev. BARBER. We need those bills to have to be precleared. The Republicans should not fear them being precleared and examined before they are implemented and before they are used in suppressive ways.

Preclear all these decisions under the Voting Rights Act. Judge them by the 14th amendment and the 15th Amendment. If they pass that, let them go into law.

Mr. COHEN. Thank you, Reverend Barber.

Mr. RASKIN. Thank you.

Mr. COHEN. We only have a few minutes, and we have to vote. We are going to recognize Ms. Bush for 5 minutes, and then we are going to recognize Ms. Jackson Lee for 5 minutes, and then we will wrap up and run and vote.

Ms. Bush, you are recognized for 5 minutes.

Ms. BUSH. St. Louis, and I thank you, Chair Cohen, for convening this crucial hearing.

Our right to vote—and I know it has been said before, but our right to vote is the foundation of our democracy. The right to vote is our instrument for change. Who we choose to represent us is a reflection of our struggles, our hopes, and our aspirations as a country and as a society. I know because I am one of those people.

I would be remiss not to start today's remarks by taking stock of the fact that the Voting Rights Act came into fruition because of the tireless work of civil rights champions, the thousands of protesters who took to the streets, and the many Black men and Black women who showed up and spoke out. They were bloodied and beaten and brutalized in the movement to protect and affirm our sacred right to vote. In 1965, they rose up to demand a say in our democracy. In 2021, we are still rising up, demanding that our voices be heard.

In the aftermath of the Shelby decision, in my home State of Missouri, Republicans have passed unnecessary and restrictive

voter ID laws and a notary requirement to deny Black people and Brown people and people living in poverty access to the ballot box.

We have seen polling places in our communities close, which happened all over the place—we have seen it—and roadblocks put up to prevent currently and formerly incarcerated people from reclaiming their rights.

We continue to fight. In 2020, we turned out in record numbers, despite the unprecedented obstacles put in place by a White supremacist system. Black and Brown voters, organizers delivered victories up and down the ballot. We know this.

With this Democratic majority, though, we now have the power to level the playing field by striking down racist laws that seek only to continue the history of disenfranchisement of Black, Brown, and indigenous people.

So, I want to ask Reverend Barber—good afternoon, and so good to have this moment with you. You have been active in the fight for civil—with the civil rights movement for decades. How have discriminatory voting practices evolved to be less overtly racially discriminatory since the 1960s?

Rev. BARBER. Well, I think what they do is they don't actually say, "We are doing this because it is racist," so you have to investigate the data. You have to look at the kind of requests they make for data and then how they make those decisions about what laws they are going to put in place based on that data.

That is what happened in North Carolina. They asked how these new voting laws would help Black people, such as same-day registration and early voting, and then those are the things they went after.

What they are afraid of is not just Black voters. It is the Black-White-Brown-Asian-indigenous coalition. Fifty-five percent of poor and low-wealth people voted in this past election for the current President that we have. It is that fusion coalition.

They know, lastly, that it only has to be surgical, and many times it only has to be a cutting or suppressing 1 or 2 percent of the vote to be fundamental change in who gets elected.

Ms. BUSH. Thank you for teaching, Reverend Barber.

Secretary Castro, many of these so-called election integrity laws that are currently making their way through State legislatures are measured—they have been shown to suppress minority turnout.

How do we make sure that States like Missouri, which were not part of the preclearance States previously, are still held accountable for their voter discrimination?

Mr. CASTRO. Thank you, Representative Bush. Thank you for your leadership on these issues.

I think that is why this legislation is so fundamentally important going forward, because it helps ensure that these kind of discriminatory voting measures are not put in place.

By updating what used to be section 4(b), essentially States that would be subject to preclearance, by updating that, it allows for the inclusion of places that may not have been covered before but may be covered now because of a pattern of discriminatory practices since the Shelby County decision and then going forward.

This legislation is one of the best ways that we can ensure that everybody in our country, regardless of the color of their skin or



their background, who is eligible to vote has convenient access to the franchise.

Ms. BUSH. Thank you, Secretary Castro.

I will close with this. In the words of the late Congressman John Lewis, when you see something that is not right, not fair, not just, and you have to speak up, you have to say something, you have to do something. Today, we honor his legacy by doing just that.

Thank you for answering my questions.

I yield back.

Mr. COHEN. Thank you, Ms. Bush.

We now recognize for 5 minutes Representative Sheila Jackson Lee of the great State of Texas.

Ms. JACKSON LEE. I thank you.

The historic record should be clarified that President Lyndon Baines Johnson initiated the Voting Rights Act of 1965 after the brutal killing of the four little girls and the Selma-to-Montgomery March and the brutalizing of John Robert Lewis. We are delighted that moderate Republicans joined in that vote. Subsequently, however, I am reminded of the fact that President Johnson said, "We have lost the South." Of course, the South began to turn Republican. Those were the oppressors, putting on a different party affiliation.

Ms. JACKSON LEE. Let me—General, I understand in 2020, former President Trump won North Carolina. Do you believe that was a legitimate election? Yes or no.

Mr. ROBINSON. Yes.

Ms. JACKSON LEE. Thank you very much.

Mr. Chair, I would like to offer into the record the article that says, here are the Republicans who objected to the electoral college vote in 2020. There were one, two, three, four, five of our Members here who are now talking about the issue of voting.

I would like to submit this into the record, and I will make the point later.

Mr. COHEN. Without objection.

[The information follows:]



**MS. JACKSON LEE FOR THE RECORD**

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**NPR.ORG** ›

<https://www.npr.org/sections/insurrection-at-the-capitol/2021/01/07/954380156/here-are-the-republicans-who-objected-to-the-electoral-college-count>

## **Here Are The Republicans Who Objected To The Electoral College Count**

**BARBARA SPRUNT** JANUARY 07, 2021

Heading into Wednesday's joint session of Congress to tally the Electoral College vote results, lawmakers anticipated a long day peppered with objections hinged on baseless allegations of election fraud. [More than a dozen Republican senators](#) had said they would object to at least one state's election results.

They began with a debate over a [challenge to Arizona's results](#). But after pro-Trump extremists brought [violence and chaos](#) to the Capitol, both chambers were forced into an emergency recess while the building was locked down.

When lawmakers reconvened hours later, a number of Senate Republicans [abandoned their plan to cast objections](#).

Only six senators, all Republicans, sustained the Arizona objection.

Here's a look at those six senators who maintained their course.

### **Josh Hawley, Missouri**

Hawley was the [first senator](#) to break ranks publicly last month and announce his plans to lodge objections during the [joint session](#).

Senate Majority Leader Mitch McConnell, R-Ky., had reportedly urged Republicans not to do so.

After thanking the U.S. Capitol Police for their efforts during the insurrection, Hawley defended his decision to object.

"What we are doing here tonight is actually very important because for those who have concerns about the integrity of our elections, those who have

concerns about what happened in November, this is the appropriate means, this is the lawful place where those objections and concerns should be raised," he said.

The purpose of Congress convening is to formally tally the votes of the Electoral College, not litigate election matters. Concerns about state elections were already raised — and rejected — in courts.

### **Ted Cruz, Texas**

Once a primary rival of Trump's, who even declined to endorse him at the 2016 Republican National Convention, Cruz has since become a staunch defender of Trump's presidency.

"I want to speak to the Republicans who are considering voting against these objections," Cruz said Wednesday afternoon during the debate over Arizona's Electoral College results.

"I urge you to pause and think, what does it say to the nearly half the country that believes this election was rigged if we vote not even to consider the claims of illegality and fraud in this election?"

Public opinion doesn't dictate who should win an election or if there should be additional investigations into fraud, an allegation that state election officials and Trump's own Justice Department have [vehemently refuted](#).

### **Tommy Tuberville, Alabama**

Tuberville fulfilled the pledge he made Tuesday to join Cruz in objecting to the results from Arizona. A retired football coach, Tuberville [defeated Jeff Sessions, the former senator and attorney general](#), in the GOP primary and went on to win against Democratic incumbent Doug Jones in November.

### **Roger Marshall, Kansas**

A former U.S. representative, Marshall [defeated](#) former Kansas Secretary of State Kris Kobach in the Republican Senate primary earlier this year and went on to win the Senate seat vacated by Pat Roberts. He secured endorsements from prominent Republicans, including McConnell.

### **John Kennedy, Louisiana**

Elected to the U.S. Senate in 2016, Kennedy has been a frequent defender of Trump.

On Thursday, Kennedy condemned the rioters and reiterated that his plans to raise objections during the proceedings were on behalf of his constituents.

"I came to the Capitol yesterday to give them a voice," he said in a statement. "I joined several Senate colleagues in calling for a bipartisan commission to inspect election issues raised across the country. Our proposal was not successful, but our goal to ensure full confidence and transparency in our elections — for all Americans — is a noble one, and I'll keep pursuing it."

### **Cindy Hyde-Smith, Mississippi**

Hyde-Smith won her runoff election in 2018, becoming the first woman elected to the Senate from Mississippi. She was widely criticized for comments she made that surfaced during the campaign, including one in which she told a supporter, "If he invited me to a public hanging, I'd be on the front row." She has been an ardent supporter of Trump while in office.

The Senate rejected the Arizona challenge 93-6. The House rejected it 303-121.

Here are the 121 House members who supported the objection:

## House

<b>Aderholt</b> , (R) Ala.	<b>Garcia</b> , (R) Calif.	<b>McCarthy</b> , (R) Calif.
<b>Allen</b> , (R) Ga.	<b>Gibbs</b> , (R) Ohio	<b>McClain</b> , (R) Mich.
<b>Arrington</b> , (R) Texas	<b>Gimenez</b> , (R) Fla.	<b>Miller</b> , (R) Ill.
<b>Babin</b> , (R) Texas	<b>Gohmert</b> , (R) Texas	<b>Miller</b> , (R) W. Va.
<b>Baird</b> , (R) Ind.	<b>Good</b> , (R) Va.	<b>Moore</b> , (R) Ala.
<b>Banks</b> , (R) Ind.	<b>Gooden</b> , (R) Texas	<b>Mullin</b> , (R) Okla.
<b>Bergman</b> , (R) Mich.	<b>Gosar</b> , (R) Ariz.	<b>Nehls</b> , (R) Texas
<b>Bice</b> , (R) Okla.	<b>Graves</b> , (R) Mo.	<b>Norman</b> , (R) S.C.
<b>Biggs</b> , (R) Ariz.	<b>Green</b> , (R) Tenn.	<b>Nunes</b> , (R) Calif.
<b>Bishop</b> , (R) N.C.	<b>Greene</b> , (R) Ga.	<b>Obernolte</b> , (R) Calif.
<b>Boebert</b> , (R) Colo.	<b>Griffith</b> , (R) Va.	<b>Palazzo</b> , (R) Miss.
<b>Bost</b> , (R) Ill.	<b>Guest</b> , (R) Miss.	<b>Palmer</b> , (R) Ala.
<b>Brooks</b> , (R) Ala.	<b>Hagedorn</b> , (R) Minn.	<b>Perry</b> , (R) Pa.
<b>Budd</b> , (R) N.C.	<b>Harris</b> , (R) Md.	<b>Pfluger</b> , (R) Texas
<b>Burchett</b> , (R) Tenn.	<b>Harshbarger</b> , (R) Tenn.	<b>Posey</b> , (R) Fla.
<b>Burgess</b> , (R) Texas	<b>Hartzler</b> , (R) Mo.	<b>Reschenthaler</b> , (R) Pa.
<b>Calvert</b> , (R) Calif.	<b>Hern</b> , (R) Okla.	<b>Rice</b> , (R), S.C.
<b>Cammack</b> , (R) Fla.	<b>Herrell</b> , (R) N.M.	<b>Rogers</b> , (R) Ala.
<b>Carl</b> , (R) Ala.	<b>Hice</b> , (R) Ga.	<b>Rogers</b> , (R) Ky.
<b>Carter</b> , (R) Ga.	<b>Higgins</b> , (R) La.	<b>Rose</b> , (R) Tenn.
<b>Carter</b> , (R) Texas	<b>Hudson</b> , (R) N.C.	<b>Rosendale</b> , (R) Mont.
<b>Cawthorn</b> , (R) N.C.	<b>Issa</b> , (R) Calif.	<b>Rouzer</b> , (R) N.C.
<b>Cline</b> , (R) Va.	<b>Jackson</b> , (R) Texas	<b>Rutherford</b> , (R) Fla.
<b>Cloud</b> , (R) Texas	<b>Jacobs</b> , (R) N.Y.	<b>Scalise</b> , (R) La.
<b>Clyde</b> , (R) Ga.	<b>Johnson</b> , (R), La.	<b>Sessions</b> , (R) Texas
<b>Cole</b> , (R) Okla.	<b>Johnson</b> , (R) Ohio	<b>Smith</b> , (R) Mo.
<b>Crawford</b> , (R) Ark.	<b>Jordan</b> , (R) Ohio	<b>Smith</b> , (R) Neb.
<b>Davidson</b> , (R) Ohio	<b>Joyce</b> , (R) Pa.	<b>Steube</b> , (R) Fla.
<b>DesJarlais</b> , (R) Tenn.	<b>Kelly</b> , (R) Miss.	<b>Tiffany</b> , (R) Wis.
<b>Diaz-Balart</b> , (R) Fla.	<b>Kelly</b> , (R) Pa.	<b>Timmons</b> , (R) S.C.
<b>Donalds</b> , (R) Fla.	<b>LaMalfa</b> , (R) Calif.	<b>Van Drew</b> , (R) N.J.
<b>Duncan</b> , (R) S.C.	<b>Lamborn</b> , (R) Colo.	<b>Walberg</b> , (R) Mich.
<b>Dunn</b> , (R) Fla.	<b>LaTurner</b> , (R) Kan.	<b>Walorski</b> , (R) Ind.
<b>Estes</b> , (R) Kan.	<b>Lesko</b> , (R) Ariz.	<b>Weber</b> , (R) Texas
<b>Fallon</b> , (R) Texas	<b>Long</b> , (R) Mo.	<b>Webster</b> , (R) Fla.
<b>Fischbach</b> , (R) Minn.	<b>Loudermilk</b> , (R) Ga.	<b>Williams</b> , (R), Texas
<b>Fitzgerald</b> , (R) Wis.	<b>Lucas</b> , (R) Okla.	<b>Wilson</b> , (R) S.C.
<b>Fleischmann</b> , (R) Tenn.	<b>Luetkemeyer</b> , (R) Mo.	<b>Wright</b> , (R) Texas
<b>Franklin, C. Scott</b> , (R) Fla.	<b>Malliotakis</b> , (R) N.Y.	<b>Zeldin</b> , (R) N.Y.
<b>Fulcher</b> , (R) Idaho	<b>Mann</b> , (R) Kan.	
<b>Gaetz</b> , (R) Fla.	<b>Mast</b> , (R) Fla.	

House members also objected in the cases of Georgia, Michigan and Nevada, but no senator joined in the objection, thereby preventing debate.

The only other state disputed with support from both chambers was Pennsylvania; 138 House members, all Republicans, supported the objection, as did seven senators: Cruz, R-Texas; Hawley, R-Mo.; Hyde Smith, R-Miss.; Cynthia Lummis, R-Wyo.; Marshall, R-Kan.; Tuberville, R-Ala.; and Rick Scott, R-Fla.



Ms. JACKSON LEE. Thank you so very much. Let me go quickly to Ms. De León, and my time is very short. Make your answers very short. I respect you. Since the Shelby County decision, some have floated the notion that there is no problem with enforcement of the Voting Rights Act as it stands, because there are still adequate remedies under the statute to continue strong voting rights enforcement.

What is your response? Ms. De León.

MS. DE LEÓN. Thank you so much. Yes, thank you so much for that question. The Voting Rights Act is key and the preclearance is key because there is still intentional discrimination. I believe there has been some confusion and I would like to clear it up today.

Civil rights advocates are not against photo ID. We are against manipulating photo ID to cut voters out. In North Dakota immediately after Native voters flexed their political power and influenced a race for U.S. Senate, the State legislature restricted the types of photo ID and required photo ID with an address on it when they knew there were Native Americans in North Dakota that do not have addresses on their home, which, by the way, is a whole other injustice. We took that case to court, and the Republican-appointed Federal judge agreed the law was unconstitutional and violated the 14th Amendment.

The State legislature then passed the law, again, in defiance of the court, and that is intentional discrimination happening today, and that case was not resolved until last year.

Respectfully, no amount of personal responsibility will put an address on a home. When it is suggested—

Ms. JACKSON LEE. Thank you.

MS. DE LEÓN. —is accessible that shows an ignorance of the reality on the ground facing Native Americans. Thank you.

Ms. JACKSON LEE. Thank you. Thank you for representing Native Americans. Let me, Lieutenant Governor Robinson, let me correct that.

Mr. OWENS. Will the lady yield.

Ms. JACKSON LEE. Let me also thank you for your service.

Mr. OWENS. Will the lady yield.

Ms. JACKSON LEE. Reverend Barber, I have a short period of time. We have been hearing all throughout this session that race does not matter. Would you briefly—I have to ask Secretary Castro a question, please, would you briefly categorize how a race has seen a proliferation of oppressive voting rights laws, even though, as you said, if we all work together, we can get equality? How does race, racism impact all these voting rights laws being written by Republican legislatures across America.

Rev. BARBER. Systemic racism, policy-based racism does matter. It matters because it is the violation of the 15th Amendment, 14th Amendment. Let me just read the Supreme Court in answer to your question about the gerrymandering case in North Carolina.

The U.S. Supreme Court issued a remarkable per curiam decision striking down as a sweeping unconstitutional racial gerrymandering, the maps that created an unaccountable legislative super majority in the State House, therefore, creating an unconstitutionally constituted legislature.

Ms. JACKSON LEE. Thank you, Reverend. Thank you, Reverend. I love you and thank you for your service. They are cutting me off. Thank you so very much. That is powerful what you said.

Secretary Castro, thank you for your mother's work. My predecessor, who endorsed me, the Honorable Barbara Jordan, was able to get Hispanics included in the language of the 1965 Voting Rights Act when she came to Congress. I subsequently was here for the historic reauthorization.

What impact did that making sure that Texas was included, and Hispanics were actually included in the empowerment of Hispanic voters, which are racial definition in many instances, what did it do for this State.

Mr. CASTRO. Thank you so much. Thank you for the question, Representative Jackson Lee and for your leadership. That 1975 extension to language minorities was groundbreaking. What it meant was much greater participation, particularly in the Mexican American community, Latino community, there in Texas, greater election, the first-choice candidates from those communities that changed the face of governance across the State of Texas and in many other places, it empowered millions of people.

Ms. JACKSON LEE. Thank you. There is not enough time, Mr. Chair, I just want to finish this one sentence, just to say: This represents all the Republicans who voted against the legitimacy of the Biden election, included in it are those who challenged Georgia and Fulton County, in particular, which was dominated by African-Americans. Someone will, in another hearing, Mr. Chair, explain to me why this is not all about race. That is what it is about.

I yield back.

Mr. COHEN. Thank you, Ms. JACKSON LEE.

That concludes our hearing today. I want to thank all our witnesses for appearing today.

Without objection, all Members will have 5 legislative days to submit additional written questions for the witnesses, or additional materials for the record.

With that, the hearing is adjourned.

[Whereupon, at 11:11 a.m., the Subcommittee was adjourned.]

## **APPENDIX**

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**SYLVIA R. GARCIA**

STATE SENATOR  
DISTRICT 6

The Honorable Patrick J. Leahy  
Chairman  
United States Senate  
Committee on the Judiciary  
Washington, D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
United States Senate  
Committee on the Judiciary  
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

Thank you for the opportunity to submit this testimony concerning the continuation of discrimination in voting in Texas, and the critical importance, for my constituents, Texans, and voters around the country, of modernizing federal voting rights protections.

My name is Sylvia Garcia. Currently, I represent District 6 in the Texas State Senate, which includes parts of Houston, Pasadena, Baytown, Jacinto City, Galena Park, and northern and eastern Harris County. I have also served as Presiding Judge of the Houston Municipal Courts, Houston City Controller, and Commissioner of the Harris County Commissioner's Court. I am the current Vice Chair of the Texas Senate Hispanic Caucus, as well as the past President and a current member of the Board of Directors of the National Association of Latino Elected and Appointed Officials (NALEO).

I am a Texas native, from the South Texas farming community of Palito Blanco. As a social worker, attorney, and now a public official, my career has revolved around ensuring that every Texan has an opportunity to be heard. The needs and desires my clients and constituents have shared with me in the course of many years of public service have reinforced values I have always held close and tried to live out in my work: to make sure that no one is forgotten; that precious resources are used wisely; and that community decision-makers do so openly and transparently, and maintain accountability to those affected by their decisions.

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These same values that have guided my work for so many years motivate me to speak out on behalf of the millions of Texans whose opportunities to cast a ballot and to have a meaningful influence on elections remain under threat. A democracy offers empty promises if the citizens the government is intended to serve are not treated equally, regardless of race, ethnicity, or linguistic ability, and if citizens are prevented or dissuaded from participating in civic affairs. Unfortunately, we have too many such instances occurring in my home state today. For the sake of the integrity of our elections and our democracy, Texas urgently needs a modernized fully functioning Voting Rights Act (VRA).

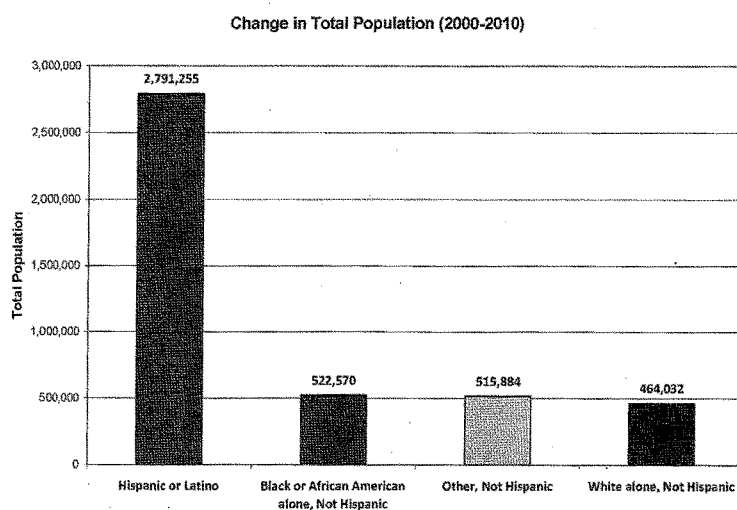
The Rapid Growth of Historically Underrepresented Communities Makes Ensuring Equal Access to the Ballot Particularly Critical for the Health of Democracy

My District, as well as Texas more broadly, illustrates why defending and promoting equal access to the ballot box for voters of all races, ethnicities, and linguistic abilities is particularly critical. In my District and throughout the state, a disproportionate number of residents are members of communities that have historically suffered the brunt of discrimination in voting, education, employment, and other domains. I represent a population that is about 70% Hispanic and about 12% African American. These two groups along with other ethnic or language minority populations constitute significant shares of Texas' population overall. Today 37.6% of Texans now report Hispanic ethnicity. About 12% of Texans are African American, and about 4% are of Asian American, Native Hawaiian or Pacific Islander descent. My constituents and Texans are linguistically diverse as well. Though a majority also speaks English, nearly two-thirds of District 6 residents, and more than one-third of Texans statewide, who are 5 years old or older speak a language other than English at home. The Census Bureau calculates that 7% of all Texans eligible to vote are not fully fluent in English and need language assistance to cast an informed ballot, compared to 4.5% of all eligible voters nationwide.

These minority populations, vulnerable to discrimination in voting, are becoming an increasingly large segment of the electorate. Between the 2000 and 2010 decennial Censuses, Texas' Latino population increased by nearly 2.8 million people, accounting for 65% of statewide population expansion, as illustrated in the chart below. Minorities overall accounted for 89% of Texas growth in the past decade. During the same period, Latinos accounted for a similar, outsized 55.5% of all population growth nationwide. In the year 2000, 31.2% of Texas residents

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reported speaking a language other than English at home; according to the most recent Census Bureau figures, this share has increased to 34.6%. Likewise, the percentage of United States residents speaking a language other than English at home grew from 18% in 2000 to 20.5% at most recent count.



Data Sources: Census 2000 Redistricting Data (Public Law 94-171) Summary File PL002 Table; 2010 Census Redistricting Data (Public Law 94-171) Summary File P2 Table

Texas, and our nation as a whole, is growing increasingly diverse and we must do a good job of engaging these communities as voters and candidates. Instead, voting discrimination based on race, ethnicity, and language ability continues in our state, and is alienating communities of color from participating in elections.

#### Discrimination in Voting in Texas Continues

As Congress considers legislation that would modernize VRA protections, both houses must acknowledge and address the fact that discrimination in voting has deep roots and continues, even today.

Texas has a long record of troubling and pointed attempts to exclude Latino, African American, and other historically underrepresented groups from full

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participation in politics and governance. As early as the first half of the 19<sup>th</sup> century, delegates to Texas's constitutional convention who were preparing for U.S. statehood attempted to preclude the territory's Mexican Americans from the franchise. A second attempt originated in Texas in the 1890s to prohibit people of Mexican heritage from becoming naturalized American citizens and gaining the right to vote. In the first half of the 20<sup>th</sup> century, Texas jurisdictions developed evolving tactics to limit minority electoral participation and influence. A poll tax was added to the Texas Constitution in 1902, and remained in effect until the state was forced to repeal it in 1966. A 1923 state law barred African Americans from voting in Democratic primary elections, and in the following years numerous jurisdictions prohibited Latino and other voters from participating in white-only primary elections.

The enactment of the VRA in 1965, and its extension in 1975 to provide comprehensive protection to Latino and other language minority voters, ended the use of some of these well-known discriminatory techniques. However, Texas and its sub-jurisdictions have continued to adopt voting policies that impair and prevent minority citizens from casting ballots. Between 1982 and 2005, for example, Texas earned 107 Section 5 objections to voting policies, second only in number to Mississippi. Among them, 97 concerned local laws and affected about 30% of Texas counties home to a disproportionate share – nearly 72% – of the state's non-white voting age population. During this same period, aggrieved voters and candidates brought at least 206 successful lawsuits under Section 2 of the VRA against the state of Texas and Texas municipalities and counties.

In the years immediately preceding the Supreme Court's decision in *Shelby County v. Holder*, Texas and political subdivisions within the state adopted more policies that ran afoul of the VRA's preclearance protections than any other state. In the most recent 15 years, Texas has also amassed more violations of other VRA provisions – Sections 2, 203, and 208 – than any other state. Sadly, the number of discriminatory incidents, prompting litigation, has accelerated in the last five years. These troubling laws aimed at restricting access to the ballot box and voter influence of historically underrepresented voters will only exacerbate Texas' lagging and racially-disparate levels of voter turnout and registration. According to Census Bureau data on the 2012 Presidential election, for example, just 39% of Latino Texans eligible to vote cast a ballot, compared to 48% of Latinos nationwide, 61% of white Texans, and 64% of white Americans. In my own district, the fabric of the community has changed, and unfortunately not everyone

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is embracing that change. For instance, two local colleges resisted alterations to their board compositions from at-large districts to single-member districts, and there are plenty of other examples of resistance to progress for voters across Texas.

There is New and Heightened Danger to Latino and Underrepresented Texans’  
Voting Rights in the Wake of *Shelby County*

In the year since *Shelby County* was decided and preclearance obligations in Texas lifted, policymakers in our state demonstrated an alarming eagerness to move forward both with new voting changes highly likely to impair underrepresented communities’ civic participation, and to revisit old proposals already found to be discriminatory, but that were placed on hold. Preclearance coverage was effective in halting the use of many of these provisions *before* they could negatively affect minority voters in Texas. Currently-pending cases under the remaining sections of the VRA are proceeding slowly, and so far have not stopped troubling practices from taking effect, to the detriment of many of my constituents, as well as millions of Texans.

*2013 – City of Pasadena*

Recent developments in the city of Pasadena are particularly familiar to me, and of particular concern, because many of its residents are also my constituents. In Pasadena, the voting-eligible Latino population has grown exponentially in recent years. Today, just over one-third of Pasadena’s potential electorate, and just over half of its adult population, is Latino. Given this increasing Latino presence, it is not surprising that Latinos have been elected to fill two of the eight single-member seats on the Pasadena City Council. The increasingly Latino face of Pasadena residents and governance has, however, sparked some apparent tensions. Facing a Latino majority, Pasadena’s mayor Johnny Isbell unilaterally pushed a vote on a controversial plan to convert the city’s method of election from eight single-member districts to six single-member districts and two at-large seats. The proposed change from eight to six single-member districts will reduce Latino voting strength in City Council elections. In describing the city, Mr. Isbell was quoted by the *Wall Street Journal* as stating, “The town’s identity is plant workers . . . western . . . . It’s a heritage that we are proud of.” (See Attachment A).

The proposal had been discussed in Pasadena, but never implemented until, as the city’s mayor said of conditions post-*Shelby County*, “The Justice Department can



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no longer tell us what to do.” (See Attachment B). The mayor pursued the change, despite receiving significant expressions of concern from residents in public hearings and in spite of a contrary recommendation by a Review Committee commissioned to study the proposal. The measure was approved by a very slim margin. In the course of public debate, the mayor reportedly expressed racially-themed concerns about the future makeup of a single-member city council. He also argued—without any support or factual validation—that the purported reason more Latino candidates were not elected to municipal positions was because 75% of Latinos in Pasadena were “illegal aliens.”

Elections have not yet been held under the new hybrid election system, but there are ongoing community concerns about the new scheme. Four of the current city council districts contain Hispanic citizen-voting age population majorities. At least one incumbent Latino city councilmember may face a difficult re-election campaign in a reconstituted district, which is also home to a neighboring incumbent councilmember. The mayor recognized that Latino candidates of choice were on the cusp of becoming an effective majority of the council in Pasadena and as a way to dilute Latino political power he ramrodded this hybrid redistricting plan. Given racially polarized voting in Pasadena, it is unlikely that a candidate of the Latino community’s choice would win a race for an at-large seat. The most likely consequence of the change – a reduction in Latino citizens’ influence on elections and presence on governing bodies – combined with its timing and the racial element in related public debate make this a quintessential case for preclearance. (See Attachment C). In the absence of a fully functioning Voting Rights Act, this suspect change will proceed in the next year, with city council elections slated for May 2015.

#### *2013 – Galveston County*

In August 2013, Galveston County followed the state’s lead in ceasing upon the *Shelby County* decision to move a controversial election change. The *Houston Chronicle* observed that Galveston County was, “the first Houston area government to take advantage of the June 25 U.S. Supreme Court decision to change an election law that otherwise might have been blocked by the Justice Department.” (See Attachment D). County Commissioners moved quickly after *Shelby County* to adopt an initiative to reduce the number of justice of the peace and constable districts in the county from eight to four, similar to another change recently rejected for being discriminatory. No public hearings were held on the

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topic. Both the rejected and enacted plans reduced the number of districts containing African American and Latino voter majorities. Incumbent officials and a resident challenging the move allege that the measure was adopted to intentionally limit African American and Hispanic voters', noting that the county went ahead with the change with full knowledge of its discriminatory effects.

*2013 – Statewide Re-Implementation of Voter ID and Intentionally Discriminatory Redistricting Plan*

On June 25, 2013, the Supreme Court announced the *Shelby County* decision, our state proclaimed its newfound ability to put into use the voter ID requirement and redistricting plan that had each been determined by a federal court to be discriminatory. On that very same day, our Attorney General celebrated, in tweets, that, "Eric Holder can no longer deny #VoterID in #Texas after today's #SCOTUS decision. #txlege #tcot #txgop" and "Texas #VoterID law should go into effect immediately b/c #SCOTUS struck down section 4 of VRA today. #txlege #tcot #txgop." The Attorney General also stated that day that, "Redistricting maps passed by the Legislature," meaning those rejected by the federal court in 2012 as intentionally discriminatory in part, "may also take effect without approval from the federal government."

While the Texas legislature ultimately adopted a new set of district plans, based on interim court-created maps that had replaced the intentionally discriminatory redistricting scheme, the state moved forward with its voter ID requirement that was found to be retrogressive in federal court. Mismatches between information in voter registration records and that appearing on IDs have been widely reported, and *The Dallas Morning News* concluded that use of provisional ballots skyrocketed in most of Texas's largest counties in November of 2013 when voter ID was first mandated at polling places. (See Attachment E). The full impact of the law on minority voter communities will become more apparent as Congressional and Presidential elections occur: the best available data on voter registration and turnout by race and ethnicity, from the Census Bureau's Current Population Survey, are collected only on these occasions, once every two years.

The following case examples are a non-exhaustive illustration of the forms in which Texans, including my constituents, have confronted voting discrimination in the immediate past.

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#### Texas Statewide Violations

##### *2001 – Statewide Redistricting*

Following a significant increase in Texas's Latino population between 1990 and 2000, a redistricting plan was proposed for the state House of Representatives that would have caused a net loss of districts in which Latinos constituted a majority of registered voters, and in which registered Latino voters enjoyed a realistic opportunity to elect the candidates of their choice. This redistricting plan failed to win approval under the VRA because of its pointed, prospective negative impact on Texas minority voters.

##### *2004 – Statewide Redistricting*

Following rejection of discriminatory redistricting plans, the Texas Legislature was ultimately unable to agree on Congressional and statewide district maps post-2000 Census. The state moved forward with court-created maps; nonetheless, in 2004 the Legislature adopted yet another set of new maps to replace the court plan. As Supreme Court Justice Anthony Kennedy observed, “the State took away the Latinos’ opportunity because Latinos were about [to] exercise it. This bears the mark of intentional discrimination . . . .” The Court required changes to be made to the state’s new maps in order to eliminate the discriminatory impact on Latino voters.

##### *2007 – Statewide Candidate Qualifications for Fresh Water Supply District Supervisors*

The Texas Legislature adopted a change to qualifications required of candidates for fresh water supply district supervisor positions, mandating land ownership. The state failed to provide complete demographic information about affected districts and supervisors in the course of the preclearance process, but investigators determined that every incumbent supervisor who would have been prevented by the law from running for re-election because of lack of land ownership was Latino. Moreover, there were significant disparities throughout the state between Anglo and minority rates of land ownership that supported the conclusion that the rule was discriminatory and could not go into effect.

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*2011 – Statewide Congressional and Legislative Redistricting*

In 2011, as our state undertook redistricting for Congressional and state legislative seats, the rapid Latino population growth described above had resulted in Texas gaining four additional seats in Congress. Yet the new district map ultimately approved by the Texas Legislature failed to create even one new district in which Hispanic or other minority voters were likely to have the opportunity to elect the candidate of their choice. A federal district court reviewing the plan found clear evidence that the maps had been enacted with intent to racially discriminate against Latinos and African Americans, pointing to email messages between legislative staff that revealed plotting to move important landmarks and actively voting minority communities from districts in which minority voters were previously able to exert notable influence. For as long as they remained in effect, preclearance procedures prevented use of district maps intended to diminish Latino and other voters' voices.

*2011 – Statewide Voter ID*

Texas recently adopted a particularly restrictive version of a requirement that voters provide one of a limited number of documents to prove their identity before voting. The law excludes some government-issued documents, such as student IDs, from the list of acceptable forms of proof. It also mandates “substantial” similarity between a voter’s name as it appears on voter registration records and ID, a rule that has already caused complications and difficulties in voting for married and divorced women who have used various last names, and for Latino voters who alternately use one or both of their parents’ last names. Moreover, reviewers found in 2012 that Latino and African American voters in Texas were not only less likely than others to possess the documentation they would need to vote under the law, but were more likely to face significant hurdles to obtaining ID. Latino Texan households, for example, are nearly twice as likely as white Texan households to lack access to a car, which is often needed to reach an ID-issuing location. As in the case of Texas’s most recent statewide redistricting, preclearance procedures prevented this voter ID law from taking effect when they were in place.

Texas Political Subdivision Violations

*2002 – City of Freeport*

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In the 1990s, a near-unbroken history of losses by Hispanic-preferred candidates and successful litigation resulted in Freeport's adoption of single-member city council districts. Under this new system, Hispanic-preferred candidates experienced increased electoral success, but a mere ten years later, the city tried to revert back to use of the at-large system that had put the city's minority voters at distinct disadvantage. Upon review, it was determined that racially-polarized voting persisted in Freeport, and would likely cause minority-preferred candidates to uniformly lose at-large elections. This change was rejected, and today Freeport has a Latina mayor and additional Latino representation on its city council.

*2002 – City of Seguin*

In 1978, Latino plaintiffs sued the city of Seguin for failing to redistrict after the 1970 Census. At the time, the city elected eight council members from four multi-member wards, and the city was 40% Mexican American and 15% African American, yet there had never been more than two minority candidates elected at once to the Seguin City Council. After protracted litigation the U.S. Court of Appeals for the Fifth Circuit required the redistricting plan to be precleared. Nevertheless, Seguin failed to redistrict after the 1980 and 1990 Censuses. By 1993, 60% of the city was minority, but only three of nine City Council members were Latino. Again, Latino plaintiffs won a settlement in 1994 resulting in the creation of eight single-member districts. Yet, following the 2000 Census, Seguin enacted a redistricting plan that fractured the city's Latino population across the districts to maintain a majority of Anglos on the City Council. Seguin amended the plan, following Department of Justice (DOJ) objection, but proceeded to close its candidate filing period so that the Anglo incumbent would run for office unopposed. Latino plaintiffs sued and secured an injunction under Section 5 of the VRA. A new election date was set as part of a settlement agreement, and today, a Latino majority serves on the Seguin City Council. The persistence of the opposition to minority voting power in Seguin presents powerful evidence that the equality principles protected by the VRA would not be vindicated in Texas absent vigilant enforcement of a fully functioning Voting Rights Act.

*2006 – North Harris Montgomery Community College District*

Officials proposed significant changes to the conduct of elections for seats on the North Harris Montgomery Community College District, located in The

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Woodlands, Texas. The changes would have drastically reduced the number of polling places, and created a bifurcation of the community college district and school board elections that would have required voters to make two different trips to vote for candidates for the leadership of both bodies. Emblematic of the disproportionate negative effect these changes would have had on minority voters was the finding by reviewers that, “the [polling] site with the smallest proportion of minority voters will serve 6,500 voters, while the most heavily minority site (79.2 % black and Hispanic) will serve over 67,000 voters.” The preclearance process stopped these changes from being implemented.

*2007 – Waller County*

Waller County is home to Prairie View A&M, a historically black university whose student population accounts for a considerable portion of the county’s voting age population. Many of these students typically registered to vote with the assistance of designated volunteer deputy registrars. In 2007, the county changed its criteria for acceptance of registration applications submitted by volunteer deputy registrars, adding several conditions to the list of factors that would result in rejection. The county refused to seek preclearance, despite its obligation to do so. These changes threatened to impair registration of predominantly African American Prairie View A&M students. In settlement of a Section 5 action, the County agreed to stop applying its new criteria for rejection, and to register those applicants who were wrongfully rejected.

*2008-09 – Gonzales County*

Today, approximately 15% of the adult population in Gonzales County is estimated to be not fully fluent in English, according to the Census Bureau. The County adopted bilingual election procedures in 1976, but attempted to gut them in 2008 and again in 2009. In attempting to gain approval of a plan to reduce assignment of bilingual pollworkers and to use a computer program such as Google Translator to produce bilingual materials, the county election official was quoted in local press as wildly speculating that, “language minority voters are not citizens if they do not speak English.” The proposed reductions in language assistance were stopped because of preclearance procedures.

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*2010 – Runnels County*

Like Gonzales County, Runnels County, Texas abruptly changed its long-standing Spanish-language election procedures for the November 2008 general and November 2009 statewide constitutional amendment elections, despite 38% of Hispanic voting-age citizens speaking English less than very well. DOJ interposed an objection to the county's 2008 and 2009 oral assistance procedures. Specifically, half the county voting precincts did not have a bilingual poll worker in 2008 and no precincts had one in 2009, and the county only had one on-call bilingual assistor available by phone that received no calls for assistance in years. The county did not test the Spanish-language proficiency of its bilingual poll workers or provide training for the assistors. Runnels County failed to provide data to demonstrate that the reduction in quality and quantity of oral assistance procedures did not have a retrogressive effect, or even dispute the changes were not motivated, in part, by discriminatory purpose. But for a fully functioning Voting Rights Act, Runnels County would have abandoned its obligation to Latino voters needing language assistance at the polls.

*2011 – Nueces County*

Nueces County has experienced notable growth in its Latino population and decline in its white population over the past 20 years. Shifting demographics resulted in a Commissioner's Court that for some time had a majority of Hispanic candidates of choice. However, just before post-2010 Census redistricting was to occur, close contests resulted in the election of a majority of Commissioners favored by white voters. These Commissioners were responsible for a 2011 redistricting plan that was determined to "have been undertaken to have an adverse impact on Hispanic voters," according to the DOJ, and to preserve the new majority on the Commissioner's Court, preferred by a majority of white voters. County officials failed to offer reasonable non-discriminatory justification for their district boundary-drawing decisions, and the Commissioner's Court redistricting plan was rejected.

*2011 – City of Galveston*

Galveston moved to alter the method by which it elects candidates for municipal offices multiple times. In 1993 the city agreed to adopt single-member districts, but just five years later, in 1998, it attempted to revert back to a hybrid single-

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member/at-large system that had previously been rejected as discriminatory. Once again in 2011 the city sought to eliminate some single-member districts of the city council, but was stopped because reviewers concluded that the proposed new district plan would have eliminated minority voters' opportunity to exert meaningful influence on elections for at least one seat. The city did not provide any justification for its repeated attempts to eliminate single-member districts, and was adjudged to have failed to prove that its actions were not motivated by discriminatory intent.

*2011 – Galveston County*

In the same year the city of Galveston pursued at-large elections, Galveston County adopted a redistricting plan for County Commissioner's Court precincts, and a proposed reduction in the number of constable and justice of the peace seats in the county. Unlike in previous years, the County avoided adopting criteria to guide the redistricting process; the Commissioner's Court also specifically avoided notifying its one minority member in advance that a map that would significantly reduce the minority population in that member's precinct would be considered and voted upon. In addition, the proposed elimination of constable and justice of the peace positions would have reduced the number of seats to which minority voters could elect candidates of choice from three to one. The timing of the change – virtually as soon as a previous court order requiring expansion of opportunities for minority voters expired – was not lost on reviewers who noted, "A stated justification for the proposed consolidation was to save money, yet, according to the county judge's statements, the county conducted no analysis of the financial impact of this decision." Both proposed changes failed to pass muster as having been adopted without discriminatory purpose.

*2011-13 – Beaumont Independent School District*

The African American population of the city of Beaumont is slightly larger, but votes in slightly smaller numbers, than its white population. In 2011, citizens of Beaumont approved along racially polarized lines an initiative to convert from electing seven members of its school board from single-member districts to a "5-2" plan in which two of the seven seats would be elected at-large, by the entire electorate of the city. It was determined that this change would be discriminatory, and the "5-2" plan was blocked through the preclearance process. Soon after this occurred, the three sitting African American members of the school board, who



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were not up for re-election until 2015, were challenged pursuant to proposed changes to terms of office, election date, and candidate qualification procedures. These changes would have resulted in the effective and seemingly targeted removal of all three African American school board members, who received no advance notice that an election would be held in their districts, or of requirements for qualifying for re-election. Accordingly, they were prevented from taking effect.

#### Texans Need a Modernized Fully Functioning Voting Rights Act

The Voting Rights Act provisions that remain in effect today are not enough to meet the significant task of enforcing equal voting rights in Texas. As the numerous examples presented in this testimony demonstrate, municipalities and state officials in Texas continue to adopt laws and policies that selectively impose challenges for minority voters, and disproportionately reduce the value of their votes. Texas has surpassed and continues to outpace every other state in enacting discriminatory voting policies, and must be subject to the strongest protections we can devise.

For nearly fifty years, preclearance procedures did the best job possible of subverting gamesmanship and evolving tactics that denied and limited the minority vote. Preclearance was uniquely effective in preventing discrimination from becoming standard practice and from further diminishing minority voters' opportunities and participation rates in the places – like Texas – with the most egregious patterns of treating voters differently based on their race, ethnicity, and linguistic ability. For instance, Texas withdrew far more requests for approval of proposed voting changes after being asked for further clarifying information than any other jurisdiction between 1982 and 2005. These withdrawals included at least fifty-four instances in which the State canceled discriminatory voting changes after it became evident they would not be precleared. I fear the state legislature will follow with similar actions that could have a discriminatory impact on minority voters, in the absence of the deterrent effect of Section 5 of the VRA. Previous legislation has included residency requirements for voter registration, proof of citizenship for voter registration, reduced early-voting periods, and restrictions on third party voter registration efforts.<sup>1</sup>

<sup>1</sup> See generally Tex. H.B. 148, 83d Leg., R.S. (2013); Tex. H.B. 927, 83d Leg., R.S. (2013); Tex. H.B. 966, 83d Leg., R.S. (2013); Tex. H.B. 3074, 83d Leg., R.S. (2013); Tex. H.B. 174, 82d Leg., R.S. (2011); Tex. H.B. 47, 81st Leg., R.S. (2009); Tex. H.B. 157, 81st Leg., R.S. (2009); Tex. H.B. 208, 81st Leg., R.S. (2009); Tex. S.B. 268, 81st

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The Voting Rights Act without preclearance cannot meet the needs to combat the vestiges of discrimination in a state like Texas. Section 5 is the most efficient means of alternative dispute resolution of contested voting changes. The revival of several discriminatory initiatives in Texas post-*Shelby County* conclusively establishes the fact that in the absence of a fully functioning Voting Rights Act problematic laws will slip through cracks. We are left with protracted and expensive litigation as the only remaining method of attack against a discriminatory voting change. Litigation imposes a greater burden on everyone concerned, including plaintiffs, defendants, and affected voters and candidates whose fate hangs in the balance, than does administrative review under the preclearance process.

The Voting Rights Amendment Act, S. 1945, proposes solutions to the present gaps in voter protection that are well-tailored to Texas voters' needs. In addition to preclearance coverage, this legislation would increase transparency around election policymaking, redressing the pointed secrecy that has often been used in Texas to limit minority communities' input and obscure suspect changes. By expanding opportunities to send neutral federal observers to monitor compliance with obligations to provide bilingual assistance at the polls, the Voting Rights Amendment Act would reveal those shortcomings that have impaired and frustrated thousands of Latino and other language minority voters. This has been the case in at least ten Texas jurisdictions that have settled charges of violating language assistance requirements in the past 15 years. Additional provisions would give federal courts more discretion to apply pre-emptive protections where warranted. In sum, the Voting Rights Amendment Act would provide effective checks against the kinds of rampant discriminatory actions described herein, and I implore you to take action to restore teeth to and modernize the Voting Rights Act and advance this legislation.

I will conclude by quoting the words of President Lyndon B. Johnson in his Voting Rights Act address before a joint session of Congress on March 15, 1965:

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Leg., R.S. (2009); Tex. S.B. 363, 81st Leg., R.S. (2009); Tex. S.B. 391, 81st Leg., R.S. (2009); Tex. H.B. 1143, 81st Leg., R.S. (2009); Tex. H.B. 101, 80th Leg., R.S. (2007); Tex. H.B. 600, 80th Leg., R.S. (2007); Tex. H.B. 626, 80th Leg., R.S. (2007); Tex. H.B. 979, 80th Leg., R.S. (2007); Tex. H.B. 1146, 80th Leg., R.S. (2007); Tex. H.B. 1462, 80th Leg., R.S. (2007); Tex. H.B. 1463, 80th Leg., R.S. (2007).

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“Experience has clearly shown that the existing process of law cannot overcome systematic and ingenious discrimination. No law that we now have on the books—and I have helped to put three of them there—can ensure the right to vote when local officials are determined to deny it.

In such a case our duty must be clear to all of us. The Constitution says that no person shall be kept from voting because of his race or his color. We have all sworn an oath before God to support and to defend that Constitution.

We must now act in obedience to that oath.”

Thank you for the opportunity to testify today.

Respectfully Submitted,

  
The Honorable Sylvia R. Garcia  
Texas State Senate, District 6

Enclosed Attachments (5):

- A. Voting-Rights Fights Crop Up, *Wall Street Journal*, Nov. 1, 2013.
- B. All in With Chris Hayes, *MSNBC*, Nov. 8, 2013, pages 6-9.
- C. Plans to Redistrict Pasadena City Council, *Houston Chronicle*, Aug. 15, 2013.
- D. Suit Blasts Galveston Judge Plan as Biased County Commissioners Are Trying to Cut Number of Justice of Peace Courts, *Houston Chronicle*, Aug. 27, 2013.
- E. Voter ID Woes Could Soar in Higher-Turnout Elections, Officials Fear, *Dallas Morning News*, Nov. 24, 2013.

## Attachment A



## Voting-Rights Fights Crop Up; Court Ruling Opens Door for Redistricting by Cities and Suits by Minorities

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November 1, 2013, WSJ.com Edition

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**THE WALL STREET JOURNAL**

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### Body

PASADENA, Texas—When Johnny Isbell first became mayor here in the early 1980s, Hispanics were a minority in this refinery town, famous as the setting for the movie "Urban Cowboy."

Now the Houston suburb is more than 60% Hispanic and Mexican ballads are sung here as often as "Lookin' for Love" from the 1980 film. Gilley's honkytonk bar here burned down more than 20 years ago.

Mr. Isbell, again the mayor, believes it is high time for voters to eliminate two of the city's eight City Council districts, all of which were created to help ensure that Hispanics had a voice in politics, and replace them with two council seats elected citywide. He said the move, on the ballot here Tuesday, would result in more local leaders focused on the good of all of Pasadena.

"They don't care about citywide issues," said the 75-year-old Mr. Isbell of council members chosen to represent sectors of the city.

Until recently, Mr. Isbell's proposal would have required approval from the U.S. Department of Justice under the Voting Rights Act. The department screened revisions to local political districts in mostly Southern regions where discrimination historically had taken place, to ensure that minorities weren't disenfranchised.

But the U.S. Supreme Court ruled this summer that such oversight is no longer necessary, because minorities have made strides since passage of the 1965 law. That opened the door to change in cities such as Pasadena and spurred new debates about what constitutes fair political representation.

In southeast Texas alone, legal challenges to redrawn voting maps in Galveston County and Beaumont have been complicated by the Supreme Court's ruling, which stemmed from a case involving Shelby County, Ala. The moves are being challenged by minority residents, who claim they would decrease the number of minority officeholders.

Other election changes have taken place in the South following the court decision, ranging from measures by counties to move polling locations in places with large minority populations to statewide laws, like one recently passed in North Carolina, that impose stricter identification requirements for voters.

"Before Shelby County, Galveston had the burden of showing what they were doing was not discriminatory," said Chad Dunn, a lawyer representing minority residents who filed a suit in federal court to block the county's redistricting proposal. "Now, we have the burden."

Joseph Nixon, a lawyer who represents Galveston County in the suit, said the maps were redrawn to eliminate certain unnecessary judicial positions and wouldn't dilute minority voting power.

# Voting-Rights Fights Crop Up; Court Ruling Opens Door for Redistricting by Cities and Suits by Minorities

Voting-rights experts expect the disputes to continue, especially in municipalities that previously were subject to federal oversight under the Voting Rights Act.

In Arizona after the ruling, state Attorney General Tom Horne, a Republican, gave the go-ahead to a redistricting plan for the Maricopa County Community College District that previously had been subject to federal review. Critics of the plan to add two at-large seats to the district's board say it could lead some parts of the region to end up with more representatives than others.

"The likelihood is very much there that it will work against minority representation," said Ben Miranda, one of five existing board members. Mr. Horne's office declined to comment.

In Pasadena, which has a population of roughly 150,000, some residents say special election protections for minorities are no longer necessary due to the city's Hispanic majority. But others say the changes in the city's racial composition haven't yet changed politics due to a lack of voter participation by Hispanics.

More than 55% of Pasadena's voting-age population is Hispanic, but people with a Spanish surname, a proxy for those of Hispanic origin, represent only around 35% of the registered voters, according to city data.

"It doesn't punch its weight," said Walter Wilson, a political-science professor at University of Texas, San Antonio, of the minority electorate in general.

Pasadena elected all City Council members citywide in 1981, when Mr. Isbell, who has been elected to a total of five four-year terms, first became mayor. A decade later, local activists sued the city, seeking council districts to ensure representation for the growing Hispanic community. The tension was defused a year later, when city leaders moved to create council seats by geographic region.

The proposal before voters on Tuesday would turn two of the eight council seats back into citywide positions, and redraw the remaining six geographic districts to represent regions of the city.

Supporters say the change would unify the council and focus its attention on economic opportunities around Pasadena, including a new cruise-ship terminal and an entertainment district that could include a new version of Gilley's, the rollicking bar that put Pasadena on the map in "Urban Cowboy," starring John Travolta as a refinery worker.

"The town's identity is plant workers...western," said Mr. Isbell, as he swayed on a rocking chair in his office. "It's a heritage that we are proud of."

Opponents say the change would dilute Hispanics' voting power and make it harder for them to voice their needs, such as sprucing up the city's faded, heavily Hispanic north side.

"This city is no longer a Gilley's town," said Councilman Ornela Ybarra, 34, who keeps a bobble-head doll of President Barack Obama on his desk.

Mexican flags fly alongside American flags nowadays at Pasadena's car lots, and Hispanic businesses have taken over entire strip malls, including one that houses Cinema Latino, which mostly shows movies subtitled in Spanish and serves tamarind and hibiscus drinks along with Coke.

In a tiny storefront next door to the theater, Jorge Armando, a 32-year-old from the Mexican state of Puebla, sells CDs with music spanning his native country. He said that when people like him can vote-Mr. Armando is a permanent resident seeking citizenship-"things will be very different" for Hispanics in the U.S.

In the meantime, Cody Wheeler, a recently elected council member whose family hails from Mexico, is knocking door to door to urge those who are eligible to vote against the mayor's proposal on Tuesday. Overall turnout in Pasadena is regularly less than 10%.

"We're doing everything in our power to engage the electorate," said Mr. Wheeler, who won his seat last May by 33 votes.

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He hadn't convinced Iris Gutierrez, 18, a college student, who could legally vote, but chose not to register because she feared she would be called for jury duty.

"I don't have much interest in it," she said of Tuesday's election.

Write to Ana Campoy at [ana.campoy@wsj.com](mailto:ana.campoy@wsj.com) and Nathan Koppel at [nathan.koppel@wsj.com](mailto:nathan.koppel@wsj.com)

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## Attachment B





## ALL IN WITH CHRIS HAYES for November 8, 2013

MSNBC ALL IN with CHRIS HAYES 8:00 PM EST  
November 8, 2013 Friday

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**Section:** NEWS; Domestic

**Length:** 8102 words

**Byline:** Chris Hayes

**Guests:** Bill Carter, Eric Boehlert, Steven Reiner, Julie Fernandes, Mike Pesca, Emily Bazelon, Roman Oben, Barbara Buono

**Highlight:** CBS News is retracting, apologizing for and plans to correct a story it broadcasts on "60 Minutes" about the attack on the U.S. consulate in Benghazi, Libya, that killed four Americans last year. The city of Pasadena, Texas, is attracting attention for one thing related to their government, their effort to suppress the Latino vote.

### Body

CHRIS HAYES, MSNBC HOST: Good evening from New York. I'm Chris Hayes.

We begin with a story that has refused to go away and not because of the facts involved, but because of the concerted effort on the right to stoke scandal at any cost.

Tonight, CBS News is retracting, apologizing for and plans to correct a story it broadcasts on its crown jewel program "60 Minutes" about the attack on the U.S. consulate in Benghazi, Libya, that killed four Americans last year -- a story it broadcasts using a government contractor who claimed to be an eyewitness to the attack, but who it appears was not in fact where he said he was on the night in question. The so-called eyewitness did not apparently see the events he claimed to describe.

On "CBS This Morning", "60 Minutes" correspondent Lara Logan acknowledged the mistake.

(BEGIN VIDEO CLIP)

LARA LOGAN, "60 MINUTES" CORRESPONDENT: You know, the most important thing to every person at "60 Minutes" is the truth. And today, the truth is that we made a mistake. And that's very disappointing for any journalist. It's very disappointing for me.

Nobody likes to admit they made a mistake, but if you do, you have to stand up and take responsibility, and you have to say that you were wrong. And in this case, we were wrong.

(END VIDEO CLIP)

HAYES: The explosive charge in Logan's original report was that there was an eyewitness account from a British security contractor named Dylan Davies who used the pseudonym Morgan Jones, who claimed the U.S. could have sent back-up to the besieged facility because he himself was able to go enter it and do battle with the bad guys.

(BEGIN VIDEO CLIP)

LOGAN (voice-over): Morgan Jones scaled the 12-foot high wall of the compound still overrun with al-Qaeda fighters.

MORGAN JONES, CONTRACTOR: One guy saw me. He just shouted, I couldn't believe that it's him because it's so dark. He started walking towards me.

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LOGAN: And as he was coming closer --

JONES: I just hit him with the butt of the rifle in the face.

LOGAN: And no one saw you do it?

JONES: No.

LOGAN: Or heard it?

JONES: No, there was too much noise.

(END VIDEO CLIP)

HAYES: To a Benghazi scandal fire that was finally in its dying embers, the "60 Minutes" report was a gallon of gasoline.

The next morning, the FOX News tour began featuring Steve Doocy and Senator Lindsey Graham.

(BEGIN VIDEO CLIP)

STEVE DOOCY, FOX NEWS: CBS did this story on Benghazi and I see criticism from the left where they go, you guys are covering a phony scandal. "60 Minutes" doesn't cover phony scandals.

SEN. LINDSEY GRAHAM (R), SOUTH CAROLINA: If we don't have a joint select committee to get out of this stove-piping problem, we're never going to get the truth. And where are the survivors? Fourteen months later, Steve, the survivors, the people who survived the attack in Benghazi, have not been made able to the U.S. Congress for oversight purposes.

So I'm going to block every appointment in the United States Senate until the survivors are being made available to Congress. I'm tired of hearing from people on TV and reading about stuff and books.

(END VIDEO CLIP)

HAYES: Because of the "60 Minutes" segment, Senator Lindsey Graham was going to block every appointment made by the president.

But even then, that day, even on that Monday, it was apparent that the so-called eyewitness may have had some pretty questionable motives. Media Matters founder David Brock on our show that night disclosed that even FOX News itself was evidently weary of using Dylan Davies as a source.

(BEGIN VIDEO CLIP)

DAVID BROCK, MEDIA MATTERS: And the other witness appears to be some type of British mercenary who apparently in conversations with FOX News, asked for money to talk and so, you know, FOX News even drew a line there, but it was good enough for CBS.

(END VIDEO CLIP)

HAYES: It turns out, CBS was also publishing Davies book, through its company Simon & Shuster, the connection "60 Minutes" did not disclose during that original report.

As for Davies, while FOX News may have shied away from him because he asked for money, it didn't stop the very same FOX News from running more than 13 segments over 11 different shows inspired by the CBS report. The right's delight at mainstream validation of their own pet obsession was even comically evident at a campaign rally for the now defeated Virginia gubernatorial candidate, Ken Cuccinelli, a week before Tuesday's election.

Cuccinelli's warm-up act for stoking the crowd in Benghazi, including Congressman Frank Wolf.

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(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: The man who was going to get to the bottom of what's going to happen in Benghazi.

Thank you, Jeremiah. I appreciate that introduction, and we are going to get to the bottom.

(CHEERS)

And if anyone watched "60 Minutes" last night, you can see why we need a --

(END VIDEO CLIP)

HAYES: Then, last Thursday, "The Washington Post" reported that Davies account to "60 Minutes" and the story in his book were different from an incident report he himself filed with his employer, but Blue Mountain Security.

But CBS News stood by their story, continued to defend it, despite multiple queries. CBS News chairman and "60 Minutes" executive producer Jeff Fager said he was proud of the program's reporting on Benghazi and, quote, "confident the source told accurate versions of what happened that night."

But the bottom fell out yesterday when "The New York Times" reporter that Mr. Davies told the FBI he was not in fact on scene until the morning after the attack.

(BEGIN VIDEO CLIP)

LOGAN: What we now know is that he told the FBI a different story and that was the moment for us, when we realized that we no longer had confidence in our source and that we were wrong to put him on air and we apologized to our viewers. We will apologize to our viewers and we will correct the record on our broadcast on Sunday night.

(END VIDEO CLIP)

HAYES: Joining me now is Bill Carter, a reporter for "The New York Times", who covers the television industry. He wrote "The Times" story on this today.

Bill, my head's spinning. How did this happen?

BILL CARTER, THE NEW YORK TIMES: Well, I think it happened because CBS was looking to get a new angle on the story. They got a book and in the book, this security man claimed that he was there and went through what they considered a betting process and decided he was credible and put him on the air. I think they needed a new angle because I don't think they had a lot of other new material in that report.

So, they really needed this guy to be truthful and they were in the middle of this situation where you know, he was saying one thing to his boss and a different thing to them, but it was a credible reason for that, because he had left his villa when he was supposed to not go to the scene, and what he told was a dramatic story and that added a lot of drama to what CBS wanted to report.

HAYES: What's interesting to me is that even when the issues start to be raised about his credibility, Media Matters is raising issues, then on Thursday, there's a "Washington Post" report, you know, it follows this kind of classic cycle, which is ignore, deny, double down, and then eat crow.

CARTER: Yes. And I spoke to Lara Logan before it blew up and she was very adamant about how credible this guy was.

HAYES: She was adamant about how credible he is to you when you talked to her?

CARTER: Yes, she said she believed in what he said and she didn't think he had given two versions and the FBI report would prove that. That he gave the same report to the FBI that he gave to CBS. And so, that became really the critical aspect of, with the FBI report corroborates it.

ALL IN WITH CHRIS HAYES for November 8, 2013

HAYES: So, you got two versions of the event, you got the diversion of event, the incident report, I stayed in my villa, I wasn't there the night I said I saw these dramatic things. You have what he told the CBS cameras and the audience of "60 Minutes", and the tiebreaker was what did he tell FBI, and the tiebreaker goes to he was not there.

CARTER: And it turns out he gave three interviews to the FBI. They interviewed him three separate times. And, you know, each occasion, he told the story the way it came out in the incident report. He stayed at the villa, he didn't go to the scene.

I spoke to CBS about that last night and they were obviously taken aback by that. They then spent the next couple of hours themselves checking with their FBI sources and by this morning, they had gotten the same report we had, which is that the FBI version was not their version.

HAYES: I want to bring in Eric Boehlert, senior fellow at Media Matters for America, Steven Reiner, former producer for "60 Minutes" and CBS, now director of broadcast and digital journalism at Stony Brook University.

Eric, well, you guys -- I mean, in some ways, this is not to be uncharitable here, but I'll tell the truth. This is a little over-determined in the case of Media Matters, like you guys are a liberal group. You fact check conservatives, conservatives obsessed with Benghazi, people might say maybe people like to say, well, Media Matters stopped clock being right, you know, twice a day.

But, you guys were right about this.

ERIC BOEHLERT, MEDIA MATTERS: No, we have been right about Benghazi for 13 months. I mean, we have been fact checking the story to death, and when CBS decided we want to piece of that pie, we want a piece of that right wing media narrative, there are lingering questions when there are none, when this story has been exhaustively researched by Congress. Military have talked about what the reinforcement responsible was.

When they decided to sort of key into that buzz machine, you talked about you know, FOX News the next day for an hour, the senator talking about it. What's the number one way to know you hit a home run? The next day, a senator's talking about your story.

They knew it was all predetermined. They couldn't resist it. The story didn't add up. There were no lingering questions.

The conflicts of interest should have stopped them. The discrepancies in the narrative should have stopped them. They should have apologized a week ago.

This whole thing is a train wreck, conception, execution, denial.

HAYES: I want to make clear here, Steven, I don't want to like put a dagger in "60 Minutes." I have tremendous admiration for "60 Minutes". I really do. It's incredible franchise. It's incredible they do the journalism they do. That they get the ratings they do. That they produce the profit they do.

In some ways it's like a miracle it exists in television journalism, which I think is why all of us take it so seriously. What is it like in that building today?

STEVEN REINER, FORMER CBS "60 MINUTES" PRODUCER: It's obviously a very, very difficult day for everyone there, but my question is how much real self-examination is being done there. I watched Lara this morning on CBS this morning and even though there was an apology, and even though it was borderline mistakes were made, I don't believe there was still an adequate explanation of just what kind of vetting really was done, at the end of the day.

Journalism 101, you have a single source.

HAYES: Yes, exactly.

REINER: And you have --

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HAYES: The most dangerous thing in the universe.

REINER: And you have a single source who is a self-interested source because the source is trying to sell books. Then, you have a story, which is a political hot potato, which can be red meat to certainly one side of the argument and it seems to me that raises the bar and makes it more crucial that you do your due diligence.

And I didn't hear anything in the explanation of what we did to vet that leads credibility to can be red meat to certainly one side of the argument we were fooled. You shouldn't have been fooled.

HAYES: So, the Boehlert piece is here, right, is that this was basically, you see this story, you think this is going to light up the right.

BOEHLERT: It did.

HAYES: And it did and it's also like a box for us to check the next time we're accused of liberal media. Remember, we did that Benghazi story.

Just so folks understand the universe this is coming out, Threshold is the imprint of Simon and Shuster, that was publishing the book, although it has now been recalled. Being pulled out of -- we're trying to get video of them packing up the books. That would be a good --

CARTER: By the way, that's a CBS decision.

HAYES: Right, that's a CBS decision, it's getting pulled from the top.

Now, Threshold is a conservative imprint that publishes books by Glenn Beck, Sarah Palin, the book, "Censorship: The Threat to Silence Talk Radio", Mark Levin. I mean, that's the world this story is coming out of. Those are some red flags.

BOEHLERT: Yes. You know, they want to key into it, like I said, there's an automatic audience there. But when you're going to wade into that, you have to be careful. You cannot stain your reputation just because you want to sort of fuel this.

One other quick point, after the National Guard story, you know, 2004, "60 Minutes," their last real huge embarrassment, they appointed a panel. Came outside, did lots of interviews, hired lots of lawyers and looked at this. I don't see, if they did that for that, how do they don't --

HAYES: I want to talk about that. Mary Mapes, who is famously Dan Rather's producer on the story of the National Guard documents, which were forged documents about President George W. Bush's record in the National Guard, famous Rather-gate scandal.

Mary Mapes had this to say, "My concern is the story is done very pointedly to appeal to more conservative audience's beliefs about what happened at Benghazi. They appear to have done the story to appeal specifically to political conservative audience obsessed with Benghazi, believes that Benghazi is much more than a tragedy".

You can't avoid the parallels here, Bill.

CARTER: Well, you can't avoid them because everybody's going to think of it.

I mean, I do think -- to me, this is a far lesser scandal because I don't see this as people aren't doing this sort of in a presidential election, trying to influence voting, et cetera. I think, I may be wrong, but I think people have to step back and say, look, there's a lot of agendas that were being played out here.

You're saying CBS wanted to court the right or whatever.

HAYES: Well, I was saying, I call it the Boehlert piece.

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CARTER: OK, that's (INAUDIBLE).

But my sense is they were wanting to do something on Benghazi, spent a lot of time doing it and didn't have a lot. And then this guy's book showed up. That's what I think. That's my guess.

REINER: It was a mini perfect storm. They needed to inject a big B12 shot into that Benghazi story.

(CROSSTALK)

REINER: One of the things we try to tell some of our students is how to watch television and be aware this that fellow's story, had nothing. I mean, in essence, had nothing to do with the same old story they were telling in the rest of the piece. This was a little bit of smoke and mirror -- let's inject a dramatic, heroic story, and somehow we'll give the rest of it deeper meaning.

CARTER: I want to say one thing. Getting involved in this, you then see the impact, because the State Department didn't like this at all. They didn't like this at all. And they kind of went after this guy. They wanted to go after.

And so, reporting on this is a minefield. It's a minefield.

HAYES: Right. And what I don't want to happen is to, well, if something is an ideological minefield, let's not step into it.

What does have to happen --

(CROSSTALK)

BOEHLERT: How about debunking it?

HAYES: Or just do diligence and put up what appears to be a fabricator and put the credibility of the crown jewel of CBS News on the line.

Bill Carter from "The New York Times", Eric Boehlert from Media Matters, Steven Reiner from Stony Brook University -- thank you all really.

Coming up, this is the city of Pasadena's Web site. See here where it says we have the kind of community, culture and responsiveness that are attracting attention. They are attracting attention for one thing related to their government. Their effort to suppress the Latino vote.

Why a Texas ballot initiative was the most important election of the week you haven't heard about, coming up.

HAYES: Later on the show, we're going to talk about Jonathan Martin, a Miami Dolphins offensive lineman who was allegedly bullied so mercilessly, he left the team. Sadly, Martin's experience is not unique. Extreme locker room hazing is pretty uncommon.

So, on a more sober note, tonight, I want to know, what questions would you ask someone who spent a lot of time in an NFL locker room? Tweet your answers @allinwithchris, or post to Facebook.com/allinwithchris. I'll share a couple later in the show when we talk to someone who was in an NFL locker room for 12 years.

Stay tuned. We'll be right back.

HAYES: Earlier this year, the Supreme Court dealt the Voting Rights Act its most devastating blow in the 48 years since its enactment, when by a 5-4 vote, it suspended the important enforcement of the crucial section five of the act. It got a very core of the law and it meant that nine states would be free to change their election laws without getting preclearance approval from the federal government.

We've been talking for months about the potential and likely ramification of this decision and this week, we saw it play out in dramatic fashion on Election Day in one city in Texas.

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(BEGIN VIDEOTAPE)

HAYES (voice-over): Pasadena, Texas, a suburb of Houston, sometimes called stinkadina from the smell of its chemical plants and oil refineries, home of 150,000 people, and the setting, the iconic film, "Urban Cowboy".

UNIDENTIFIED MALE: Cowboy?

UNIDENTIFIED MALE: Depends on what you think a real cowboy is.

HAYES: But like a lot of Texas towns, Pasadena has changed radically since the days when John Travolta walked the streets in a 10 gallon hat.

UNIDENTIFIED FEMALE: Pasadena not longer a small town, but a not so small city.

HAYES: The changes come in the last ten years thanks to growth in the Hispanic population, which has risen from 48 percent to 62 percent, making white people a minority in the new Pasadena.

Luckily for them, they are still a majority of the voting population. While the Hispanic population accounts for a majority of Pasadena residents, Hispanics make up only 32 percent of the city's voters, but the people who are running Pasadena see the writing on the wall. They know there are only a few voter registration drives and maybe a comprehensive immigration reform bill away from being relegated to minority status.

So, this summer, Pasadena Mayor JohnnyIsbell came up with a plan. Right now, the city is run by maybe eight council members. Each member is elected from one of eight districts each representing a section of the city.

And for the first time in the city's history, there are now two Hispanics on the council. One is Cody Ray Wheeler.

CODY RAY WHEELER, PASADENA CITY COUNCIL MEMBER: We kind of came in there, looking to bring change, reform, to really engage in the community and we've called the mayor out on a lot of things we thought weren't very honest.

HAYES: In August, Isbell started pushing a plan to shrink the number of districts from eight to six, and replace those two with at large seats to be voted on by everyone in Pasadena, and by everyone, we mean the town's white voting majority.

WHEELER: He decided to make a full power grab and he didn't care who you'd have to step over to get it.

HAYES: To the community, the goal of the plan was pretty clear.

PATRICIA GONZALES, PASADENA RESIDENT: I think what he's trying to do is trying to stop us from being able to get the things we need and be able to be the majority. He doesn't like it.

HAYES: Dilute the power of the Hispanicvote and hand two council seats to the majority white voting population. Ensuring the citywide, majority white population could band together and retain their power.

WHEELER: What this effectively does is give the south part of town the majority of council.

HAYES: It turns out this is precisely the sort of thing section five of the Voting Rights Act was designed to block. In fact, Supreme Court Justice Ruth Bader Ginsburg cited this precise type of discrimination from a pre-section five world when a Voting Rights Act came before the court earlier this year.

RUTH BADER GINSBURG, SUPREME COURT JUSTICE: These second generation barriers included racial gerrymandering, switching from district voting to at large voting.

HAYES: Did you hear that? At large voting -- it's the oldest trick in the book and it's so immediately recognizable that when a neighboring Texas town of Beaumont cooked up a similar at large plan, it was blocked by the Justice Department in December of 2012.

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But then, the Supreme Court killed section five of the Voting Rights Act in their 5-4 decision in *Shelby v. Holder*. And the mayor of Pasadena, Johnny Isbell made his move.

WHEELER: He blatantly said at the first meeting we had, now that the preclearance from the Voting Rights Act is gone, we're going to redistrict the city.

HAYES: In the mayor's own words --

MAYOR JOHNNY ISBELL, PASADENA: The Justice Department can no longer tell us what to do.

HAYES: So, this summer, Isbell arguing that certain council members don't care about citywide issues, moved to put his own at large plan on the ballot.

WHEELER: The mayor's quite aware of what this does, but he just seems to not care.

HAYES: On Tuesday, the folks of Pasadena went to vote on proposition one and the majority won by a margin of 87 votes. Now, that section five is dead, there are thousands of potential Pasadenas all across the South.

(END VIDEOTAPE)

HAYES: We should note that Patricia Gonzalez who we spoke to in that report is a resident of Pasadena, also community activist with the Texas Organizing Project.

Joining me now is Julie Fernandes, former deputy assistant attorney general in the civil rights division of the Department of Justice, now, a senior policy analyst at the Open Society Foundations.

All right. You used to work at a desk, getting applications from places that wanted to do changes like this. How common or anomalous is the story of Pasadena?

JULIE FERNANDES, OPEN SOCIETY FOUNDATIONS: Well, I think changes to the method of election are actually the second most common type of voting change, that drew objections during the days of section five, so they were ones that often got a lot of scrutiny because you always have to ask the question why and assess the impact in the way your piece described.

HAYES: I think what's interesting about this story, (a), if I'm not mistaken, the Shelby County case that came before the court that initiated the court striking down was not dissimilar case. It was actually a change to the gerrymandering of a district of a relatively small town.

And what I think is interesting is we talk about voter ID and stuff happening at the state level. There is a lot of stuff that happens at the municipal level where these fights can get really nasty, and when the stakes are high -- property taxes, school equity, things like that that we don't necessarily see from the national level.

FERNANDES: That's part of what we lost here when we lost section five, is we lost the ability to know about this stuff. Everybody's going to know about statewide redistricting, everybody is going to know about statewide law changes. But places like Pasadena, Texas, or little towns, Clara, Alabama, Shelby County, all over the country, they're going to be doing things to manipulate the system, things that sort of define who the electorate is for their advantage, that has a significant minority impact and we're just not going to know about it because we don't have section five.

HAYES: Just so people can see in that map, these are the entire states that were formerly subject to preclearance which (INAUDIBLE). They range from Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia.

Talk to me about the case of Beaumont because that was a case in which you had basically a very similar set of facts and precisely the sort of thing the Justice Department said no way.

FERNANDES: Right. Just in December of 2012 is the perfect analogy, just in December of 2012, the Beaumont ISD made a change, I think it was from seven single member districts to five single member and two at large.



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HAYES: Sounds familiar.

FERNANDES: Yes, very similar story and the same region of the state. And DOJ determined that was going to have an impact. In this case, I think from your piece, it's also clear that there's a concern about there being a discriminatory purpose as well, which is a constitutional violation.

And I think, you know, in fact, we see in Texas, a similar thing in Galveston, Texas, twice. I think once fairly reasonably, one in the late '90s. This is not an unusual technique and the situation where the minority population is growing, you have districts and there's an attempt to say how do you stop that growth from impacting the outcome of the election. It's classic.

HAYES: So, what is the recourse now that section five isn't there, preclearance is gone, the vote happened on Tuesday. The people who want to change, the mayor got his way. That's the change -- I think the city's constitution essentially, the charter.

So, what can people do?

FERNANDES: I think the resource is and I think there are people looking at whether or not there's a way to challenge in under section two of the Voting Rights Act, the part of the act still there, that you can use to bring a lawsuit to say this action was purposely discriminatory or had discriminatory effect. But those lawsuits take forever, Chris, they take a long time, they're expensive.

If the plaintiffs have such a case and if they prevail, we're looking at two years or more before we're going to have a resolution. That's two years with this -- a council elected this system, which is an arguably discriminatory system, setting the policy for that town.

HAYES: Right. Two careers in which we have these two at large districts, which we may lose all Hispanic representation in this town that is majority Hispanic, what could be past in the interim, which is the whole entire reason section five and four of Voting Rights Act, the preclearance was there.

Julie Fernandes from the Open Society Foundation, thank you so much.

FERNANDES: Thanks.

HAYES: Coming up --

(BEGIN VIDEO CLIP)

BARBARA BUONO (D-NJ), GUBERNATORIAL CANDIDATE: New Jersey represents the last vestiges of the old boy machine politics that used to dominate states across the nation. And unless more people are willing to challenge it, New Jersey's national reputation will suffer.

(END VIDEO CLIP)

HAYES: That was Democratic candidate for governor of New Jersey, Barbara Buono, in her speech following loss to Governor Chris Christie. She has a lot to say about the race and the governor and her fellow Democrats, and she will be my guest right here, next.

(BEGIN VIDEO CLIP)

BARBARA BUONO, (D) NEW JERSEY GUBERNATORIAL CANDIDATE: The democratic political bosses, some elected and some not, made a deal with this governor despite him representing everything they are supposed to be against. They did not do it to help the state. They did it out of a desire to help themselves politically and financially.

(END VIDEO CLIP)

HAYES: That was former democratic New Jersey State Senator, Barbara Buono, on Tuesday, following her --

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SEN. BUONO: Hey, I am still a senator.

(LAUGHING)

HAYES: Still senator -- good point, following her blowout loss to Chris Christie in the governor's race in a speech in which she also thanked her supporters for withstanding, quote, the onslaught of betrayal from our own political party. It is a victory speech/announcement for his 2016 presidential run that night. Christie suggested, he is the one guy who is figured out how to bring people together in a time of political polarization.

(BEGIN VIDEO CLIP)

CHRIS CHRISTIE, (R) NEW JERSEY NEWLY ELECTED GOVERNOR: I know that tonight a dispirited America angry with their dysfunctional government in Washington -- looks to New Jersey to say, "Is what I think happening really happening?" Are people really coming together? Are we really working African-Americans and Hispanics, suburbanites and city dwellers, farmers and teachers? Are we really all working together?

Let me give the answer to everyone who is watching tonight, under this government, our first job is to get the job done and as long as I am governor, that job will always, always be finished.

(END VIDEO CLIP)

HAYES: There is a lot more to the story of how Chris Christie brought people together in New Jersey and the governor wants to tell you and there is no one better to tell that tale than current state Senator, Barbara Buono of New Jersey. Senator, thank you so much for being here.

BUONO: Great to be here.

HAYES: You use this word, betrayal, in your concession speech.

BUONO: Yes.

HAYES: It is a strong word. Why did you use that word?

BUONO: Well, I just thought it would be important to be honest. You know, I struck a positive note as well because I think that this is an election first woman to run for governor of the state of New Jersey in a Democratic Party, definitely a ground breaking event.

And I want to make sure that all the young women and young men for that matter and minorities knew that it can be done, even in the face of insurmountable odds. That said, the Democratic Party unfortunately cut deals with Chris Christie and we really never had a chance in terms of gaining the financial support and institutional support that we really needed.

HAYES: You were outfund raised, I think of 6-1, if I am not mistaken --

SEN. BUON: That is academic at this point.

HAYES: Well, the question -- I mean what do you mean by cut deals? I think the story - here is the story that the national media is saying about Chris Christie. In these polarized times, here is the guy who hugs President Obama after Sandy, who is in a Obama state that went Obama by 17 points, democratic state, won by a whopping, you know, whatever was 30 points on Tuesday night, you know? And, is bringing people together. What about the bringing people together, do people outside of New Jersey politics not understand?

BUONO: Well, I can tell you in New Jersey, he ha not brought people together. People are -- you know, we have the highest unemployment in the region for the last four years. People are struggling. But, what this governor has done, people's eyes glaze over when he tells jokes on late night T.V. and he talks about Sandy, Sandy, Sandy, and the fact of the matter is, you know, the Democratic Party bosses and Chris Christie struck a deal.

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HAYES: What does it mean? What strike a deal mean?

BUONO: Well, you know? It can mean different things for different people. You know, for those in South Jersey that meant that Chris Christie would not mount an offensive against their senators and assembly people in that district.

It could mean different things in the Northern end of the state depending on what your political interests are and what your business interests are. And, the fact of the matter is, I think that people of New Jersey deserves someone to represent them and not someone's narrow political and business interests.

HAYES: So, there is a kind of nonaggression pact, essentially, that is struck between members of your party in the state senate, George Norcross is one of them in South Jersey, right? Yes?

BUONO: Yes.

HAYES: That basically, they are not going to go after Christie because it is in their own interest to be able to work with him to deliver whatever goods they need for their district.

BUONO: Look, Chris Christie -- nobody is more enamored with Chris Christie than himself. And, he said, he is a straight talker; but, let me just tell you this. You put a political boss in front of him and say this is what you need to do to get elected in the next election and you will see him fold like a cheap suit.

HAYES: You say Christie?

BUONO: Yes.

HAYES: What do you mean by that?

BUONO: Well, you know he really does not -- he said it himself when he was in Boston a few months ago. He said if you want someone who stands for anything, or ideology or conviction, then I am not your guy because I am in it to win it. And, honestly, I do not care that he is running for president. It is how he is running for president.

HAYES: But, then what is wrong with this mono. I mean when you look at Washington, right, the thing that everyone is talking about warning for are the days of transactional deal making politics.

BUONO: They are?

HAYES: Well, people, when people look at the shutdown, they say, "Well, if we had things like earmarks, if there are ways to have kind of these transactional deals, that things would work."

BUONO: There is a big difference between having a deal that benefits the people of New Jersey or the people of the nation or any state and a deal that is solely to benefit the political or business interests of someone. That is the big difference. Compromise and transactional politics, I think, are two very different things and I have a very different impact on the people and the democracy.

HAYES: What is work going to be for you like as a member of the senate caucus in the state of New Jersey after saying the things you said, after being abandoned and betrayed by your fellow democrats?

BUONO: Look. I have always run against the bosses. Back in 1994, when I first transfer the assembly, I ran against the political bosses' candidate and I won. And, then again when I ran in the senate, they said I could not win, and I did.

And, I became the first woman majority leader, first woman budget chair because there were all these deals that were being made. You know I am always going to be the person I am. I have been there and I will continue to be there for the people of New Jersey and that is it. Very simple.

HAYES: All right. State Senator, Barbara Buono, thank you so much for your time.

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BUONO: Thanks for having me.

HAYES: Coming up, the story everyone is talking about this week: NFL bullying. My guest will include a former NFL player, who says fans have demanded total access and immersion in the game and then complain about the culture in the same breath. Stay with us.

HAYES: Earlier in the show, we asked you what questions you would ask someone who spent years in an NFL locker room. We got a ton of answers on Twitter and Facebook. Here is just a few, Sean from Twitter asked, "Was there any discussion about harassment laws and your rights when you were hired by the NFL?"

Stevie wonders, "If you saw this happening, would you intervene. I was choke it in the first place." And, Cindy wants to know, "Who sets the code of conduct in a locker room? How is that person chosen and is the code of conduct condoned by the coaches?" Those are great questions. Thanks to HBO's series "Hard Knocks," we can actually take a look inside a real NFL locker room. Here is what was happening last year with the Miami Dolphins.

(BEGIN VIDEO CLIP)

RICHIE INCOGNITO, MIAMI DOLPHINE GUARD: You check your Facebook lately? Maybe you should not use your (EXPLICIT WORD) number for your iPad password, bud. 8484.

UNIDENTIFIED MALE SPEAKER (1): I used it.

INCOGNITO: Weird.

UNIDENTIFIED MALE SPEAKER (2): Got him.

INCOGNITO: It is a good guess. You might want to check your Facebook, bud.

UNIDENTIFIED MALE SPEAKER (1): What does it say? (EXPLICIT WORD)

INCOGNITO: I was going to put something up there rude, but then I saw the picture of your girlfriend, I felt bad.

(END VIDEO CLIP)

HAYES: He seems, nice, right? Charming Facebook (inaudible) that clip Dolphins Lineman, Richie Incognito is at the center of a bullying harassment hazing scandal that is rocking the NFL this week. In just a few short minutes I will be joined right here in the studio by a former player who said this week that you only get bullied in an NFL locker room if you allow it to happen.

HAYES: It is the bullying scandal that has shaken a multibillion dollar business to its foundation. The story is absolutely thrown into disarray. The organization Forbes calls the most lucrative sports league in the world. The \$9 billion industry that is, The National Football League.

Well, it began last week when reports emerged that Miami Dolphins Jonathan Martin had left the team after a prank his teammates pulled on him in the cafeteria. A prank Martin apparently did not find funny. He says that in a reporting he got frustrated and smashed his tray on the floor and left the facility.

Initially, the story out of Miami was that Martin left the team because he needed quote, "Assistance for emotional issues." In the days since, new allegations have emerged indicating that Martin was the victim of intense sadistic and persistent bullying and hazing in the locker room.

And, according to reports, the chief instigator of that bullying was his team Richie Incognito. Incognito for his part has quite a story. In 2003, he was suspended by his college coach of Nebraska. A year later convicted a misdemeanor assault, same year suspended indefinitely by Nebraska and he was dismissed from Oregon's program after only a week with the team then after a few years in the NFL in 2009, he was voted the league's dirtiest player in a poll of fellow players.

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Fellow teammate Cam Cleeland remembers Incognito as and I am quoting directly, "An immature unrealistic scumbag with no personality and locker room cancer who just wanted to fight everybody all the time." Earlier this week, Incognito jumped on Twitter to defend himself and challenge a reporter from ESPN tweeting, "If you or any of the agents you sound off for have problem with me, you know where to find me. #bringit."

Which the reporter did by tweeting some of the messages Incognito allegedly left on Martin's phone like, "Hey, what's up, you half N-word piece of expletive." On Sunday, the dolphins announced Incognito had been suspended for conduct detrimental of the team. Now, the NFL is investigating just yesterday. Martin's camp released this statement. Jonathan Martin's toughness is not an issue. He endured harassment that went far beyond the traditional locker room hazing.

Jonathan looks forward to getting back to playing football. In the meantime, he will cooperate fully with the NFL investigation. The scandal has just ripped back the curtain in the part of the football world we do not get to see every week, when we tune in to watch what is essentially managed to televise violence, which also happens to be the most successful form of entertainment in America today.

Joining me now is Mike Pesca, Sports Correspondent for NPR. Emily Bazelon, Senior Editor of legal affairs, writer for "Slate." Also author of a great book, "Sticks And Stones: Defeating The Culture of Bullying and Rediscovering the Power of Character and Empathy.

Mike I want to begin with you. This has blown up. I mean, it is kind of remarkable to me what a fire storm this has created. And, I think the entry point into why it is, is you see Jonathan Martin, who is just a massive human being, who does one of the most physically demanding, intimidating, strenuous jobs in America probably and you think, how could this guy be bullied. Right? That is the core of it.

MIKE PESCA, NPR SPORTS CORRESPONDENT: Right. And, it is the job of so many Americans, so many armchair quarterbacks that they say -- you to them, it speaks to toughness and it speaks like this lost ideal of whatever their version of masculinity is.

And, this is why when it came out, you did not need a lot of information. In fact people did not have a lot of information. The first day when people were debating it, they did not even know about the death threats that he got from Incognito and some of the slurs that you read.

But, you know, the debate was, how do you not stand up for yourself? How do you not punch the other guy in the nose? And, that came from players, former players, the GM of his team, just everyone.

HAYES: From the GM of his team. Former players, coming out like Ricky Williams, who I like and respect.

PESCA: Yes. I am a football fan of Jeff.

HAYES: He is a really thoughtful guy. Emily, as someone who wrote about and studied bullying, I am really curious to hear your reaction to the kind of disbelief that is being expressed both in the league and I think people watching that someone of that size could be bullied. And, I want you to talk about that right after we take this break.

HAYES: We are back. I am here with Mike Pesca and Emily Bazelon. And, joining us now is Roman Oben a former NFL player, who is a left tackle, now a football analyst for MSG and MY9 News. He is wearing a super bowl ring. I never held a super bowl ring in person. It is massive.

All right, Emily, I want to go to you on this -- This bullying question. What was your reaction to someone who wrote a whole book on bullying to the reaction of so many people, how could this massive individual be bullied?

EMILY BAZELON, WRITER FOR SLATE: Look, Jonathan Martin is a big guy in a locker room with a lot of other big guys. And, I think what matters here is the context. He is the new player. Richie Incognito is the veteran, who is in a leadership position and you can be socially excluded and made to feel harassed and terrible about yourself by other people. You can go through that kind of psychological torment and bullying, no matter how big you are.

HAYES: Yes. I think the psychological component of this is key. But Roman, you are someone -- you have been tweeting basically being like -- what a lot of other players have said, which is, "Look, if you can't take the heat, get out of the kitchen," I guess? I mean how are you reacting to this?

ALL IN WITH CHRIS HAYES for November 8, 2013

ROMAN OBEN, FORMER NFL PLAYER: Well, I think given this incident, there is different levels between what is a rookie responsibility, or getting the donuts and doing all those things and what Richie Incognito did to Jonathan Martin. And, as these ten levels have saw in between there and I think -- At those cases, someone should have said hey, lay off this kid. I'm a man first. Deal with it in the parking lot.

And, obviously in regular society, in bullying in the bigger picture, you can't deal with it that way, but talking about a football environment because I played football in the locker, I mean that is how you deal with it. So, you deal with the locker room with locker room issues and unfortunately, this story has become so huge that you have Ph.Ds and people in education and if this is the workplace, you would not have to buy lunch for everyone everyday. You would not be in the hazing. But, unfortunately, this has come out, a lot of things I have seen throughout my whole career and college.

HAYES: OK. So, what I think we need to do here is distinguish between a few different categories and things.

OBEN: Right.

HAYES: So, there is hazing, which is like "Hey, rookie, pick up my pads," which I think is a kind of -- I guess kind of a jerk move; but, like that is okay. That is not the worst thing in the universe.

OBEN: No. Not at all.

HAYES: And, there is a rookie dinner, where we run up a \$15,000 tab and you have to pay for it. Well, that sucks, I mean -- but -- OK that is not violent. Then, there is physical violence. I want to hear the story because this Incognito guy seems to me, just diagnosing like something of a psychopath.

This is a former player Cam Cleeland, who was clubbed in the face by a sock filled with coins that free-agent linebacker Andre Royal had spent all day collecting from teammates -- Incognito. It shattered Cleeland's eye socket and nearly cost him his eye, which now provides him only with partial vision. That is not hazing. That is assault. Right? Am I wrong about that? Or does that happen in locker rooms all the time.

OBEN: It is assault and when we read it, it is awful, but in the football environment, we always tow that line between what is a passionate head coach and what is the appropriate. What is motivation? What is getting in a guy's face and what is inappropriate? What's getting a rookie tougher, seeing what a guy is made of and what's a racist comment and I think Richie Incognito absolutely went too far. We have all acknowledged that. But, there is an unwritten rule, and this has not been discussed this week. If you cannot deal with the Richie Incognito, and I do not feel this way, but if you can't deal with Richie Incognitos of the world, what are you going to do on third and ten against Jared Allen?

HAYES: That is -- I am sorry. That is crap.

OBEN: Hey! Look. Why do these teams scrutinize these rookies when they come out of college? Why does the general manager for the Miami, Dolphins asked Ded Bryant, was your mother a prostitute? This is the same organization.

HAYES: OK. So, there is two ways to go by responding to that. And, I want to get Emily's response to that question. But, here is my response to that is that first of all, you are making me feel like, "A. I got to think the psychological make-up that allows you the stand tough and strong under conditions of third and ten and in these sort of relentless, sadistic mental games are different, but may be they are not.

But, if they are not, then what you make me feel is that like football is just a game of sadism and violence and kind of a mall of horror that we all gaze upon and clap for. Like if you are telling me there is not that much difference than playing this game and being hounded this way in a locker room, I am like, "Oh, football is even more messed up than I thought."

OBEN: But, the fans want it, though. They want Hard Knocks. They want to go in the locker room. They want to see this stuff. And, when this happens, "It is oh! I can't believe these guys behave this." Well, it is football. It is not a fourth grade at recess.

ALL IN WITH CHRIS HAYES for November 8, 2013

HAYES: Right. But, it is also -- Mike. --

PESCA: But, it is not football. I mean so many teams have come out and said that sort of behavior would never happen in our locker room and I think what is troubling is that you are here saying rightly so, there is a fine line. There is a gray area. This is way over the line, but you ask the Dolphins. The Dolphins, all are sticking up for Incognito.

HAYES: Right.

PESCA: They are all saying, "Well, this is not the situation that you understand it." And, the rest of the league is kind of 50/50 on its Incognito was right. But the Dolphins all stick together. That shows me a sort of group mentality.

HAYES: Yes.

PESCA: Very troubling.

HAYES: That is my question for you, Emily, which is I think everyone now says, "Yeah, this was over the line."

OBEN: 100%.

HAYES: And, we have heard the voice mails that are just like, "I am threatening to kill you." Like you can't threaten to kill people or rape their loved ones, which is also happening.

BAZELON: Right. Right.

HAYES: So, why do not people intervene even when -- even when they know it is wrong and over the line?

BAZELON: You know, sometimes, it is easier to side with the dominating bully and it is harder to side with the person who in this case is being accused of breaking the code by going public. And, so I think this is a real test for the NFL.

I mean think about the message that this is sending to high school kids and their coaches about the kinds of team behavior we should be evaluating. If it is Richie Incognito who emerges from this as the one who has all the defenders in the sports world, then what does that say about kids who are being hazed and harassed on their team and who come forward and ask for help.

HAYES: If you are in that locker room, when you play that in your head, do you think you would have said something? You would have done something?

OBEN: 100% because I said from the rookie responsibility to where it led, you say, "Hey, Richie, lay off this kid. He is going to have to help us when he is a second round pick. Let's try something else."

HAYES: Have you ever done that, actually? Have you been in those situations?

OBEN: 100%. And, I have been in both sides of it. I have been in there when they are taping rookies, and a guy stripped down to his jock strap, and they are Icey -- I mean all these stuff -- all right, guys, that is enough, guys. That is enough. And, that is why people said, "Oh, this would not happen in the Steelers' locker room. The Giants or Patriots or teams have sustained, leadership sustained. A long head coach. This would happen in a Miami, Dolphins where they are trying to reestablish their identity.

HAYES: Emily Bazelon from Slate Mike Pesca for NPR and former NFL player, Roman Oben. I really wish we had an hour to talk about this. May be we will have you all back, really. Thank you so much. That is "All In" for this evening. The "Rachel Maddow" Show starts right now. Good evening, Rachel.

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## Attachment C

## Plans to redistrict Pasadena City Council

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After former House Majority Leader **Tom DeLay's** fall from grace, we thought that Texas politicians would know better than pursue mid-decade redistricting. Not so in Pasadena, where Mayor **Johnny Isbell** is trying to change Pasadena's city council districts.

Isbell proposed last month to replace two of Pasadena's single-member districts with two at-large seats. The **Bond/Charter Review Committee** recommended against moving forward with the changes, at least for the upcoming election. But the proposal alone is distressing enough. Historically, replacing districts with at-large seats has been used to discriminatory ends, and such moves are often blocked by the **Department of Justice**. Only a few months ago, that would have been the case here. Not anymore. For decades, the Voting Rights Act has been a useful speed bump in Texas. Due to our history of discrimination, any alteration to voting laws or processes had to be approved by the Department of Justice. When the **Supreme Court** struck down the part of the VRA that based preclearance requirements on past discrimination, it busted open a hole in that wall, and Texas politicians have wasted no time to climb through.

This newfound lack of federal oversight allows local politicians to implement maps that threaten to discriminate against minority voters. The current individual districts in Pasadena allow large, compact and politically cohesive minority populations to elect the representatives of their choice. Replacing these districts with at-large seats could dilute minority voting power, submerging the voting-bloc in a sea of majority voters.

As our Founding Fathers wrote in the Federalist Papers, our republic cannot function if the full spectrum of our nation's diverse interests do not have representation in government. Decades of discrimination kept vast segments of society away from the table, and only now do we start to see representation rising to the ideals our nation was founded upon. That progress is brought to a halt when cities such as Pasadena make it more difficult for a growing Hispanic population to take part in the democratic process.

Even with the removal of direct barriers to voter registration, historic discrimination in education, housing, employment and health services hinders minority ability to participate effectively in the political process and elect representatives of their choice. Pasadena's city government makes this point painfully clear - Hispanics comprise a majority of the voting-age population, and a majority of a voting-age population in six of the eight city council districts, but have yet to turn that into electoral success.

Anyone who cares about functioning government should be troubled by such a disconnect between population and representation.

## Attachment D

**NewsRoom**

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2013 WLNR 21307877

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August 27, 2013

Section: B

Suit blasts Galveston judge plan as biased County commissioners are trying to cut number of justice of peace courts

Harvey Rice

**GALVESTON** - A Galveston County plan slashing the number of justice-of-the-peace districts from eight to four intentionally discriminates against minority voters and should be blocked, according to a federal lawsuit filed Monday.

The lawsuit comes exactly one week after Galveston County commissioners approved a redistricting plan for justices of the peace similar to one rejected last year by the U.S. Justice Department. The department opposed the plan because it reduced the number of districts with black and Hispanic majorities from two to one, as does the one adopted last week.

Galveston County was the first Houston-area government to take advantage of the June 25 U.S. Supreme Court decision to change an election law that otherwise might have been blocked by the Justice Department. The decision in *Shelby County v. Holder* effectively ended a requirement that Texas governments receive Justice Department approval before making any changes affecting voting. Since then Pasadena has asked voters to approve a redistricting plan that previously was blocked by the Justice Department, and the city of Galveston is considering doing so.

By cutting the number of justice of the peace districts in half, Galveston commissioners reduced the number of judges from nine to four. Although the county has eight districts, there are nine justices of the peace because two are elected from a single precinct, an unusual arrangement arrived at under a 1992 consent judgment in a discrimination lawsuit.

'They did it anyway'

Attorney Joe Nixon, whose firm was hired by the county to redraw the justice-of-the-peace districts, said the plan is in compliance with the 1965 Voting Rights Act. "It's hard to say there was race involved when of the five seats lost one was a minority and four were non-minorities," Nixon said. He said the proportion of minority districts is the same as in the plan the Justice Department approved for commissioner's districts.

Attorney Chad Dunn, who filed the lawsuit, said the new plan is both intentionally discriminatory and has a discriminatory effect. "The county was already told by the Department of Justice that this plan was discriminatory," Dunn said. "The county knew the plan was discriminatory, and they did it anyway."

Seeking injunction

**Suit blasts Galveston judge plan as biased County..., 2013 WLNR 21307877**

Commissioners said the number of districts needed to be reduced to improve efficiency and save money. They argued that the change would save \$1 million annually, noting that two of the existing justices of the peace accounted for only 2 percent of the county caseload.

The lawsuit by two black justices of the peace, two black constables, a Hispanic constable and a black Galveston County resident asks the court for an injunction halting the use of the new districts in November elections.

The lawsuit also asks the court to declare that the new plan dilutes the voting strength of minority voters in violation of the Voting Rights Act and it amounts to unconstitutional gerrymandering. It also asks the court to reinstate the requirement for Justice Department approval of changes to election policies.

'Like Pearl Harbor'

The president of the city of Galveston chapter of the National Association for the Advancement of Colored People, David Miller, said he was upset that the lone minority commissioner on the court, Stephen Holmes, who is black, was not consulted about the change and that it was made without public hearings. "That was like Pearl Harbor. That was a sneak attack," Miller said.

The failure to consult Holmes was a reason cited last year by the Justice Department for blocking a plan to redistrict commissioner's districts and is another reason for asking the court to halt the latest redistricting plan, Dunn said.

harvey.rice@chron.com

---- Index References ----

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**NewsRoom**

## Attachment E



**dallasnews**

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## Voter ID woes could soar in higher-turnout elections, officials fear

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By BRITTNEY MARTIN

Austin Bureau

[bmartin@dallasnews.com](mailto:bmartin@dallasnews.com)

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**AUSTIN** — Delays at the polls this month due to glitches with voters' identifications could signal a bigger problem to come next year, when many more turn out for state and county elections.

Thousands of voters had to sign affidavits or cast provisional ballots on Nov. 5 — the first statewide election held under the state's new voter identification law — because their name on the voter rolls did not exactly match the name on their photo ID.

It took most only a short time, but election officials are concerned that a few minutes per voter to carefully check names and photos against voter registration cards, and then to have voters sign affidavits or fill out provisional paperwork, could snowball into longer waits and more frustration.

A review by *The Dallas Morning News* found that 1,365 provisional ballots were filed in the state's 10 largest counties. In most of them, the number of provisional ballots cast more than doubled from 2011, the last similar election, to 2013.

Officials had no exact count for how many voters had to sign affidavits, but estimates are high. Among those who had to sign affidavits were the leading candidates for governor next year, Republican Greg Abbott and Democrat Wendy Davis.

"If it made any kind of a line in an election with 6 percent [voter] turnout, you can definitely imagine with a 58 percent," said Dallas County elections administrator Toni Pippins-Poole.

In Dallas County, 13,803 people signed affidavits affirming their identity.

The statewide election included nine proposed constitutional amendments, along with various local city and school board offices and propositions. It was the first to take place under Texas' 2011 law requiring that voters present a government-issued photo ID when they vote.

Name-match issues might surface for women who recently married or divorced and changed their identification but not their voter registration. For others, a shortened version of a name might appear on one document, while the full name is on the other.

Signing the affidavit didn't interfere with their ballot counting in the election, and election workers were instructed to give the voter the benefit of the doubt on a name-match issue.

Alicia Pierce, a spokeswoman for the secretary of state's office, which oversees elections, said officials worked to make the affidavit process as simple as possible. To sign the affidavit, voters need to initial after their signature on the poll's sign-in sheet.

Voters are also given the option to update their voter registration information at the polls. Pierce said officials hope that shortcut, along with continued voter education campaigns, will cut down on the number of affidavits and provisional ballots needed next time.

Those without the proper ID or who refused to sign an affidavit could fill out a provisional ballot. Such ballots are not counted unless

Voter ID woes could soar in higher-turnout elections, officials fear...

<http://www.dallasnews.com/news/politics/headlines/20131124-v...>

the voter presented the proper identification to elections officials within six days.

Harris County, the state's largest, had 704 voters fill out provisional ballots. Of those, 105 were cast because the voter failed to show an acceptable photo ID.

Constitutional-amendment elections tend to draw a much lower turnout than elections for the governor, other statewide officials, countywide officials and members of Congress. Voter ID critics fear that means many voters who didn't cast ballots this year will have trouble in March, when the Republican and Democratic parties hold primaries, or next November's general election.

State Rep. Trey Martinez Fischer, D-San Antonio, said longer lines could deter working voters, voters with children and others from voting.

"Voter ID is a solution looking for a problem," said Martinez Fischer, who has worked to defeat the law. "There's not a voter identification problem in the state of Texas."

The law, which the Legislature enacted in 2011, was delayed by the U.S. Justice Department's objection but took effect earlier this year, when the Supreme Court struck down federal oversight of elections in Texas and other states.

Now, Democrats and civil rights groups, along with the Justice Department, are suing to try to overturn the law, arguing that it has a disproportionate effect on minorities. U.S. District Judge Nelva Gonzales Ramos will hold a trial in September in Corpus Christi.

Republicans say requiring ID is a necessary step to eliminating the possibility of fraud in elections.

A *Dallas Morning News* analysis in September found that just four cases of voter irregularity pursued by Abbott, the state attorney general, since 2004 could have been prevented by the photo ID requirement.

Follow Britney Martin on Twitter at @besdotmartin.

Did you see something wrong in this story, or something missing? Let us know.

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4/26/2021

Republicans Target Voter Access in Texas Cities, but Not Rural Areas - The New York Times

**The New York Times**<https://www.nytimes.com/2021/04/24/us/politics/texas-republicans-voting.html>***Republicans Target Voter Access in Texas Cities, but Not Rural Areas***

In Houston, election officials found creative ways to help a struggling and diverse work force vote in a pandemic. Record turnout resulted. Now the G.O.P. is targeting those very measures.



By Nick Corasaniti

April 24, 2021

HOUSTON — Voting in the 2020 election presented Zoe Douglas with a difficult choice: As a therapist meeting with patients over Zoom late into the evening, she just wasn't able to wrap up before polls closed during early voting.

Then Harris County introduced 24-hour voting for a single day. At 11 p.m. on the Thursday before the election, Ms. Douglas joined fast-food workers, nurses, construction workers, night owls and other late-shift workers at NRG Arena, one of eight 24-hour voting sites in the county, where more than 10,000 people cast their ballots in a single night.

"I can distinctly remember people still in their uniforms — you could tell they just got off of work, or maybe they're going to work; a very diverse mix," said Ms. Douglas, 27, a Houston native.

Twenty-four-hour voting was one of a host of options Harris County introduced to help residents cast ballots, along with drive-through voting and proactively mailing out ballot applications. The new alternatives, tailored to a diverse work force struggling amid a pandemic in Texas' largest county, helped increase turnout by nearly 10 percent compared with 2016; nearly 70 percent of registered voters cast ballots, and a task force found that there was no evidence of any fraud.



A voter in a car used a drive-through voting station at NRG Arena in Houston to cast a ballot in the presidential election. Go Nakamura for The New York Times

4/28/2021

Republicans Target Voter Access in Texas Cities, but Not Rural Areas - The New York Times

Yet Republicans are pushing measures through the State Legislature that would take aim at the very process that produced such a large turnout. Two omnibus bills, including one that the House is likely to take up in the coming week, are seeking to roll back virtually every expansion the county put in place for 2020.

The bills would make Texas one of the hardest states in the country to cast a ballot in. And they are a prime example of a Republican-led effort to roll back voting access in Democrat-rich cities and populous regions like Atlanta and Arizona's Maricopa County, while having far less of an impact on voting in rural areas that tend to lean Republican.

Bills in several states are, in effect, creating a two-pronged approach to urban and rural areas that raises questions about the disparate treatment of cities and the large number of voters of color who live in them. That divide is helping to fuel opposition from corporations that are based in or have work forces in those places.

In Texas, Republicans have taken the rare tack of outlining restrictions that would apply only to counties with population of more than one million, targeting the booming and increasingly diverse metropolitan areas of Houston, Austin, San Antonio and Dallas.

The Republican focus on diverse urban areas, voting activists say, evokes the state's history of racially discriminatory voting laws — including poll taxes and “white primary” laws during the Jim Crow era — that essentially excluded Black voters from the electoral process.

Most of Harris County's early voters were white, according to a study by the Texas Civil Rights Project, a nonprofit group. But the majority of those who used drive-through or 24-hour voting — the early voting methods the Republican bills would prohibit — were people of color, the group found.

“It's clear they are trying to make it harder for people to vote who face everyday circumstances, especially things like poverty and other situations,” said Chris Hollins, a Democrat and the former interim clerk of Harris County, who oversaw and implemented many of the policies during the November election. “With 24-hour voting, there wasn't even claims or a legal challenge during the election.”

The effort to further restrict voting in Texas is taking place against the backdrop of an increasingly tense showdown between legislators and Texas-based corporations, with Republicans in the House proposing financial retribution for companies that have spoken out.

American Airlines and Dell Technologies both voiced strong opposition to the bill, and AT&T issued a statement supporting “voting laws that make it easier for more Americans to vote,” though it did not specifically mention Texas.

American Airlines also dispatched Jack McCain, the son of former Senator John McCain, to lobby Republicans in Austin to roll back some of the more stringent restrictions.

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Republicans in the State Legislature appear unbowed. In amendments filed to the state budget this week, House Republicans proposed that “an entity that publicly threatened any adverse reaction” related to “election integrity” would not be eligible for some state funds.

While those amendments did not end up in the final budget, a broader proposal threatening corporations that speak out on “any legislative or executive action” was added to the state's “wishlist,” a compilation of longshot proposals. Even with unlikely odds of passing, simply placing the proposals on the record is seen by lobbyists and operatives in Austin as a thinly veiled warning to businesses to stay quiet on the voting bills.

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Republicans Target Voter Access in Texas Cities, but Not Rural Areas - The New York Times

The Perryman Group, an economic research and analysis firm based in Waco, said in a recent study that implementing controversial voting measures could lead to conferences or events being pulled from the state, and prompt businesses or workers to shun it. The group estimated that restrictive new laws would lead to a huge decrease in business activity in the state by 2025 and cost tens of thousands of jobs.

Among the restrictions in two omnibus bills in the Texas Legislature are a ban on 24-hour voting, a ban on drive-through voting and harsh criminal penalties for local election officials who provide assistance to voters. There are also new limits on voting machine distribution that could lead to a reduction in numbers of precincts and a ban on encouraging absentee voting.

The bills also include a measure that would make it much more difficult to remove a poll watcher for improper conduct. Partisan poll watchers, who are trained and authorized to observe the election on behalf of a candidate or party, have occasionally crossed the line into voter intimidation or other types of misbehavior; Harris County elections officials said they had received several complaints about Republican poll watchers last year.

Mr. Hollins, the former Harris County clerk, said Republicans recognized that “Black and brown and poor and young people” use the flexible voting options more than others. “They’re scared of that,” he said.

While Republican-controlled legislatures in Georgia and Arizona are passing new voting laws after Democratic victories in November, Texas is pushing new restrictions despite having backed former President Donald J. Trump by more than 600,000 votes. The effort reflects the dual realities confronting Republicans in the State Legislature: a base eager for changes to voting following Mr. Trump’s 2020 loss and a booming population that is growing more diverse.

Bryan Hughes sponsored the bill in the State Senate that seeks to add voting restrictions. *Jay Janner/Austin American-Statesman, via Associated Press*

Senator Bryan Hughes, a Republican from northeastern Texas who sponsored the State Senate bill, defended it as part of a long effort to strengthen “election security” in Texas.

“I realize there’s a big national debate now, and maybe we’re getting sucked into that, but this is not something new to Texas,” Mr. Hughes said in an interview. He said that lawmakers were seeking to roll back mail voting access because that process was more prone to fraud. He offered no proof, and numerous studies have shown that voter fraud in the United States is exceptionally rare.

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Mr. Hughes said that the proposed ban on drive-through voting stemmed from the difficulty of getting access for partisan poll watchers at the locations and that 24-hour voting was problematic because it was difficult to find poll watchers for overnight shifts.

But many voters in Harris County, whose population of 4.7 million ranks third in the country and is bigger than 25 states, see a different motive.

Kristie Osi-Shackelford, a costume designer from Houston who was working temporary jobs during the pandemic to help support her family, used 24-hour voting because it offered her the flexibility she needed as she juggled work and raising her three children. She said that it had taken her less than 10 minutes.

"I'm sure there are people who may not have gotten to vote in the last couple of elections, but they had the opportunity at night, and it's kind of sad that the powers that be feel like that has to be taken away in order to, quote unquote, protect election integrity," Ms. Osi-Shackelford said. "And I struggled to find words, because it's so irritating, and I'm tired. I'm tired of hearing the same stuff and seeing the same stuff so blatantly over and over again for years."

Brittany Hyman, 35, was eight months pregnant as Election Day was drawing near and was also raising a 4-year-old. Fearful of Covid-19 but also of the sheer logistics of navigating a line at the polls, Ms. Hyman voted at one of the drive-through locations.

"Being able to drive-through vote was a savior for me," Ms. Hyman said. She added that because she had been pregnant, she probably wouldn't have risked waiting in a long line to vote.

Brittany Hyman, who was pregnant as Election Day approached, used drive-through voting. Mark Felix for The New York Times

Harris County's drive-through voting, which more than 127,000 voters took advantage of in the general election, drew immediate attention from state Republicans, who sued Mr. Hollins and the county in an attempt to ban the practice and discard any votes cast in the drive-through process. The Texas Supreme Court ruled against the Republicans in late October.

Other provisions in the G.O.P. bill, while not aimed as directly at Harris County, will most likely still have the biggest impact in the state's biggest county. One proposal, which calls for a uniform number of voting machines to be deployed in each precinct, could hamper the ability to deploy extra machines in densely populated areas.

<https://www.nytimes.com/2021/04/24/us/politics/texas-republicans-voting.html?referringSource=articleShare>

4/5

4/26/2021

Republicans Target Voter Access in Texas Cities, but Not Rural Areas - The New York Times

This month, in a further escalation of public pressure on legislators, Mayor Sylvester Turner of Houston, a Democrat, gathered more than a dozen speakers, including business executives, civil rights activists and former athletes, for a 90-minute news conference denouncing the bill.

“What is happening here in Texas is a warning shot to the rest of the country,” said Lina Hidalgo, the Harris County judge and a Democrat who has pushed for continued expansion of voting access in the county. “First Georgia, then Texas, then it’s more and more states, and soon enough we will have taken the largest step back since Jim Crow. And it’s on all of us to stop that.”

SHEILA JACKSON LEE

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## CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS

### COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

#### HEARING ON: “OVERSIGHT OF THE VOTING RIGHTS ACT: THE EVOLVING LANDSCAPE OF VOTING DISCRIMINATION”

**2141 RAYBURN AND CISCO WEBEX**  
**THURSDAY, APRIL 22, 2021**  
**9:00 A.M. (EDT)**

**9**

- Thank you, Chairman Cohen and Ranking Member Johnson, for convening this timely and important hearing on “Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination.”
- Let me welcome our witnesses and thank them for taking time out of their busy schedules to share with us their perspectives and views on the Voting Rights Act and the challenges minority communities continue to face when seeking to exercise their fundamental constitutional right to vote

**The Honorable Julián Castro**

Former United States Secretary of Housing and Urban Development

Reverend Doctor William J. Barber II  
President, Repairers of the Breach

The Honorable Mark Robinson  
Lieutenant Governor of North Carolina

Jacqueline De León  
Staff Attorney, Native American Rights Fund

- Mr. Chairman, the Supreme Court has described the right to vote as the one right that is preservative of all others.
- However, since the enactment of the Voting Rights Act of 1965 (“VRA”)—considered the most effective civil rights statute ever enacted by Congress—the right to vote has been under constant assault.
- The VRA was enacted at a time when many African Americans in southern states had been denied the right to vote, and when attempting to register, organize or even assist others in their attempt to register to vote meant risking their jobs, homes, and racial violence.
- Prior to the enactment of the VRA, litigation initiated under the Civil Rights Acts of 1957 and 1960 failed to eliminate discrimination in voting because jurisdictions simply shifted to different tactics in order to disenfranchise African Americans.
- Section 5 of the VRA was structured to keep ahead of those tactics by barring the worst offenders from adopting new election laws until they first proved to the Department of Justice or a federal district court in Washington, D.C. that those laws would not discriminate — a provision known as the “preclearance” requirement.

- Section 4 of the VRA established a coverage formula - based in large part on whether a particular jurisdiction had a history of discrimination in voting - to determine which jurisdictions were required to comply with, among other things, the Section 5 preclearance obligations.
- Mr. Chairman, I am here today to remind the members of this committee that the right to vote – that “powerful instrument that can break down the walls of injustice” – faces grave threats.
- The threat stems from the decision issued in June 2013 by the Supreme Court in *Shelby County v. Holder*, 570 U.S. 193 (2013), which invalidated Section 4(b) of the VRA, and paralyzed the application of the VRA’s Section 5 preclearance requirements.
- According to the Supreme Court majority, the reason for striking down Section 4(b) was that “times change.”
- Now, the Court *was* right; *times have changed*.
- But what the Court did not fully appreciate is that the positive changes it cited are due almost entirely to the existence and vigorous enforcement of the Voting Rights Act, and that is why the Voting Rights Act is still needed.
- As Justice Ruth Bader Ginsburg stated in *Shelby County v. Holder*, “[t]hrowing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”
- My constituents remember very well the Voter ID law passed in Texas in 2011, which required every registered voter to present a valid government-issued photo ID on the day of polling in order to vote.
- The Justice Department blocked the law in March of 2012, and it was Section 5 that prohibited it from going into effect.



- At least it did until the *Shelby* decision, because on the very same day that *Shelby* was decided officials in Texas announced they would immediately implement the Photo ID law, and other election laws, policies, and practices that could never pass muster under the Section 5 preclearance regime.
- The Texas Photo ID law was challenged in federal court and the U.S. Court of Appeals for the Fifth Circuit upheld the decision of U.S. District Court Judge Nelva Gonzales Ramos that Texas' strict voter identification law discriminated against blacks and Hispanics and violated Section 2 of the Voting Rights Act.
- Following this decision, the governor of Texas then signed into law a requirement that voters without an ID must provide a current utility bill, a bank statement, or paycheck, and sign declaration that explained why they lacked one of seven acceptable forms of identification.
- Madam Speaker, protecting voting rights and combating voter suppression schemes are two of the critical challenges facing our great democracy.
- Without safeguards to ensure that all citizens have equal access to the polls, more injustices are likely to occur and the voices of millions silenced.
- And this is exactly what we have seen over this past year.
- After voters of color helped flip key states into the Democrats' column during the presidential election, Republicans have channeled their myth that the election was stolen into legislative pushback in state capitols across the United States.
- In Texas and nationally, the Republican campaign to change voting rules in the name of "election integrity" has been largely built on concerns over widespread voter fraud for which there is little to no evidence, and one major effort has been to implement Voter ID laws.

- Those of us who cherish the right to vote justifiably are skeptical of Voter ID laws because we understand how these laws, like poll taxes and literacy tests, can be used to impede or negate the ability of seniors, racial and language minorities, and young people to cast their votes.
- Consider the demographic groups who lack a government issued ID:
  - African Americans: 25%
  - Asian Americans: 20%
  - Hispanic Americans: 19%
  - Young people, aged 18-24: 18%
  - Persons with incomes less than \$35,000: 15%
- And over the past year, we have seen other attempts at abridging or suppressing the right to vote, including:
  - Curtailing or eliminating early voting
  - Ending same-day registration
  - Not counting provisional ballots cast in the wrong precinct on Election Day will not count.
  - Eliminating adolescent pre-registration
  - Shortening poll hours.
- These thinly disguised but intentionally discriminatory attempts seek a return to the days of Jim Crow and a restoration of the badges and vestiges of slavery.
- Earlier this month, the Texas Senate passed SB 7, which focuses on increased voting regulations in diverse, urban areas, by setting rules for the distribution of polling places in only the handful of counties with a population of at least 1 million — most of which are either under Democratic control or won by Democrats in recent national and statewide elections.

- Texas Senate Bill 7 targets initiatives championed in Harris County to make it easier for more voters to participate in elections.
- Senate Bill 7 limits extended early voting hours, prohibit drive-thru voting and make it illegal for local election officials to proactively send applications to vote by mail to voters, even if they qualify.
- The legislation is at the forefront of Texas Republicans' crusade to further restrict voting in Texas, which saw the highest turnout in decades in 2020, with Democrats continuing to drive up their vote counts in the state's urban centers and diversifying suburban communities.
- Texas Republicans falsely claim SB 7 "standardizes and clarifies" voting rules so that "every Texan has a fair and equal opportunity to vote, regardless of where they live in the state."
- SB 7 would make wholesale changes to address isolated — and rare — incidents of fraud at the expense of voting initiatives that were particularly successful in reaching voters of color.
- SB 7 originally limited early voting hours from 7 a.m. to 7 p.m., curtailing the extended hours offered last year in Harris County and other large counties where voting ran until 10 p.m. for several days to accommodate people, like shift workers, for whom regular hours don't work. The bill was rewritten before it reached the Senate floor to allow for voting only between 6 a.m. and 9 p.m.
- SB 7 prohibits the day of 24-hour voting, like the one Harris County offered last November.
- SB 7 would also outlaw the drive-thru voting set up at 10 polling places in the county for the general election.
- **The Harris County election office has estimated that Black and Hispanic voters cast more than half of the votes counted both at drive-thru sites and during extended hours.**

- Texas Republicans disingenuously claim drive-thru and overnight voting prevents poll watchers' oversight, characterizing them as the "eyes and ears of the public," when they are in fact not public watchdogs but instead inherently partisan figures, appointed by candidates and political parties to serve at polling places.
- And poll watchers did have access to observe drive-thru and 24-hour voting last year.
- SB 7 broadens poll watchers' access at polling places, even giving them power to video record voters receiving assistance in filling out their ballots if the poll watcher "reasonably believes" the help is unlawful, which raised the real likelihood of intimidation of voters who speak languages other than English, as well as voters with intellectual or developmental disabilities who may require assistance.
- Despicably, SB 7 as originally drafted would have required voters citing a disability to provide proof of their condition or illness, including written documentation from the Social Security Administration or a doctor's note, to qualify for the latter.
- Additionally, in March, the Republican Georgia Governor signed SB202, which changes the state's election code to prevent a repeat of what occurred in November 2020 and January 2021, when the state voted Democratic for president for the first time in 28 years and for the U.S. Senate for the first time since 2000 by intentionally erecting barriers designed to make burden the rights of African Americans, Latinx, other persons of color, young persons, and seniors and the disable to exercise the most precious and fundamental of all rights, the right to vote.
- This new rebel Georgia election law would require Georgia voters to provide their driver's license or state ID number, or a photocopy of another accepted identification if the requesting an absentee ballot.

- The law provides that secure ballot drop boxes can only be placed inside advance voting locations and only accessible when those locations are open, which means voters could not use them during the three days preceding an election or on Election Day -- the period when returning an absentee ballot by mail is most risky since it must arrive by 7 p.m. on Election Day to count.
- Under the new Georgia law, counties would no longer have the ability to stop counting ballots until they are finished and accelerates the deadline by four days by which counties must complete certification, a change that will most impact the large, metro counties that typically certify on or close to the current deadline.
- Perhaps the most odious provision of the bill, and the one that most reveals the invidious discrimination motivating it, is Section 33, which makes it a crime for someone who is not an election worker to give food or beverage to any elector waiting in line to vote – even where they had been waiting in line for up to eight hours, as was the case in last summer in some of Georgia’s most Democratic areas.
- None of these actions would have survived the preclearance process of Section 5 of the Voting Rights Act of 1965 that would be in place except for the U.S. Supreme Court’s infamous decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), which struck down the coverage formula in Section 4 of the VRA.
- Texas SB 7, along with the law passed in Georgia and the 361 bills to restrict or curtail voting rights introduced in 47 states, illustrates the critical importance of Senate passage, and the signing by President Biden, of the *John Lewis Voting Rights Advancement Act* and the already House-passed H.R. 1, the “*For The People Act*,” which, among other things, would protect and make it easier to vote in federal elections, end congressional gerrymandering, and increase safeguards against foreign interference.
- The *John Lewis Voting Rights Advancement Act*, introduced as H.R. 4 in the 116th Congress and soon to be reintroduced, responds

to current conditions in voting today by restoring the full protections of the original VRA, which was gutted by the Supreme Court in 2013.

- The legislation provides the tools to address these discriminatory practices and seeks to protect all Americans' right to vote and creates a new coverage formula that applies to all states and hinges on a finding of repeated voting rights violations in the preceding 25 years.
- States that have repeated and persistent violations will be covered for a period of 10 years, but if they establish a clean record moving forward, they can come out of coverage.
- The *John Lewis Voting Rights Advancement Act* establishes a targeted process for reviewing voting changes in jurisdictions nationwide, focused on measures that have historically been used to discriminate against voters, such as voter ID requirements or the reduction of multilingual voting materials.
- The *John Lewis Voting Rights Advancement Act* would also allow a federal court to order states or jurisdictions to be covered for results-based violations, where the effect of a particular voting measure (including voter ID laws) is to lead to racial discrimination in voting and to deny citizens their right to vote and allows the Attorney General authority to request federal observers be present anywhere in the country where there is a serious threat of racial discrimination in voting.
- Finally, the *John Lewis Voting Rights Advancement Act* increases transparency by requiring reasonable public notice for voting changes and revises and tailors the preliminary injunction standard for voting rights actions to recognize that there will be cases where there is a need for immediate preliminary relief.
- H.R. 1, the "*For The People Act*" would usher in a host of changes that protect and revitalize our democracy, and would ban several practices that have been used to suppress or minimize the voting

power of African Americans, communities of color, and young persons, including:

- establish uniform rules that every state would have to follow when drawing congressional districts, including enhanced protections to make sure the political effectiveness of communities of color is not diluted;
  - prohibit mid-decade redistricting as Section 2402, by incorporating the “*Coretta Scott King Mid-Decade Redistricting Prohibition Act*,” introduced as H.R. 164 by Congresswoman Sheila Jackson Lee;
  - prohibit knowing and intentional communication of false and misleading information — including about the time, place, or manner of elections, public endorsements, and the rules governing voter eligibility and voter registration — made with the intent of preventing eligible voters from casting ballots and establishes federal criminal penalties for deceiving or intimidating voters; and
  - restricts states from purging eligible voters and outlaws voting caging; and
  - prevent states from prohibiting any person from distributing mail-in ballot applications, or from prohibiting election officials from distributing voter registration applications.
- Mr. Chairman, it is the responsibility and sacred duty of all members of Congress who revere democracy to preserve, protect, and expand the precious right to vote of all Americans
  - Before concluding there is one other point I would like to stress.
  - In his address to the nation before signing the Voting Rights Act of 1965, President Johnson said:

*“Presidents and Congresses, laws and lawsuits can open the doors to the polling places and open the doors to the wondrous rewards which await the wise use of the ballot.*

*“But only the individual Negro, and all others who have been denied the right to vote, can really walk through those doors, and can use that right, and can transform the vote into an instrument of justice and fulfillment.”*

- In other words, political power – and the justice, opportunity, inclusion, and fulfillment it provides – comes not from the right to vote *but in the exercise of that right*.
- And that means it is the civic obligation of every citizen to both register and vote in every election, state and local as well as federal.
- Because if we can register and vote, but fail to do so, we are guilty of *voluntary* voter suppression, the most effective method of disenfranchisement ever devised.
- Mr. Chairman, for millions of Americans, the right to vote protected by the Voting Rights Act of 1965 is sacred treasure, earned by the sweat and toil and tears and blood of ordinary Americans who showed the world it was possible to accomplish extraordinary things.
- So today, let us rededicate ourselves to honoring those who won for us this precious right by remaining vigilant and fighting against both the efforts of others to abridge or suppress the right to vote and our own apathy in exercising this sacred right.
- Thank you again for convening this important hearing and I look forward to hearing the testimony of our witnesses.
- Thank you, Mr. Chairman, I yield back my time.



■ **THE TEXAS TRIBUNE** >

<https://www.texastribune.org/2021/04/21/texas-voting-restrictions-senate-bill-7/>

**Here's how Texas elections would change, and become more restrictive, under the bill Texas Republicans are pushing**

ALEXA URA APRIL 21, 2021

Like Republicans across the country, Texas lawmakers are pushing to enact sweeping changes to state voting laws, including new restrictions on how and when voters can cast ballots.

At the forefront of that campaign is [Senate Bill 7](#), a legislative priority for Lt. Gov. [Dan Patrick](#) that has already passed the Senate and awaits action in the House. The wide-ranging legislation touches almost the entire voting process, taking particular aim at narrowing the latitude local officials have to control voting. It clamps down on early voting rules and hours, restricts how voters can receive applications to vote by mail and regulates the distribution of polling places in diverse, urban counties.

The original bill has already changed in significant ways — revised to eliminate a provision that would have required some voters to provide proof of a disability to vote by mail. But the 38-page bill would still institute an expansive set of changes and new regulations governing Texas elections.

Below is our analysis of the most significant portions of the legislation, with some added context to help Texans understand some of its key provisions.

**Limiting how local officials can expand voting options**

In drafting SB 7, Senate Republicans made clear some of its proposed restrictions are meant as a response to voting initiatives implemented by Harris County for the 2020 election, but the proposed new restrictions would apply across the state.

Currently, counties with a population of 100,000 or more must provide at least 12 hours of early voting each weekday of the last week of early voting. In Texas, the early voting period usually runs for the two weeks ahead of Election Day. Hours for that last week of early voting are usually set for 7 a.m. to 7 p.m.

SB 7 would lower that population threshold to 30,000 so more counties would be required to offer more early voting hours between the newly established window of 6 a.m. to 9 p.m. But the legislation also sets a 12-hour cap on how long early voting can run during that week, so polling places that stay open until 9 p.m. would have to open up later in the morning.

This would directly preempt the expanded early voting hours offered in large, diverse counties last year. Harris County pioneered 24 hours of uninterrupted voting at a few polling places for one day. (Local election officials have indicated they hoped to keep the initiative for future elections.) Harris and other large counties like Bexar County, home to San Antonio, also kept their polling places open until 10 p.m. — three hours past the usual 7 p.m. closing time — for at least a few days last year.

SB 7 also attempts to outlaw the sort of drive-thru voting offered by Harris County last year by requiring early voting to occur inside a building, as opposed to a “stationary structure,” as specified in current law. It also prohibits polling places from being located in a “tent or other temporary movable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles.”

Harris County first tested drive-thru voting in a summer 2020 primary runoff election with little controversy, but its use of 10 drive-thru polling places for the November general election came under Republican scrutiny.

The county’s drive-thru polling places were mostly set up under large tents. Voters remained in their cars and showed a photo ID and verified their registration before casting ballots on portable voting machines. At the Toyota Center — home of the Houston Rockets — drive-thru voting was located in a garage.

Republicans have argued the arrangements amounted to an illegal expansion of what is known as curbside voting, an option long available in Texas to accommodate people who are unable to enter a polling place without risking their health or without some form of personal assistance. Under this method of voting, posted signs at polling sites typically notify voters to ring a bell, call a number or honk to request curbside assistance.

The county argued its drive-thru locations were separate polling places, distinct from attached curbside spots, and therefore were available to all

voters. Keith Ingram, the chief of elections for the state, had said in an unrelated court hearing that drive-thru voting is “a creative approach that is probably OK legally.”

Drive-thru voting proved popular in Harris County, with 1 in 10 in-person early voters casting their ballots at drive-thru locations. A conservative activist and three Republican candidates sued over the process, but were unsuccessful in convincing a federal judge to throw out those nearly 127,000 votes. The litigation at the time did lead to the voluntary shutdown of nine of the 10 drive-thru locations for Election Day, for which voting is already required to occur inside a building.

SB 7 would target the distribution of polling places in the state’s biggest counties — most of which are under Democratic control and home to a large share of voters of color.

In recent years, county election officials have worked to ditch precinct-based voting on Election Day and instead open up every polling place to all voters regardless of where they live in a county. That model, known as countywide voting, has existed in Texas for many years but [has been taken up most recently by both blue urban metros and Republican-leaning suburbs](#). The 2020 election marked the first major election during which the state’s five largest counties — Harris, Dallas, Tarrant, Bexar and Travis — all operated under the countywide model.

Under SB 7, counties with a population of one million or more that use countywide voting would be subjected to a specific formula for distributing polling places based on the number of registered voters in each state House district within the county. That formula would capture those five, mostly Democratic counties, while the more than 60 other Texas counties that use countywide voting — many of them rural and under Republican control — would remain under the state’s more relaxed rules for polling place distribution.

A formula based on voter registration would likely reduce the number of polling places in House districts represented by Democrats — the vast majority of them people of color serving districts that typically have a larger share of voters of color compared to Republican-held districts — where registration numbers are generally much lower than in districts represented by Republicans. In selecting their polling places, counties generally consider a variety of factors beyond voter registration, including proximity

to public transportation, accessibility for voters with disabilities, past voter turnout and sufficient space to set up voting machines. In urban areas, election officials also look to sites along thoroughfares that see high traffic to make polling places more convenient.

The formula would also apply to the distribution of voting equipment and poll workers, which local officials and advocates have said likely takes away the ability to set up extra-large polling places in stadiums and arenas like those used in November. But the more standard formula could also complicate individual set ups at typically used polling places, including popular polling places located in large venues, where counties generally tailor the setup, including voting machines and check-in stations, based on both space at each location and historical demand.

### **Requiring paper trails for voting**

SB 7 would move all Texas counties toward voting machines that offer a paper trail by producing an auditable paper record of ballots cast. That sort of equipment is already in use in many counties, including some of the state's biggest, that have modernized outdated, paperless voting machines in recent years.

The bill sets a 2026 deadline for all counties to make the switch. The move to require machines with a paper trail has found rare bipartisan support at the Legislature though lawmakers have previously not agreed on how to pay for it. SB 7 sets up a formula for some counties to be reimbursed if they must retrofit recently purchased equipment without a paper trail to comply with the requirement.

### **Setting new rules for voting by mail**

SB 7 would create new restrictions on the distribution of applications to request a mail-in ballot and alter some of the rules used to verify returned ballots. Texas generally has strict rules outlining who can receive a paper ballot that can be filled out at home and returned in the mail or dropped off in person on Election Day. The option is limited to voters who are 65 and older, will be out of the county during the election, are confined in jail but otherwise still eligible or cite a disability or illness that keeps them from voting in person without needing help or without the risk of injuring their health. The proposals follow a pandemic-era election that saw a significant increase in voting by mail, particularly among Democrats.

*Restricting the distribution of vote-by-mail applications*

SB 7 would prohibit local election officials from distributing applications for mail-in ballots to voters who did not request them. It also prohibits the use of public funds “to facilitate” the unsolicited distribution of applications by third-parties, which would keep counties from also providing applications to local groups helping to get out the vote. Political parties would still be able to send out unsolicited applications on their own dime.

The proposal is a direct response to Harris County’s attempt to proactively send applications to all 2.4 million registered voters last year with specific instructions on how to determine if they were eligible. The Texas Supreme Court ultimately blocked that effort, but other Texas counties sent applications to voters 65 and older without much scrutiny. Though those voters automatically qualify to vote by mail, mailing applications to them in the future would also be blocked.

Local election officials have also raised concerns about a separate provision in the bill that prohibits them from attempting to “solicit a person to complete an application,” which they fear would keep them from offering applications to voters even if they qualify, or even posting about the availability of the vote-by-mail option on social media.

The legislation also changes part of the process for reviewing mail-in ballots by expanding the set of signatures that can be used to decide whether to throw out returned ballots.

Before they are counted, a committee of local election workers examines returned ballots to determine that a voter’s signature on the flap of a ballot envelope matches the endorsement that voter included when applying for the ballot. The committee can also compare it to signatures on file with the county clerk or voter registrar that were made within the last six years. If a mismatch is determined, the ballot is tossed.

Under SB 7, the committee could compare a voter’s signature to “any known signature on file.” This has raised concerns among voting rights advocates and advocates for people with disabilities who worry that it gives untrained workers more room to reject ballots because a person’s signature can change over time.

The state election code does not establish any standards for review for signatures, and Texas offers voters no recourse if their ballot is rejected based on a perceived mismatch.

#### *Creating an online tracker*

The bill would also set up an online tracker so voters can keep tabs on the status of an application to vote by mail and the processing of their ballot when it is cast. The state is already required to provide ballot tracking for military and overseas voters, and representatives for the Texas secretary of state's office previously told lawmakers they already planned to establish one for local voters.

Texas is not among the many states that provide voters statewide with the ability to track their ballots, though a few counties have set up their own tracking systems.

#### **Regulating donations to counties**

In 2020, the pandemic forced election administrators to reimagine the voting process from socially distanced waiting lines to the sanitization of polling places to new additions, like face shields, to their election checklists. The election also required an increased workforce to keep polls running throughout an extended early voting period.

To help cover the costs of those measures, counties across the state received private funds from organizations distributing donations by Mark Zuckerberg and his wife, Priscilla Chan, and actor and former California governor Arnold Schwarzenegger.

SB 7 would ban direct donations to counties of more than \$1,000 unless they are unanimously approved by the governor, the lieutenant governor and the speaker of the House.

The legislation would set up a new mechanism for the Texas Secretary of State's Office to remove people from voter rolls based on questions about their citizenship status.

Currently, local voter registrars periodically receive lists of people who are excused or disqualified from jury duty because they are not U.S. citizens. Registrars are charged with sending notices to those individuals requesting

proof of citizenship to keep their registrations. SB 7 would broaden that requirement so notices also go to voters "otherwise determined to be ineligible to vote."

That language has raised concerns among voting rights advocates because of its vagueness about how that ineligibility would be determined and the state's previous missteps when it comes to scouring the voter rolls. In 2019, the secretary of state's office [jeopardized the voting rights of tens of thousands of naturalized citizens](#) when it flagged them for review as possible noncitizens based on a flawed database and delivered their names to the Texas Attorney General's Office for investigation. Despite walking back some of its claims after errors in the data were revealed, [Texas only dropped its botched effort months later after being sued](#) by more than a dozen naturalized citizens and voting rights groups.

If a local registrar is found to be out of compliance in sending out those notices, SB 7 also gives the secretary of state the authority to eventually "correct the violation." It also makes registrars liable for a civil penalty of \$100 for each corrected violation.

In 2019, many counties held off on questioning the citizenship of voters flagged by the state. Those that sent out notices [were caught up in the litigation and even blamed by the state](#) for acting too quickly to question voters on their lists, even though local officials followed the state's instructions for reviewing the eligibility of those voters.

### **Enhancing poll watcher freedom**

The legislation would widely broaden access for partisan poll watchers inside polling places. One of the biggest expansions in the bill would give them power to video record voters receiving assistance in filling out their ballots if the poll watcher "reasonably believes" the help is unlawful. Recording inside a polling place, including by voters, is otherwise not allowed.

That provision has drawn particular concerns about possible intimidation of voters who speak languages other than English, as well as voters with intellectual or developmental disabilities who may require assistance through prompting or questioning that could be misconstrued as coercion. Under law, voters can select anyone to help them through the voting process as long as they're not an employer or a union leader.

The bill also adds language to the Texas Election Code to allow poll watchers “free movement” within a polling place, except for being present at a voting station when a voter is filling out their ballot. It also makes it a criminal offense for an election worker to “distance or obstruct the view of a watcher in a way that makes observation reasonably ineffective.”

Currently, poll watchers are entitled to sit or stand “conveniently near” election workers, and it is a criminal offense to prevent them from observing. SB 7 would entitle them to be “near enough to see and hear” the election activity.

Though Republicans have tried to characterize poll watchers as the “eyes and ears of the public,” they are not public watchdogs but instead inherently partisan figures who are appointed by candidates and political parties to serve at polling places.

### **Requiring the recording of vote counting**

Though vote tallying is a crucial step in the democratic process, it’s, frankly, a boring part of it. But under SB 7, live streams of the counting could be coming to a screen near you.

The bill would require video surveillance of what are known as counties’ central counting stations where votes, including mailed ballots, and voting equipment containing vote tallies are delivered and eventually totaled up. The live video would be required for counties with a population of 100,000 or more — aligning the state with requirements already in place in Arizona and initiatives taken up during the last election in places like Philadelphia, Denver and Los Angeles to help build trust in the counting process.

*Disclosure: The Texas Secretary of State has been a financial supporter of The Texas Tribune, a nonprofit, nonpartisan news organization that is funded in part by donations from members, foundations and corporate sponsors. Financial supporters play no role in the Tribune’s journalism. Find a complete [list of them here](#).*

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