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House of Representatives

The House met at noon and was called to order by the Speaker pro tempore (Ms. SEWELL).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 24, 2021.

I hereby appoint the Honorable TERRI A. SEWELL to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Margaret Grun Kibben, offered the following prayer:

Holy God, we appeal to You this afternoon, that by Your blessing, this day would prove fruitful.

Nothing this day is as we planned it. Not only have our schedules been upended; but the world itself has turned upside down. We scramble to get things done and make things right, but with so much at stake, and the issues so complex, our efforts seem desperate and futile.

We pray, therefore, that You who know our wanderings through this great wilderness would bless Your people with Your guidance on this day. Provide rescue, shelter, and peace to those whose very lives are endangered by anarchy and violence.

Provide wisdom, opportunity, and courage to those whose actions and decisions have influence on the outcome of the chaos within our own country and the unrest across the globe.

We pray Your benediction over our labor, equanimity in our thoughts, and purpose for our actions, that the extra measures we take, and the weighty decisions we make today would not be in vain.

We pray in the abiding love of Your holy name.

Amen.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to section 11(a) of House Resolution 188, the Journal of the last day's proceedings is approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas (Ms. GARCIA) come forward and lead the House in the Pledge of Allegiance.

Ms. GARCIA of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

REMEMBERING MIKE HONG

(Mr. TAKANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAKANO. Madam Speaker, I rise today to remember the life of a generous and fearless leader, Chairman Mike Hong.

Chairman Hong was a beloved member of the AAPI community, who had a sincere devotion to serving a variety of communities and causes. He mentored countless young people and believed in the importance of Asian Americans being politically engaged.

He exemplified the immigrant who, by dint of talent, persistence, and faith, blazed a trail to success and then ensured many others would share in his blessings, and they did.

I am especially proud that he helped finance a memorial of Dosan Ahn Chang Ho, a revered Korean independence freedom fighter, in the downtown mall of my hometown of Riverside, California.

Chairman Hong dedicated his life to the service of others, and that will never be forgotten. To the Hong family and all those who knew, loved, and respected him, I offer my deepest condolences.

HONORING STEVE WALSH

(Mrs. HARTZLER asked and was given permission to address the House for 1 minute.)

Mrs. HARTZLER. Madam Speaker, I rise today to honor the memory of my dear friend and the longest serving member of my staff, Steve Walsh.

Steve spent many years as a journalist covering politics in Washington, D.C. and Jefferson City, Missouri. He was one of my earliest supporters and spent the past decade serving the people of Missouri's Fourth Congressional District until his passing last week.

Steve leaves behind his beloved wife, State Representative Sara Walsh, and numerous friends throughout Missouri and our Nation.

He was always fun and full of sense of humor, love of major league baseball, the Beatles, and his faith.

Steve not only loved history, he lived history. He once took a selfie in France with Speaker PELOSI on the 75th anniversary of D-day. In 1985, while dining in Midtown Manhattan, Steve was asked by his editor to cover the assassination of Gambino crime boss Paul Castellano, where he incredibly encountered him deceased on the sidewalk. His life was truly filled with remarkable experiences.

Missouri has not only lost a true public servant, but a wonderful friend to so

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many. Today we mourn the passing of Steve Walsh, but we also rejoice that he resides with his Creator now.

May his spirit live on throughout our work in Congress and in the hearts of all who were blessed to know him.

AMERICANS SHOULD HAVE EQUAL ACCESS TO THE BALLOT BOX

(Ms. GARCIA of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GARCIA of Texas. Madam Speaker, I rise to call attention to the importance of passing the John Lewis Voting Rights Advancement Act.

Every American should have equal access to the ballot box. Our democracy is stronger when everyone can participate. This should not be controversial or politicized, it is about ensuring a very basic right of every American.

Sadly, in my home State of Texas, the GOP has been trying again and again and again to strip our right to vote. After three attempts to pass a dangerous anti-voting bill, the Texas GOP has made it absolutely clear that they do not really want communities of color, seniors, and Latinos to vote.

The original Voting Rights Act was designed to stop this very kind of behavior. Voter suppression was wrong then and it is wrong now.

Madam Speaker, I call upon my colleagues to vote for H.R. 4 so that we can strengthen our democracy and build on the Voting Rights Act. This bill will ensure that everyone has an equal right to vote.

RECOGNIZING MARTY REISER

(Mr. SCALISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCALISE. Madam Speaker, today I rise to recognize Marty Reiser, a man of immense character and integrity who selflessly served the American people for over 20 years.

After graduating from the College of the Holy Cross, Marty started at the Department of Commerce as an appointee under President Ronald Reagan.

In the 1990s, Marty came to the House of Representatives, where he worked for Congressman Dan Miller in a variety of roles, ultimately finishing up as his chief of staff. After leaving Capitol Hill, he went on to a think tank and taught high school before managing Xerox's governmental affairs team.

In 2011, Marty came back to the House, joining the Ways and Means Committee's Health Subcommittee, where he was instrumental in crafting legislation that would provide quality healthcare for millions of Americans.

On August 18, 2014, Marty joined my team and has been a vital part of it ever since. With a servant's heart and attention to detail, Marty is an expert not only on House procedure, but on all issues passing through the whip's office, and is relied upon in all other leadership offices as well.

Thank you, Marty, for your faithful service to the House of Representatives, and best of luck in your future. You will be missed.

PRESIDENT BIDEN'S BUILD BACK BETTER AGENDA

(Ms. PLASKETT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PLASKETT. Madam Speaker, I understand the importance of passing legislation that will make much-needed investment in our Nation's infrastructure. And as the representative of the Virgin Islands, a place where modern infrastructure resilience to climate change is needed, I am committed to making that happen.

President Biden's Build Back Better agenda is not just about fixing our Nation's crumbling infrastructure, it is also about strengthening the economy, creating jobs, helping Americans afford the rising cost of living. These critical investments will not be possible without passage of a budget resolution.

Passage of a budget resolution gives House Democrats the opportunity to make sure we are not just investing in infrastructure, but also reducing carbon emission, restoring transit funding, reconnecting neighborhoods, and ensuring climate-resilient and affordable investment in our crumbling wastewater infrastructure, all of which are needed in my home.

Ensuring a bicameral reconciliation process, with input from the people's House prior to the passage of the bipartisan infrastructure legislation, is essential to advancing critical American priorities on infrastructure and so much more. That is why I know Democrats will work together and take the first step to enact a budget resolution this week.

AFGHANISTAN DEBACLE

(Mr. LAMALFA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMALFA. Madam Speaker, first of all, to all those who served in Afghanistan, we thank you. God bless you. You did everything you were asked to do. You did your duty with honor. But like most Americans, I watched with disgust as the Taliban retook Kabul last Sunday.

Any shame of that operation lies here in D.C. with the suits, not with the boots, who allowed this to happen. Yet, what are we hearing? Rhetoric. White House communications director Jen Psaki says: Now, it is irresponsible for those to be talking about Americans that are stranded in Afghanistan.

We see the word ''stranded'' on the front page of the newspaper. We see the word ''hostage.'' We see the words—all sorts of things—showing what a debacle this has been, including ''debacle'' right on the front page. So what do we get from the White House? We are not getting transparency, as promised by the Biden administration, unless you want to define ''transparency'' as invisible, which they have been.

We have to do much better to get our people out of this country, and all that material that was left behind is now in the hands of our enemies.

BUILD BACK BETTER AGENDA

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Madam Speaker, we were here until about 12:15 this morning trying to work out the votes for a rule to move America forward. I hope we have them. We will find out soon.

We are trying to get the Build Back Better bill passed, the resolution to provide the opportunity for us to have that bill come forward, and the infrastructure bill as well. They will provide for needed infrastructure for American companies, businesses, and families; child care tax credits to be made permanent; prescription drug costs to be reduced; water lines improved and corrected; wastewater, which was so inadequate in Tennessee, where we had dozens die from floods.

Hopefully, we will get this passed, it is important business. I thank Speaker PELOSI and Leader HOYER for their long hours and their work in trying to build back America better.

AMERICANS STRANDED IN AFGHANISTAN

(Mr. JOYCE of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOYCE of Pennsylvania. Madam Speaker, President Biden's failure to safely withdraw our troops from Afghanistan has resulted in American civilians being attacked in broad daylight on the streets of Kabul as they attempt to reach the airport.

As I speak today, Americans are being stranded behind enemy lines. Our top priority must be to bring them home safely. Now is not the time for taking vacations or giving canned remarks from the west wing.

Now is the time for American leadership, and President Biden has failed us in this regard. The evidence is clear, the fall of Afghanistan is Joe Biden's Saigon.

Today, my prayers are with the military that they have redeployed and are working to end this crisis. They are also with the American citizens who remain today stranded in Afghanistan.

□ 1215

PRESIDENT BIDEN IS DESTROYING THIS COUNTRY'S CREDIBILITY

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Madam Speaker, President Biden has barely been in office for 8 months, and he has already done irreparable damage to the United States' standing within the international community, not to mention our national security.

Rather than enacting a calculated and comprehensive plan to protect and evacuate the remaining Americans stuck in Afghanistan, he continues to point fingers and push falsehoods that have been refuted by his own administration.

President Biden is destroying this great country's credibility on the world stage with this inept planning, failed executions, and inability to calibrate in this crisis.

After listening to administration top officials, it is clear that there was never a plan to evacuate Americans safely from Afghanistan. Any explanations of efforts that are underway are insufficient.

The arbitrary deadline to leave by August 31 is ridiculous. The evacuation will be complete only when every American has exited Afghanistan.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following enrolled bill was signed by the Speaker on Tuesday, August 24, 2021:

H.R. 3642, to award a Congressional gold medal to the 369th Infantry Regiment, commonly known as the ''Harlem Hellfighters'', in recognition of their bravery and outstanding service during World War I.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 16 minutes p.m.), the House stood in recess.

□ 1315

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. SEWELL) at 1 o'clock and 15 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4, JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021; PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 3684, INFRASTRUCTURE INVESTMENT AND JOBS ACT; AND PROVIDING FOR ADOPTION OF S. CON. RES. 14, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2022; AND FOR OTHER PURPOSES

MR. NEGUSE, from the Committee on Rules, submitted a privileged report (Rept. No. 117–117) on the resolution (H. Res. 601) providing for consideration of the bill (H.R. 4) to amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes; providing for consideration of the Senate amendment to the bill (H.R. 3684) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; and providing for the adoption of the concurrent resolution (S. Con. Res. 14) setting forth the congressional budget for the United States Government for fiscal year 2022 and setting forth the appropriate budgetary levels for fiscal years 2023 through 2031; and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 4, JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021; PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 3684, INFRASTRUCTURE INVESTMENT AND JOBS ACT; AND PROVIDING FOR ADOPTION OF S. CON. RES. 14, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2022; AND FOR OTHER PURPOSES

Mr. NEGUSE. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 601 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 601

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4) to amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes. All points of order against consideration of the bill are waived. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees; and (2) one motion to recommit.

SEC. 2. The chair of the Committee on the Judiciary may insert in the Congressional Record not later than August 24, 2021, such material as he may deem explanatory of H.R. 4.

SEC. 3. (a) Upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 3684) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order, a motion offered by the chair of the Committee on Transportation and Infrastructure or his designee that the House concur in the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure or their respective designees. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

(b) On the legislative day of September 27, 2021, the House shall consider in the House the motion referred to in subsection (a) if not offered prior to such legislative day. A motion considered pursuant to this subsection shall be considered as though offered pursuant to subsection (a).

SEC. 4. Senate Concurrent Resolution 14 is hereby adopted.

SEC. 5. Rule XXVIII shall not apply with respect to the adoption by the House of a concurrent resolution on the budget for fiscal year 2022.

SEC. 6. House Resolution 594 and House Resolution 600 are laid on the table.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. NEGUSE. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from Minnesota (Mrs. FISCHBACH), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. NEGUSE. Madam Speaker, I ask unanimous consent that all Members be given 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. NEGUSE. Madam Speaker, earlier today, the Rules Committee met and reported a rule, House Resolution 601, providing for consideration of three measures.

First, the rule provides for consideration of H.R. 4 under a closed rule. The rule provides 1 hour of debate equally divided and controlled by the chair and the ranking minority member of the Committee on the Judiciary or their designee. The rule self-executes a manager's amendment from Chairman NADLER, provides one motion to recommit, and provides the Judiciary Committee with the authority to insert in the CONGRESSIONAL RECORD explanatory material related to H.R. 4 no later than August 24.

The rule also provides for consideration of the Senate amendment to H.R. 3684. The rule makes in order a motion offered by the chair of the Committee on Transportation and Infrastructure that the House concur in the Senate amendment to H.R. 3684. The rule provides for 1 hour of debate on the motion equally divided and controlled by the chair and the ranking minority member of the Committee on Transportation and Infrastructure or their designees.

Finally, the rule provides that S. Con. Res. 14 is adopted under adoption of the rule.

Madam Speaker, today is an important day. The underlying bills before us today are critical pieces of legislation to enact President Biden's Build Back Better agenda. This plan will create good-paying jobs, put money in the pockets of American families, lower healthcare and childcare costs, and invest in our Nation's infrastructure paid for by ensuring that the wealthiest Americans are paying their fair share in taxes. We also take important critical steps today to secure the right to vote and safeguard our democracy.

S. Con. Res. 14 begins the process to enact this important legislative agenda. In short, the resolution sets out President Biden's Build Back Better plan, which includes critical investments that we can and must make now to provide a better future for our country.

This is a plan to create jobs, to cut taxes, and to lower costs for working families.

Our plan will make things affordable for the middle class and working families and reduce healthcare costs.

The Build Back Better plan will help prepare our Nation for the impacts of climate change: Through historic investments in a reimagined Climate Conservation Corps, investments that will put people to work to protect and conserve our public lands and open spaces, invest in the electrification of our infrastructure, and ensure that we can prepare for and mitigate the impacts of climate change.

We will provide for wildfire prevention and mitigation, resources that are desperately needed, Madam Speaker, across the western United States as we continue to experience devastating wildfires year after year. My State of Colorado, along with many other western States, are in the midst of a terrible drought which, combined with extreme heat, is continuing to wreak havoc on our communities.

As a father of a 3-year-old daughter who will be starting preschool just next week, we will invest in our children through the Build Back Better plan by ensuring universal pre-K for every 3-year-old and 4-year-old in our country, provide tuition-free community college, childcare for working families, upgrading school infrastructure, and strengthening our education workforce.

We will fund investments in child nutrition programs, expand Medicare, Madam Speaker, for the first time in its 55-year history to include dental benefits, vision benefits, hearing coverage, critical coverage that will help our seniors access the care that they need.

The Build Back Better plan will be transformational for the American people, reaching every aspect of their lives and making investments in resources that they can rely on. Madam Speaker, we will lower costs for the American people, we will cut taxes, and we will create jobs. This resolution is a first step toward making those critical investments a reality.

I now turn to a bill that I know, Madam Speaker, you care deeply about, as you are the sponsor of the legislation, and that is the John R. Lewis Voting Rights Advancement Act, H.R. 4. Voting is a sacred right foundational to our democracy and to our Republic. It is a right that many have fought and died to secure and that the late civil rights hero, our dear friend and colleague, John Lewis, fought to protect, despite being harassed, jailed, and beaten. Madam Speaker, as you know, Mr. Lewis often told us that the vote is the most powerful nonviolent tool that we have.

Unfortunately, it is a right that is once again under attack, and we see it, Madam Speaker, in the laws that are being passed in Georgia and in Florida and in Iowa. In State after State after State, and in the glaring absence of Federal standards and enforcement, partisan legislatures are making it harder for those who are legally eligible to vote to do so.

We cannot stand by, Madam Speaker, as discriminatory measures run rampant, blocking Americans from participating in our democracy.

Voting is a constitutional right. It is ingrained at the very core of who we are as Americans, Madam Speaker. As a Congress, protecting that right is foundational; it really is the heart of our duty.

The vote can only truly represent the people's voice if they have the ability to execute it freely and easily. That is why Congress needs to take clear, decisive action today to protect voting rights by passing the John R. Lewis Voting Rights Advancement Act. This bill would strengthen the VRA and respond to recent Supreme Court cases striking critical provisions of the bill, while making clear that Congress has the power to create a new formula.

The VRA has been reauthorized, Madam Speaker, as you know, on a bipartisan basis for decades, most recently in 2006 when the reauthorization on the VRA passed this Chamber 390–33, and in the Senate 98 votes for it, zero votes against it. This should not be a partisan issue.

Our democracy is safeguarded only when every eligible voter has the opportunity to participate, and that is what we will ensure today by passing this bill out of the House.

Finally, Madam Speaker, as you know, the rule provides for consideration of the Infrastructure Investment and Jobs Act. This bipartisan bill is an important down payment toward meeting the critical infrastructure needs of our communities. We all know that our Nation's infrastructure is in desperate need of repair, and this bipartisan bill seeks to make those much-needed investments.

The bill invests in our roads, our highways, our bridges, focusing on making infrastructure resilient to the impacts of climate change and natural disasters.

It has become particularly clear over the course of this last year that access to affordable, reliable broadband is absolutely critical for Americans to be able to do their jobs and to participate equally in remote learning, to access healthcare, to stay connected. This Infrastructure Investment and Jobs Act provides $65 billion to expand broadband coverage to areas most in need across the United States, and it also takes steps to make sure that that coverage is more affordable for individuals for whom those costs might be prohibitive.

The bill makes critical investments in our drinking water infrastructure, ensuring that clean, safe drinking water is a right in all communities.

Lastly, I would be remiss, Madam Speaker, if I didn't mention that there are several priorities that I have been working on with many of my colleagues from the western United States that are part of this bill, the Joint Chiefs Landscape Restoration Partnership Program, my bill to help restore our forests and respond to wildfire risks; the reauthorization of the Secure Rural Schools Program; and, of course, the Disaster Safe Power Grid Act, which ensures a safer and more resilient power grid in the face of emergencies.

□ 1330

The Senate has already passed this bill and shown the desire to invest in our infrastructure, and the House must now do the same.

Madam Speaker, these three underlying bills that we are considering today make essential investments in American families and communities, and we have to meet this moment for the American people.

Madam Speaker, I reserve the balance of my time.

Mrs. FISCHBACH. Madam Speaker, I thank the gentleman from Colorado for yielding me the customary 30 minutes. I will just say, it has been a long and bumpy road to get here so I am happy to finally be here on the floor with the rule.

Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 601 provides for the consideration of two controversial partisan bills and deems the $3.5 trillion reconciliation resolution adopted that strips away local control and adds trillions to the national debt.

The bill deemed adopted under this rule is S. Con. Res. 14, the $3.5 trillion tax-and-spending binge that passed the Senate earlier this month.

Madam Speaker, prices are at a 13-year high, and inflation is rising. President Biden has already spent $1.9 trillion and is now looking to spend an additional $3.5 trillion, all while his administration pays Americans not to work and stifles our robust economy.

Not only does this budget call for the highest sustained Federal spending level in American history, but it also amounts to a whopping $68 trillion over the next decade. It raises taxes on the American people, shifts jobs overseas, and taxes American employers at one of the highest rates in the world. It eliminates ''right to work'' protection and does nothing to address the historic flow of illegal immigration at the southern border.

Democrats know their proposals are unpopular. They can't even get their own conference to agree. Instead, they are resorting to smoke and mirrors to push it through and hoping the American people aren't paying attention. Where is the transparency?

If Democrats truly want to serve and help the American people, they need far more transparency and input from everyone, not just a few. This is no way to build a budget.

Madam Speaker, then there is H.R. 4, which would make changes to the Voting Rights Act and strips State and local governments of their ability to manage their own elections. The Constitution places the responsibility for elections at the State level, and we have a long history of letting each State run their own elections. But H.R. 4 grants the Federal Government unprecedented control over State and local elections. It empowers the Attorney General to bully States and forces those States to seek Federal approval before making changes to their own voting laws.

H.R. 4 also provides incentives for advocacy groups to file as many objections as possible to manufacture litigation in the hope of triggering coverage under the Voting Rights Act. We need safeguards that make it easy to vote and hard to cheat. H.R. 4 is not the solution.

Madam Speaker, finally, the final bill in this resolution is the Senate amendment to H.R. 3684, which provides for $1.2 trillion in new infrastructure spending.

Madam Speaker, I hate to say it, but my Democrat colleagues are using the bipartisan infrastructure framework to force their Members to also push through trillions more in their outlandish spending resolution. Our constituents are tired of Washington playing games with their livelihoods.

To be sure, investing in our Nation's infrastructure is critical. However, only a fraction of this $1 trillion-plus bill is for roads, bridges, and other projects the American people would consider traditional infrastructure. With tens of billions for electric vehicle plug-ins, Amtrak, and light rail, if you live in a deep blue city, this bill is for you. But if you are one of the millions of Americans in a more rural area, this bill leaves you behind.

Madam Speaker, our country's infrastructure should not be tied to the Democrats' partisan spending spree, especially during a pandemic. But here we are. Until Democrats stop playing games and work with their colleagues on a truly bipartisan compromise, I urge my colleagues to oppose this rule and the underlying bills.

Madam Speaker, I reserve the balance of my time.

Mr. NEGUSE. Madam Speaker, I must say with great respect for my colleague from Minnesota, I think the Republican minority leader of the United States Senate, MITCH MCCONNELL, would disagree with the gentlewoman's characterization of the bipartisan infrastructure bill being for—I think she said—urban cities or blue cities.

Madam Speaker, 19 Republicans voted for that bill in the United States Senate, including the Senate minority leader. So I think that it is important for us to recognize that the investments made in that bill, as well as the investments made in the resolution, the Build Back Better plan that we are also considering over the coming weeks are incredibly important for the future of our country.

Madam Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Ms. ROSS), a distinguished member of both the Committee on Rules and the Committee on the Judiciary.

Ms. ROSS. Madam Speaker, the rule before us provides for consideration of three landmark pieces of legislation. First and foremost, we are here to assume our duty to protect our American democracy. Just this year alone, 18 States have enacted 30 voter suppression laws. In response, the John R. Lewis Voting Rights Act would reinvigorate section 2 of the Voting Rights Act, restore geographic preclearance requirements eliminated in the Shelby decision, and take other steps to block discriminatory voting measures before they are implemented.

The history of the fight for voting rights in America is long and painful. But at crucial forks on that difficult path, Members of this body from both parties have set politics aside and done the right thing.

We are meeting here today at another pivotal juncture in the struggle for voting rights, and it is up to us to meet the urgency of the moment, live up to our constitutional responsibilities, and pass this critical legislation.

Madam Speaker, I also rise in support of our $3.5 trillion Build Back Better budget resolution. By taking real action on climate change, expanding the child tax credit, and supporting universal pre-K and free community college, this budget represents an investment in all of our people, especially our children and grandchildren. For the sake of our constituents and our country, let's approve this vital funding.

Madam Speaker, lastly, the rule before us provides for future consideration of the Senate's bipartisan infrastructure package. From expanding broadband to rebuilding roads, bridges, airports, rail, and water systems, this historic bill will help bring America's aging infrastructure into the 21st century and create jobs.

Madam Speaker, I urge my colleagues to support the rule and this legislation.

Mrs. FISCHBACH. Madam Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SMITH), ranking member of the Budget Committee.

Mr. SMITH of Missouri. Madam Speaker, I thank the gentlewoman from Minnesota for yielding.

The last 24 hours, we need to just step back and look at it. And I need to remind my colleagues and remind the folks across the aisle that what we just witnessed is a circus; and also remind them that this is the people's House. This is not PELOSI's palace, this is the people's House.

Madam Speaker, the middle of July, we were supposed to mark up a budget in the House Budget Committee, but the Democrats did not have the votes.

Madam Speaker, before the August recess, we were suppose to pass the House budget. The Democrats did not have the votes. Yesterday—up until about 1 a.m. this morning, in fact—we were going to pass the House budget, but the Democrats did not have the votes. So now they have a scheme before us, a scheme that they are putting BERNIE'S budget with the transportation bill, which is not even going to be voted on today, not even going to be voted on this week, not even going to be voted on this month, along with a voting rights bill, because they can't pass BERNIE'S budget. You know why they can't pass BERNIE'S budget? Because the American people are fed up with the Democrats' reckless spending.

Right now, we are facing the Biden inflation crisis. We are facing the Biden border crisis. We are facing the Biden energy crisis. And we are facing the Biden Afghanistan crisis. Yet, they bring forth a budget resolution that only makes those crises worse, $68 trillion in new spending, the most spending in the history of this country; $17 trillion of debt, the largest increase of debt, in fact, more debt than the entire economies of every country in the world, except for the United States.

BERNIE SANDERS may have lost the Presidential primary, but his policies have won. BERNIE SANDERS controls this Chamber, along with the liberal squad. But the American people are watching, and they are fed up. And they are letting the American people know whenever this Chamber changes and we actually bring order back to the House of Representatives.

Mr. NEGUSE. Madam Speaker, you know what is interesting? I don't remember the ranking member complaining about the deficit 3 years ago when they passed tax cuts for billionaires across our country to the tune of $2 trillion in terms of adding it to the deficit. I don't remember them complaining about process when they had to do three rules within a time period of 6 weeks to try to repeal the Affordable Care Act back in 2017.

I heard much today by way of process, but very little in terms of substance. Why? Because they know that the plan we have put forward today will lower costs, will cut taxes, and will create jobs.

Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished Speaker of this House.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding and for his distinguished role on the Committee on Rules.

Now, let us praise the Committee on Rules for the important work that they do making sure that legislation comes to the floor in a way that is consistent with the rules of the House, and in this case, a budget that is consistent with the values of our country.

I thank the gentleman from Colorado and the chairman, JIM MCGOVERN, for his leadership as well. And to each and every member of the Committee on Rules, we have to salute them, on both sides of the aisle, for the time they put in and how they facilitate the work of the House.

Madam Speaker, today is a great day of pride for our country and for Democrats. We have a President with a big, bold vision for our country and unprecedented opportunity to keep our promises for the people. We promised ''for the people'' that we would lower healthcare costs by lowering the cost of prescription drugs; we would increase paychecks by building the infrastructure of America; and we would have cleaner government by passing legislation.

This rule does all three of those things and much more, enabling the Congress to vote on some of that legislation today; some of it in the bill, and some of it for later.

When the President spoke about the infrastructure bill which is provided for in this rule, he said to our Republican friends, I want to find our common ground on infrastructure, but I will not confine my vision to what is in the bill that we can do in a bipartisan way unless you want to help us build back better. I like to say build back better for women, because that is what this budget will do; that is in this rule.

So I salute the President, not only for his vision and his determination to get the job done, but for the priorities that will be contained here in this budget as we go forward.

The Build Back Better budget agenda is one that is liberating for families, not just women, moms and dads, with childcare, with a child tax credit, with universal pre-K, with home healthcare, with workforce development. So that not only are we building the physical infrastructure of America, we are building the human infrastructure of America to enable many more people to participate in the success of our economy and the growth of our society. It does so with equity, a 40 percent justice provision that will be in there.

□ 1345

Now, it remains for us to work together, work with the Senate, to write a bill that preserves the privilege of 51 votes in the Senate. So we must work together to do that in a way that passes the House and passes the Senate, and we must do so expeditiously. Expeditiously.

The authorizations for highway, et cetera, will expire September 30. By October 1, we hope to have in place, that is the plan, to have in place the legislation for infrastructure. That is bipartisan, and I salute that, but it is not inclusive of all of the values we need to build back at a time when we have a climate crisis.

So I salute our distinguished chair of the Committee on Transportation and Infrastructure, Mr. DEFAZIO, for the knowledge that he brings, the value system and the knowledge that he brings to looking at how we do a reconciliation bill, a build back better bill in a way that is preserving of our planet for the children. For the children.

Exciting in all of this is the fact that we will have the John R. Lewis Voting Rights Advancement Act. This is pretty exciting. And I commend you, Madam Speaker, for your leadership in making this possible; for you to be the author of it. But when you are the author, though, you will no longer be able to preside, you have to come down and manage us on the floor. So it is appropriate that during the rule that will enable this to come to the floor, you are presiding, so we can all congratulate you in a highly visible way.

This legislation is so important. I was very much a part of passing the previous bill, that was in 2007, we wrote it in 2006, it became effective in 2007 when President Bush was President. We had Republican majorities in the House and Senate, and we passed the legislation overwhelmingly. Over nearly 400 votes in the House, unanimous in the Senate; signed by President Bush, as bipartisan as anything that has come to the floor.

We walked down the steps of the Capitol in a bipartisan way, saluting the fact that we had extended the Voting Rights Act and President Bush signed it. And with great pride, he came to your neck of the woods, to Selma, on the 50th anniversary of the Selma march. But he came as the person who had signed the Voting Rights Act. And even more important than that, Laura Bush came, too, so their hearts are in this legislation.

I would hope that there would be some level of bipartisanship on that as well. We will talk more about that as we go into the debate on that bill in a little while.

But I do, again, want to thank Congresswoman DELAURO for her relentless, persistent, dissatisfied until now, I hope satisfied to a certain extent, more to come, of the child tax credit. For 10 Congresses she has introduced that bill, and now it is being advanced.

And Mr. YARMUTH, the chair of the Budget Committee, will lead us now as we prepare in our individual committees, our work for the Budget Committee to put together a package.

Madam Speaker, as you know, a national budget should be a statement of our national values. What is important to us as a Nation should be reflected in our budget. And this will be the case. And under the leadership of Mr. YARMUTH, who is not only values-based, but eloquent in conveying that message, we are very excited about how we go forward.

Again, I mentioned PETER DEFAZIO. In terms of the Voting Rights Act, the very distinguished chair of the Judiciary Committee, Mr. NADLER; and ZOE LOFGREN for her work as chair on the Committee on House Administration; Mr. BUTTERFIELD, and so many people; and our distinguished whip, Mr. CLYBURN, who has made this his life work.

Passing this rule paves the way for the Build Back Better plan, which will forge legislative progress unseen in 50 years that will stand for generations alongside the New Deal and the Great Society. This legislation will be the biggest and perhaps most consequential initiatives that any of us have ever undertaken in our official lives.

Everything we do is about the children. As you have heard me say when people ask me, what are the three most important issues facing the Congress? I always say the same thing: Our children, our children, our children; their health, their education, and the economic security of their families, a safe environment in which they can thrive, and a world at peace in which they can reach their fulfillment.

When children come here to the Capitol, it is such an invigoration for us and an inspiration to us to see them because we are here for them. And as I say to them, as you see the statues and the monuments to those who went before, it is appropriate that we honor them, but they want us to honor you, the future of our country, to make it better for the children.

Again, any delay in passing the rule threatens the Build Back Better plan, as well as voting rights reform, as well as the bipartisan infrastructure bill. We cannot surrender our leverage for the children. For the first time, I don't remember a time as historic as this, for the children.

President Biden has given children leverage in his visionary proposal. The children have the leverage, not those at the high end who benefitted from the Republican tax bill, and I wouldn't even have brought it up except you are

acting as if you don't even know, when you added $2 trillion, or more, to the budget to give 83 percent of the benefits to the wealthiest people in our country.

Leverage for the rich, no. We don't begrudge them their success, but this is about leverage for the children, for them, for their families for the future.

And guess what? It would be our attempt to pay for this bill so it is not a burden to those children as we go forward. And that means that some of the people that benefitted from that tax bill, that tax scam in 2017, are now going to have to pay their fair share, fair share, pay their fair share, and that we may have to address other ways to pay for the legislation by putting the responsibility on the high end, both whether it is corporate or individual, so that we can again make progress for the children without burdening them with the debt, some of which they got in 2017.

So it is a pretty exciting day. I congratulate all on the Rules Committee for going in time and again as we sought clarification on how we go forward. I thank Mr. MCGOVERN, Mr. NEGUSE, and so many other members of that committee.

I thank all of our colleagues for their involvement in all of this. And I would hope that as we proceed, we could do so in the most transparent, bipartisan, and fair way for the children.

Mrs. FISCHBACH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, if we defeat the previous question, I will offer an amendment to the rule to provide for additional consideration of H.R. 5071, authored by Representative GALLAGHER.

Madam Speaker, I ask unanimous consent to insert the text of my amendment into the RECORD, along with extraneous material, immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Minnesota?

There was no objection.

Mrs. FISCHBACH. Madam Speaker, President Biden's failure to lead has resulted in a national security and humanitarian crisis in Afghanistan that we cannot ignore.

Now the Taliban is back and the United States is less safe. The President has offered no specific plan for getting those Americans out of Afghanistan safely.

Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. GALLAGHER), from Wisconsin's Eighth Congressional District.

Mr. GALLAGHER. Madam Speaker, I rise today to urge defeat of the previous question so that we can consider my bill, H.R. 5071, to ensure no Americans are left behind in Afghanistan.

Over the past week, we have all seen the horrifying images coming out of Kabul: babies being passed over barbed wire, 2-year-olds trampled to death, bodies falling from C–17s. These pictures are now forever painted onto American history. They don't depict the orderly withdrawal that the President promised. These are, instead, portraits of chaos, tragedy, and dishonor.

And, yet, the administration assures us a plan for every contingency. Was the plan for America to give billions of dollars worth of U.S. military equipment to the Taliban? Was the plan to put terrorists, effectively, in charge of security around the Kabul airport? Was the plan to leave over 10,000 American citizens stranded behind enemy lines?

Madam Speaker, if this was the plan, a plan to surrender so incompetently and on such ignominious terms, then our country can't withstand any more of this administration's plans. It is time for this body, this Congress, to act, to hold the administration accountable and save lives. This bill would do that by requiring daily reporting to Congress on the number of Americans left in the country and the number of Afghan allies that are seeking refuge.

The bill also critically prohibits the President from withdrawing our forces until all Americans, who want out, are safely out of the country. Right now, it seems, the President is doubling down on this August 31 withdraw date, despite strong bipartisan opposition and push back.

Make no mistake, if we get out on August 31, we are going to condemn thousands to death. I don't care what secret side deal was struck with the Taliban, this is America, we don't leave anybody behind. A great country, such as ours, takes care of our citizens and our allies.

Our enemies are mocking our surrender right now. We have all seen the images. The Taliban, for example, just mocked the iconic image of Marines raising the flag over Iwo Jima. It may be too late to save face because of this debacle, but it is not too late to save lives. This isn't a news cycle that will blow over. This isn't a narrative that you can spin. We are talking about American lives, and we are talking about America's honor.

Madam Speaker, let's act now, before this crisis, and with it, America's standing in the world deteriorates even further.

Mr. NEGUSE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I certainly understand where my colleague is coming from and have great reverence and respect for him and his service to our country, and I certainly look forward to continuing to work with him on the important issues that he described.

But defeating the previous question would hand over the floor to the Republican Conference. And, as you know, Madam Speaker, we have incredibly important pieces of legislation that we are considering, specifically, the John Lewis Voting Rights Act, and the bipartisan infrastructure budget, and the President's Build Back Better plan today.

Madam Speaker, I look forward to voting for the rule, and would encourage all Members in the House to vote for the rule, to vote for the previous question so that we can proceed with the business of the House.

Madam Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. SCANLON), a distinguished member of the Rules Committee.

Ms. SCANLON. Madam Speaker, I rise today in enthusiastic support of this rule and the underlying legislation.

H.R. 4, the John R. Lewis Voting Rights Advancement Act, is essential to ensuring that every American voter has equal access to the ballot box, and the freedom to make his or her voice heard.

Ever since the Supreme Court's decision in Shelby v. Holder opened the door, we have seen State legislatures pass hundreds of laws to restrict voter access while claiming, falsely, to protect our elections from voter fraud that doesn't even exist.

Now, the unjustified attacks on the 2020 election results by the former President and his supporters have produced a wave of anti-democratic bills. But it doesn't have to be this way. In Shelby, the Supreme Court invited Congress to amend the Voting Rights Act to address its concerns.

For 8 years, our Republican colleagues refused the Court's invitation to reinvigorate the Voting Rights Act, while extremist politicians worked overtime to close polling locations, limit voting hours, purge voter rolls, and erect barriers to the ballot box.

□ 1400

We can't continue down this path if we want America to remain a functional democracy. Congress needs to do its job. I urge all of my colleagues and all Americans to support this bill.

I would also like to speak briefly about the bipartisan infrastructure bill and the Build Back Better Act, which today's vote will move forward. Together, they are the key to helping Americans and American businesses succeed in the 21st century.

Our country is facing multiple, interconnected crises: the COVID pandemic, a deeply unequal economy, long-neglected infrastructure needs, underfunded public services that often fail to serve those most in need, and climate disasters that are impacting our communities more often.

The Build Back Better agenda is simple: make major investments in physical infrastructure and working families to create a fairer, more productive, and sustainable economy.

We need the bipartisan infrastructure deal to enable America to compete in the 21st century, but we also need the Build Back Better Act to create jobs and lower costs and taxes for working families. These bills have the power to improve the lives of millions of Americans.

Madam Speaker, I urge all of my colleagues to support the rule.

Mrs. FISCHBACH. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MAST).

Mr. MAST. Madam Speaker, let's be bipartisanly honest here for a moment. We just walked out of probably the most bipartisan moment in the last couple of years, a classified briefing with the Joint Chiefs, the Secretary, the Secretary of State, and others.

There are things that, real-world, need to be done where Americans are at risk. They are cut off, and they are stranded. They are now in the situation where they are the hostages of Afghanistan because of everything that has been allowed to transpire under President Biden. And in this body, we are going to walk out of that classified briefing concerned behind closed doors but do nothing—do absolutely nothing—on the floor of the House.

I am going to say the same thing I just said a few minutes ago: What the hell are we doing?

Let's say that again: There are Americans cut off who need our help, and there are Special Immigrant Visa applicants cut off who need our help right now who will be killed. We heard the descriptions of the dangers in the briefing we just got out of.

Defeat the previous question and bring up the only thing that this body will do in this entire week that has anything to do with what is going on in Afghanistan. This is the only opportunity, the only thing that is going on related to Afghanistan in this body.

That is unconscionable. How in the world is that the case?

Every time somebody tries to do something different in here, like take the ability of States to determine their own voting rights or other things, everybody needs to say: Stop. What the hell are you doing? Get focused back on Afghanistan and saving Americans.

Mr. NEGUSE. Madam Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), who is the distinguished chairman of the Committee on Energy and Commerce.

Mr. PALLONE. Madam Speaker, this budget resolution allows us to implement President Biden's Build Back Better agenda to revitalize our economy by creating millions of good-paying jobs, and it allows us to aggressively combat the climate crisis. The goal of the Energy and Commerce Committee with this budget resolution is to make healthcare more affordable and accessible for all Americans. We can help accomplish that by closing the Medicaid coverage gap to provide quality comprehensive coverage to an estimated 4 million Americans who qualify for Medicaid but who have been denied access to care in their State.

It will also continue subsidies under the Affordable Care Act to reduce health insurance costs. The Energy and Commerce Committee plans to lower the price of out-of-control and skyrocketing prescription drug prices by giving the Federal Government the ability to negotiate lower prices and will use the savings to expand Medicare benefits. Our plan is to provide investments in our public health infrastructure to help us respond to the ongoing COVID–19 pandemic and better respond to future public health emergencies.

The Build Back Better agenda will allow us to create millions of new, homegrown jobs and combat the climate crisis by aggressively investing in clean energy and clean technology. The moment is here to invest in a more advanced and resilient economy and toward a 100 percent clean economy.

Madam Speaker, I urge my colleagues to support this budget resolution that allows us to carry out President Biden's bold vision and deliver on the Build Back Better agenda for the people.

Mrs. FISCHBACH. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. MCCARTHY).

Mr. MCCARTHY. Madam Speaker, I thank the gentlewoman for yielding time.

Madam Speaker, I rise in opposition to today's rule.

Madam Speaker, before I came here, I was listening to the debate. I listened to Congressman GALLAGHER, a veteran, come to the floor and talk about an idea that he has, an idea that here we are, Afghanistan is collapsing, and thousands of Americans in Afghanistan are trying to get out.

Here we are, called back for a special session. All his previous question would say is that we would have to have a report every day on those Americans, that we wouldn't pick a timeline until the mission is finished, and that people would be able to be brought back.

As I listened to his impassioned speech, I waited for the response. I listened to my friend on the other side. He respects Mr. GALLAGHER, but he could not turn the floor over because if the floor were turned over to Republicans, instead of changing the election law and spending $5 trillion, they would put the American public first. God forbid we would do that.

Madam Speaker, I heard the Democrat on the other side say we could not turn the floor over to the Republicans to let the American public know how many Americans were there. It would be devastating—devastating—to allow that to happen.

This week, the House is in session for the first time since Kabul fell to the Taliban. What is happening in Afghanistan is a disaster for America's security and credibility, not for just today and not for next week, but for decades to come. Other countries are questioning whether we have the resolve to honor our word because of the bungled withdrawal.

President Biden magnified this damage over the past week by hiding at Camp David, delivering incoherent speeches, and is reported as failing to contact a single foreign leader for 36 hours. Today, he signaled an unconditional surrender to the Taliban, promising to leave in just 7 days.

We just had a classified briefing for all the Members. I don't believe any Member walking out of there believes that in 7 days we could get the thousands of Americans out. That is why we can't relinquish the floor to the Republicans to actually get a report on it.

Madam Speaker, the President's actions gave the impression of incompetency and a declining power. This week, we learned that the Taliban seized millions in U.S. weapons, making them stronger than they were 20 years ago.

Madam Speaker, it is reported the Taliban now has more Black Hawk helicopters than Australia. Military missions should be dictated by our Nation's interests, not by our enemies or by arbitrary timelines.

Right now, there is no greater national priority than getting our people home. But I just heard from the Democrat on the other side that we could not relinquish the floor to allow Mr. GALLAGHER's, a veteran's, previous question to come up because that would be dealing with the Nation's interests right now. No. We need to deal with the Democrats' priorities right now.

As I look around, I see our allies responding to this crisis with the seriousness it deserves. Madam Speaker, the Speaker called us back here. We are not the only body of power that has been called back.

In Britain, Parliament returned from its summer recess. Do you know what they are doing, though, Madam Speaker? They are working in an emergency session on this current situation to get their citizens home.

In France, President Macron is trying to rally the U.N. Security Council.

This House should be correcting this disastrous record left by this Commander in Chief and proving that America never abandons her people or shrinks from defending our interests.

Madam Speaker, that is not what I heard on this floor. I heard a direction, Madam Speaker, by the Democrat leading and in charge of this right now that we could not relinquish the floor simply to Mr. GALLAGHER's request of letting America know how many Americans are there and to not put a timeline until every American comes home.

We should be doing nothing else on the floor until every single American is home. Democrats called us back for an emergency session, the first session since Kabul fell to the Taliban. But faced with a national security and credibility crisis in Afghanistan, they have done nothing to plan to address it.

We were allotted 90 minutes, and, oh my God, we went over 15 minutes. But we made sure that then the Democrats had to shut that meeting down, that Members of Congress could ask no more longer questions because we needed to get back to the floor right now.

When history writes about this day, they will talk about the entire week. They will talk about last night, how Congress worked late into the night, actually ordered food to come in, was in the Speaker's Office for late hours, spent their day calling other Members and twisting votes. We had reports that the President called people, that former Presidents called people, and that people were threatened and that their spouses were threatened about jobs. We heard that they were threatened even in their own campaign.

But what were they threatened about? Was it anything to deal with Americans coming home? No. It was about this rule. It was about what we are bringing up right now. The reason we had to stop our briefing was because we had to come to the floor to deal with this.

So, what are we talking about? $5 trillion of hard-earned taxpayer money being spent on more Big Government, changing election law to benefit one party over another, outlawing IDs even though the majority of America wants it, and nothing about how that $5 trillion will spend $1 bringing Americans home or making us safer.

What is the definition of a public servant? I would say doing something for the good of the others.

Madam Speaker, the party today of the majority, the Democrats here, their interest is themselves, to stay up late into the night while other nations are working to bring their citizens home.

Madam Speaker, as people walk onto this floor and vote on this bill that they worked late into the night on, I want them to think about one thing. I want them to think about those American families in Afghanistan who late into the night were not knowing if they could even make it to the airport, not knowing if they will even get out, and wondering if the public servants were thinking of them. The sad answer is the majority was not. They were thinking of themselves, that it is too important to deal with anything else.

Madam Speaker, there are allies who are sitting in Afghanistan. Why did they go? They went to defend America because America was attacked and out of the respect and character of who we are.

This body, elected and respected around the world, in a time of crisis doesn't speak of it and doesn't act on it but only acts for themselves and, in a moment of time of using the rules to allow the opportunity to change its course and to correct them when they were wrong, the voice of the other side says: No, we could not turn the floor over to allow America to know how many Americans are there or to get a report on it.

□ 1415

Just as they bang the gavel down, the 90 minutes have come. You have asked enough questions. You can ask no more because we must get to the floor to pass $5 trillion and change election law so the Democrats believe they can buy and change an election.

Madam Speaker, if there is any moment in time to put an election aside, if there is any moment in time to put politics aside, I would have thought today was the day. I would have thought we were being called back so that we could focus on what the rest of the world is focused on.

So when the Speaker came to the floor to speak, I turned my volume up. Surely, she was going to speak of this day. Surely, she was going to talk about the Gold Star families. Surely, she was going to thank those veterans and those who have served here knowing what they are going through and what they are watching.

And you know what she said? Speaker PELOSI actually said: Today is a great day of pride for our country and Democrats. Today is a great day of pride for our country and our Democrats.

Let me be very clear. It is not. It is an embarrassing day for our Nation. We are 3 weeks away from the twentieth anniversary of 9/11, and this is what history will write. This is what you did with your majority. This is what you controlled. This is how you made sure you would not release the floor for the idea that Americans can find out how many are stuck in Afghanistan or how they are going to get home.

I hope you are proud of that because this is what your leadership has done. This is what your leadership worked on. This is what the power of the twisting of the arm has delivered. The United States of America is not going to let terrorists dictate when and how we get Americans out.

I firmly believe what has been said many times and especially by Abraham Lincoln, '' . . . government of the people, by the people, for the people, shall not perish from the Earth.'' If you believe that too and you are watching, I ask that you pick up your phones and you call, especially if you are a Democrat because I do not think the leadership here represents you with what they are asking for. I know your love of this country.

I know the thousands upon thousands of Democrats who served their Nation, who served in Afghanistan, and I know those Americans who are in Afghanistan are not just of one party. I would like to see both parties work on the issue, what is really before us.

Can you not put politics aside? Can you not care for one moment that you could rig an election to get elected? Can you not care about making government so large that you are going to bring more inflation and trillions of dollars?

That is what you spent last night on. That is what you spent the whole time on. That is what you brought us in for. That is what you closed the briefing on, but we couldn't ask any more questions. Time is up. That is what you are fighting so hard for that a veteran who has served his country asked for a previous question to simply say: Can we get a report of how many Americans are still there? And asked that we do not pick a date when we get out until every American is out.

But I heard the leadership on the other side say that we could not do that. We have to change the election law. We have to spend $5 trillion. This is what we came back for in a special session. This is what our mission is.

Everyone who votes for this rule today, that is what you are voting for. That is what you are championing. That is what history will write. And, no, it is not a good day. Maybe in your caucus you think it is a great day for you and the Democrats. It is an embarrassing day for America. It is an embarrassing day for this floor, and it is embarrassing that you would even move forward with it.

The SPEAKER pro tempore. Members are reminded to direct their remarks to the Chair, and not to each other in the second person or to a perceived viewing audience.

Mr. NEGUSE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank my colleague on the Rules Committee for the respectful way in which she has engaged in today's debate. I wish I could say the same for all of the speeches that Members have delivered today.

I think it is unfortunate to have deeply partisan speeches made on the floor on matters of such great significance. I have great respect and reverence for Democratic and Republican Members of this body who have served so honorably in our Nation's Armed Forces and who have been working together to do everything they can, in concert with the administration, to evacuate Americans and our Afghan partners out of Afghanistan.

I think it is unfortunate, as I said, to hear folks politicize that particular issue. I didn't hear much, Madam Speaker, regarding the bipartisan infrastructure deal that we are considering today. I didn't hear much by way of specifics in terms of the voting rights advancement act that we are considering today. Why? Because my friends on the other side of the aisle know that both the Build Back Better plan and the bipartisan infrastructure deal will create jobs, will lower costs, and will cut taxes.

I wish we could have a reasonable debate on the merits of these particular policies, but it is clear that some would prefer to avoid that debate entirely.

Madam Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON LEE), my distinguished colleague on the Judiciary Committee.

Ms. JACKSON LEE. Madam Speaker, I am very proud to be able to stand here today remembering the Constitution and saying to my good friends that this floor belongs to the American people. This floor is a floor, as John

Lewis has often challenged us, that calls upon us to be courageous.

I am also here to say to you that I have no doubt that the United States military, with the will of the American people, will ensure that all Americans come out of Afghanistan and our allies. But at the same time, I am grateful for the idea of a build back America act that will have Texas get universal pre-K childcare, tuition-free community college. And then, of course, the invest act that will see us get $537 million for bridges, $100 million for broadband, $3.3 billion for public transit so that our climate can improve.

I know that the Texas delegation, State representatives who sacrificed and came to this Nation's Capital to cry out for justice, Texas Democratic representatives who are here in this place now, that H.R. 4 is going to save the day, not partisan, but it is going to make us a democratic Republic. And we need to pass H.R. 4 because John Lewis said: Do you have any courage?

Madam Speaker, as a senior member of the Judiciary Committee and an original cosponsor, I rise today in strong support of the Rule governing debate of Senate Amendment to H.R. 3684, Infrastructure Investment and Jobs Act; S. Con. Res. 14, Budget Resolution For Build Back Better Plan; and H.R. 4, the John Lewis Voting Rights Advancement Act.

Madam Speaker, as a senior member of the Committees on the Judiciary, on Homeland Security, and on the Budget, I rise in strong support of the Rule governing debate of Senate Amendment to H.R. 3684, the Infrastructure Investment and Jobs Act, which represents the most significant long-term investment in the United States' infrastructure and competitiveness in nearly a century.

This legislation will make life better for Americans across the country, create a generation of good-paying union jobs, grow our economy, invest in communities that have too often been left behind, and better position the United States to compete globally and win in the 21st century.

The United States is the wealthiest country in the world, yet after decades of underinvestment, the country's roads, bridges, and water systems are crumbling, and our electric grid is vulnerable to catastrophic outages.

Too many families lack access to affordable, high-speed internet, clean drinking water, and public transportation, and too often, past infrastructure investments have disproportionately and negatively impacted low-income neighborhoods and communities of color.

Investing in our infrastructure—and investing in communities across the country—can create millions of good-paying jobs in underserved areas and lay the groundwork for not only a full economic recovery from the pandemic, but also usher in a new era of American innovation and prosperity.

The historic Infrastructure Investment and Jobs Act invests $550 billion in new federal investment to make an array of transformational investments in our country's infrastructure including:

$121 billion to repair and rebuild our roads and bridges with a focus on climate change mitigation, resilience, equity, and safety for all users, including cyclists and pedestrians.

$89.9 billion to modernize America's public transit, by increasing routes, reducing the transit maintenance backlog, and providing more frequent service, resulting in better options for riders, improved environmental outcomes, and increased access to jobs and essential destinations.

$66 billion to modernize and expand passenger and freight rail networks across the country, to position our railways to play a central role in our transportation and economic future.

$15 billion in zero emission and clean buses and ferries and to build the first-ever national network of electric vehicle chargers in the United States, in order to address the adoption of electric vehicles and support domestic manufacturing jobs.

$42 billion to modernize our airports, ports, and waterways;

$50 billion to weatherize our infrastructure and insulate it against the threats of droughts, floods, and wildfires.

$55 billion to drinking water infrastructure, including eliminating the Nation's lead service lines and pipes, thereby delivering clean drinking water to up to ten million American families and more than 400,000 schools and child care facilities that currently do not have it, including in Tribal nations and disadvantaged communities.

$65 billion to upgrade our power infrastructure to facilitate the expansion of renewable energy.

$21 billion in environmental remediation, making it the largest investment in addressing the legacy pollution that harms the public health of communities and neighborhoods in American history.

$65 billion to connect every American to reliable high-speed internet, building on the billions of dollars for broadband deployment in the American Rescue Plan Act of 2021.

Across this country, far too many communities are struggling with crumbling roads and structurally unsound bridges, outrageous congestion, lead-coated pipes and no broadband access.

The Senate Amendment to H.R. 3684 addresses economic disparities in our economy and the consequences of decades of disinvestment in America's infrastructure that have fallen most heavily on communities of color.

Through critical investments, the legislation increases access to good-paying jobs, affordable high-speed internet, reliable public transit, clean drinking water and other resources to ensure communities of color get a fair shot at the American dream.

These critical investments are first steps in advancing equity and racial justice throughout our economy.

Additional investments are needed in our nation's caregiving infrastructure, housing supply, regional development, and workforce development programs to ensure that communities of color and other underserved communities can access economic opportunity and justice.

This bill will address these challenges, and will also deliver much-needed investment to my home state of Texas, making life better for millions of Texas residents.

Specifically, under the bill, Texas is expected to receive:

$26.9 billion for federal-aid highway apportioned programs and $537 million for bridge replacement and repairs with a focus on climate change mitigation, resilience, equity, and safety for all users, including cyclists and pedestrians;

$3.3 billion over five years to improve public transportation options across the state through healthy, sustainable transportation options for millions of Americans;

$408 million over five years to support the expansion of an EV charging network in the state; and

Texas will also have the opportunity to apply for the $2.5 billion in grant funding dedicated to EV charging in the bill;

A minimum allocation of $100 million to help provide broadband coverage across the state, including providing access to at least 1,058,000 Texans who currently lack it.

In addition, 8,381,000 or 29% of people in Texas will be eligible for the Affordability Connectivity Benefit, which will help low-income families afford internet access.

Madam Speaker, in sum, I encourage all members to support the Rule governing debate of Senate Amendment to H.R. 3684 Infrastructure Investment and Jobs Act, so that we can invest in strengthening our infrastructure and competitiveness, and do so in a way that creates the good-paying union jobs of the future, addresses long-standing racial and economic injustice, and helps to fight the climate crisis.

Madam Speaker, as a senior member of the Committees on the Judiciary, on Homeland Security, and on the Budget, I rise in strong support of the Rule governing debate of S. Con. Res. 14, which reorders budgetary priorities to provide $3.5 trillion investments to build back better and provides reconciliation instructions to 13 House and 12 Senate committees to support visionary and transformative investments in the health, well-being, and financial security of America's workers and families.

It is often said that the federal budget is an expression of the nation's values and the budget resolution before us is a clear declaration of congressional Democrats' commitment to ensuring that our government, our economy, and our systems work For The People.

Madam Speaker, these long-overdue investments in America's future will be felt in every corner of the country and across every sector of American life, building on the success of the American Rescue Plan, accommodating historic infrastructure investments in the legislative pipeline, and addressing long-standing deficits in our communities by ending an era of chronic underinvestment so we can emerge from our current crises a stronger, more equitable nation.

Should our friends across the aisle join us in this endeavor, it would send a powerful signal to the American people if our colleagues across the aisle would join us in this effort because nothing would better show them that their elected representatives can set partisanship aside and put America first.

And that bipartisan achievement would portend success for similar initiatives in the area of strengthening the infrastructure of democracy in which every American has a vital interest, national and homeland security, and criminal justice and immigration reform.

I would urge my Republican colleagues to heed the words of Republican Governor Jim Justice of West Virginia who said colorfully several months ago, ''At this point in time in this nation, we need to go big. We need to quit counting the egg-sucking legs on the

cows and count the cows and just move. And move forward and move right now.''

The same sentiment was expressed more eloquently by Abraham Lincoln in 1862 when he memorably wrote:

''The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves, and then we shall save our country.''

Madam Speaker, the bipartisan action we took in February 2021 when we passed the American Rescue Plan was a giant step in the right direction, but it was a targeted response to the immediate and urgent public health and economic crises; it was not a long-term solution to many of the pressing challenges facing our nation that have built up over decades of disinvestment in our nation and its people in every region and sector of the country.

We simply can no longer afford the costs of neglect and inaction; the time to act is now.

The Build Back Better Plan makes the transformative investments that we need to continue growing our economy, lower costs for working families, and position the United States as a global leader in innovation and the jobs of the future.

This $3.5 trillion gross investment will build on the successes of the American Rescue Plan and set our nation on a path of fiscal responsibility and broadly shared prosperity for generations to come.

The Build Back Better Plan will provide resources to improve our education, health, and child care systems, invest in clean energy and sustainability, address the housing crisis, and more; all while setting America up to compete and win in the decades ahead.

The Build Back Better Plan is paid for by ensuring that the wealthy and big corporations are paying their fair share and Americans making less than $400,000 a year will not see their taxes increase by a penny.

Let me repeat that: No American making less than $400,000 a year will not see their taxes increase by a penny.

In sum, Madam Speaker, the investments made by the Build Back Better Plan will expand opportunity for all and build an economy powered by shared prosperity and inclusive growth.

Madam Speaker, while I am proud to strongly support this Rule and underlying bill, I would be remiss if I did not express my disappointment at the Rules Committee's decision to not include my amendments to this bill.

Jackson Lee Amendments #6, #7, and #8 are easy to understand and vitally important—they simply protect state legislators who, in keeping with their sacred oath to uphold the Constitution of the United States, refuse to perform unconstitutional acts under the guise of legislative process.

Specifically:

Jackson Lee Amendment #6 allows for federal judicial review of any warrants issued for the arrest of a state legislator where said state legislator refuses to engage in the state legislative process due to a reasonably held belief that doing so would infringe on the right to vote.

Jackson Lee Amendment #7 inserts a Sense of the Congress stating that a state's power to arrest a duly elected representative of a constituency for refusal to engage in a state's legislative process should be subject to federal judicial review where such elected representative's refusal is premised upon a reasonable belief that participation would result in the suppression of voting rights or other violations of the Constitution of the United States of America.

Jackson Lee Amendment #8 privileges against arrest any member of a state legislature for any reason except treason or murder while the legislature of that state is debating or voting on legislation relating to redistricting or election practices or legislation relating to the right to vote in federal, state, or municipal elections.

These amendments would have critically strengthened H.R. 4 because state legislatures across the country are utilizing every weapon in their arsenal to curtail voting rights; and no one should fear arrest due to fighting for the Constitutional rights of their constituents.

This includes my home state of Texas, where earlier this month officers of the Texas House of Representatives delivered civil arrest warrants, signed by the Texas state Speaker of the House, for more than 50 absent Democrats in an attempt force a vote on the naked attempt at voter suppression known as Texas S.B. 7.

This is the latest Republican attack on these brave state legislators, which began on May 30, where after a night of impassioned debate and procedural objections, these Democratic lawmakers in Texas took action to block passage of this massive overhaul of the state's election laws.

Since the arrest warrants were issued, it is my understanding that mass intimidation of the Texas House Democrats has occurred.

State officials came to their homes with the purpose of dragging them back to eviscerate the voting rights of thousands of Texans.

These elected Texas Representatives have had to hide away from their friends, their families, and their loved ones, all to ensure that Texans retain their most sacred of rights.

They are risking their freedom to ensure every Texan has full access to their constitutional right to vote.

Texas Republicans seek to pass voting regulation laws focused on 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.

Standing between all of this and the voting rights of thousands of Texans are those brave state legislators who currently have a warrant out for their arrest.

No elected representative in this great nation should fear that he or she will be locked away for simply standing up for justice and ensuring that America's citizens have the right to vote.

For this reason, I believe that H.R. 4 would have been greatly strengthened by the inclusion of my amendments in the Rule.

I strongly encourage all Members of Congress to support this Rule and the underlying bill, because 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 by passing H.R. 4, the John Lewis Voting Rights Advancement Act.

Madam Speaker, I am here today to remind the nation that the need to pass this legislation is urgent because 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.

Not to be content with the monument to disgrace that is the Shelby County decision, the activist right-wing conservative majority on the Roberts Court, on July 1, 2021, issued its evil twin, the decision in *Brnovich* v. *DNC*, 594 U.S. ____, No. 19–1257 and 19–1258 (July 1, 2021), which engrafts on Section 2 of the Voting Rights Act onerous burdens that Congress never intended and explicitly legislated against.

Madam Speaker, were it not for the 24th Amendment, I venture to say that this conservative majority on the Court would subject poll taxes and literacy tests to the review standard enunciated in Brnovich v. DNC.

According to the Supreme Court majority, the reason for striking down Section 4(b) of the Voting Rights Act 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 and that is why we must pass H.R. 4, the John Lewis Voting Rights Advancement Act.

Let me put it this way: in the same way that the vaccine invented by Dr. Jonas Salk in 1953 eradicated the crippling effects but did not eliminate the cause of polio, the Voting Rights Act succeeded in stymieing the practices that resulted in the wholesale disenfranchisement of African Americans and language minorities but did not eliminate them entirely.

The Voting Rights Act is needed as much today to prevent another epidemic of voting disenfranchisement as Dr. Salk's vaccine is still needed to prevent another polio epidemic.

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.''

For millions of Americans, the right to vote protected by the Voting Rights Act of 1965 is a 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.

I strongly encourage all Members of Congress to support this bill, because 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 by passing H.R. 4, the John Lewis Voting Rights Advancement Act.

Mrs. FISCHBACH. Madam Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. SCALISE), the minority whip.

Mr. SCALISE. Madam Speaker, I thank the gentlewoman from Minnesota for yielding.

Madam Speaker, I rise to object to this whole process. What we are doing here today, this is an example of the misplaced priorities of this Democrat majority.

Let's start with the bill at hand, this package of bills that includes a budget that I am sure very few people in this Chamber have read, that authorizes the taxing and spending of trillions more dollars.

Now, what does that mean? They call it the for the children act. It really should be called the mountains of debt for the children act because that is what it does. If you look at inflation today, every family in America is facing inflation. They are paying over 40 percent more for gasoline, for cars, for things that they buy at the grocery store.

Families know that if you add trillions more in debt, trillions more in spending, trillions more in taxes, inflation will only go up and you know who is going to pay for it. It is not anybody in this Chamber, Madam Speaker. Under their own budget—it says it—it is the children. That is who is going to pay for it.

Right here. Just go to page 7 where it authorizes up to $45 trillion in debt—we are at about $28.6 trillion right now—$45 trillion in debt with taxes and spending through the roof that will hit every family in America, Madam Speaker.

Then let's get back to those priorities. Now, you would think with the backdrop of everything that we have been dealing with in Afghanistan, as we here in this Chamber, with so many of our veterans who served in Afghanistan honorably, have been calling on the President to ensure and commit that he will get all Americans out. Yet, what is our President doing? I will tell you what he has been doing. He has been working the phones pressuring Members of Congress this week.

I wish, Madam Speaker, I could say he was pressuring Members of Congress to help get Americans out. That is not what he was doing. He was working the phones this week pressuring Members of Congress to vote for this trillions of dollars in spending and tax package. That has been President Biden's priority.

He just said today he is going to bow to the Taliban's deadline of August 31 even if we don't get all Americans out. President Biden should be the President of the United States; not bowing to terrorists; not bowing to anybody except committing that he will get all Americans out instead of living by some artificial deadline.

Every ounce of his energy ought to be focused between now and next Tuesday, the date he set and the date the Taliban set, every minute he ought to be spending between now and next Tuesday should be focused on getting all Americans out. But if he fails to do it, people will look back and say: What was he doing instead? What were the President of the United States' priorities? He was pressuring Members of Congress to vote for this garbage: trillions of dollars in debt and spending, rather than focus on getting Americans out of harm's way that he left behind.

It is a national and international disgrace. Our priorities ought to be with the American people. That is what we will fight for. That is why we oppose this whole process.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

Mr. NEGUSE. Madam Speaker, while I would relish the opportunity to respond to the points made by my colleague, we have a lot of enthusiasm on our side to speak in support of this rule.

Madam Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO), the distinguished chairwoman of the Committee on Appropriations, who has led on the child tax cut for decades.

Ms. DELAURO. Madam Speaker, this rule allows us to move forward on rebuilding our Nation's crumbling infrastructure, restoring the power of the Voting Rights Act, and an historic budget resolution that advances our priorities by making critical investments to expand our Nation's social safety net to continue to build back better.

For far too long, the deck has been stacked for the wealthy and the well-connected, while middle-class hard-working families and the vulnerable have been left behind.

After decades of disinvestment, we have an opportunity today to make history, to deliver on a promise we made to the American people: to build a stronger, fairer future for our kids; a once-in-a-lifetime moment, creating more jobs, cutting middle-class taxes, while simply asking the biggest corporations and the top 1 percent to pay their fair share of taxes.

What are the transformative issues in this bill: expanding to improve the child tax credit already acclaimed to cut child poverty and hunger with only one payment; guaranteeing affordable high-quality childcare; tackling the long-term healthcare crisis; access to long-term services and supports for aging loved ones and those with disabilities; universal pre-K; 2 years of tuition-free community college; maximizing the Pell grant award; launching the first-of-its-kind paid family and medical leave benefits; historic investments ranking alongside the New Deal and the Great Society, standing the test of time and strengthening our society.

President Roosevelt didn't just rebuild America. He created Social Security, and when it came to infrastructure and human needs, he did both. So to meet today's moment, we must and we can do both. We have that opportunity not to throw money at a problem but to build the architecture for the future.

Today, we must advance this rule and the budget resolution, demonstrating our commitment to our values, making a difference in the lives of so many Americans. This is a moral imperative. And to paraphrase President Franklin Roosevelt: This is our rendezvous with destiny, a watershed moment. Don't let the moment pass. It will not come back again. Let's seize it with action, with hope and unity of purpose for a better, stronger America.

□ 1430

Mrs. FISCHBACH. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. KIM).

Mrs. KIM of CALIFORNIA. Madam Speaker, I would like to thank the gentlewoman from Minnesota for yielding.

Madam Speaker, I rise today in opposition to the rule that is being debated as we consider the $3.5 trillion budget reconciliation.

I rise today in support of workers, families, and businesses in communities I represent in California's 39th Congressional District.

Now is the time for Congress to show it can work together for the American people.

As our economy recovers during the COVID–19 pandemic and Americans across the country pay more everywhere from the grocery store to the gas pump, Democrats are once again bypassing bipartisanship and moving forward with a partisan $3.5 trillion budget.

According to Tax Foundation, this budget reconciliation would also raise taxes for people I represent in California's 39th District by an average of over $600. My constituents have been burdened enough by some of the highest State taxes in the country.

Now, our Nation is scrambling to keep promises we made in Afghanistan to Americans and Afghan partners. The last thing we need is trillions more in spending on unrelated priorities and more taxes. This makes no sense.

The majority's budget will increase prices, raise taxes, and take even more money out of taxpayers' pockets. I urge my colleagues to vote ''no'' on this reconciliation.

Mr. NEGUSE. Madam Speaker, my colleague from California is certainly right about one thing, the Build Back Better plan would raise taxes on billionaires. The tax cuts that ultimately were approved by my colleagues on the other side of the aisle several years ago for the richest Americans in our country, we do not pursue that in our bill. Instead, we pursue tax cuts for working families, for middle-class Americans.

Madam Speaker, I would like to yield 2 minutes to the gentlewoman from California (Ms. WATERS), the distinguished chairwoman of the Committee on Financial Services, whose leadership has kept millions of Americans in their homes over the course of the last year.

Ms. WATERS. Madam Speaker, I rise in support of the rule, which would

pass the House's budget resolution. The budget resolution will make historic investments in housing in this country.

We are in the middle of a housing crisis. As chairwoman of the Financial Services Committee, it is not lost on me that more than 580,000 people experience homelessness on any given night, while millions of families are, at this moment, paying the bulk of their income toward rent.

The bottom line is that housing is infrastructure. This is why I introduced groundbreaking legislation, the Housing Is Infrastructure Act of 2021, to provide more than $600 billion to address our country's affordable housing crisis, increase first-generation homeownership, and end homelessness.

While the budget resolution only allocates $339 billion to the Financial Services Committee, this funding is still historic and will transform the lives of millions of families. However, we must first pass the budget resolution so that we can then pass the President's Build Back Better agenda, including this historic funding for housing programs.

This rule also brings us one step closer to the critical House passage of H.R. 4, the John R. Lewis Voting Rights Advancement Act.

This President is going to bring all of the Americans who want to come home, home.

Mrs. FISCHBACH. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WALTZ).

Mr. WALTZ. Madam Speaker, I rise in support of Representative GALLAGHER's bill, to get us some simple facts: How many Americans are stranded and are we going to get them home.

Yes, these issues are important. We should debate these issues. Infrastructure, healthcare, all of these issues are critical to our country.

But the number one job of the Federal Government is to keep Americans safe. Today, America is less safe. Americans are stranded behind enemy lines, and they are not all going to get out by August 31.

Colleagues, what happens in Afghanistan does not stay in Afghanistan. It will follow us home. Terrorism is a cancer that once again will threaten the United States.

I want everyone to see this picture and remember it: Osama bin Laden—by the way, then-Vice President Biden opposed the raid to bring this man to justice. His deputy, Ayman al-Zawahiri—know that name—who is now leading al-Qaida, now has a terrorism playground from which to plot and plan attacks on the United States once again.

The intelligence has been clear. Al-Qaida 3.0 will come roaring back. The Taliban equals al-Qaida. As we head into the 20th anniversary of 9/11, we once again are going to face the prospect of more Pulse nightclubs, San Bernardinos, and, God forbid, another 9/11.

What has me so upset, so flaming mad, as a veteran, as a Green Beret that has had to fight this fight, is future soldiers are now going to have to go back and deal with this again, but now with no bases, no local allies, and a Taliban that is armed to the teeth with our own equipment. That is unconscionable. It is unacceptable. If the White House won't lead, then Congress will.

Mr. NEGUSE. Madam Speaker, I yield 2 minutes to the gentlewoman from Alabama (Ms. SEWELL).

Ms. SEWELL. Madam Speaker, I rise today in full support of H.R. 4, the John R. Lewis Voting Rights Advancement Act.

Madam Speaker, I have the great privilege of not only representing Birmingham, Montgomery, and my hometown of Selma, Alabama, but growing up, literally, at the foot of the Edmund Pettus Bridge, I had an opportunity time and time again to see John Lewis in action.

John would come to my home church, Brown Chapel AME Church, to remind us all that what happened on that bridge 56 years ago was that Americans, ordinary Americans, dared to stand up to this country and to make sure that it lived up to its ideals of justice and equality for all.

I am proud to say that I get to walk in the footsteps of John Lewis, but I am more proud of the fact that so many of us in this Chamber walked with him.

The best way that we can live up to the legacy of John Lewis is to remember that he fought for every American to have the equal right to vote, equal access to the ballot box.

I get that the Voting Rights Act of 1965 is reserved for the most egregious State actors. But what it says is that Federal oversight is needed when States go amok.

Since the Shelby v. Holder decision, I have introduced, in four successive Congresses, the Voting Rights Advancement Act, and we renamed it the John R. Lewis Voting Rights Advancement Act.

We must live up to John's ideals of equality and justice for all in voting rights. What we have seen in States like Georgia and Texas, and around this country, has been State legislatures making it harder for people to vote.

I just want to say that we must get into good trouble, necessary trouble. John reminded us that we must be courageous in the face of adversity and in the face of inequity. I ask for you to please vote for H.R. 4 and vote for the rule that would get it to the floor.

Mrs. FISCHBACH. Madam Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ROGERS), the ranking member of the Armed Services Committee.

Mr. ROGERS of Alabama. Madam Speaker, I rise in strong opposition to this rule.

For 4 months, Republicans have demanded to know the President's plan to evacuate Americans and Afghan allies and conduct counterterrorism operations in Afghanistan. For 4 months, they have told us: ''We are working on it.''

Well, now it is clear they never had a plan. The President's abject failure to plan is endangering the lives of thousands of American civilians and our allies in Afghanistan.

Reports have been rolling in for over a week of Americans being assaulted or having to hide from Taliban thugs while they wait for a rescue. Afghan allies are being brutalized and killed by these terrorists as they desperately try to get inside the gates of the Kabul airport.

And that is just those lucky enough to be in Kabul. Thousands of Americans and Afghan allies are still stranded hundreds of miles away from Kabul with little hope of rescue.

Now comes an ultimatum from the terrorists that if our forces don't withdraw by next Tuesday, they will start shooting.

What is the response from the majority? Well, Speaker PELOSI brought us back to Washington, but not to deal with this dire situation in Afghanistan. No, we are here today to vote on a partisan, $4 trillion giveaway to the radical left; a bill that doesn't include a single dollar to rescue Americans or our allies from Afghanistan or even a single penny on national security.

I have to wonder what the majority is thinking. Instead of this partisan exercise, I urge the majority to work with us to hold the President accountable and save Americans and allies still in Afghanistan.

Mr. NEGUSE. Madam Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN. Madam Speaker, we see our Republican friends are very upset. They said: This is embarrassing. What are we doing? What have we done?

What you are mad about is that we are delivering for the American people. We saved pensions; we cut taxes for working-class people; we invested in the communities, and we invested in the schools. Now, universal preschool; everyone can go to community college; vision, dental, hearing for Medicare recipients; and paid family leave.

If you think for one second I am going to apologize for what we are doing, you are wrong.

Once again, we should have done this 30 or 40 years ago. And, obviously, once again, the Republican Party is MIA.

The SPEAKER pro tempore (Ms. SEWELL). Members are reminded to address their remarks to the Chair.

Mrs. FISCHBACH. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ELLZEY).

Mr. ELLZEY. Madam Speaker, I rise to urge defeat of the previous question so that we can immediately consider H.R. 5071.

Operations Enduring Freedom and Freedom's Sentinel are coming to a conclusion in a way that no American should be willing to tolerate nor accept. This conflict began nearly 20

years ago. There have been 2,443 U.S. military killed in action, 3,800 contractor and DOD civilians killed in action, 1,144 allied troops killed in action, and over 30,000 veteran suicides since 9/11; the victims of their internal and unseen wounds.

In Texas District 6, we lost Staff Sergeant Jeremy S. on April 6, 2011, and Private First Class Joel R. on April 16, 2011. Brothers in arms, killed 10 days apart.

In Texas, we have lost 193 of our sons and daughters, all of whom, like Luke Bushatz would say: ''Not one ounce of sweat or blood in the defense of others is a waste.'' But last week, this administration handed over 600,000 weapons, 75,000 vehicles, and 200 aircraft to the enemy.

What we have now is September 10, 2001, with a well-armed enemy.

For those who have stood the watch and those who have died standing that watch, duty, honor, and country is not an academic study; it is a way of life and sometimes death.

So I call on our Commander in Chief, Madam Speaker, to take those words as seriously as we do and to do his duty to honor our servicemembers and their families by informing this body, and the Americans we represent, every day on what is happening on the ground in Afghanistan and what this administration is doing to bring American citizens, and the Afghans who helped us, to safety.

Infrastructure needs did not leave 10,000 to 15,000 Americans stranded. Climate change did not cause this catastrophe. Combat is a not a PowerPoint briefing. American lives are at stake. Get our countrymen out of Afghanistan. The mission is only complete when they are out, not one minute before.

Mr. NEGUSE. Madam Speaker, I reserve the balance of my time.

□ 1445

Mrs. FISCHBACH. Madam Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. ARRINGTON).

Mr. ARRINGTON. Madam Speaker, with respect to the rule and bills, if someone were to devise a plan to intentionally destroy the great State of Texas, they would do the following:

They would sabotage their sovereignty by opening its borders and granting amnesty and citizenship.

They would steal the right to safeguard the integrity of their elections.

They would strip the freedoms of both employees and employers by forcing unionization of the workforce.

They would destroy its agriculture and energy economy by abusing their regulatory authority and weaponizing the tax code in the name of a politically manufactured climate crisis.

They would crush the most prosperous economy in the Nation under the weight of the highest tax rates in the world.

They would quench the spirit of self-reliance.

They would diminish the dignity of work by trapping their citizens in an endless cycle of government dependence and poverty.

And they would permanently plunder the freedom and independence of the Lone Star State by saddling future generations with a debt they could never repay.

While this legislation, Madam Speaker, may not have been written with the intention of destroying the State of Texas, it is clear that should these bills pass, that is exactly what it would do, and not only to my great State but to the entire Nation.

Mr. NEGUSE. Madam Speaker, I reserve the balance of my time.

Mrs. FISCHBACH. Madam Speaker, I yield 1 minute to the gentleman from Arizona (Mr. SCHWEIKERT).

Mr. SCHWEIKERT. Madam Speaker, this is a moment where I am hoping our friends on the left will keep a certain promise that many of you have made, Madam Speaker, because we have a long list of the promises from the President to leadership and to others promising that this spending will be 100 percent paid for.

You already know we are going to have probably a continuing resolution with the omnibus. There is a trillion dollars of structural debt there. Okay. And the $1.2 trillion so-called bipartisan—bipartisan in the Senate.

Okay, when we actually do the honest math, it is not a quarter trillion of borrowing; it is about $500 billion of borrowing because a bunch of the payfors are fake.

When we start looking at what Senate Finance and others—where are you getting the other $1.7 trillion on your $3.5 trillion of spending?

Look, I am just asking you to keep a promise because when you add up all the new revenues, all the new receipts, all the new tax hikes, the corporate tax hikes that unemployed some million Americans in 24 months, the capital gains tax that loses money, where are you going to get all this cash that you have promised will be 100 percent paid for?

The SPEAKER pro tempore. The Chair again reminds Members to address their remarks to the Chair.

Mr. NEGUSE. Madam Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), the distinguished majority leader.

Mr. HOYER. Madam Speaker, I rise in support of this rule. This rule allows the Congress of the United States to do the people's business in two critical areas—actually, three.

Number one, it provides for us to receive from the Senate the budget and to do what the Republicans did on their tax bill: act on a budget reconciliation bill.

You did that. You, of course, didn't pay for it. We are going to pay for this.

Secondly, this rule allows us to proceed on a piece of legislation which seeks to make sure that the Voting Rights Act, protecting the most important asset a citizen has, and that is their right to vote or, as our Speaker has said, the voice of those not empowered. That is not exactly what it was, Madam Speaker.

Two of these items are critical, and when we talk about saving lives, the reconciliation bill and the budget, the Build Back Better Act is going to save lives and enrich the quality of lives of our people.

Thirdly, this rule will allow us to proceed to adopt the bipartisan—69 Senators voting for it—infrastructure bill. It is not a perfect bill. It is not our bill, and it is limited in some respects in terms of its addressing one of our most important challenges and enemies, and that is climate change. It nevertheless is a very, very substantial investment in America, its growth, people, and jobs.

Vote for this rule. It is a good bill for the people.

Mrs. FISCHBACH. Madam Speaker, I yield myself such time as I may consume to close.

Madam Speaker, Democrats continue to ram through controversial policies and reckless spending with a complete disregard for the rules and with no consideration of what those decisions will mean for future generations and what they have to pay back.

President Biden took office saying he would be President for everybody, but he certainly isn't acting like that. The legislation before us today that is included in this rule would leave rural communities behind, concentrate even more power at the Federal level, and tax and spend recklessly.

The President is too busy pressuring Members of his own party to support $5 trillion in spending to even address the crisis in Afghanistan.

Madam Speaker, I oppose the rule and the underlying bills, and I ask Members to do the same. I yield back the balance of my time.

Mr. NEGUSE. Madam Speaker, I yield myself the balance of my time to close.

We have heard a lot about partisanship during the course of today's debate.

What are the three bills that we are considering within the rule today?

The John R. Lewis Voting Rights Advancement Act, a reauthorization of the Voting Rights Act. VRA has been reauthorized by Republicans and Democrats in the United States Congress for decades. The last time it was signed by George W. Bush, a Republican.

A bipartisan infrastructure deal that earned the votes of 69 Senators, 19 Republicans, including MITCH MCCONNELL, but apparently, that proposal is too radical for the House Republican Conference.

And a Build Back Better plan that would invest in American families, that would lower costs, that would cut taxes for working families.

Americans are worth investing in. Our families, our students, our teachers, our firefighters, our communities

are worth investing in. And we have a chance to do that today.

The late Congressman John Lewis once said that every generation leaves behind a legacy. What that legacy will be is determined by the people of that generation. Madam Speaker, I would say that our legacy must be one of progress, of courage, and of action.

I urge my colleagues to vote ''yes'' on this rule and on the previous question.

The material previously referred to by Mrs. FISCHBACH is as follows:

AMENDMENT TO HOUSE RESOLUTION 601

At the end of the resolution, add the following:

SEC. 7. Immediately upon adoption of this resolution, the House shall proceed to the consideration in the House of the bill (H.R. 5071) to direct the Secretary of Defense to submit to Congress daily reports on the evacuation of citizens and permanent residents of the United States from Afghanistan, and for other purposes. All points of order against consideration of the bill are waived. The bill shall be considered as read. All points of order against provisions in the bill are waived. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Armed Services; and (2) one motion to recommit.

SEC. 8. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 5071.

Mr. NEGUSE. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. FISCHBACH. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 212, not voting 0, as follows:

[Roll No. 257]

YEAS—220

Adams
Aguilar
Allred
Auchincloss
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Bourdeaux
Bowman
Boyle, Brendan F.
Brown
Brownley
Bush
Bustos
Butterfield
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Case
Casten
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Craig
Crist
Crow
Cuellar
Davids (KS)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Escobar
Eshoo
Espaillat
Evans
Fletcher
Foster
Frankel, Lois
Gallego
Garamendi
García (IL)
Garcia (TX)
Golden
Gomez
Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Grijalva
Harder (CA)
Hayes
Higgins (NY)
Himes
Horsford
Houlahan
Hoyer
Huffman
Jackson Lee
Jacobs (CA)
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Jones
Kahele
Kaptur
Keating
Kelly (IL)
Khanna
Kildee
Kilmer
Kim (NJ)
Kind
Kirkpatrick
Krishnamoorthi
Kuster
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Leger Fernandez
Levin (CA)
Levin (MI)
Lieu
Lofgren
Lowenthal
Luria
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Manning
Matsui
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Mfume
Moore (WI)
Morelle
Moulton
Mrvan
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Newman
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Pelosi
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Ross
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Spanberger
Speier
Stansbury
Stanton
Stevens
Strickland
Suozzi
Swalwell
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Williams (GA)
Wilson (FL)
Yarmuth

NAYS—212

Aderholt
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bentz
Bergman
Bice (OK)
Biggs
Bilirakis
Bishop (NC)
Boebert
Bost
Brady
Brooks
Buchanan
Buck
Bucshon
Budd
Burchett
Burgess
Calvert
Cammack
Carl
Carter (GA)
Carter (TX)
Cawthorn
Chabot
Cheney
Cline
Cloud
Clyde
Cole
Comer
Crawford
Crenshaw
Curtis
Davidson
Davis, Rodney
DesJarlais
Diaz-Balart
Donalds
Duncan
Dunn
Ellzey
Emmer
Estes
Fallon
Feenstra
Ferguson
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Fortenberry
Foxx
Franklin, C. Scott
Fulcher
Gaetz
Gallagher
Garbarino
Garcia (CA)
Gibbs
Gimenez
Gohmert
Gonzales, Tony
Gonzalez (OH)
Good (VA)
Gooden (TX)
Gosar
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Harshbarger
Hartzler
Hern
Herrell
Herrera Beutler
Hice (GA)
Higgins (LA)
Hill
Hinson
Hollingsworth
Hudson
Huizenga
Issa
Jackson
Jacobs (NY)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (MS)
Kelly (PA)
Kim (CA)
Kinzinger
Kustoff
LaHood
LaMalfa
Lamborn
Latta
LaTurner
Lesko
Letlow
Long
Loudermilk
Lucas
Luetkemeyer
Mace
Malliotakis
Mann
Massie
Mast
McCarthy
McCaul
McClain
McClintock
McHenry
McKinley
Meijer
Meuser
Miller (IL)
Miller (WV)
Miller-Meeks
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Mullin
Murphy (NC)
Nehls
Newhouse
Norman
Nunes
Obernolte
Owens
Palazzo
Palmer
Pence
Perry
Pfluger
Posey
Reed
Reschenthaler
Rice (SC)
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Scalise
Schweikert
Scott, Austin
Sessions
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Spartz
Stauber
Steel
Stefanik
Steil
Steube
Stewart
Taylor
Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Upton
Valadao
Van Drew
Van Duyne
Wagner
Walberg
Walorski
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (TX)
Wilson (SC)
Wittman
Womack
Young
Zeldin

□ 1533

Messrs. ROUZER, BRADY, and RODNEY DAVIS of Illinois changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

Aderholt (Moolenaar)
Amodei (Balderson)
Barragán (Raskin)
Blumenauer (Bonamici)
Bowman (Omar)
Brownley (Clark (MA))
Calvert (Garcia (CA))
Cárdenas (Correa)
Curtis (Moore (UT))
Davids (KS) (Kim (NJ))
DeFazio (Brown)
DeGette (Blunt Rochester)
DeSaulnier (Thompson (CA))
Deutch (Rice (NY))
Diaz-Balart (Cammack)
Duncan (Babin)
Emmer (Cammack)
Escobar (Garcia (TX))
Fleischmann (Bilirakis)
Frankel, Lois (Clark (MA))
Garbarino (Miller-Meeks)
Garamendi (Sherman)
Gibbs (Smucker)
Gomez (Raskin)
Granger (Cole)
Grijalva (Stanton)
Hagedorn (Meuser)
Harshbarger (Kustoff)
Herrera Beutler (Simpson)
Horsford (Kilmer)
Jayapal (Raskin)
Johnson (TX) (Jeffries)
Katko (Malliotakis)
Kelly (IL) (Clarke (NY))
Khanna (Lee (CA))
Kind (Connolly)
Kirkpatrick (Stanton)
Lawson (FL) (Evans)
Luetkemeyer (Long)
Maloney, Carolyn B. (Clarke (NY))
McEachin (Wexton)
McHenry (Budd)
McNerney (Huffman)
Meijer (Moore (UT))
Meng (Jeffries)
Moore (AL) (Brooks)
Moulton (McGovern)
Mullin (Lucas)
Napolitano (Correa)
Nehls (Jackson)
Newman (Casten)
Nunes (Garcia (CA))
Payne (Pallone)
Pingree (Kuster)
Pocan (Raskin)
Porter (Wexton)
Pressley (Omar)
Reed (Arrington)
Reschenthaler (Meuser)
Rodgers (WA) (Joyce (PA))
Roybal-Allard (Aguilar)
Ruiz (Correa)
Rush (Underwood)
Salazar (Cammack)
Sánchez (Aguilar)
Scott, David (Cartwright)
Sires (Pallone)
Steel (Obernolte)
Stefanik (Meuser)
Steube (Cammack)
Stevens (Dingell)
Stewart (Owens)
Strickland (Larsen (WA))
Thompson (PA) (Meuser)
Timmons (Cammack)
Titus (Connolly)
Tonko (Pallone)
Torres (CA) (Correa)
Trone (Connolly)
Vargas (Correa)
Velázquez (Clarke (NY))
Wagner (Long)
Walorski (Baird)
Watson Coleman (Pallone)
Welch (McGovern)
Wilson (FL) (Hayes)
Young (Malliotakis)

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. FISCHBACH. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 212, not voting 0, as follows:

[Roll No. 258]

YEAS—220

Adams
Aguilar
Allred
Auchincloss
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Bourdeaux
Bowman
Boyle, Brendan F.
Brown
Brownley
Bush
Bustos
Butterfield
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Case
Casten
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Craig
Crist
Crow
Cuellar
Davids (KS)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Escobar
Eshoo
Espaillat
Evans
Fletcher
Foster
Frankel, Lois
Gallego
Garamendi
García (IL)
Garcia (TX)
Golden
Gomez
Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Grijalva
Harder (CA)
Hayes
Higgins (NY)
Himes
Horsford
Houlahan
Hoyer
Huffman
Jackson Lee
Jacobs (CA)
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Jones
Kahele
Kaptur
Keating
Kelly (IL)
Khanna
Kildee
Kilmer
Kim (NJ)
Kind
Kirkpatrick
Krishnamoorthi
Kuster
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Leger Fernandez
Levin (CA)
Levin (MI)
Lieu
Lofgren
Lowenthal
Luria
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Manning
Matsui
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Mfume
Moore (WI)
Morelle
Moulton
Mrvan
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Newman
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Pelosi
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Ross
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Spanberger
Speier
Stansbury
Stanton
Stevens
Strickland
Suozzi
Swalwell
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Williams (GA)
Wilson (FL)
Yarmuth

NAYS—212

Aderholt
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bentz
Bergman
Bice (OK)
Biggs
Bilirakis
Bishop (NC)
Boebert
Bost
Brady
Brooks
Buchanan
Buck
Bucshon
Budd
Burchett
Burgess
Calvert
Cammack
Carl
Carter (GA)
Carter (TX)
Cawthorn
Chabot
Cheney
Cline
Cloud
Clyde
Cole
Comer
Crawford
Crenshaw
Curtis
Davidson
Davis, Rodney
DesJarlais
Diaz-Balart
Donalds
Duncan
Dunn
Ellzey
Emmer
Estes
Fallon
Feenstra
Ferguson
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Fortenberry
Foxx
Franklin, C. Scott
Fulcher
Gaetz
Gallagher
Garbarino
Garcia (CA)
Gibbs
Gimenez
Gohmert
Gonzales, Tony
Gonzalez (OH)
Good (VA)
Gooden (TX)
Gosar
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Harshbarger
Hartzler
Hern
Herrell
Herrera Beutler
Hice (GA)
Higgins (LA)
Hill
Hinson
Hollingsworth
Hudson
Huizenga
Issa
Jackson
Jacobs (NY)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (MS)
Kelly (PA)
Kim (CA)
Kinzinger
Kustoff
LaHood
LaMalfa
Lamborn
Latta
LaTurner
Lesko
Letlow
Long
Loudermilk
Lucas
Luetkemeyer
Mace
Malliotakis
Mann
Massie
Mast
McCarthy
McCaul
McClain
McClintock
McHenry
McKinley
Meijer
Meuser
Miller (IL)
Miller (WV)
Miller-Meeks
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Mullin
Murphy (NC)
Nehls
Newhouse
Norman
Nunes
Obernolte
Owens
Palazzo
Palmer
Pence
Perry
Pfluger
Posey
Reed
Reschenthaler
Rice (SC)
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Scalise
Schweikert
Scott, Austin
Sessions
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Spartz
Stauber
Steel
Stefanik
Steil
Steube
Stewart
Taylor
Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Upton
Valadao
Van Drew
Van Duyne
Wagner
Walberg
Walorski
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (TX)
Wilson (SC)
Wittman
Womack
Young
Zeldin

□ 1608

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

Aderholt (Moolenaar)
Amodei (Balderson)
Barragán (Raskin)
Blumenauer (Bonamici)
Bowman (Omar)
Brownley (Clark (MA))
Buchanan (Dunn)
Calvert (Garcia (CA))
Cárdenas (Correa)
Curtis (Moore (UT))
Davids (KS) (Kim (NJ))
DeFazio (Brown)
DeGette (Blunt Rochester)
DeSaulnier (Thompson (CA))
Deutch (Rice (NY))
Diaz-Balart (Cammack)
Duncan (Babin)
Emmer (Cammack)
Escobar (Garcia (TX))
Fleischmann (Bilirakis)
Frankel, Lois (Clark (MA))
Garbarino (Miller-Meeks)
Garamendi (Sherman)
Gibbs (Smucker)
Gomez (Raskin)
Granger (Cole)
Grijalva (Stanton)
Hagedorn (Meuser)
Harshbarger (Kustoff)
Herrera Beutler (Simpson)
Horsford (Kilmer)
Jayapal (Raskin)
Johnson (TX) (Jeffries)
Katko (Malliotakis)
Kelly (IL) (Clarke (NY))
Khanna (Lee (CA))
Kind (Connolly)
Kirkpatrick (Stanton)
Lawson (FL) (Evans)
Luetkemeyer (Long)
Maloney, Carolyn B. (Clarke (NY))
McEachin (Wexton)
McHenry (Budd)
McNerney (Huffman)
Meijer (Moore (UT))
Meng (Jeffries)
Moore (AL) (Brooks)
Moulton (McGovern)
Mullin (Lucas)
Napolitano (Correa)
Nehls (Jackson)
Newman (Casten)
Nunes (Garcia (CA))
Payne (Pallone)
Pingree (Kuster)
Pocan (Raskin)
Porter (Wexton)
Pressley (Omar)
Reed (Arrington)
Reschenthaler (Meuser)
Rodgers (WA) (Joyce (PA))
Roybal-Allard (Aguilar)
Ruiz (Correa)
Rush (Underwood)
Salazar (Cammack)
Sánchez (Aguilar)
Scott, David (Cartwright)
Sires (Pallone)
Steel (Obernolte)
Stefanik (Meuser)
Steube (Cammack)
Stevens (Dingell)
Stewart (Owens)
Strickland (Larsen (WA))
Thompson (PA) (Meuser)
Timmons (Cammack)
Titus (Connolly)
Tonko (Pallone)
Torres (CA) (Correa)
Trone (Connolly)
Vargas (Correa)
Velázquez (Clarke (NY))
Wagner (Long)
Walorski (Baird)
Watson Coleman (Pallone)
Welch (McGovern)
Wilson (FL) (Hayes)
Young (Malliotakis)

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2022

The SPEAKER pro tempore (Mr. BUTTERFIELD). Pursuant to section 4 of House Resolution 601, S. Con. Res. 14 is considered as adopted.

The text of the concurrent resolution is as follows:

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2022.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2022 and that this resolution sets forth the appropriate budgetary levels for fiscal years 2023 through 2031.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2022.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Subtitle A—Budgetary Levels in Both Houses

Sec. 1101. Recommended levels and amounts.
Sec. 1102. Major functional categories.

Subtitle B—Levels and Amounts in the Senate

Sec. 1201. Social Security in the Senate.
Sec. 1202. Postal Service discretionary administrative expenses in the Senate.

TITLE II—RECONCILIATION

Sec. 2001. Reconciliation in the Senate.
Sec. 2002. Reconciliation in the House of Representatives.

TITLE III—RESERVE FUNDS

Sec. 3001. Reserve fund for legislation that won't raise taxes on people making less than $400,000 in the Senate.
Sec. 3002. Reserve fund for reconciliation legislation.
Sec. 3003. Reserve fund.
Sec. 3004. Deficit-neutral reserve fund to prohibit the Green New Deal.
Sec. 3005. Reserve fund relating to addressing the crisis of climate change.
Sec. 3006. Deficit-neutral reserve fund relating to supporting privately-held businesses, farms, and ranches.
Sec. 3007. Deficit-neutral reserve fund relating to promoting US competitiveness and innovation by supporting research and development.
Sec. 3008. Reserve fund relating to protecting taxpayer privacy while ensuring those evading the tax system pay what they owe.

Sec. 3009. Deficit-neutral reserve fund to prohibit the Council on Environmental Quality and Environmental Protection Agency from promulgating rules or guidance that bans fracking in the United States.
Sec. 3010. Deficit-neutral reserve fund relating to facilitating improved internet service for Cuban citizens.
Sec. 3011. Deficit-neutral reserve fund relating to adjusting Federal funding for local jurisdictions.
Sec. 3012. Reserve fund relating to honoring the Capitol Police, DC Metropolitan Police, and first responders.
Sec. 3013. Deficit-neutral reserve fund relating to supporting or expediting the deployment of carbon capture, utilization, and sequestration technologies.
Sec. 3014. Deficit-neutral reserve fund relating to policies or legislation to prohibit the Department of Agriculture from making ineligible for financing fossil fuel-burning power plants.
Sec. 3015. Deficit-neutral reserve fund relating to the provisions of the American Rescue Plan Act.
Sec. 3016. Deficit-neutral reserve fund relating to means-testing electric vehicle tax credits.
Sec. 3017. Deficit-neutral reserve fund relating to prohibiting or limiting the issuance of costly Clean Air Act permit requirements on farmers and ranchers in the United States or the imposition of new Federal methane requirements on livestock.
Sec. 3018. Deficit-neutral reserve fund relating to funding of the Office of Foreign Assets Control.
Sec. 3019. Deficit-neutral reserve fund relating to abortion funding.
Sec. 3020. Deficit-neutral reserve fund relating to ensuring robust, secure, and humane supply chains, sourced by the United States and allies of the United States, for renewable energy materials, technology, and critical minerals.
Sec. 3021. Reserve fund relating to ensuring robust, secure, and humane supply chains by prohibiting the use of Federal funds to purchase materials, technology, and critical minerals produced, manufactured, or mined with forced labor.
Sec. 3022. Reserve fund relating to Great Lakes ice breaking operational improvements.
Sec. 3023. Deficit-neutral reserve fund relating to immigration enforcement and addressing the humanitarian crisis at the southern border.
Sec. 3024. Deficit-neutral reserve fund relating to providing quality education for children.
Sec. 3025. Deficit-neutral reserve fund relating to hiring 100,000 new police officers.
Sec. 3026. Deficit-neutral reserve fund relating to preventing electricity blackouts and improving electricity reliability.
Sec. 3027. Deficit-neutral reserve fund relating to protecting migrants and local communities against COVID–19.
Sec. 3028. Deficit-neutral reserve fund relating to studying and providing for tax equivalency under the payments in lieu of taxes program.
Sec. 3029. Deficit-neutral reserve fund relating to preventing tax increases on small businesses.
Sec. 3030. Deficit-neutral reserve fund relating to providing sufficient resources to detain and deport a higher number of aliens who have been convicted of a crime.
Sec. 3031. Deficit-neutral reserve fund relating to maintaining the current law tax treatment of like kind exchanges.

TITLE IV—OTHER MATTERS

Sec. 4001. Emergency legislation.
Sec. 4002. Point of order against advance appropriations in the Senate.
Sec. 4003. Point of order against advance appropriations in the House of Representatives.
Sec. 4004. Program integrity initiatives and other adjustments in the Senate.
Sec. 4005. Program integrity initiatives and other adjustments in the House of Representatives.
Sec. 4006. Enforcement filing.
Sec. 4007. Application and effect of changes in allocations, aggregates, and other budgetary levels.
Sec. 4008. Adjustments to reflect changes in concepts and definitions.
Sec. 4009. Adjustment for bipartisan infrastructure legislation in the Senate.
Sec. 4010. Adjustment for infrastructure legislation in the House of Representatives.
Sec. 4011. Applicability of adjustments to discretionary spending limits.
Sec. 4012. Budgetary treatment of administrative expenses.
Sec. 4013. Appropriate budgetary adjustments in the House of Representatives.
Sec. 4014. Adjustment for changes in the baseline in the House of Representatives.
Sec. 4015. Scoring rule in the Senate for child care and pre-kindergarten legislation.
Sec. 4016. Exercise of rulemaking powers.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Subtitle A—Budgetary Levels in Both Houses

SEC. 1101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2022 through 2031:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2022: $3,401,380,000,000.
Fiscal year 2023: $3,512,947,000,000.
Fiscal year 2024: $3,542,298,000,000.
Fiscal year 2025: $3,565,871,000,000.
Fiscal year 2026: $3,773,174,000,000.
Fiscal year 2027: $3,995,160,000,000.
Fiscal year 2028: $4,090,582,000,000.
Fiscal year 2029: $4,218,130,000,000.
Fiscal year 2030: $4,352,218,000,000.
Fiscal year 2031: $4,505,614,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2022: $0.
Fiscal year 2023: $0.
Fiscal year 2024: $0.
Fiscal year 2025: $0.
Fiscal year 2026: $0.
Fiscal year 2027: $0.
Fiscal year 2028: $0.
Fiscal year 2029: $0.
Fiscal year 2030: $0.
Fiscal year 2031: $0.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2022: $4,417,362,000,000.
Fiscal year 2023: $4,579,359,000,000.
Fiscal year 2024: $4,699,353,000,000.
Fiscal year 2025: $4,940,084,000,000.
Fiscal year 2026: $5,107,577,000,000.
Fiscal year 2027: $5,311,640,000,000.
Fiscal year 2028: $5,633,086,000,000.
Fiscal year 2029: $5,722,075,000,000.
Fiscal year 2030: $6,064,522,000,000.
Fiscal year 2031: $6,365,907,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2022: $4,698,391,000,000.
Fiscal year 2023: $4,671,457,000,000.
Fiscal year 2024: $4,714,709,000,000.
Fiscal year 2025: $4,936,110,000,000.
Fiscal year 2026: $5,087,789,000,000.
Fiscal year 2027: $5,288,850,000,000.
Fiscal year 2028: $5,635,713,000,000.
Fiscal year 2029: $5,667,301,000,000.
Fiscal year 2030: $6,024,068,000,000.
Fiscal year 2031: $6,322,190,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2022: $1,297,011,000,000.
Fiscal year 2023: $1,158,510,000,000.
Fiscal year 2024: $1,172,411,000,000.
Fiscal year 2025: $1,370,239,000,000.
Fiscal year 2026: $1,314,615,000,000.
Fiscal year 2027: $1,293,690,000,000.
Fiscal year 2028: $1,545,131,000,000.
Fiscal year 2029: $1,449,171,000,000.
Fiscal year 2030: $1,671,850,000,000.
Fiscal year 2031: $1,816,576,000,000.

(5) PUBLIC DEBT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(5)), the appropriate levels of the public debt are as follows:

Fiscal year 2022: $30,789,000,000,000.
Fiscal year 2023: $32,141,000,000,000.
Fiscal year 2024: $33,526,000,000,000.
Fiscal year 2025: $35,059,000,000,000.
Fiscal year 2026: $36,570,000,000,000.
Fiscal year 2027: $37,952,000,000,000.
Fiscal year 2028: $39,733,000,000,000.
Fiscal year 2029: $41,296,000,000,000.
Fiscal year 2030: $43,188,000,000,000.
Fiscal year 2031: $45,150,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2022: $24,622,000,000,000.
Fiscal year 2023: $25,826,000,000,000.
Fiscal year 2024: $27,153,000,000,000.
Fiscal year 2025: $28,678,000,000,000.
Fiscal year 2026: $30,219,000,000,000.
Fiscal year 2027: $31,776,000,000,000.
Fiscal year 2028: $33,737,000,000,000.
Fiscal year 2029: $35,521,000,000,000.
Fiscal year 2030: $37,692,000,000,000.
Fiscal year 2031: $39,987,000,000,000.

SEC. 1102. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2022 through 2031 for each major functional category are:

(1) National Defense (050):

Fiscal year 2022:

(A) New budget authority, $765,704,000,000.

(B) Outlays, $763,985,000,000.

Fiscal year 2023:

(A) New budget authority, $782,245,000,000.

(B) Outlays, $770,192,000,000.

Fiscal year 2024:

(A) New budget authority, $799,520,000,000.

(B) Outlays, $776,297,000,000.
Fiscal year 2025:
(A) New budget authority, $817,214,000,000.
(B) Outlays, $794,946,000,000.
Fiscal year 2026:
(A) New budget authority, $835,351,000,000.
(B) Outlays, $810,367,000,000.
Fiscal year 2027:
(A) New budget authority, $843,873,000,000.
(B) Outlays, $821,610,000,000.
Fiscal year 2028:
(A) New budget authority, $852,499,000,000.
(B) Outlays, $836,561,000,000.
Fiscal year 2029:
(A) New budget authority, $861,191,000,000.
(B) Outlays, $834,592,000,000.
Fiscal year 2030:
(A) New budget authority, $870,003,000,000.
(B) Outlays, $848,928,000,000.
Fiscal year 2031:
(A) New budget authority, $880,156,000,000.
(B) Outlays, $858,990,000,000.
(2) International Affairs (150):
Fiscal year 2022:
(A) New budget authority, $68,740,000,000.
(B) Outlays, $68,368,000,000.
Fiscal year 2023:
(A) New budget authority, $66,170,000,000.
(B) Outlays, $64,121,000,000.
Fiscal year 2024:
(A) New budget authority, $67,128,000,000.
(B) Outlays, $65,429,000,000.
Fiscal year 2025:
(A) New budget authority, $68,621,000,000.
(B) Outlays, $66,231,000,000.
Fiscal year 2026:
(A) New budget authority, $70,182,000,000.
(B) Outlays, $67,113,000,000.
Fiscal year 2027:
(A) New budget authority, $71,840,000,000.
(B) Outlays, $68,304,000,000.
Fiscal year 2028:
(A) New budget authority, $73,526,000,000.
(B) Outlays, $69,474,000,000.
Fiscal year 2029:
(A) New budget authority, $75,221,000,000.
(B) Outlays, $71,071,000,000.
Fiscal year 2030:
(A) New budget authority, $76,918,000,000.
(B) Outlays, $72,602,000,000.
Fiscal year 2031:
(A) New budget authority, $78,648,000,000.
(B) Outlays, $74,169,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 2022:
(A) New budget authority, $43,582,000,000.
(B) Outlays, $39,492,000,000.
Fiscal year 2023:
(A) New budget authority, $46,345,000,000.
(B) Outlays, $43,900,000,000.
Fiscal year 2024:
(A) New budget authority, $48,435,000,000.
(B) Outlays, $46,597,000,000.
Fiscal year 2025:
(A) New budget authority, $50,286,000,000.
(B) Outlays, $48,830,000,000.
Fiscal year 2026:
(A) New budget authority, $51,492,000,000.
(B) Outlays, $50,050,000,000.
Fiscal year 2027:
(A) New budget authority, $51,839,000,000.
(B) Outlays, $50,449,000,000.
Fiscal year 2028:
(A) New budget authority, $51,169,000,000.
(B) Outlays, $49,783,000,000.
Fiscal year 2029:
(A) New budget authority, $50,735,000,000.
(B) Outlays, $49,415,000,000.
Fiscal year 2030:
(A) New budget authority, $50,898,000,000.
(B) Outlays, $49,548,000,000.
Fiscal year 2031:
(A) New budget authority, $51,324,000,000.
(B) Outlays, $49,936,000,000.
(4) Energy (270):
Fiscal year 2022:
(A) New budget authority, $14,240,000,000.
(B) Outlays, $10,032,000,000.
Fiscal year 2023:
(A) New budget authority, $59,665,000,000.
(B) Outlays, $57,248,000,000.
Fiscal year 2024:
(A) New budget authority, $55,348,000,000.
(B) Outlays, $53,858,000,000.
Fiscal year 2025:
(A) New budget authority, $67,729,000,000.
(B) Outlays, $66,867,000,000.
Fiscal year 2026:
(A) New budget authority, $78,038,000,000.
(B) Outlays, $77,647,000,000.
Fiscal year 2027:
(A) New budget authority, $79,617,000,000.
(B) Outlays, $79,511,000,000.
Fiscal year 2028:
(A) New budget authority, $74,543,000,000.
(B) Outlays, $74,164,000,000.
Fiscal year 2029:
(A) New budget authority, $68,781,000,000.
(B) Outlays, $68,174,000,000.
Fiscal year 2030:
(A) New budget authority, $63,620,000,000.
(B) Outlays, $62,932,000,000.
Fiscal year 2031:
(A) New budget authority, $55,974,000,000.
(B) Outlays, $55,198,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 2022:
(A) New budget authority, $60,969,000,000.
(B) Outlays, $54,889,000,000.
Fiscal year 2023:
(A) New budget authority, $70,319,000,000.
(B) Outlays, $67,072,000,000.
Fiscal year 2024:
(A) New budget authority, $78,314,000,000.
(B) Outlays, $75,927,000,000.
Fiscal year 2025:
(A) New budget authority, $85,585,000,000.
(B) Outlays, $84,140,000,000.
Fiscal year 2026:
(A) New budget authority, $88,203,000,000.
(B) Outlays, $89,292,000,000.
Fiscal year 2027:
(A) New budget authority, $85,995,000,000.
(B) Outlays, $88,010,000,000.
Fiscal year 2028:
(A) New budget authority, $79,575,000,000.
(B) Outlays, $81,370,000,000.
Fiscal year 2029:
(A) New budget authority, $72,930,000,000.
(B) Outlays, $74,272,000,000.
Fiscal year 2030:
(A) New budget authority, $68,352,000,000.
(B) Outlays, $69,251,000,000.
Fiscal year 2031:
(A) New budget authority, $68,666,000,000.
(B) Outlays, $68,676,000,000.
(6) Agriculture (350):
Fiscal year 2022:
(A) New budget authority, $23,063,000,000.
(B) Outlays, $25,334,000,000.
Fiscal year 2023:
(A) New budget authority, $21,368,000,000.
(B) Outlays, $22,442,000,000.
Fiscal year 2024:
(A) New budget authority, $19,240,000,000.
(B) Outlays, $23,187,000,000.
Fiscal year 2025:
(A) New budget authority, $21,860,000,000.
(B) Outlays, $24,614,000,000.
Fiscal year 2026:
(A) New budget authority, $23,761,000,000.
(B) Outlays, $25,151,000,000.
Fiscal year 2027:
(A) New budget authority, $25,501,000,000.
(B) Outlays, $26,471,000,000.
Fiscal year 2028:
(A) New budget authority, $26,186,000,000.
(B) Outlays, $26,499,000,000.
Fiscal year 2029:
(A) New budget authority, $25,629,000,000.
(B) Outlays, $25,874,000,000.
Fiscal year 2030:
(A) New budget authority, $25,159,000,000.
(B) Outlays, $25,989,000,000.
Fiscal year 2031:
(A) New budget authority, $28,515,000,000.
(B) Outlays, $26,284,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 2022:
(A) New budget authority, $18,105,000,000.
(B) Outlays, $42,495,000,000.
Fiscal year 2023:
(A) New budget authority, $19,284,000,000.
(B) Outlays, $29,411,000,000.
Fiscal year 2024:
(A) New budget authority, $25,017,000,000.
(B) Outlays, $22,592,000,000.
Fiscal year 2025:
(A) New budget authority, $24,785,000,000.
(B) Outlays, $19,146,000,000.
Fiscal year 2026:
(A) New budget authority, $23,609,000,000.
(B) Outlays, $15,045,000,000.
Fiscal year 2027:
(A) New budget authority, $21,752,000,000.
(B) Outlays, $12,248,000,000.
Fiscal year 2028:
(A) New budget authority, $21,992,000,000.
(B) Outlays, $12,894,000,000.
Fiscal year 2029:
(A) New budget authority, $23,789,000,000.
(B) Outlays, $13,250,000,000.
Fiscal year 2030:
(A) New budget authority, $22,410,000,000.
(B) Outlays, $10,462,000,000.
Fiscal year 2031:
(A) New budget authority, $17,548,000,000.
(B) Outlays, $6,105,000,000.
(8) Transportation (400):
Fiscal year 2022:
(A) New budget authority, $112,406,000,000.
(B) Outlays, $133,738,000,000.
Fiscal year 2023:
(A) New budget authority, $113,887,000,000.
(B) Outlays, $118,957,000,000.
Fiscal year 2024:
(A) New budget authority, $115,061,000,000.
(B) Outlays, $112,082,000,000.
Fiscal year 2025:
(A) New budget authority, $115,757,000,000.
(B) Outlays, $114,226,000,000.
Fiscal year 2026:
(A) New budget authority, $116,887,000,000.
(B) Outlays, $116,667,000,000.
Fiscal year 2027:
(A) New budget authority, $109,698,000,000.
(B) Outlays, $119,447,000,000.
Fiscal year 2028:
(A) New budget authority, $110,385,000,000.
(B) Outlays, $121,240,000,000.
Fiscal year 2029:
(A) New budget authority, $110,874,000,000.
(B) Outlays, $122,515,000,000.
Fiscal year 2030:
(A) New budget authority, $106,173,000,000.
(B) Outlays, $117,702,000,000.
Fiscal year 2031:
(A) New budget authority, $107,256,000,000.
(B) Outlays, $118,633,000,000.
(9) Community and Regional Development (450):
Fiscal year 2022:
(A) New budget authority, $43,543,000,000.
(B) Outlays, $47,318,000,000.
Fiscal year 2023:
(A) New budget authority, $27,007,000,000.
(B) Outlays, $33,380,000,000.
Fiscal year 2024:
(A) New budget authority, $28,430,000,000.
(B) Outlays, $34,603,000,000.
Fiscal year 2025:
(A) New budget authority, $27,461,000,000.
(B) Outlays, $34,658,000,000.
Fiscal year 2026:
(A) New budget authority, $27,839,000,000.
(B) Outlays, $35,338,000,000.
Fiscal year 2027:
(A) New budget authority, $27,744,000,000.
(B) Outlays, $35,238,000,000.
Fiscal year 2028:
(A) New budget authority, $28,136,000,000.
(B) Outlays, $35,738,000,000.

Fiscal year 2029:
(A) New budget authority, $28,524,000,000.
(B) Outlays, $36,097,000,000.
Fiscal year 2030:
(A) New budget authority, $28,943,000,000.
(B) Outlays, $36,452,000,000.
Fiscal year 2031:
(A) New budget authority, $33,429,000,000.
(B) Outlays, $38,014,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2022:
(A) New budget authority, $159,805,000,000.
(B) Outlays, $208,172,000,000.
Fiscal year 2023:
(A) New budget authority, $180,462,000,000.
(B) Outlays, $225,204,000,000.
Fiscal year 2024:
(A) New budget authority, $200,600,000,000.
(B) Outlays, $249,029,000,000.
Fiscal year 2025:
(A) New budget authority, $211,940,000,000.
(B) Outlays, $243,908,000,000.
Fiscal year 2026:
(A) New budget authority, $212,123,000,000.
(B) Outlays, $226,623,000,000.
Fiscal year 2027:
(A) New budget authority, $214,568,000,000.
(B) Outlays, $218,916,000,000.
Fiscal year 2028:
(A) New budget authority, $217,422,000,000.
(B) Outlays, $218,221,000,000.
Fiscal year 2029:
(A) New budget authority, $220,255,000,000.
(B) Outlays, $219,079,000,000.
Fiscal year 2030:
(A) New budget authority, $229,691,000,000.
(B) Outlays, $228,404,000,000.
Fiscal year 2031:
(A) New budget authority, $244,488,000,000.
(B) Outlays, $242,537,000,000.
(11) Health (550):
Fiscal year 2022:
(A) New budget authority, $853,696,000,000.
(B) Outlays, $952,919,000,000.
Fiscal year 2023:
(A) New budget authority, $804,345,000,000.
(B) Outlays, $827,269,000,000.
Fiscal year 2024:
(A) New budget authority, $800,361,000,000.
(B) Outlays, $809,731,000,000.
Fiscal year 2025:
(A) New budget authority, $830,330,000,000.
(B) Outlays, $830,449,000,000.
Fiscal year 2026:
(A) New budget authority, $855,834,000,000.
(B) Outlays, $849,147,000,000.
Fiscal year 2027:
(A) New budget authority, $876,704,000,000.
(B) Outlays, $869,791,000,000.
Fiscal year 2028:
(A) New budget authority, $908,063,000,000.
(B) Outlays, $906,081,000,000.
Fiscal year 2029:
(A) New budget authority, $940,898,000,000.
(B) Outlays, $939,318,000,000.
Fiscal year 2030:
(A) New budget authority, $982,028,000,000.
(B) Outlays, $970,863,000,000.
Fiscal year 2031:
(A) New budget authority, $1,018,845,000,000.
(B) Outlays, $1,017,586,000,000.
(12) Medicare (570):
Fiscal year 2022:
(A) New budget authority, $772,277,000,000.
(B) Outlays, $771,930,000,000.
Fiscal year 2023:
(A) New budget authority, $882,348,000,000.
(B) Outlays, $882,065,000,000.
Fiscal year 2024:
(A) New budget authority, $902,102,000,000.
(B) Outlays, $901,899,000,000.
Fiscal year 2025:
(A) New budget authority, $1,018,540,000,000.
(B) Outlays, $1,018,302,000,000.
Fiscal year 2026:
(A) New budget authority, $1,091,095,000,000.
(B) Outlays, $1,090,814,000,000.
Fiscal year 2027:
(A) New budget authority, $1,168,909,000,000.
(B) Outlays, $1,168,581,000,000.
Fiscal year 2028:
(A) New budget authority, $1,326,565,000,000.
(B) Outlays, $1,326,191,000,000.
Fiscal year 2029:
(A) New budget authority, $1,262,774,000,000.
(B) Outlays, $1,262,367,000,000.
Fiscal year 2030:
(A) New budget authority, $1,425,734,000,000.
(B) Outlays, $1,425,284,000,000.
Fiscal year 2031:
(A) New budget authority, $1,509,905,000,000.
(B) Outlays, $1,509,433,000,000.
(13) Income Security (600):
Fiscal year 2022:
(A) New budget authority, $830,063,000,000.
(B) Outlays, $867,038,000,000.
Fiscal year 2023:
(A) New budget authority, $820,620,000,000.
(B) Outlays, $836,905,000,000.
Fiscal year 2024:
(A) New budget authority, $821,754,000,000.
(B) Outlays, $811,159,000,000.
Fiscal year 2025:
(A) New budget authority, $792,146,000,000.
(B) Outlays, $780,347,000,000.
Fiscal year 2026:
(A) New budget authority, $730,424,000,000.
(B) Outlays, $725,612,000,000.
Fiscal year 2027:
(A) New budget authority, $733,601,000,000.
(B) Outlays, $724,726,000,000.
Fiscal year 2028:
(A) New budget authority, $752,515,000,000.
(B) Outlays, $749,719,000,000.
Fiscal year 2029:
(A) New budget authority, $764,277,000,000.
(B) Outlays, $749,137,000,000.
Fiscal year 2030:
(A) New budget authority, $781,991,000,000.
(B) Outlays, $772,369,000,000.
Fiscal year 2031:
(A) New budget authority, $802,900,000,000.
(B) Outlays, $792,858,000,000.
(14) Social Security (650):
Fiscal year 2022:
(A) New budget authority, $47,020,000,000.
(B) Outlays, $47,020,000,000.
Fiscal year 2023:
(A) New budget authority, $50,129,000,000.
(B) Outlays, $50,129,000,000.
Fiscal year 2024:
(A) New budget authority, $53,591,000,000.
(B) Outlays, $53,591,000,000.
Fiscal year 2025:
(A) New budget authority, $57,355,000,000.
(B) Outlays, $57,355,000,000.
Fiscal year 2026:
(A) New budget authority, $67,932,000,000.
(B) Outlays, $67,932,000,000.
Fiscal year 2027:
(A) New budget authority, $74,299,000,000.
(B) Outlays, $74,299,000,000.
Fiscal year 2028:
(A) New budget authority, $79,053,000,000.
(B) Outlays, $79,053,000,000.
Fiscal year 2029:
(A) New budget authority, $84,197,000,000.
(B) Outlays, $84,197,000,000.
Fiscal year 2030:
(A) New budget authority, $89,406,000,000.
(B) Outlays, $89,406,000,000.
Fiscal year 2031:
(A) New budget authority, $93,932,000,000.
(B) Outlays, $93,932,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2022:
(A) New budget authority, $274,340,000,000.
(B) Outlays, $282,071,000,000.
Fiscal year 2023:
(A) New budget authority, $279,810,000,000.
(B) Outlays, $279,868,000,000.
Fiscal year 2024:
(A) New budget authority, $288,676,000,000.
(B) Outlays, $276,026,000,000.
Fiscal year 2025:
(A) New budget authority, $297,105,000,000.
(B) Outlays, $299,907,000,000.
Fiscal year 2026:
(A) New budget authority, $305,075,000,000.
(B) Outlays, $307,739,000,000.
Fiscal year 2027:
(A) New budget authority, $313,512,000,000.
(B) Outlays, $316,417,000,000.
Fiscal year 2028:
(A) New budget authority, $322,020,000,000.
(B) Outlays, $336,852,000,000.
Fiscal year 2029:
(A) New budget authority, $331,220,000,000.
(B) Outlays, $315,456,000,000.
Fiscal year 2030:
(A) New budget authority, $340,439,000,000.
(B) Outlays, $338,867,000,000.
Fiscal year 2031:
(A) New budget authority, $350,829,000,000.
(B) Outlays, $349,032,000,000.
(16) Administration of Justice (750):
Fiscal year 2022:
(A) New budget authority, $80,614,000,000.
(B) Outlays, $78,094,000,000.
Fiscal year 2023:
(A) New budget authority, $77,444,000,000.
(B) Outlays, $77,431,000,000.
Fiscal year 2024:
(A) New budget authority, $78,904,000,000.
(B) Outlays, $78,533,000,000.
Fiscal year 2025:
(A) New budget authority, $79,626,000,000.
(B) Outlays, $78,861,000,000.
Fiscal year 2026:
(A) New budget authority, $81,223,000,000.
(B) Outlays, $80,382,000,000.
Fiscal year 2027:
(A) New budget authority, $82,849,000,000.
(B) Outlays, $81,809,000,000.
Fiscal year 2028:
(A) New budget authority, $84,495,000,000.
(B) Outlays, $83,423,000,000.
Fiscal year 2029:
(A) New budget authority, $86,184,000,000.
(B) Outlays, $85,004,000,000.
Fiscal year 2030:
(A) New budget authority, $87,881,000,000.
(B) Outlays, $86,642,000,000.
Fiscal year 2031:
(A) New budget authority, $96,549,000,000.
(B) Outlays, $94,529,000,000.
(17) General Government (800):
Fiscal year 2022:
(A) New budget authority, $48,565,000,000.
(B) Outlays, $111,629,000,000.
Fiscal year 2023:
(A) New budget authority, $29,912,000,000.
(B) Outlays, $33,642,000,000.
Fiscal year 2024:
(A) New budget authority, $30,382,000,000.
(B) Outlays, $32,557,000,000.
Fiscal year 2025:
(A) New budget authority, $30,935,000,000.
(B) Outlays, $33,585,000,000.
Fiscal year 2026:
(A) New budget authority, $31,538,000,000.
(B) Outlays, $33,016,000,000.
Fiscal year 2027:
(A) New budget authority, $32,168,000,000.
(B) Outlays, $33,540,000,000.
Fiscal year 2028:
(A) New budget authority, $32,798,000,000.
(B) Outlays, $33,807,000,000.
Fiscal year 2029:
(A) New budget authority, $33,432,000,000.
(B) Outlays, $33,024,000,000.
Fiscal year 2030:
(A) New budget authority, $34,103,000,000.
(B) Outlays, $33,539,000,000.
Fiscal year 2031:
(A) New budget authority, $35,123,000,000.
(B) Outlays, $34,544,000,000.
(18) Net Interest (900):
Fiscal year 2022:
(A) New budget authority, $373,011,000,000.
(B) Outlays, $373,011,000,000.
Fiscal year 2023:
(A) New budget authority, $378,542,000,000.

(B) Outlays, $378,542,000,000.
Fiscal year 2024:
(A) New budget authority, $407,539,000,000.
(B) Outlays, $407,539,000,000.
Fiscal year 2025:
(A) New budget authority, $464,069,000,000.
(B) Outlays, $464,069,000,000.
Fiscal year 2026:
(A) New budget authority, $541,134,000,000.
(B) Outlays, $541,134,000,000.
Fiscal year 2027:
(A) New budget authority, $623,392,000,000.
(B) Outlays, $623,392,000,000.
Fiscal year 2028:
(A) New budget authority, $719,805,000,000.
(B) Outlays, $719,805,000,000.
Fiscal year 2029:
(A) New budget authority, $813,280,000,000.
(B) Outlays, $813,280,000,000.
Fiscal year 2030:
(A) New budget authority, $918,333,000,000.
(B) Outlays, $918,333,000,000.
Fiscal year 2031:
(A) New budget authority, $1,025,810,000,000.
(B) Outlays, $1,025,810,000,000.
(19) Allowances (920):
Fiscal year 2022:
(A) New budget authority, $11,507,000,000.
(B) Outlays, $17,129,000,000.
Fiscal year 2023:
(A) New budget authority, −$14,188,000,000.
(B) Outlays, −$2,706,000,000.
Fiscal year 2024:
(A) New budget authority, −$11,538,000,000.
(B) Outlays, −$6,811,000,000.
Fiscal year 2025:
(A) New budget authority, −$9,499,000,000.
(B) Outlays, −$7,389,000,000.
Fiscal year 2026:
(A) New budget authority, −$8,979,000,000.
(B) Outlays, −$7,646,000,000.
Fiscal year 2027:
(A) New budget authority, −$7,240,000,000.
(B) Outlays, −$6,478,000,000.
Fiscal year 2028:
(A) New budget authority, −$5,238,000,000.
(B) Outlays, −$4,559,000,000.
Fiscal year 2029:
(A) New budget authority, −$5,126,000,000.
(B) Outlays, −$3,651,000,000.
Fiscal year 2030:
(A) New budget authority, −$5,898,000,000.
(B) Outlays, −$3,393,000,000.
Fiscal year 2031:
(A) New budget authority, $2,530,000,000.
(B) Outlays, $1,034,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2022:
(A) New budget authority, −$183,888,000,000.
(B) Outlays, −$191,273,000,000.
Fiscal year 2023:
(A) New budget authority, −$116,355,000,000.
(B) Outlays, −$123,615,000,000.
Fiscal year 2024:
(A) New budget authority, −$109,511,000,000.
(B) Outlays, −$109,116,000,000.
Fiscal year 2025:
(A) New budget authority, −$111,761,000,000.
(B) Outlays, −$116,941,000,000.
Fiscal year 2026:
(A) New budget authority, −$115,184,000,000.
(B) Outlays, −$113,634,000,000.
Fiscal year 2027:
(A) New budget authority, −$118,981,000,000.
(B) Outlays, −$117,431,000,000.
Fiscal year 2028:
(A) New budget authority, −$122,423,000,000.
(B) Outlays, −$120,603,000,000.
Fiscal year 2029:
(A) New budget authority, −$126,990,000,000.
(B) Outlays, −$125,170,000,000.
Fiscal year 2030:
(A) New budget authority, −$131,662,000,000.
(B) Outlays, −$130,112,000,000.
Fiscal year 2031:
(A) New budget authority, −$136,520,000,000.
(B) Outlays, −$135,110,000,000.

Subtitle B—Levels and Amounts in the Senate

SEC. 1201. SOCIAL SECURITY IN THE SENATE.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974 (2 U.S.C. 633 and 642), the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:
Fiscal year 2022: $989,019,000,000.
Fiscal year 2023: $1,084,547,000,000.
Fiscal year 2024: $1,128,287,000,000.
Fiscal year 2025: $1,167,700,000,000.
Fiscal year 2026: $1,211,081,000,000.
Fiscal year 2027: $1,257,670,000,000.
Fiscal year 2028: $1,305,822,000,000.
Fiscal year 2029: $1,354,109,000,000.
Fiscal year 2030: $1,401,701,000,000.
Fiscal year 2031: $1,451,146,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974 (2 U.S.C. 633 and 642), the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:
Fiscal year 2022: $1,073,387,000,000.
Fiscal year 2023: $1,153,424,000,000.
Fiscal year 2024: $1,231,164,000,000.
Fiscal year 2025: $1,311,894,000,000.
Fiscal year 2026: $1,389,018,000,000.
Fiscal year 2027: $1,472,602,000,000.
Fiscal year 2028: $1,566,258,000,000.
Fiscal year 2029: $1,662,981,000,000.
Fiscal year 2030: $1,764,408,000,000.
Fiscal year 2031: $1,868,859,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:
Fiscal year 2022:
(A) New budget authority, $6,339,000,000.
(B) Outlays, $6,311,000,000.
Fiscal year 2023:
(A) New budget authority, $6,541,000,000.
(B) Outlays, $6,490,000,000.
Fiscal year 2024:
(A) New budget authority, $6,757,000,000.
(B) Outlays, $6,700,000,000.
Fiscal year 2025:
(A) New budget authority, $6,969,000,000.
(B) Outlays, $6,912,000,000.
Fiscal year 2026:
(A) New budget authority, $7,185,000,000.
(B) Outlays, $7,128,000,000.
Fiscal year 2027:
(A) New budget authority, $7,405,000,000.
(B) Outlays, $7,347,000,000.
Fiscal year 2028:
(A) New budget authority, $7,631,000,000.
(B) Outlays, $7,571,000,000.
Fiscal year 2029:
(A) New budget authority, $7,862,000,000.
(B) Outlays, $7,800,000,000.
Fiscal year 2030:
(A) New budget authority, $8,098,000,000.
(B) Outlays, $8,035,000,000.
Fiscal year 2031:
(A) New budget authority, $8,343,000,000.
(B) Outlays, $8,278,000,000.

SEC. 1202. POSTAL SERVICE DISCRETIONARY ADMINISTRATIVE EXPENSES IN THE SENATE.

In the Senate, the amounts of new budget authority and budget outlays of the Postal Service for discretionary administrative expenses are as follows:
Fiscal year 2022:
(A) New budget authority, $278,000,000.
(B) Outlays, $278,000,000.
Fiscal year 2023:
(A) New budget authority, $287,000,000.
(B) Outlays, $287,000,000.
Fiscal year 2024:
(A) New budget authority, $299,000,000.
(B) Outlays, $298,000,000.
Fiscal year 2025:
(A) New budget authority, $310,000,000.
(B) Outlays, $310,000,000.
Fiscal year 2026:
(A) New budget authority, $321,000,000.
(B) Outlays, $320,000,000.
Fiscal year 2027:
(A) New budget authority, $332,000,000.
(B) Outlays, $332,000,000.
Fiscal year 2028:
(A) New budget authority, $344,000,000.
(B) Outlays, $343,000,000.
Fiscal year 2029:
(A) New budget authority, $356,000,000.
(B) Outlays, $355,000,000.
Fiscal year 2030:
(A) New budget authority, $368,000,000.
(B) Outlays, $367,000,000.
Fiscal year 2031:
(A) New budget authority, $381,000,000.
(B) Outlays, $380,000,000.

TITLE II—RECONCILIATION

SEC. 2001. RECONCILIATION IN THE SENATE.

(a) COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.—The Committee on Agriculture, Nutrition, and Forestry of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $135,000,000,000 for the period of fiscal years 2022 through 2031.

(b) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—The Committee on Banking, Housing, and Urban Affairs of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $332,000,000,000 for the period of fiscal years 2022 through 2031.

(c) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Committee on Commerce, Science, and Transportation of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $83,076,000,000 for the period of fiscal years 2022 through 2031.

(d) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—The Committee on Energy and Natural Resources of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $198,000,000,000 for the period of fiscal years 2022 through 2031.

(e) COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.—The Committee on Environment and Public Works of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $67,264,000,000 for the period of fiscal years 2022 through 2031.

(f) COMMITTEE ON FINANCE.—The Committee on Finance of the Senate shall report changes in laws within its jurisdiction that reduce the deficit by not less than $1,000,000,000 for the period of fiscal years 2022 through 2031.

(g) COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.—The Committee on Health, Education, Labor, and Pensions of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $726,380,000,000 for the period of fiscal years 2022 through 2031.

(h) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.—The Committee on Homeland Security and Governmental Affairs of the Senate shall report changes in laws within its jurisdiction that increase the

deficit by not more than $37,000,000,000 for the period of fiscal years 2022 through 2031.

(i) COMMITTEE ON INDIAN AFFAIRS.—The Committee on Indian Affairs of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $20,500,000,000 for the period of fiscal years 2022 through 2031.

(j) COMMITTEE ON THE JUDICIARY.—The Committee on the Judiciary of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $107,500,000,000 for the period of fiscal years 2022 through 2031.

(k) COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP.—The Committee on Small Business and Entrepreneurship of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $25,000,000,000 for the period of fiscal years 2022 through 2031.

(l) COMMITTEE ON VETERANS' AFFAIRS.—The Committee on Veterans' Affairs of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than $18,000,000,000 for the period of fiscal years 2022 through 2031.

(m) SUBMISSIONS.—In the Senate, not later than September 15, 2021, the Committees named in the subsections of this section shall submit their recommendations to the Committee on the Budget of the Senate. Upon receiving all such recommendations, the Committee on the Budget of the Senate shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

SEC. 2002. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) COMMITTEE ON AGRICULTURE.—The Committee on Agriculture of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $89,100,000,000 for the period of fiscal years 2022 through 2031.

(b) COMMITTEE ON EDUCATION AND LABOR.—The Committee on Education and Labor of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $779,500,000,000 for the period of fiscal years 2022 through 2031.

(c) COMMITTEE ON ENERGY AND COMMERCE.—The Committee on Energy and Commerce of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $486,500,000,000 for the period of fiscal years 2022 through 2031.

(d) COMMITTEE ON FINANCIAL SERVICES.—The Committee on Financial Services of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $339,000,000,000 for the period of fiscal years 2022 through 2031.

(e) COMMITTEE ON HOMELAND SECURITY.—The Committee on Homeland Security of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $500,000,000 for the period of fiscal years 2022 through 2031.

(f) COMMITTEE ON THE JUDICIARY.—The Committee on the Judiciary of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $107,500,000,000 for the period of fiscal years 2022 through 2031.

(g) COMMITTEE ON NATURAL RESOURCES.—The Committee on Natural Resources of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $25,600,000,000 for the period of fiscal years 2022 through 2031.

(h) COMMITTEE ON OVERSIGHT AND REFORM.—The Committee on Oversight and Reform of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $7,500,000,000 for the period of fiscal years 2022 through 2031.

(i) COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY.—The Committee on Science, Space, and Technology of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $45,510,000,000 for the period of fiscal years 2022 through 2031.

(j) COMMITTEE ON SMALL BUSINESS.—The Committee on Small Business of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $17,500,000,000 for the period of fiscal years 2022 through 2031.

(k) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The Committee on Transportation and Infrastructure of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $60,000,000,000 for the period of fiscal years 2022 through 2031.

(l) COMMITTEE ON VETERANS' AFFAIRS.—The Committee on Veterans' Affairs of the House of Representatives shall report changes in laws within its jurisdiction that increase the deficit by not more than $18,000,000,000 for the period of fiscal years 2022 through 2031.

(m) COMMITTEE ON WAYS AND MEANS.—The Committee on Ways and Means of the House of Representatives shall report changes in laws within its jurisdiction that reduce the deficit by not less than $1,000,000,000 for the period of fiscal years 2022 through 2031.

(n) SUBMISSIONS.—In the House of Representatives, not later than September 15, 2021, the committees named in the subsections of this section shall submit their recommendations to the Committee on the Budget of the House of Representatives to carry out this section.

TITLE III—RESERVE FUNDS

SEC. 3001. RESERVE FUND FOR LEGISLATION THAT WON'T RAISE TAXES ON PEOPLE MAKING LESS THAN $400,000 IN THE SENATE.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to changes in revenues, without raising taxes on people making less than $400,000, by the amounts in such legislation for those purposes, provided that such legislation would not increase the deficit for the time period of fiscal year 2022 to fiscal year 2031.

SEC. 3002. RESERVE FUND FOR RECONCILIATION LEGISLATION.

(a) SENATE.—

(1) IN GENERAL.—The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for any bill or joint resolution considered pursuant to section 2001 containing the recommendations of one or more committees, or for one or more amendments to, a conference report on, or an amendment between the Houses in relation to such a bill or joint resolution, by the amounts necessary to accommodate the budgetary effects of the legislation, if the budgetary effects of the legislation comply with the reconciliation instructions under this concurrent resolution, except that no adjustment shall be made pursuant to this subsection if such legislation raises taxes on people making less than $400,000.

(2) DETERMINATION OF COMPLIANCE.—For purposes of this subsection, compliance with the reconciliation instructions under this concurrent resolution shall be determined by the Chairman of the Committee on the Budget of the Senate.

(3) EXCEPTIONS FOR LEGISLATION.—

(A) SHORT-TERM.—Section 404 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010, as amended by section 3201(b)(2) of S. Con. Res. 11 (114th Congress), the concurrent resolution on the budget for fiscal year 2016, shall not apply to legislation for which the Chairman of the Committee on the Budget of the Senate has exercised the authority under paragraph (1).

(B) LONG-TERM.—Section 3101 of S. Con. Res. 11 (114th Congress), the concurrent resolution on the budget for fiscal year 2016, shall not apply to legislation for which the Chairman of the Committee on the Budget of the Senate has exercised the authority under paragraph (1).

(b) HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—In the House of the Representatives, the chair of the Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this concurrent resolution for any bill or joint resolution considered pursuant to this concurrent resolution containing the recommendations of one or more committees, or for one or more amendments to, a conference report on, or an amendment between the Houses in relation to such a bill or joint resolution, by the amounts necessary to accommodate the budgetary effects of the legislation.

(2) EXCEPTION FOR LEGISLATION.—The point of order set forth in clause 10 of rule XXI of the House of Representatives shall not apply to reconciliation legislation reported by the Committee on the Budget pursuant to submissions under this concurrent resolution.

SEC. 3003. RESERVE FUND.

(a) SENATE.—The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports by the amounts provided in such legislation, provided that such legislation would not increase the deficit for the time period of fiscal year 2022 to fiscal year 2031.

(b) HOUSE OF REPRESENTATIVES.—The chair of the Committee on the Budget of the House of Representatives may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this concurrent resolution for one or more bills, joint resolutions, amendments, or conference reports by the amounts provided in such legislation, provided that such legislation would not increase the deficit for the following time periods: fiscal year 2022 to fiscal year 2026 and fiscal year 2022 to fiscal year 2031.

SEC. 3004. DEFICIT-NEUTRAL RESERVE FUND TO PROHIBIT THE GREEN NEW DEAL.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to Federal greenhouse gas restrictions, which may include limiting or prohibiting legislation or regulations to implement the Green New Deal, to ship United States companies and jobs overseas, to impose soaring electricity, gasoline, home

heating oil, and other energy prices on working class families, or to make the United States increasingly dependent on foreign supply chains, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3005. RESERVE FUND RELATING TO ADDRESSING THE CRISIS OF CLIMATE CHANGE.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to addressing the crisis of climate change through new policies that create jobs, reduce pollution, and strengthen the economy of the United States by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2022 through 2031.

SEC. 3006. DEFICIT-NEUTRAL RESERVE FUND RELATING TO SUPPORTING PRIVATELY-HELD BUSINESSES, FARMS, AND RANCHES.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to protecting privately-held businesses, farms, and ranches, which may include—

(1) preserving the tax principles in effect as of the date of the adoption of this resolution which are applicable to owning, operating, or transferring such businesses, farms, and ranches,

(2) preserving the full benefit of the step-up in basis for assets acquired from a decedent, or

(3) extending tax relief for such businesses, farms or ranches,

provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3007. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PROMOTING US COMPETITIVENESS AND INNOVATION BY SUPPORTING RESEARCH AND DEVELOPMENT.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to supporting United States economic competitiveness and innovation, which may include expanding the research and development tax credit for small businesses and preserving full expensing for research and development investments, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3008. RESERVE FUND RELATING TO PROTECTING TAXPAYER PRIVACY WHILE ENSURING THOSE EVADING THE TAX SYSTEM PAY WHAT THEY OWE.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to strengthening Federal tax administration, which may include requiring reporting on large financial account balances to ensure those evading the tax system pay what they owe while protecting the privacy of American taxpayer and small business tax information, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2022 through 2031.

SEC. 3009. DEFICIT-NEUTRAL RESERVE FUND TO PROHIBIT THE COUNCIL ON ENVIRONMENTAL QUALITY AND ENVIRONMENTAL PROTECTION AGENCY FROM PROMULGATING RULES OR GUIDANCE THAT BANS FRACKING IN THE UNITED STATES.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to the National Environmental Policy Act of 1969 and environmental laws and policies, which may include limiting or prohibiting the Chair of the Council on Environmental Quality and the Administrator of the Environmental Protection Agency from proposing, finalizing, or implementing a rule or guidance that bans fracking in the United States by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3010. DEFICIT-NEUTRAL RESERVE FUND RELATING TO FACILITATING IMPROVED INTERNET SERVICE FOR CUBAN CITIZENS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to improving the National Telecommunications and Information Administration, which may include ensuring that the internet is an engine for innovation and economic growth for the Cuban people, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3011. DEFICIT-NEUTRAL RESERVE FUND RELATING TO ADJUSTING FEDERAL FUNDING FOR LOCAL JURISDICTIONS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to adjustments to Federal funds for local governments within the jurisdiction of the committees receiving reconciliation instructions under section 2001 of this resolution, which may include limiting or eliminating Federal payments, other than grants under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.) (commonly known as the ''Byrne JAG grant program'') or section 1701 of title I of such Act (34 U.S.C. 10381) (commonly known as the ''COPS grant program''), to local governments that defund the police, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3012. RESERVE FUND RELATING TO HONORING THE CAPITOL POLICE, DC METROPOLITAN POLICE, AND FIRST RESPONDERS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to honoring the United States Capitol Police, the District of Columbia Metropolitan Police, and all other first responders, who fought and died protecting Congress and the United States Capitol from the mob of insurrectionists on January 6th, 2021, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2022 through 2031.

SEC. 3013. DEFICIT-NEUTRAL RESERVE FUND RELATING TO SUPPORTING OR EXPEDITING THE DEPLOYMENT OF CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION TECHNOLOGIES.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to Federal environmental and energy policies, which may include supporting or expediting the deployment of carbon capture, utilization, and sequestration technologies (including technologies that may be used on coal- and natural gas-fired power plants) in the United States to lower emissions and to increase the use of captured carbon dioxide for valuable products and enhanced oil recovery, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3014. DEFICIT-NEUTRAL RESERVE FUND RELATING TO POLICIES OR LEGISLATION TO PROHIBIT THE DEPARTMENT OF AGRICULTURE FROM MAKING INELIGIBLE FOR FINANCING FOSSIL FUEL-BURNING POWER PLANTS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to agriculture policy, which may include prohibiting or limiting the Department of Agriculture from making ineligible for financing the construction, maintenance, or improvement of fossil fuel-burning power plants by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the

deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3015. DEFICIT-NEUTRAL RESERVE FUND RELATING TO THE PROVISIONS OF THE AMERICAN RESCUE PLAN ACT.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to limitations on Federal relief funds for State or local governments, which may include lifting or prohibiting restrictions related to modifications to a State's or territory's tax revenue source, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3016. DEFICIT-NEUTRAL RESERVE FUND RELATING TO MEANS-TESTING ELECTRIC VEHICLE TAX CREDITS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to means-testing electric vehicle tax credits, which may include limiting eligibility of individuals with an adjusted gross income of greater than $100,000 or setting maximum car values allowed for eligible purchases at $40,000, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3017. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PROHIBITING OR LIMITING THE ISSUANCE OF COSTLY CLEAN AIR ACT PERMIT REQUIREMENTS ON FARMERS AND RANCHERS IN THE UNITED STATES OR THE IMPOSITION OF NEW FEDERAL METHANE REQUIREMENTS ON LIVESTOCK.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to Federal environmental policies under the Clean Air Act (42 U.S.C. 7401 et seq.), which may include prohibiting or limiting the issuance of costly permit requirements under that Act on farmers and ranchers in the United States or the imposition of any new Federal methane requirements on livestock that would have the effect of increasing the cost of beef and other critical products, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3018. DEFICIT-NEUTRAL RESERVE FUND RELATING TO FUNDING OF THE OFFICE OF FOREIGN ASSETS CONTROL.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to funding of the Office of Foreign Assets Control, which may include additional resources for enforcement activities or additional sanctions against terrorist organizations, including those in the Gaza Strip and their members, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3019. DEFICIT-NEUTRAL RESERVE FUND RELATING TO ABORTION FUNDING.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to improving health programs, which may include prohibiting funding for abortions consistent with the Hyde amendment or limitations on Federal funding to State or local governments that discriminate against entities who refuse to participate in abortion consistent with the Weldon amendment, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3020. DEFICIT-NEUTRAL RESERVE FUND RELATING TO ENSURING ROBUST, SECURE, AND HUMANE SUPPLY CHAINS, SOURCED BY THE UNITED STATES AND ALLIES OF THE UNITED STATES, FOR RENEWABLE ENERGY MATERIALS, TECHNOLOGY, AND CRITICAL MINERALS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to Federal energy policy, which may include ensuring robust, secure, and humane supply chains for renewable energy products and critical minerals and prohibiting or limiting renewable energy projects funded or subsidized by Federal funds from purchasing materials, technology, and critical minerals produced in China, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3021. RESERVE FUND RELATING TO ENSURING ROBUST, SECURE, AND HUMANE SUPPLY CHAINS BY PROHIBITING THE USE OF FEDERAL FUNDS TO PURCHASE MATERIALS, TECHNOLOGY, AND CRITICAL MINERALS PRODUCED, MANUFACTURED, OR MINED WITH FORCED LABOR.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to ensuring robust, secure, and humane supply chains by prohibiting the use of Federal funds to purchase materials, technology, and critical minerals produced, manufactured, or mined with forced labor by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2022 through 2031.

SEC. 3022. RESERVE FUND RELATING TO GREAT LAKES ICE BREAKING OPERATIONAL IMPROVEMENTS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to improving Coast Guard operations, which may include funding for the acquisition, design, and construction of a Great Lakes heavy icebreaker, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2022 through 2031.

SEC. 3023. DEFICIT-NEUTRAL RESERVE FUND RELATING TO IMMIGRATION ENFORCEMENT AND ADDRESSING THE HUMANITARIAN CRISIS AT THE SOUTHERN BORDER.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to immigration enforcement, which may include strengthening enforcement of immigration laws to address the humanitarian crisis at the southern border, dramatically increasing funding for smart and effective border security measures, improving asylum processing, and reducing immigration court backlogs, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3024. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PROVIDING QUALITY EDUCATION FOR CHILDREN.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to providing quality education for the children of the United States, which may include prohibiting or limiting Federal funding from being used to promote critical race theory or compel teachers or students to affirm critical race theory in prekindergarten programs, elementary schools, and secondary schools, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3025. DEFICIT-NEUTRAL RESERVE FUND RELATING TO HIRING 100,000 NEW POLICE OFFICERS.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments

between the Houses, motions, or conference reports relating to public safety, which may include funding the hiring of 100,000 new police officers nationwide, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3026. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PREVENTING ELECTRICITY BLACKOUTS AND IMPROVING ELECTRICITY RELIABILITY.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to Federal environmental and energy policies, which may include promoting the increased deployment and use of, or supporting the expansion of, baseload power resources in the United States, including coal-fired and natural gas-fired power plants with carbon capture, utilization, and sequestration technologies and nuclear power to prevent blackouts and improve electric reliability, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3027. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PROTECTING MIGRANTS AND LOCAL COMMUNITIES AGAINST COVID–19.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to protecting migrants and local communities against COVID–19, which may include resources for testing and treatment of migrants at the United States border, resources for quarantining migrants who test positive, or prohibiting migrants who have not received a negative COVID–19 test from being transported elsewhere, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3028. DEFICIT-NEUTRAL RESERVE FUND RELATING TO STUDYING AND PROVIDING FOR TAX EQUIVALENCY UNDER THE PAYMENTS IN LIEU OF TAXES PROGRAM.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to studying and providing for tax equivalency under the payments in lieu of taxes program established under chapter 69 of title 31, United States Code, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3029. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PREVENTING TAX INCREASES ON SMALL BUSINESSES.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to preventing tax increases on small businesses by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3030. DEFICIT-NEUTRAL RESERVE FUND RELATING TO PROVIDING SUFFICIENT RESOURCES TO DETAIN AND DEPORT A HIGHER NUMBER OF ALIENS WHO HAVE BEEN CONVICTED OF A CRIME.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to ensuring that U.S. Immigration and Customs Enforcement has sufficient resources to detain and deport a higher number of illegal aliens who have been convicted of a criminal offense in the United States, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

SEC. 3031. DEFICIT-NEUTRAL RESERVE FUND RELATING TO MAINTAINING THE CURRENT LAW TAX TREATMENT OF LIKE KIND EXCHANGES.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to maintaining the current law tax treatment of like kind exchanges under the Internal Revenue Code of 1986 by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2022 through 2026 or the period of the total of fiscal years 2022 through 2031.

TITLE IV—OTHER MATTERS

SEC. 4001. EMERGENCY LEGISLATION.

(a) SENATE.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, amendment between the Houses, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974 (2 U.S.C. 633, 642), section 404(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010, section 3101 of S. Con. Res. 11 (114th Congress), the concurrent resolution on the budget for fiscal year 2016, and section 4106 of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (5).

(4) DEFINITIONS.—In this subsection, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' mean any provision of a bill, joint resolution, amendment, motion, amendment between the Houses, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.).

(5) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(6) REPEAL.—In the Senate, section 4112 of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, shall no longer apply.

(b) HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—In the House of Representatives, if a bill, joint resolution, amendment, or conference report contains a provision providing new budget authority and outlays or reducing revenue, and a designation of such provision as emergency requirement, the chair of the Committee on the Budget of the House of Representatives shall not count the budgetary effects of such provision for any purpose in the House of Representatives.

(2) PROPOSAL TO STRIKE.—A proposal to strike a designation under paragraph (1) shall be excluded from an evaluation of budgetary effects for any purpose in the House of Representatives.

(3) AMENDMENT TO REDUCE AMOUNTS.—An amendment offered under paragraph (2) that also proposes to reduce each amount appropriated or otherwise made available by the pending measure that is not required to be appropriated or otherwise made available shall be in order at any point in the reading of the pending measure.

(4) REFERENCES.—

(A) IN GENERAL.—All references to section 1(f) of H. Res. 467 (117th Congress) in any bill or joint resolution, or an amendment thereto or conference report thereon, shall be treated for all purposes in the House of Representatives as references to this subsection of this concurrent resolution.

(B) BBEDCA.—All references to a designation by the Congress for an emergency requirement pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) for amounts for fiscal year 2022 or succeeding fiscal years in any legislation implementing a bipartisan infrastructure agreement shall be treated for all purposes in the House of

Representatives as references to this subsection of this concurrent resolution.

SEC. 4002. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS IN THE SENATE.

(a) IN GENERAL.—

(1) POINT OF ORDER.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, amendment between the Houses, or conference report that would provide an advance appropriation for a discretionary account.

(2) DEFINITION.—In this section, the term ''advance appropriation'' means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2022 that first becomes available for any fiscal year after 2022, or any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2023, that first becomes available for any fiscal year after 2023.

(b) EXCEPTIONS.—Advance appropriations may be provided—

(1) for fiscal years 2023 and 2024 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading ''Accounts Identified for Advance Appropriations'' in an aggregate amount not to exceed $28,852,000,000 in new budget authority in each fiscal year;

(2) for the Corporation for Public Broadcasting;

(3) for the Department of Veterans Affairs for the Medical Services, Medical Community Care, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration;

(4) for legislation implementing a bipartisan infrastructure agreement, as determined by the Chairman of the Committee on the Budget of the Senate; and

(5) for the Department of Health and Human Services for the Indian Health Services and Indian Health Facilities accounts—

(A) in an amount that is not more than the amount provided for fiscal year 2022 in a bill or joint resolution making appropriations for fiscal year 2022; and

(B) in an amount that is not more than the amount provided for fiscal year 2023 in a bill or joint resolution making appropriations for fiscal year 2023.

(c) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(d) FORM OF POINT OF ORDER.—A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974 (2 U.S.C. 644(e)).

(e) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill or joint resolution, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report or House amendment shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

SEC. 4003. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—In the House of Representatives, except as provided in subsection (b), any general appropriation bill or bill or joint resolution continuing appropriations, or an amendment thereto or conference report thereon, may not provide an advance appropriation.

(b) EXCEPTIONS.—An advance appropriation may be provided for programs, activities, or accounts identified in lists submitted for printing in the Congressional Record by the chair of the Committee on the Budget—

(1) for fiscal year 2023, under the heading ''Accounts Identified for Advance Appropriations'' in an aggregate amount not to exceed $28,852,000,000 in new budget authority, and for fiscal year 2024, accounts separately identified under the same heading; and

(2) for fiscal year 2023, under the heading ''Veterans Accounts Identified for Advance Appropriations''.

(c) DEFINITION.—In this section, the term ''advance appropriation'' means any new discretionary budget authority provided in a general appropriation bill or bill or joint resolution continuing appropriations for fiscal year 2022, or an amendment thereto or conference report thereon, that first becomes available following fiscal year 2022.

SEC. 4004. PROGRAM INTEGRITY INITIATIVES AND OTHER ADJUSTMENTS IN THE SENATE.

(a) IN GENERAL.—In the Senate, after the reporting of a bill or joint resolution relating to any matter described in subsection (b) or the adoption of a motion to proceed to, the offering of an amendment to, the laying before the Senate of an amendment between the Houses to, or the submission of a conference report on such a bill or joint resolution—

(1) the Chairman of the Committee on the Budget of the Senate may adjust the budgetary aggregates and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)) by the amount of new budget authority in that measure for that purpose and the outlays flowing therefrom; and

(2) following any adjustment under paragraph (1), the Committee on Appropriations of the Senate may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 (2 U.S.C. 633(b)) to carry out this section.

(b) MATTERS DESCRIBED.—Matters referred to in subsection (a) are as follows:

(1) CONTINUING DISABILITY REVIEWS AND REDETERMINATIONS.—

(A) IN GENERAL.—If a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for continuing disability reviews under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.), for the cost associated with conducting redeterminations of eligibility under title XVI of the Social Security Act, for the cost of co-operative disability investigation units, and for the cost associated with the prosecution of fraud in the programs and operations of the Social Security Administration by Special Assistant United States Attorneys, then the adjustment shall be the additional new budget authority specified in such measure for such costs for fiscal year 2022, but shall not exceed $1,435,000,000.

(B) DEFINITIONS.—As used in this paragraph—

(i) the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $273,000,000, in a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations and specified to pay for the costs of continuing disability reviews, redeterminations, cooperative disability investigation units, and the prosecution of fraud in the programs and operations of the Social Security Administration by Special Assistant United States Attorneys under the heading ''Limitation on Administrative Expenses'' for the Social Security Administration;

(ii) the term ''continuing disability reviews'' means continuing disability reviews under sections 221(i) and 1614(a)(4) of the Social Security Act (42 U.S.C. 421(i), 1382c(a)(4)), including work-related continuing disability reviews to determine whether earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity; and

(iii) the term ''redetermination'' means redetermination of eligibility under sections 1611(c)(1) and 1614(a)(3)(H) of the Social Security Act (42 U.S.C. 1382(c)(1), 1382c(a)(3)(H)).

(2) INTERNAL REVENUE SERVICE ENFORCEMENT.—

(A) IN GENERAL.—If a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for tax enforcement activities, including tax compliance to address the Federal tax gap (including an amount for Internal Revenue Service Enforcement (account 020–0913), for Internal Revenue Service Operations Support (account 020–0919), for Internal Revenue Service Business Systems Modernization (account 020–0921), or for Internal Revenue Service Taxpayer Services (account 020–0912)), then the adjustment shall be the additional new budget authority specified in such measure for fiscal year 2022, but shall not exceed $417,000,000.

(B) DEFINITION.—In this paragraph, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $11,919,000,000, in a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations and specified to pay for tax enforcement activities, including tax compliance to address the Federal tax gap, for Internal Revenue Service Enforcement (account 020–0913), Internal Revenue Service Operations Support (account 020–0919), Internal Revenue Service Business Systems Modernization (account 020–0921), or Internal Revenue Service Taxpayer Services (account 020–0912).

(3) HEALTH CARE FRAUD AND ABUSE CONTROL.—

(A) IN GENERAL.—If a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for the health care fraud abuse control program at the Department of Health and Human Services (75–8393–0–7–571), then the adjustment shall be the additional new budget authority specified in such measure for such program for fiscal year 2022, but shall not exceed $556,000,000.

(B) DEFINITION.—As used in this paragraph, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $317,000,000, in a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations and specified to pay for the health care fraud abuse control program at the Department of Health and Human Services (75–8393–0–7–571).

(4) REEMPLOYMENT SERVICES AND ELIGIBILITY ASSESSMENTS.—

(A) IN GENERAL.—If a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for grants to States under section 306 of the Social Security Act (42 U.S.C. 506) for claimants of regular compensation, as defined in such section, including those who are profiled as most likely to exhaust their benefits, then the adjustment shall be the additional new budget authority specified in such measure for such grants for fiscal year 2022, but shall not exceed $133,000,000.

(B) DEFINITION.—As used in this paragraph, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $117,000,000, in a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations and specified to pay for grants to States under section 306 of the Social Security Act (42 U.S.C. 506) for claimants of regular compensation, as defined in such section, including those who are profiled as most likely to exhaust their benefits.

(5) WILDFIRE SUPPRESSION.—

(A) ADDITIONAL NEW BUDGET AUTHORITY.—If, for any of fiscal years 2022 through 2027, a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for such a fiscal year provides an amount for wildfire suppression operations in the Wildland Fire Management accounts at the Department of Agriculture or the Department of the Interior, then the adjustments for that fiscal year shall be the amount of additional new budget authority provided in that measure for wildfire suppression operations for that fiscal year, but shall not exceed the amount for that fiscal year specified in section 251(b)(2)(F)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(F)(i)).

(B) DEFINITIONS.—As used in this paragraph, the terms ''additional new budget authority'' and ''wildfire suppression operations'' have the meanings given those terms in section 251(b)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(F)(ii)).

(6) DISASTER RELIEF.—

(A) ADDITIONAL NEW BUDGET AUTHORITY.—If a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for fiscal year 2022 provides an amount for disaster relief, the adjustment for fiscal year 2022 shall be the total of such appropriations for fiscal year 2022 designated as being for disaster relief, but not to exceed the amount equal to the total amount calculated for fiscal year 2022 in accordance with the formula in section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)), except that such formula shall be applied by substituting ''fiscal years 2012 through 2022'' for ''fiscal years 2012 through 2021''.

(B) DEFINITION.—As used in this paragraph, the term ''disaster relief'' means activities carried out pursuant to a determination under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(7) VETERANS MEDICAL CARE.—

(A) IN GENERAL.—If a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for veterans medical care (in the Medical Services, Medical Community Care, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration), then the adjustment shall be the additional new budget authority specified in such measure for such medical care for fiscal year 2022, but shall not exceed $7,602,000,000.

(B) DEFINITION.—As used in this paragraph, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $89,849,000,000, in a bill, joint resolution, amendment, amendment between the Houses, or conference report making discretionary appropriations and specified to pay for veterans medical care.

(c) APPLICATION OF ADJUSTMENTS.—The adjustments made pursuant to subsection (a) for legislation shall—

(1) apply while that legislation is under consideration;

(2) take effect upon the enactment of that legislation; and

(3) be published in the Congressional Record as soon as practicable.

SEC. 4005. PROGRAM INTEGRITY INITIATIVES AND OTHER ADJUSTMENTS IN THE HOUSE OF REPRESENTATIVES.

(a) ADJUSTMENT FOR CONTINUING DISABILITY REVIEWS AND REDETERMINATIONS.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for continuing disability reviews under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.), for the cost associated with conducting redeterminations of eligibility under title XVI of the Social Security Act, for the cost of co-operative disability investigation units, and for the cost associated with the prosecution of fraud in the programs and operations of the Social Security Administration by Special Assistant United States Attorneys, then the adjustment shall be the additional new budget authority specified in such measure for such purpose, but shall not exceed $1,435,000,000.

(2) DEFINITIONS.—As used in this subsection—

(A) the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $273,000,000, in a bill, joint resolution, amendment, or conference report and specified to pay for the costs of continuing disability reviews, redeterminations, co-operative disability investigation units, and fraud prosecutions under the heading ''Limitation on Administrative Expenses'' for the Social Security Administration;

(B) the term ''continuing disability reviews'' means continuing disability reviews under sections 221(i) and 1614(a)(4) of the Social Security Act (42 U.S.C. 421(i), 1382c(a)(4)), including work related continuing disability reviews to determine whether earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity; and

(C) the term ''redetermination'' means redetermination of eligibility under sections 1611(c)(1) and 1614(a)(3)(H) of the Social Security Act (42 U.S.C. 1382(c)(1), 1382c(a)(3)(H)).

(3) REFERENCES.—All references to section 1(k) of H. Res. 467 (117th Congress) in any bill or joint resolution, or amendment thereto or conference report thereon shall be treated for all purposes in the House of Representatives as references to this subsection of this concurrent resolution.

(b) ADJUSTMENT FOR INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for tax enforcement activities, including tax compliance to address the Federal tax gap, in the Enforcement account and the Operations Support account of the Internal Revenue Service of the Department of the Treasury, then the adjustment shall be the additional new budget authority provided in such measure for such purpose, but shall not exceed $417,000,000.

(2) DEFINITION.—As used in this subsection, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $9,141,000,000, in a bill, joint resolution, amendment, or conference report and specified for tax enforcement activities, including tax compliance to address the Federal tax gap, of the Internal Revenue Service.

(3) REFERENCES.—All references to section 1(i) of H. Res. 467 (117th Congress) in any bill or joint resolution, or amendment thereto or conference report thereon shall be treated for all purposes in the House of Representatives as references to this subsection of this concurrent resolution.

(c) ADJUSTMENT FOR HEALTH CARE FRAUD AND ABUSE CONTROL.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for the health care fraud abuse control program at the Department of Health and Human Services (75–8393–0–7–571), then the adjustment shall be the additional new budget authority specified in such measure for such purpose for fiscal year 2022, but shall not exceed $556,000,000.

(2) DEFINITION.—As used in this subsection the term ''additional new budget authority'' means the amount provided fiscal year 2022, in excess of $317,000,000, in a bill, joint resolution, amendment, or conference report and specified to pay for the costs of the health care fraud and abuse control program.

(3) REFERENCES.—All references to section 1(j) of H. Res. 467 (117th Congress) in any bill or joint resolution, or amendment thereto or conference report thereon shall be treated for all purposes in the House of Representatives as references to this subsection of this concurrent resolution.

(d) REEMPLOYMENT SERVICES AND ELIGIBILITY ASSESSMENTS.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for grants to States under section 306 of the Social Security Act (42 U.S.C. 506) for claimants of regular compensation, as defined in such section, including those who are profiled as most likely to exhaust their benefits, then the adjustment shall be the additional new budget authority specified in such measure for such grants for fiscal year 2022, but shall not exceed $133,000,000.

(2) DEFINITION.—As used in this subsection, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $117,000,000, in a bill, joint resolution, amendment, or conference report making discretionary appropriations and specified to pay for grants to States under section 306 of the Social Security Act (42

U.S.C. 506) for claimants of regular compensation, as defined in such section, including those who are profiled as most likely to exhaust their benefits.

(e) ADJUSTMENT FOR WILDFIRE SUPPRESSION.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for wildfire suppression operations in the Wildland Fire Management accounts at the Department of Agriculture or the Department of the Interior, then the adjustment shall be the amount of additional new budget authority specified in such measure as being for wildfire suppression operations for fiscal year 2022, but shall not exceed $2,450,000,000.

(2) DEFINITIONS.—As used in this subsection—

(A) the term ''additional new budget authority'' means the amount provided for a fiscal year in an appropriation Act that is in excess of the average costs for wildfire suppression operations as reported in the budget of the President submitted under section 1105(a) of title 31, United States Code, for fiscal year 2015 and are specified to pay for the costs of wildfire suppression operations; and

(B) the term ''wildfire suppression operations'' means the emergency and unpredictable aspects of wildland firefighting, including—

(i) support, response, and emergency stabilization activities;

(ii) other emergency management activities; and

(iii) the funds necessary to repay any transfers needed for the costs of wildfire suppression operations.

(3) REFERENCES.—All references to section 1(h) of H. Res. 467 (117th Congress) in any bill or joint resolution, or amendment thereto or conference report thereon shall be treated for all purposes in the House of Representatives as references to this subsection of this concurrent resolution.

(f) ADJUSTMENT FOR DISASTER RELIEF.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations specifies an amount that Congress designates as being for disaster relief, the adjustment for fiscal year 2022 shall be the total of such appropriations for fiscal year 2022 designated as being for disaster relief, but not to exceed the total of—

(A) the average over the previous 10 fiscal years (excluding the highest and lowest fiscal years) of the sum of the funding provided for disaster relief (as that term is defined on the date immediately before March 23, 2018);

(B) 5 percent of the total appropriations provided in the previous 10 fiscal years, net of any rescissions of budget authority enacted in the same period, with respect to amounts provided for major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and designated by the Congress as an emergency; and

(C) the cumulative net total of the unused carryover for fiscal year 2018 and all subsequent fiscal years, where the unused carryover for each fiscal year is calculated as the sum of the amounts in subparagraphs (A) and (B) less the enacted appropriations for that fiscal year that have been designated as being for disaster relief.

(2) DEFINITION.—As used in this subsection, the term ''disaster relief'' means activities carried out pursuant to a determination under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(3) REFERENCES.—All references to section 1(g) of H. Res. 467 (117th Congress) in any bill or joint resolution, or amendment thereto or conference report thereon shall be treated for all purposes in the House of Representatives as references to this subsection of this concurrent resolution.

(g) VETERANS MEDICAL CARE.—In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes as follows:

(1) IN GENERAL.—If a bill, joint resolution, amendment, or conference report making discretionary appropriations for fiscal year 2022 specifies an amount for veterans medical care (in the Medical Services, Medical Community Care, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration), then the adjustment shall be the additional new budget authority specified in such measure for such medical care for fiscal year 2022, but shall not exceed $7,602,000,000.

(2) DEFINITION.—As used in this subsection, the term ''additional new budget authority'' means the amount provided for fiscal year 2022, in excess of $89,849,000,000, in a bill, joint resolution, amendment, or conference report making discretionary appropriations and specified to pay for veterans medical care.

SEC. 4006. ENFORCEMENT FILING.

(a) SENATE.—In the Senate, if this concurrent resolution on the budget is agreed to by the Senate and House of Representatives without the appointment of a committee of conference on the disagreeing votes of the two Houses, the Chairman of the Committee on the Budget of the Senate may submit a statement for publication in the Congressional Record containing—

(1) for the Committee on Appropriations, committee allocations for fiscal year 2022 consistent with the levels in title I for the purpose of enforcing section 302 of the Congressional Budget Act of 1974 (2 U.S.C. 633); and

(2) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2022, 2022 through 2026, and 2022 through 2031 consistent with the levels in title I for the purpose of enforcing section 302 of the Congressional Budget Act of 1974 (2 U.S.C. 633).

(b) HOUSE OF REPRESENTATIVES.—In the House of Representatives, if a concurrent resolution on the budget for fiscal year 2022 is adopted without the appointment of a committee of conference on the disagreeing votes of the two Houses with respect to this concurrent resolution on the budget, for the purpose of enforcing the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) and applicable rules and requirements set forth in the concurrent resolution on the budget, the allocations provided for in this subsection shall apply in the House of Representatives in the same manner as if such allocations were in a joint explanatory statement accompanying a conference report on the budget for fiscal year 2022. The chair of the Committee on the Budget of the House of Representatives shall submit a statement for publication in the Congressional Record containing—

(1) for the Committee on Appropriations, committee allocations for fiscal year 2022 consistent with title I for the purpose of enforcing section 302 of the Congressional Budget Act of 1974 (2 U.S.C. 633); and

(2) for all committees other than the Committee on Appropriations, committee allocations consistent with title I for fiscal year 2022 and for the period of fiscal years 2022 through 2031 for the purpose of enforcing 302 of the Congressional Budget Act of 1974 (2 U.S.C. 633).

SEC. 4007. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS, AGGREGATES, AND OTHER BUDGETARY LEVELS.

(a) APPLICATION.—Any adjustments of allocations, aggregates, and other budgetary levels made pursuant to this concurrent resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS, AGGREGATES, AND OTHER BUDGETARY LEVELS.—Revised allocations, aggregates, and other budgetary levels resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) as the allocations, aggregates, and other budgetary levels contained in this concurrent resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this concurrent resolution, the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the chair of the Committee on the Budget of the applicable House of Congress.

SEC. 4008. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

(a) SENATE.—In the Senate, upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the Chairman of the Committee on the Budget of the Senate may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)).

(b) HOUSE OF REPRESENTATIVES.—In the House of Representatives, upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the chair of the Committee on the Budget of the House of Representatives may adjust the allocations, aggregates, and other budgetary levels in this concurrent resolution accordingly.

SEC. 4009. ADJUSTMENT FOR BIPARTISAN INFRASTRUCTURE LEGISLATION IN THE SENATE.

(a) ADJUSTMENTS.—In the Senate, upon the enactment of an infrastructure bill or joint resolution, including legislation implementing a bipartisan infrastructure agreement, the Chairman of the Committee on the Budget of the Senate may make adjustments to the levels and allocations in this resolution to reflect changes resulting from the enactment of such bill or joint resolution.

(b) DETERMINATIONS.—For purposes of this section, the levels of budget authority and outlays shall be determined on the basis of estimates submitted by the Chairman of the Committee on the Budget of the Senate.

SEC. 4010. ADJUSTMENT FOR INFRASTRUCTURE LEGISLATION IN THE HOUSE OF REPRESENTATIVES.

In the House of Representatives, the chair of the Committee on the Budget may adjust the allocations, aggregates, and other budgetary levels included in this concurrent resolution to reflect changes resulting from the enactment of an infrastructure bill or joint resolution, including legislation implementing the INVEST in America Act or a bipartisan infrastructure agreement.

SEC. 4011. APPLICABILITY OF ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

Except as expressly provided otherwise, the adjustments provided by section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) shall not apply to allocations, aggregates, or other budgetary levels established pursuant to this concurrent resolution.

SEC. 4012. BUDGETARY TREATMENT OF ADMINISTRATIVE EXPENSES.

(a) SENATE.—

(1) IN GENERAL.—In the Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(1)), section 13301 of the Budget Enforcement Act of 1990 (2 U.S.C. 632 note), and section 2009a of title 39, United States Code, the report or the joint explanatory statement accompanying this concurrent resolution on the budget or the statement filed pursuant to section 4006(a), as applicable, shall include in an allocation under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)) to the Committee on Appropriations of the Senate of amounts for the discretionary administrative expenses of the Social Security Administration and the United States Postal Service.

(2) SPECIAL RULE.—In the Senate, for purposes of enforcing section 302(f) of the Congressional Budget Act of 1974 (2 U.S.C. 633(f)), estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts described in paragraph (1).

(b) HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—In the House of Representatives, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(1)), section 13301 of the Budget Enforcement Act of 1990 (2 U.S.C. 632 note), and section 2009a of title 39, United States Code, the report or the joint explanatory statement accompanying this concurrent resolution on the budget or the statement filed pursuant to section 4006(b), as applicable, shall include in an allocation under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)) to the Committee on Appropriations of the House of Representatives of amounts for the discretionary administrative expenses of the Social Security Administration and the United States Postal Service.

(2) SPECIAL RULE.—In the House of Representatives, for purposes of enforcing section 302(f) of the Congressional Budget Act of 1974 (2 U.S.C. 633(f)), estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts described in paragraph (1).

SEC. 4013. APPROPRIATE BUDGETARY ADJUSTMENTS IN THE HOUSE OF REPRESENTATIVES.

In the House of Representatives, the chair of the Committee on the Budget of the House of Representatives may make appropriate budgetary adjustments of new budget authority and the outlays flowing therefrom pursuant to the adjustment authorities provided by this concurrent resolution.

SEC. 4014. ADJUSTMENT FOR CHANGES IN THE BASELINE IN THE HOUSE OF REPRESENTATIVES.

In the House of Representatives, the chair of the Committee on the Budget of the House of Representatives may adjust the allocations, aggregates, and other appropriate budgetary levels in this concurrent resolution to reflect changes resulting from the Congressional Budget Office's updates to its baseline for fiscal years 2022 through 2031.

SEC. 4015. SCORING RULE IN THE SENATE FOR CHILD CARE AND PRE-KINDERGARTEN LEGISLATION.

(a) IN GENERAL.—In the Senate, for the purposes of estimates with respect to any child care or pre-kindergarten legislation during the 117th Congress, the Congressional Budget Office shall consider funding for programs under the Head Start Act (42 U.S.C. 9831 et seq.) to continue at baseline levels.

(b) EXCEPTION.—This section shall not apply to any bill or joint resolution making appropriations for discretionary accounts.

SEC. 4016. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, and as such they shall be considered as part of the rules of each House or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with full recognition of the constitutional right of either the Senate or the House of Representatives to change those rules (insofar as they relate to that House) at any time, in the same manner, and to the same extent as is the case of any other rule of the Senate or House of Representatives.

JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021

Mr. NADLER. Madam Speaker, pursuant to House Resolution 601, I call up the bill (H.R. 4) to amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mrs. BEATTY). Pursuant to House Resolution 601, the amendment printed in House Report 117–117 is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''John R. Lewis Voting Rights Advancement Act of 2021''.

SEC. 2. VOTE DILUTION, DENIAL, AND ABRIDGMENT CLAIMS.

(a) IN GENERAL.—Section 2(a) of the Voting Rights Act of 1965 (52 U.S.C. 10301(a)) is amended—

(1) by inserting after ''applied by any State or political subdivision'' the following: ''for the purpose of, or''; and

(2) by striking ''as provided in subsection (b)'' and inserting ''as provided in subsection (b), (c), (d), or (f)''.

(b) VOTE DILUTION.—Section 2(b) of such Act (52 U.S.C. 10301(b)) is amended—

(1) by inserting after ''A violation of subsection (a)'' the following: ''for vote dilution'';

(2) by inserting after the period at the end the following: ''For the purposes of this subsection:'';

(3) by adding at the end the following new paragraphs:

''(1) To prevail, in demonstrating that a representational, districting, or apportionment scheme results in vote dilution, a plaintiff shall, as a threshold matter, establish that—

''(A) the members of the protected class are sufficiently numerous and geographically compact to constitute a majority in a single-member district;

''(B) the members of the protected class are politically cohesive; and

''(C) the residents of that district who are not the members of the protected class usually vote sufficiently as a bloc to enable them to defeat the preferred candidates of the members of the protected class.

''(2) Upon a plaintiff establishing the required threshold showing under paragraph (1), a court shall conduct a totality of the circumstances analysis with respect to a claim of vote dilution to determine whether there was a violation of subsection (a), which shall include the following factors:

''(A) The extent of any history of official voting discrimination in the State or political subdivision that affected the right of members of the protected class to register, to vote, or otherwise to participate in the political process.

''(B) The extent to which voting in the elections of the State or political subdivision is racially polarized.

''(C) The extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the members of the protected class, such as unusually large election districts, majority vote requirements, anti-single shot provisions, or other qualifications, prerequisites, standards, practices, or procedures that may enhance the opportunity for discrimination against the members of the protected class.

''(D) If there is a candidate slating process, whether the members of the protected class have been denied access to that process.

''(E) The extent to which members of the protected class in the State or political subdivision bear the effects of discrimination both public or private, in such areas as education, employment, health, housing, and transportation, which hinder their ability to participate effectively in the political process.

''(F) Whether political campaigns have been characterized by overt or subtle racial appeals.

''(G) The extent to which members of the protected class have been elected to public office in the jurisdiction.

''(3) In conducting a totality of the circumstances analysis under paragraph (2), a court may consider such other factors as the court may determine to be relevant, including—

''(A) whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the protected class, including a lack of concern for or responsiveness to the requests and proposals of the members of the protected class, except that compliance with a court order may not be considered evidence of responsiveness on the part of the jurisdiction; and

''(B) whether the policy underlying the State or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.

''In making this determination, a court shall consider whether the qualification, prerequisite, standard, practice, or procedure in question was designed to advance and materially advances a valid and substantiated State insterest.''.

''(4) A class of citizens protected by subsection (a) may include a cohesive coalition of members of different racial or language minority groups.''; and

(4) VOTE DENIAL OR ABRIDGEMENT.—Section 2 of such Act (52 U.S.C. 10301), as amended by subsections (a) and (b), is further amended by adding at the end the following:

''(c)(1) A violation of subsection (a) resulting in vote denial or abridgement is established if the challenged qualification, prerequisite, standard, practice, or procedure—

''(A) results or will result in members of a protected class facing greater costs or burdens in participating in the political process than other voters; and''.

''(B) the greater costs or burdens are, at least in part, caused by or linked to social and historical conditions that have produced or produce

on the date of such challenge discrimination against members of the protected class.

''In determining the existence of a burden for purposes of subparagraph (A), the absolute number or the percent of voters affected or the presence of voters who are not members of a protected class in the affected area shall not be dispositive, and the affected area may be smaller than the jurisdiction to which the qualification, prerequisite, standard, practice, or procedure applies.''

''(2) The challenged qualification, prerequisite, standard, practice, or procedure need only be a but-for cause of the discriminatory result described in paragraph (1) or perpetuate pre-existing burdens or costs.

''(3)(A) The factors that are relevant to a totality of the circumstances analysis with respect to a claim of vote denial or abridgement pursuant to this subsection include the following:

''(i) The extent of any history of official voting-related discrimination in the State or political subdivision that affected the right of members of the protected class to register, to vote, or otherwise to participate in the political process.

''(ii) The extent to which voting in the elections of the State or political subdivision is racially polarized.

''(iii) The extent to which the State or political subdivision has used photographic voter identification requirements, documentary proof of citizenship requirements, documentary proof of residence requirements, or other voting practices or procedures, beyond those required by Federal law, that may impair the ability of members of the minority group to participate fully in the political process.

''(iv) The extent to which minority group members bear the effects of discrimination, both public and private, in areas such as education, employment, health, housing, and transportation, which hinder their ability to participate effectively in the political process.

''(v) The use of overt or subtle racial appeals either in political campaigns or surrounding adoption or maintenance of the challenged practice.

''(vi) The extent to which members of the minority group have been elected to public office in the jurisdiction, provided that the fact that the minority group is too small to elect candidates of its choice shall not defeat a claim of vote denial or abridgment.

''(vii) Whether there is a lack of responsiveness on the part of elected officials to the particularized needs of minority group members, including a lack of concern for or responsiveness to the requests and proposals of the group, except that compliance with a court order may not be considered evidence of responsiveness on the part of the jurisdiction.

''(viii) Whether the policy underlying the State or political subdivision's use of the challenged qualification, prerequisite, standard, practice, or procedure is tenuous. In making a determination under this clause, a court shall consider whether the qualification, prerequisite, standard, practice, or procedure in question was designed to advance and materially advances a valid and substantiated State interest.

''(ix) Subject to paragraph (4), such other factors as the court may determine to be relevant.

''(B) The factors described in subparagraph (A), individually and collectively, shall be considered as a means of establishing that a voting practice amplifies the effects of past or present discrimination in violation in subsection (a).

''(C) A plaintiff need not show any particular combination or number of factors to establish a violation of subsection (a).

''(4) The factors that are relevant to a totality of the circumstances analysis with respect to a claim of vote denial or abridgement do not include the following:

''(A) The degree to which the challenged qualification, prerequisite, standard, practice, or procedure has a long pedigree or was in widespread use at some earlier date.

''(B) The use of an identical or similar qualification, prerequisite, standard, practice, or procedure in other States or jurisdictions.

''(C) The availability of other forms of voting unimpacted by the challenged qualification, prerequisite, standard, practice, or procedure to all members of the electorate, including members of the protected class, unless the jurisdiction is simultaneously expanding such other practices to eliminate any disproportionate burden imposed by the challenged qualification, prerequisite, standard, practice, or procedure.

''(D) Unsubstantiated defenses that the qualification, prerequisite, standard, practice, or procedure is necessary to address criminal activity.

''(d)(1) A violation of subsection (a) for the purpose of vote denial or abridgement is established if the challenged qualification, prerequisite, standard, practice, or procedure is intended, at least in part, to dilute minority voting strength or to deny or abridge the right of any citizen of the United States to vote on account of race, color, or in contravention of the guarantees set forth in section 4(f)(2).

''(2) Discrimination on account of race, color, or in contravention of the guarantees set forth in section 4(f)(2) need only be one purpose of a qualification, prerequisite, standard, practice, or procedure to demonstrate a violation of subsection (a).

''(3) A qualification, prerequisite, standard, practice, or procedure intended to dilute minority voting strength or to make it more difficult for minority voters to cast a ballot that will be counted violates this subsection even if an additional purpose of the qualification, prerequisite, standard, practice, or procedure is to benefit a particular political party or group.

''(4) The context for the adoption of the challenged qualification, prerequisite, standard, practice, or procedure, including actions by official decisionmakers before the challenged qualification, prerequisite, standard, practice, or procedure, may be relevant to a violation of this subsection.

''(5) Claims under this subsection require proof of a discriminatory impact but do not require proof of a violation pursuant to subsection (b) or (c).''.

''(e) For purposes of this section, the term 'affected area' means any geographic area, in which members of a protected class are affected by a qualification, prerequisite, standard, practice, or procedure allegedly in violation of this section, within a State (including any Indian lands).''.

SEC. 3. RETROGRESSION.

Section 2 of the Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.), as amended by section 2 of this Act, is further amended by adding at the end the following:

''(f) A violation of subsection (a) is established when a State or political subdivision enacts or seeks to administer any qualification or prerequisite to voting or standard, practice, or procedure with respect to voting in any election that has the purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), to participate in the electoral process or elect their preferred candidates of choice. This subsection applies to any action taken on or after January 1, 2021, by a State or political subdivision to enact or seek to administer any such qualification or prerequisite to voting or standard, practice or procedure.

''(g) Notwithstanding the provisions of subsection (f), final decisions of the United States District Court of the District of Columbia on applications or petitions by States or political subdivisions for preclearance under section 5 of any changes in voting prerequisites, standards, practices, or procedures, supersede the provisions of subsection (f).''.

SEC. 4. VIOLATIONS TRIGGERING AUTHORITY OF COURT TO RETAIN JURISDICTION.

(a) TYPES OF VIOLATIONS.—Section 3(c) of the Voting Rights Act of 1965 (52 U.S.C. 10302(c)) is amended by striking ''violations of the fourteenth or fifteenth amendment'' and inserting ''violations of the 14th or 15th Amendment, violations of this Act, or violations of any Federal law that prohibits discrimination in voting on the basis of race, color, or membership in a language minority group,''.

(b) CONFORMING AMENDMENT.—Section 3(a) of such Act (52 U.S.C. 10302(a)) is amended by striking ''violations of the fourteenth or fifteenth amendment'' and inserting ''violations of the 14th or 15th Amendment, violations of this Act, or violations of any Federal law that prohibits discrimination in voting on the basis of race, color, or membership in a language minority group,''.

SEC. 5. CRITERIA FOR COVERAGE OF STATES AND POLITICAL SUBDIVISIONS.

(a) DETERMINATION OF STATES AND POLITICAL SUBDIVISIONS SUBJECT TO SECTION 4(a).—

(1) IN GENERAL.—Section 4(b) of the Voting Rights Act of 1965 (52 U.S.C. 10303(b)) is amended to read as follows:

''(b) DETERMINATION OF STATES AND POLITICAL SUBDIVISIONS SUBJECT TO REQUIREMENTS.—

''(1) EXISTENCE OF VOTING RIGHTS VIOLATIONS DURING PREVIOUS 25 YEARS.—

''(A) STATEWIDE APPLICATION.—Subsection (a) applies with respect to a State and all political subdivisions within the State during a calendar year if—

''(i) fifteen or more voting rights violations occurred in the State during the previous 25 calendar years;

''(ii) ten or more voting rights violations occurred in the State during the previous 25 calendar years, at least one of which was committed by the State itself (as opposed to a political subdivision within the State); or

''(iii) three or more voting rights violations occurred in the State during the previous 25 calendar years and the State itself administers the elections in the State or political subdivisions in which the voting rights violations occurred.

''(B) APPLICATION TO SPECIFIC POLITICAL SUBDIVISIONS.—Subsection (a) applies with respect to a political subdivision as a separate unit during a calendar year if three or more voting rights violations occurred in the subdivision during the previous 25 calendar years.

''(2) PERIOD OF APPLICATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if, pursuant to paragraph (1), subsection (a) applies with respect to a State or political subdivision during a calendar year, subsection (a) shall apply with respect to such State or political subdivision for the period—

''(i) that begins on January 1 of the year in which subsection (a) applies; and

''(ii) that ends on the date which is 10 years after the date described in clause (i).

''(B) NO FURTHER APPLICATION AFTER DECLARATORY JUDGMENT.—

''(i) STATES.—If a State obtains a declaratory judgment under subsection (a), and the judgment remains in effect, subsection (a) shall no longer apply to such State pursuant to paragraph (1)(A) unless, after the issuance of the declaratory judgment, paragraph (1)(A) applies to the State solely on the basis of voting rights violations occurring after the issuance of the declaratory judgment.

''(ii) POLITICAL SUBDIVISIONS.—If a political subdivision obtains a declaratory judgment under subsection (a), and the judgment remains in effect, subsection (a) shall no longer apply to such political subdivision pursuant to paragraph (1), including pursuant to paragraph (1)(A) (relating to the statewide application of subsection (a)), unless, after the issuance of the declaratory judgment, paragraph (1)(B) applies to the political subdivision solely on the basis of voting rights violations occurring after the issuance of the declaratory judgment.

''(3) DETERMINATION OF VOTING RIGHTS VIOLATION.—For purposes of paragraph (1), a voting rights violation occurred in a State or political subdivision if any of the following applies:

''(A) JUDICIAL RELIEF; VIOLATION OF THE 14TH OR 15TH AMENDMENT.—Any final judgment, or any preliminary, temporary, or declaratory relief (that was not reversed on appeal), in which the plaintiff prevailed or a court of the United States found that the plaintiff demonstrated a likelihood of success on the merits or raised a serious question with regard to race discrimination, in which any court of the United States determined that a denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group occurred, or that a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting created an undue burden on the right to vote in connection with a claim that the law unduly burdened voters of a particular race, color, or language minority group, in violation of the 14th or 15th Amendment, anywhere within the State or subdivision.

''(B) JUDICIAL RELIEF; VIOLATIONS OF THIS ACT.—Any final judgment, or any preliminary, temporary, or declaratory relief (that was not reversed on appeal) in which the plaintiff prevailed or a court of the United States found that the plaintiff demonstrated a likelihood of success on the merits or raised a serious question with regard to race discrimination, in which any court of the United States determined that a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting was imposed or applied or would have been imposed or applied anywhere within the State or subdivision in a manner that resulted or would have resulted in a denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group, in violation of subsection 4(e) or 4(f) or section 2, 201, or 203 of this Act.

''(C) FINAL JUDGMENT; DENIAL OF DECLARATORY JUDGMENT.—In a final judgment (that was not been reversed on appeal), any court of the United States has denied the request of the State or subdivision for a declaratory judgment under section 3(c) or section 5, and thereby prevented a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting from being enforced anywhere within the State or subdivision.

''(D) OBJECTION BY THE ATTORNEY GENERAL.—The Attorney General has interposed an objection under section 3(c) or section 5, and thereby prevented a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting from being enforced anywhere within the State or subdivision. A violation per this subsection has not occurred where an objection has been withdrawn by the Attorney General, unless the withdrawal was in response to a change in the law or practice that served as the basis of the objection. A violation under this subsection has not occurred where the objection is based solely on a State or political subdivision's failure to comply with a procedural process that would not otherwise constitute an independent violation of this act.

''(E) CONSENT DECREE, SETTLEMENT, OR OTHER AGREEMENT.—A consent decree, settlement, or other agreement was adopted or entered by a court of the United States or contained an admission of liability by the defendants, which resulted in the alteration or abandonment of a voting practice anywhere in the territory of such State or subdivision that was challenged on the ground that the practice denied or abridged the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group in violation of subsection 4(e) or 4(f) or section 2, 201, or 203 of this Act, or the 14th or 15th Amendment. An extension or modification of an agreement as defined by this subsection that has been in place for ten years or longer shall count as an independent violation. If a court of the United States finds that an agreement itself as defined by this subsection denied or abridged the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group, violated subsection 4(e) or 4(f) or section 2, 201, or 203 of this Act, or created an undue burden on the right to vote in connection with a claim that the consent decree, settlement, or other agreement unduly burdened voters of a particular race, color, or language minority group, that finding shall count as an independent violation.

''(F) MULTIPLE VIOLATIONS.—Each voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting, including each redistricting plan, found to be a violation by a court of the United States pursuant to subsection (a) or (b), or prevented from enforcement pursuant to subsection (c) or (d), or altered or abandoned pursuant to subsection (e) shall count as an independent violation. Within a redistricting plan, each violation found to discriminate against any group of voters based on race, color, or language minority group shall count as an independent violation.

''(4) TIMING OF DETERMINATIONS.—

''(A) DETERMINATIONS OF VOTING RIGHTS VIOLATIONS.—As early as practicable during each calendar year, the Attorney General shall make the determinations required by this subsection, including updating the list of voting rights violations occurring in each State and political subdivision for the previous calendar year.

''(B) EFFECTIVE UPON PUBLICATION IN FEDERAL REGISTER.—A determination or certification of the Attorney General under this section or under section 8 or 13 shall be effective upon publication in the Federal Register.''.

(2) CONFORMING AMENDMENTS.—Section 4(a) of such Act (52 U.S.C. 10303(a)) is amended—

(A) in paragraph (1), in the first sentence of the matter preceding subparagraph (A), by striking ''any State with respect to which'' and all that follows through ''unless'' and inserting ''any State to which this subsection applies during a calendar year pursuant to determinations made under subsection (b), or in any political subdivision of such State (as such subdivision existed on the date such determinations were made with respect to such State), though such determinations were not made with respect to such subdivision as a separate unit, or in any political subdivision with respect to which this subsection applies during a calendar year pursuant to determinations made with respect to such subdivision as a separate unit under subsection (b), unless'';

(B) in paragraph (1) in the matter preceding subparagraph (A), by striking the second sentence;

(C) in paragraph (1)(A), by striking ''(in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection)'';

(D) in paragraph (1)(B), by striking ''(in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection)'';

(E) in paragraph (3), by striking ''(in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection)'';

(F) in paragraph (5), by striking ''(in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection)'';

(G) by striking paragraphs (7) and (8); and

(H) by redesignating paragraph (9) as paragraph (7).

(b) CLARIFICATION OF TREATMENT OF MEMBERS OF LANGUAGE MINORITY GROUPS.—Section 4(a)(1) of such Act (52 U.S.C. 10303(a)(1)) is amended by striking ''race or color,'' and inserting ''race, color, or in contravention of the guarantees of subsection (f)(2),''.

(c) ADMINISTRATIVE BAILOUT.—

(1) IN GENERAL.—Section 4 of the Voting Rights Act of 1965 (52 U.S.C. 10303) is amended by adding at the end the following:

''(g) ADMINISTRATIVE BAILOUT.—

''(1) DETERMINATION OF ELIGIBILITY.—

''(A) IN GENERAL.—After making a determination under subsection (b)(1)(A) that the provisions of subsection (a) apply with respect to a State and all political subdivisions within the State, the Attorney General shall determine if any political subdivision of the State is eligible for an exemption under this subsection, and shall publish, in the Federal Register, a list of all such political subdivisions. Any political subdivision included on such list is not subject to any requirement under section 5 until the date on which any application under this section has been finally disposed of or no such application may be made.

''(B) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to provide—

''(i) that the determinations made pursuant to the creation of the list shall have any binding or preclusive effect; or

''(ii) that inclusion on the list—

''(I) constitutes a final determination by the Attorney General that the listee is eligible for an exemption pursuant to this subsection or that, in the case of the listee, the provisions of subparagraphs (A) through (F) of subsection (a)(1) are satisfied; or

''(II) entitles the listee to any exemption pursuant to this subsection.

''(2) ELIGIBILITY.—A political subdivision that submits an application under paragraph (3) shall be eligible for an exemption under this subsection only if, during the ten years preceding the filing of the application, and during the pendency of such application—

''(A) no test of device referred to in subsection (a)(1) has been used within such political subdivision for the purpose or with the effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees of subsection (f)(2);

''(B) no final judgment of any court of the United States, other than the denial of declaratory judgment under this section, has determined that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such political subdivision or that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such subdivision and no consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds; and no declaratory judgment under this section shall be entered during the pendency of an action commenced before the filing of an action under this section and alleging such denials or abridgements of the right to vote;

''(C) no Federal examiners or observers under this Act have been assigned to such political subdivision;

''(D) such political subdivision and all governmental units within its territory have complied with section 5 of this Act, including compliance with the requirement that no change covered by section 5 has been enforced without preclearance under section 5, and have repealed all changes covered by section 5 to which the Attorney General has successfully objected or as to which the United States District Court for the District of Columbia has denied a declaratory judgment;

''(E) the Attorney General has not interposed any objection (that has not been overturned by a final judgment of a court) and no declaratory judgment has been denied under section 5, with respect to any submission by or on behalf of the plaintiff or any governmental unit within its territory under section 5, and no such submissions or declaratory judgment actions are pending; and

''(F) such political subdivision and all governmental units within its territory—

''(i) have eliminated voting procedures and methods of election which inhibit or dilute equal access to the electoral process;

''(ii) have engaged in constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under this Act; and

''(iii) have engaged in other constructive efforts, such as expanded opportunity for convenient registration and voting for every person of voting age and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process.

''(3) APPLICATION PERIOD.—Not later than 90 days after the publication of the list under paragraph (1), a political subdivision included on such list may submit an application, containing such information as the Attorney General may require, for an exemption under this subsection. The Attorney General shall provide notice in the Federal Register of such application.

''(4) COMMENT PERIOD.—During the 90-day period beginning on the date that notice is published under paragraph (3), the Attorney General shall give interested persons an opportunity to submit objections to the issuance of an exemption under this subsection to a political subdivision on the basis that the political subdivision is not eligible under paragraph (2) to the Attorney General. During the 1 year period beginning on the effective date of this subsection, such 90-day period shall be extended by an additional 30 days. The Attorney General shall notify the political subdivision of each objection submitted and afford the political subdivision an opportunity to respond.

''(5) DETERMINATION AS TO OBJECTIONS.—In the case of a political subdivision with respect to which an objection has been submitted under paragraph (4), the following shall apply:

''(A) CONSIDERATION OF OBJECTIONS.—The Attorney General shall consider and respond to each such objection (and any response of the political subdivision thereto) during the 60 day period beginning on the day after the comment period under paragraph (4) concludes.

''(B) JUSTIFIED OBJECTIONS.—If the Attorney General determines that any such objection is justified, the Attorney General shall publish notice in the Federal Register denying the application for an exemption under this subsection.

''(C) UNJUSTIFIED OBJECTIONS.—If the Attorney General determines that no objection submitted is justified, each person that submitted such an objection may, not later than 90 days after the end of the period established under subparagraph (A), file, in the District Court of the District of Columbia, an action for judicial review of such determination in accordance with chapter 7 of title 5, United States Code.

''(6) EXEMPTION.—The Attorney General may issue an exemption, by publication in the Federal Register, from the application of the provisions of subsection (a) with respect to a political subdivision that—

''(A) is eligible under paragraph (2); and

''(B) with respect to which no objection under was submitted under paragraph (4) or determined to be justified under paragraph (5).

''(7) JUDICIAL REVIEW.—Except as otherwise explicitly provided in this subsection, no determination under this subsection shall be subject to review by any court, and all determinations under this subsection are committed to the discretion of the Attorney General.

''(8) SAVINGS CLAUSE.—If a political subdivision was not subject to the application of the provisions of subsection (a) by reason of a declaratory judgment entered prior to the effective date of this subsection, and such political subdivision has not violated any eligibility requirement set forth in paragraph (2) at any time thereafter, then that political subdivision shall not be subject to the requirements of subsection (a).''.

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Section 4(a)(1) of the Voting Rights Act of 1965 (52 U.S.C. 10303(a)(1)), as amended by this Act, is further amended by inserting after ''the United States District Court for the District of Columbia issues a declaratory judgment under this section'' the following: '', or, in the case of a political subdivision, the Attorney General issues an exemption under subsection (g)''.

(B) EXPIRATION OF TIME LIMIT.—On the date that is 1 year after the effective date of this subsection, section 4(g)(3) of the Voting Rights Act of 1965 (52 U.S.C. 10303(g)(3)) is amended by striking ''During the 1 year period beginning on the effective date of this subsection, such 90-day period shall be extended by an additional 30 days.''. For purposes of any periods under such section commenced as of such date, the 90-day period shall remain extended by an additional 30 days.

SEC. 6. DETERMINATION OF STATES AND POLITICAL SUBDIVISIONS SUBJECT TO PRECLEARANCE FOR COVERED PRACTICES.

The Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.) is further amended by inserting after section 4 the following:

''SEC. 4A. DETERMINATION OF STATES AND POLITICAL SUBDIVISIONS SUBJECT TO PRECLEARANCE FOR COVERED PRACTICES.

''(a) PRACTICE-BASED PRECLEARANCE.—

''(1) IN GENERAL.—Each State and each political subdivision shall—

''(A) identify any newly enacted or adopted law, regulation, or policy that includes a voting qualification or prerequisite to voting, or a standard, practice, or procedure with respect to voting, that is a covered practice described in subsection (b); and

''(B) ensure that no such covered practice is implemented unless or until the State or political subdivision, as the case may be, complies with subsection (c).

''(2) DETERMINATIONS OF CHARACTERISTICS OF VOTING-AGE POPULATION.—

''(A) IN GENERAL.—As early as practicable during each calendar year, the Attorney General, in consultation with the Director of the Bureau of the Census and the heads of other relevant offices of the government, shall make the determinations required by this section regarding voting-age populations and the characteristics of such populations, and shall publish a list of the States and political subdivisions to which a voting-age population characteristic described in subsection (b) applies.

''(B) PUBLICATION IN THE FEDERAL REGISTER.—A determination or certification of the Attorney General under this paragraph shall be effective upon publication in the Federal Register.

''(b) COVERED PRACTICES.—To assure that the right of citizens of the United States to vote is not denied or abridged on account of race, color, or membership in a language minority group as a result of the implementation of certain qualifications or prerequisites to voting, or standards, practices, or procedures with respect to voting newly adopted in a State or political subdivision, the following shall be covered practices subject to the requirements described in subsection (a):

''(1) CHANGES TO METHOD OF ELECTION.—Any change to the method of election—

''(A) to add seats elected at-large in a State or political subdivision where—

''(i) two or more racial groups or language minority groups each represent 20 percent or more of the political subdivision's voting-age population; or

''(ii) a single language minority group represents 20 percent or more of the voting-age population on Indian lands located in whole or in part in the political subdivision; or

''(B) to convert one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district in a State or political subdivision where—

''(i) two or more racial groups or language minority groups each represent 20 percent or more of the political subdivision's voting-age population; or

''(ii) a single language minority group represents 20 percent or more of the voting-age population on Indian lands located in whole or in part in the political subdivision.

''(2) CHANGES TO JURISDICTION BOUNDARIES.—Any change or series of changes within a year to the boundaries of a jurisdiction that reduces by 3 or more percentage points the proportion of the jurisdiction's voting-age population that is comprised of members of a single racial group or language minority group in a State or political subdivision where—

''(A) two or more racial groups or language minority groups each represent 20 percent or more of the political subdivision's voting-age population; or

''(B) a single language minority group represents 20 percent or more of the voting-age population on Indian lands located in whole or in part in the political subdivision.

''(3) CHANGES THROUGH REDISTRICTING.—Any change to the boundaries of election districts in a State or political subdivision where any racial group or language minority group that is not the largest racial group or language minority group in the jurisdiction and that represents 15 percent or more of the State or political subdivision's voting-age population experiences a population increase of at least 20 percent of its voting-age population, over the preceding decade (as calculated by the Bureau of the Census under the most recent decennial census), in the jurisdiction.

''(4) CHANGES IN DOCUMENTATION OR QUALIFICATIONS TO VOTE.—Any change to requirements for documentation or proof of identity to vote or register to vote that will exceed or be more stringent than such requirements under State law on the day before the date of enactment of the John R. Lewis Voting Rights Advancement Act of 2021; and further, if a State has in effect a requirement that an individual present identification as a condition of receiving and casting a ballot in an election for Federal office, if the State does not permit the individual to meet the requirement and cast a ballot in the election in the same manner as an individual who presents identification—

''(A) in the case of an individual who desires to vote in person, by presenting the appropriate State or local election official with a sworn written statement, signed by the individual under penalty of perjury, attesting to the individual's identity and attesting that the individual is eligible to vote in the election; and

''(B) in the case of an individual who desires to vote by mail, by submitting with the ballot the statement described in subparagraph (A).

''(5) CHANGES TO MULTILINGUAL VOTING MATERIALS.—Any change that reduces multilingual voting materials or alters the manner in which such materials are provided or distributed, where no similar reduction or alteration occurs in materials provided in English for such election.

''(6) CHANGES THAT REDUCE, CONSOLIDATE, OR RELOCATE VOTING LOCATIONS, OR REDUCE VOTING OPPORTUNITIES.—Any change that reduces, consolidates, or relocates voting locations, including early, absentee, and election-day voting locations, or reduces days or hours of in-person voting on any Sunday during a period occurring prior to the date of an election during which voters may cast ballots in such election, or prohibits the provision of food or non-alcoholic drink to persons waiting to vote in an election except where the provision would violate prohibitions on expenditures to influence voting—

''(A) in one or more census tracts wherein two or more language minority groups or racial groups each represent 20 percent or more of the voting-age population of the political subdivision; or

''(B) on Indian lands wherein at least 20 percent of the voting-age population belongs to a single language minority group.

''(7) NEW LIST MAINTENANCE PROCESS.—Any change to the maintenance of voter registration lists that adds a new basis for removal from the list of active registered voters or that incorporates new sources of information in determining a voter's eligibility to vote, wherein such a change would have a statistically significant disparate impact on the removal from voter rolls of members of racial groups or language minority groups that constitute greater than 5 percent of the voting-age population—

''(A) in the case of a political subdivision imposing such change if—

''(i) two or more racial groups or language minority groups each represent 20 percent or more of the voting-age population of the political subdivision; or

''(ii) a single language minority group represents 20 percent or more of the voting-age population on Indian lands located in whole or in part in the political subdivision; or

''(B) in the case of a State imposing such change, if two or more racial groups or language minority groups each represent 20 percent or more of the voting-age population of—

''(i) the State; or

''(ii) a political subdivision in the State, except that the requirements under subsections (a) and (c) shall apply only with respect to each such political subdivision.

''(c) PRECLEARANCE.—

''(1) IN GENERAL.—Whenever a State or political subdivision with respect to which the requirements set forth in subsection (a) are in effect shall enact, adopt, or seek to implement any covered practice described under subsection (b), such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such covered practice neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, and unless and until the court enters such judgment such covered practice shall not be implemented. Notwithstanding the previous sentence, such covered practice may be implemented without such proceeding if the covered practice has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within 60 days after such submission, or upon good cause shown, to facilitate an expedited approval within 60 days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin implementation of such covered practice. In the event the Attorney General affirmatively indicates that no objection will be made within the 60-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to the Attorney General's attention during the remainder of the 60-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court.

''(2) DENYING OR ABRIDGING THE RIGHT TO VOTE.—Any covered practice described in subsection (b) that has the purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race, color, or membership in a language minority group, to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of paragraph (1) of this subsection.

''(3) PURPOSE DEFINED.—The term 'purpose' in paragraphs (1) and (2) of this subsection shall include any discriminatory purpose.

''(4) PURPOSE OF PARAGRAPH (2).—The purpose of paragraph (2) of this subsection is to protect the ability of such citizens to elect their preferred candidates of choice.

''(d) ENFORCEMENT.—The Attorney General or any aggrieved citizen may file an action in a Federal district court to compel any State or political subdivision to satisfy the obligations set forth in this section. Such actions shall be heard and determined by a court of three judges under section 2284 of title 28, United States Code. In any such action, the court shall provide as a remedy that any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting, that is the subject of the action under this subsection be enjoined unless the court determines that—

''(1) the voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting, is not a covered practice described in subsection (b); or

''(2) the State or political subdivision has complied with subsection (c) with respect to the covered practice at issue.

''(e) COUNTING OF RACIAL GROUPS AND LANGUAGE MINORITY GROUPS.—For purposes of this section, the calculation of the population of a racial group or a language minority group shall be carried out using the methodology in the guidance promulgated in the Federal Register on February 9, 2011 (76 Fed. Reg. 7470).

''(f) SPECIAL RULE.—For purposes of determinations under this section, any data provided by the Bureau of the Census, whether based on estimation from sample or actual enumeration, shall not be subject to challenge or review in any court.

''(g) MULTILINGUAL VOTING MATERIALS.—In this section, the term 'multilingual voting materials' means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, provided in the language or languages of one or more language minority groups.''.

SEC. 7. PROMOTING TRANSPARENCY TO ENFORCE THE VOTING RIGHTS ACT.

(a) TRANSPARENCY.—

(1) IN GENERAL.—The Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.) is amended by inserting after section 5 the following new section:

''SEC. 6. TRANSPARENCY REGARDING CHANGES TO PROTECT VOTING RIGHTS.

''(a) NOTICE OF ENACTED CHANGES.—

''(1) NOTICE OF CHANGES.—If a State or political subdivision makes any change in any qualification or prerequisite to voting or standard, practice, or procedure with respect to voting in any election for Federal office that will result in the qualification or prerequisite, standard, practice, or procedure being different from that which was in effect as of 180 days before the date of the election for Federal office, the State or political subdivision shall provide reasonable public notice in such State or political subdivision and on the website of the State or political subdivision, of a concise description of the change, including the difference between the changed qualification or prerequisite, standard, practice, or procedure and the prerequisite, standard, practice, or procedure which was previously in effect. The public notice described in this paragraph, in such State or political subdivision and on the website of a State or political subdivision, shall be in a format that is reasonably convenient and accessible to persons with disabilities who are eligible to vote, including persons who have low vision or are blind.

''(2) DEADLINE FOR NOTICE.—A State or political subdivision shall provide the public notice required under paragraph (1) not later than 48 hours after making the change involved.

''(b) TRANSPARENCY REGARDING POLLING PLACE RESOURCES.—

''(1) IN GENERAL.—In order to identify any changes that may impact the right to vote of any person, prior to the 30th day before the date of an election for Federal office, each State or political subdivision with responsibility for allocating registered voters, voting machines, and official poll workers to particular precincts and polling places shall provide reasonable public notice in such State or political subdivision and on the website of a State or political subdivision, of the information described in paragraph (2) for precincts and polling places within such State or political subdivision. The public notice described in this paragraph, in such State or political subdivision and on the website of a State or political subdivision, shall be in a format that is reasonably convenient and accessible to persons with disabilities who are eligible to vote, including persons who have low vision or are blind.

''(2) INFORMATION DESCRIBED.—The information described in this paragraph with respect to a precinct or polling place is each of the following:

''(A) The name or number.

''(B) In the case of a polling place, the location, including the street address, and whether such polling place is accessible to persons with disabilities.

''(C) The voting-age population of the area served by the precinct or polling place, broken down by demographic group if such breakdown is reasonably available to such State or political subdivision.

''(D) The number of registered voters assigned to the precinct or polling place, broken down by demographic group if such breakdown is reasonably available to such State or political subdivision.

''(E) The number of voting machines assigned, including the number of voting machines accessible to persons with disabilities who are eligible to vote, including persons who have low vision or are blind.

''(F) The number of official paid poll workers assigned.

''(G) The number of official volunteer poll workers assigned.

''(H) In the case of a polling place, the dates and hours of operation.

''(3) UPDATES IN INFORMATION REPORTED.—If a State or political subdivision makes any change in any of the information described in paragraph (2), the State or political subdivision shall provide reasonable public notice in such State or political subdivision and on the website of a State or political subdivision, of the change in the information not later than 48 hours after the change occurs or, if the change occurs fewer than 48 hours before the date of the election for Federal office, as soon as practicable after the change occurs. The public notice described in this paragraph and published on the website of a State or political subdivision shall be in a format that is reasonably convenient and accessible to persons with disabilities who are eligible to vote, including persons who have low vision or are blind.

''(c) TRANSPARENCY OF CHANGES RELATING TO DEMOGRAPHICS AND ELECTORAL DISTRICTS.—

''(1) REQUIRING PUBLIC NOTICE OF CHANGES.—Not later than 10 days after making any change in the constituency that will participate in an election for Federal, State, or local office or the boundaries of a voting unit or electoral district in an election for Federal, State, or local office (including through redistricting, reapportionment, changing from at-large elections to district-based elections, or changing from district-based elections to at-large elections), a State or political subdivision shall provide reasonable public notice in such State or political subdivision and on the website of a State or political subdivision, of the demographic and electoral data described in paragraph (3) for each of the geographic areas described in paragraph (2).

''(2) GEOGRAPHIC AREAS DESCRIBED.—The geographic areas described in this paragraph are as follows:

''(A) The State as a whole, if the change applies statewide, or the political subdivision as a

whole, if the change applies across the entire political subdivision.

''(B) If the change includes a plan to replace or eliminate voting units or electoral districts, each voting unit or electoral district that will be replaced or eliminated.

''(C) If the change includes a plan to establish new voting units or electoral districts, each such new voting unit or electoral district.

''(3) DEMOGRAPHIC AND ELECTORAL DATA.—The demographic and electoral data described in this paragraph with respect to a geographic area described in paragraph (2) are each of the following:

''(A) The voting-age population, broken down by demographic group.

''(B) If it is reasonably available to the State or political subdivision involved, an estimate of the population of the area which consists of citizens of the United States who are 18 years of age or older, broken down by demographic group.

''(C) The number of registered voters, broken down by demographic group if such breakdown is reasonably available to the State or political subdivision involved.

''(D)(i) If the change applies to a State, the actual number of votes, or (if it is not reasonably practicable for the State to ascertain the actual number of votes) the estimated number of votes received by each candidate in each statewide election held during the 5-year period which ends on the date the change involved is made; and

''(ii) if the change applies to only one political subdivision, the actual number of votes, or (if it is not reasonably practicable for the political subdivision to ascertain the actual number of votes) in each subdivision-wide election held during the 5-year period which ends on the date the change involved is made.

''(4) VOLUNTARY COMPLIANCE BY SMALLER JURISDICTIONS.—Compliance with this subsection shall be voluntary for a political subdivision of a State unless the subdivision is one of the following:

''(A) A county or parish.

''(B) A municipality with a population greater than 10,000, as determined by the Bureau of the Census under the most recent decennial census.

''(C) A school district with a population greater than 10,000, as determined by the Bureau of the Census under the most recent decennial census. For purposes of this subparagraph, the term 'school district' means the geographic area under the jurisdiction of a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965).

''(d) RULES REGARDING FORMAT OF INFORMATION.—The Attorney General may issue rules specifying a reasonably convenient and accessible format that States and political subdivisions shall use to provide public notice of information under this section.

''(e) NO DENIAL OF RIGHT TO VOTE.—The right to vote of any person shall not be denied or abridged because the person failed to comply with any change made by a State or political subdivision to a voting qualification, prerequisite, standard, practice, or procedure if the State or political subdivision involved did not meet the applicable requirements of this section with respect to the change.

''(f) DEFINITIONS.—In this section—

''(1) the term 'demographic group' means each group which section 2 protects from the denial or abridgement of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2);

''(2) the term 'election for Federal office' means any general, special, primary, or runoff election held solely or in part for the purpose of electing any candidate for the office of President, Vice President, Presidential elector, Senator, Member of the House of Representatives, or Delegate or Resident Commissioner to the Congress; and

''(3) the term 'persons with disabilities', means individuals with a disability, as defined in section 3 of the Americans with Disabilities Act of 1990.''.

(2) CONFORMING AMENDMENT.—Section 3(a) of such Act (52 U.S.C. 10302(a)) is amended by striking ''in accordance with section 6''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply with respect to changes which are made on or after the expiration of the 60-day period which begins on the date of the enactment of this Act.

SEC. 8. AUTHORITY TO ASSIGN OBSERVERS.

(a) CLARIFICATION OF AUTHORITY IN POLITICAL SUBDIVISIONS SUBJECT TO PRECLEARANCE.—Section 8(a)(2)(B) of the Voting Rights Act of 1965 (52 U.S.C. 10305(a)(2)(B)) is amended to read as follows:

''(B) in the Attorney General's judgment, the assignment of observers is otherwise necessary to enforce the guarantees of the 14th or 15th Amendment or any provision of this Act or any other Federal law protecting the right of citizens of the United States to vote; or''.

(b) ASSIGNMENT OF OBSERVERS TO ENFORCE BILINGUAL ELECTION REQUIREMENTS.—Section 8(a) of such Act (52 U.S.C. 10305(a)) is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by inserting after paragraph (2) the following:

''(3) the Attorney General certifies with respect to a political subdivision that—

''(A) the Attorney General has received written meritorious complaints from residents, elected officials, or civic participation organizations that efforts to violate section 203 are likely to occur; or

''(B) in the Attorney General's judgment, the assignment of observers is necessary to enforce the guarantees of section 203;''; and

(3) by moving the margin for the continuation text following paragraph (3), as added by paragraph (2) of this subsection, 2 ems to the left.

(c) TRANSFERRAL OF AUTHORITY OVER OBSERVERS TO THE ATTORNEY GENERAL.—

(1) ENFORCEMENT PROCEEDINGS.—Section 3(a) of the Voting Rights Act of 1965 (52 U.S.C. 10302(a)) is amended by striking ''United States Civil Service Commission in accordance with section 6'' and inserting ''Attorney General in accordance with section 8''.

(2) OBSERVERS; APPOINTMENT AND COMPENSATION.—Section 8 of the Voting Rights Act of 1965 (52 U.S.C. 10305) is amended—

(A) in subsection (a)(2), in the matter following subparagraph (B), by striking ''Director of the Office of Personnel Management shall assign as many observers for such subdivision as the Director'' and inserting ''Attorney General shall assign as many observers for such subdivision as the Attorney General''; and

(B) in subsection (c), by striking ''Director of the Office of Personnel Management'' and inserting ''Attorney General''.

(3) TERMINATION OF CERTAIN APPOINTMENTS OF OBSERVERS.—Section 13(a)(1) of the Voting Rights Act of 1965 (52 U.S.C. 10309(a)(1)) is amended by striking ''notifies the Director of the Office of Personnel Management,'' and inserting ''determines,''.

SEC. 9. CLARIFICATION OF AUTHORITY TO SEEK RELIEF.

(a) POLL TAX.—Section 10(b) of the Voting Rights Act of 1965 (52 U.S.C. 10306(b)) is amended by striking ''the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions'' and inserting ''an aggrieved person or (in the name of the United States) the Attorney General may institute such actions''.

(b) CAUSE OF ACTION.—Section 12(d) of the Voting Rights Act of 1965 (52 U.S.C. 10308(d)) is amended—

(1) by striking ''Whenever any person has engaged'' and all that follows through ''in the name of the United States'' and inserting ''(1) Whenever there are reasonable grounds to believe that any person has implemented or will implement any voting qualification or prerequisite to voting or standard, practice, or procedure that would (A) deny any citizen the right to vote in violation of the 14th, 15th, 19th, 24th, or 26th Amendments, or (B) would violate this Act (except for section 4A) or any other Federal law that prohibits discrimination on the basis of race, color, or membership in a language minority group in the voting process, an aggrieved person or (in the name of the United States) the Attorney General may institute''; and

(2) by striking '', and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under chapters 103 to 107 of this title to vote and (2) to count such votes''.

(c) JUDICIAL RELIEF.—Section 204 of the Voting Rights Act of 1965 (52 U.S.C. 10504) is amended by striking ''Whenever the Attorney General has reason to believe'' and all that follows through ''as he deems appropriate'' and inserting ''Whenever there are reasonable grounds to believe that a State or political subdivision has engaged or is about to engage in any act or practice prohibited by a provision of title II, an aggrieved person or (in the name of the United States) the Attorney General may institute an action in a district court of the United States, for a restraining order, a preliminary or permanent injunction, or such other order as may be appropriate''.

(d) ENFORCEMENT OF TWENTY-SIXTH AMENDMENT.—Section 301(a)(1) of the Voting Rights Act of 1965 (52 U.S.C. 10701) is amended by striking ''The Attorney General is directed to institute'' and all that follows through ''Constitution of the United States'' and inserting ''An aggrieved person or (in the name of the United States) the Attorney General may institute an action in a district court of the United States, for a restraining order, a preliminary or permanent injunction, or such other order as may be appropriate to implement the twenty-sixth amendment to the Constitution of the United States''.

SEC. 10. PREVENTIVE RELIEF.

Section 12(d) of the Voting Rights Act of 1965 (52 U.S.C. 10308(d)), as amended by section 9, is further amended by adding at the end the following:

''(2)(A) In considering any motion for preliminary relief in any action for preventive relief described in this subsection, the court shall grant the relief if the court determines that the complainant has raised a serious question as to whether the challenged voting qualification or prerequisite to voting or standard, practice, or procedure violates this Act or the Constitution and, on balance, the hardship imposed on the defendant by the grant of the relief will be less than the hardship which would be imposed on the plaintiff if the relief were not granted.

''(B) In making its determination under this paragraph with respect to a change in any voting qualification, prerequisite to voting, or standard, practice, or procedure with respect to voting, the court shall consider all relevant factors and give due weight to the following factors, if they are present:

''(i) Whether the qualification, prerequisite, standard, practice, or procedure in effect prior to the change was adopted as a remedy for a Federal court judgment, consent decree, or admission regarding—

''(I) discrimination on the basis of race or color in violation of the 14th or 15th Amendment;

''(II) a violation of the 19th, 24th, or 26th Amendments;

''(III) a violation of this Act; or

''(IV) voting discrimination on the basis of race, color, or membership in a language minority group in violation of any other Federal or State law.

''(ii) Whether the qualification, prerequisite, standard, practice, or procedure in effect prior

to the change served as a ground for the dismissal or settlement of a claim alleging—

''(I) discrimination on the basis of race or color in violation of the 14th or 15th Amendment;

''(II) a violation of the 19th, 24th, or 26th Amendment;

''(III) a violation of this Act; or

''(IV) voting discrimination on the basis of race, color, or membership in a language minority group in violation of any other Federal or State law.

''(iii) Whether the change was adopted fewer than 180 days before the date of the election with respect to which the change is to take or takes effect.

''(iv) Whether the defendant has failed to provide timely or complete notice of the adoption of the change as required by applicable Federal or State law.

''(3) A jurisdiction's inability to enforce its voting or election laws, regulations, policies, or redistricting plans, standing alone, shall not be deemed to constitute irreparable harm to the public interest or to the interests of a defendant in an action arising under the Constitution or any Federal law that prohibits discrimination on the basis of race, color, or membership in a language minority group in the voting process, for the purposes of determining whether a stay of a court's order or an interlocutory appeal under section 1253 of title 28, United States Code, is warranted.''.

SEC. 11. RELIEF FOR VIOLATIONS OF VOTING RIGHTS LAWS.

(a) IN GENERAL.—

(1) RELIEF FOR VIOLATIONS OF VOTING RIGHTS LAWS.—In this section, the term ''prohibited act or practice'' means—

(A) any act or practice—

(i) that creates an undue burden on the fundamental right to vote in violation of the 14th Amendment to the Constitution of the United States or violates the Equal Protection Clause of the 14th Amendment to the Constitution of the United States; or

(ii) that is prohibited by the 15th, 19th, 24th, or 26th Amendment to the Constitution of the United States, section 2004 of the Revised Statutes (52 U.S.C. 10101), the Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.), the National Voter Registration Act of 1993 (52 U.S.C. 20501 et seq.), the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. 20301 et seq.), the Help America Vote Act of 2002 (52 U.S.C. 20901 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. 20101 et seq.), or section 2003 of the Revised Statutes (52 U.S.C. 10102); and

(B) any act or practice in violation of any Federal law that prohibits discrimination with respect to voting, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to diminish the authority or scope of authority of any person to bring an action under any Federal law.

(3) ATTORNEY'S FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting ''a provision described in section 2(a) of the John R. Lewis Voting Rights Advancement Act of 2021,'' after ''title VI of the Civil Rights Act of 1964,''.

(b) GROUNDS FOR EQUITABLE RELIEF.—In any action for equitable relief pursuant to a law listed under subsection (a), proximity of the action to an election shall not be a valid reason to deny such relief, or stay the operation of or vacate the issuance of such relief, unless the party opposing the issuance or continued operation of relief meets the burden of proving by clear and convincing evidence that the issuance of the relief would be so close in time to the election as to cause irreparable harm to the public interest or that compliance with such relief would impose serious burdens on the party opposing relief.

(1) IN GENERAL.—In considering whether to grant, deny, stay, or vacate any order of equitable relief, the court shall give substantial weight to the public's interest in expanding access to the right to vote. A State's generalized interest in enforcing its enacted laws shall not be a relevant consideration in determining whether equitable relief is warranted.

(2) PRESUMPTIVE SAFE HARBOR.—Where equitable relief is sought either within 30 days of the adoption or reasonable public notice of the challenged policy or practice, or more than 45 days before the date of an election to which the relief being sought will apply, proximity to the election will be presumed not to constitute a harm to the public interest or a burden on the party opposing relief.

(c) GROUNDS FOR STAY OR VACATUR IN FEDERAL CLAIMS INVOLVING VOTING RIGHTS.—

(1) PROSPECTIVE EFFECT.—In reviewing an application for a stay or vacatur of equitable relief granted pursuant to a law listed in subsection (a), a court shall give substantial weight to the reliance interests of citizens who acted pursuant to such order under review. In fashioning a stay or vacatur, a reviewing court shall not order relief that has the effect of denying or abridging the right to vote of any citizen who has acted in reliance on the order.

(2) WRITTEN EXPLANATION.—No stay or vacatur under this subsection shall issue unless the reviewing court makes specific findings that the public interest, including the public's interest in expanding access to the ballot, will be harmed by the continuing operation of the equitable relief or that compliance with such relief will impose serious burdens on the party seeking such a stay or vacatur such that those burdens substantially outweigh the benefits to the public interest. In reviewing an application for a stay or vacatur of equitable relief, findings of fact made in issuing the order under review shall not be set aside unless clearly erroneous.

SEC. 12. ENFORCEMENT OF VOTING RIGHTS BY ATTORNEY GENERAL.

Section 12 of the Voting Rights Act (52 U.S.C. 10308), as amended by this Act, is further amended by adding at the end the following:

''(g) VOTING RIGHTS ENFORCEMENT BY ATTORNEY GENERAL.—

''(1) IN GENERAL.—In order to fulfill the Attorney General's responsibility to enforce the Voting Rights Act and other Federal civil rights statutes that protect the right to vote, the Attorney General (or upon designation by the Attorney General, the Assistant Attorney General for Civil Rights) is authorized, before commencing a civil action, to issue a demand for inspection and information in writing to any State or political subdivision, or other governmental representative or agent, with respect to any relevant documentary material that he has reason to believe is within their possession, custody, or control. A demand by the Attorney General under this section may require—

''(A) the production of such documentary material for inspection and copying;

''(B) answers in writing to written questions with respect to such documentary material; or

''(C) both.

''(2) CONTENTS OF AN ATTORNEY GENERAL DEMAND.—

''(A) IN GENERAL.—Any demand issued under paragraph (1), shall include a sworn certificate to identify the voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting, or other voting related matter or issue, whose lawfulness the Attorney General is investigating and to identify the civil provisions of the Federal civil rights statute that protects the right to vote under which the investigation is being conducted. The demand shall be reasonably calculated to lead to the discovery of documentary material and information relevant to such civil rights investigation. Documentary material includes any material upon which relevant information is recorded, and includes written or printed materials, photographs, tapes, or materials upon which information is electronically or magnetically recorded. Such demands are aimed at the Attorney General having the ability to inspect and obtain copies of relevant materials (as well as obtain information) related to voting and are not aimed at the Attorney General taking possession of original records, particularly those that are required to be retained by State and local election officials under Federal or State law.

''(B) NO REQUIREMENT FOR PRODUCTION.—Any demand issued under paragraph (1) may not require the production of any documentary material or the submission of any answers in writing to written questions if such material or answers would be protected from disclosure under the standards applicable to discovery requests under the Federal Rules of Civil Procedure in an action in which the Attorney General or the United States is a party.

''(C) DOCUMENTARY MATERIAL.—If the demand issued under paragraph (1) requires the production of documentary material, it shall—

''(i) identify the class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified; and

''(ii) prescribe a return date for production of the documentary material at least twenty days after issuance of the demand to give the State or political subdivision, or other governmental representative or agent, a reasonable period of time for assembling the documentary material and making it available for inspection and copying.

''(D) ANSWERS TO WRITTEN QUESTIONS.—If the demand issued under paragraph (1) requires answers in writing to written questions, it shall—

''(i) set forth with specificity the written question to be answered; and

''(ii) prescribe a date at least twenty days after the issuance of the demand for submitting answers in writing to the written questions.

''(E) SERVICE.—A demand issued under paragraph (1) may be served by a United States marshal or a deputy marshal, or by certified mail, at any place within the territorial jurisdiction of any court of the United States.

''(3) RESPONSES TO AN ATTORNEY GENERAL DEMAND.—A State or political subdivision, or other governmental representative or agent, must, with respect to any documentary material or any answer in writing produced under this subsection, provide a sworn certificate, in such form as the demand issued under paragraph (1) designates, by a person having knowledge of the facts and circumstances relating to such production or written answer, authorized to act on behalf of the State or political subdivision, or other governmental representative or agent, upon which the demand was served. The certificate—

''(A) shall state that—

''(i) all of the documentary material required by the demand and in the possession, custody, or control of the State or political subdivision, or other governmental representative or agent, has been produced;

''(ii) that with respect to every answer in writing to a written question, all information required by the question and in the possession, custody, control, or knowledge of the State or political subdivision, or other governmental representative or agent, has been submitted; or

''(iii) both; or

''(B) provide the basis for any objection to producing the documentary material or answering the written question.

To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

''(4) JUDICIAL PROCEEDINGS.—

''(A) PETITION FOR ENFORCEMENT.—Whenever any State or political subdivision, or other governmental representative or agent, fails to comply with demand issued by the Attorney General under paragraph (1), the Attorney General may file, in a district court of the United States in

which the State or political subdivision, or other governmental representative or agent, is located, a petition for a judicial order enforcing the Attorney General demand issued under paragraph (1).

''(B) PETITION TO MODIFY.—

''(i) IN GENERAL.—Any State or political subdivision, or other governmental representative or agent, that is served with a demand issued by the Attorney General under paragraph (1) may file in the United States District Court for the District of Columbia a petition for an order of the court to modify or set aside the demand of the Attorney General.

''(ii) PETITION TO MODIFY.—Any petition to modify or set aside a demand of the Attorney General issued under paragraph (1) must be filed within 20 days after the date of service of the Attorney General's demand or at any time before the return date specified in the Attorney General's demand, whichever date is earlier.

''(iii) CONTENTS OF PETITION.—The petition shall specify each ground upon which the petitioner relies in seeking relief under clause (i), and may be based upon any failure of the Attorney General's demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the State or political subdivision, or other governmental representative or agent. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the Attorney General's demand, in whole or in part, except that the State or political subdivision, or other governmental representative or agent, filing the petition shall comply with any portions of the Attorney General's demand not sought to be modified or set aside.''.

SEC. 13. DEFINITIONS.

Title I of the Voting Rights Act of 1965 (52 U.S.C. 10301) is amended by adding at the end the following:

''SEC. 21. DEFINITIONS.

''In this Act:

''(1) INDIAN.—The term 'Indian' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act.

''(2) INDIAN LANDS.—The term 'Indian lands' means—

''(A) any Indian country of an Indian tribe, as such term is defined in section 1151 of title 18, United States Code;

''(B) any land in Alaska that is owned, pursuant to the Alaska Native Claims Settlement Act, by an Indian tribe that is a Native village (as such term is defined in section 3 of such Act), or by a Village Corporation that is associated with the Indian tribe (as such term is defined in section 3 of such Act);

''(C) any land on which the seat of government of the Indian tribe is located; and

''(D) any land that is part or all of a tribal designated statistical area associated with the Indian tribe, or is part or all of an Alaska Native village statistical area associated with the tribe, as defined by the Bureau of the Census for the purposes of the most recent decennial census.

''(3) INDIAN TRIBE.—The term 'Indian tribe' or 'tribe' has the meaning given the term 'Indian tribe' in section 4 of the Indian Self-Determination and Education Assistance Act.

''(4) TRIBAL GOVERNMENT.—The term 'Tribal Government' means the recognized governing body of an Indian Tribe.

''(5) VOTING-AGE POPULATION.—The term 'voting-age population' means the numerical size of the population within a State, within a political subdivision, or within a political subdivision that contains Indian lands, as the case may be, that consists of persons age 18 or older, as calculated by the Bureau of the Census under the most recent decennial census.''.

SEC. 14. ATTORNEYS' FEES.

Section 14(c) of the Voting Rights Act of 1965 (52 U.S.C. 10310(c)) is amended by adding at the end the following:

''(4) The term 'prevailing party' means a party to an action that receives at least some of the benefit sought by such action, states a colorable claim, and can establish that the action was a significant cause of a change to the status quo.''.

SEC. 15. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) ACTIONS COVERED UNDER SECTION 3.—Section 3(c) of the Voting Rights Act of 1965 (52 U.S.C. 10302(c)) is amended—

(1) by striking ''any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce'' and inserting ''any action under any statute in which a party (including the Attorney General) seeks to enforce''; and

(2) by striking ''at the time the proceeding was commenced'' and inserting ''at the time the action was commenced''.

(b) CLARIFICATION OF TREATMENT OF MEMBERS OF LANGUAGE MINORITY GROUPS.—Section 4(f) of such Act (52 U.S.C. 10303(f)) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) by striking paragraphs (3) and (4).

(c) PERIOD DURING WHICH CHANGES IN VOTING PRACTICES ARE SUBJECT TO PRECLEARANCE UNDER SECTION 5.—Section 5 of such Act (52 U.S.C. 10304) is amended—

(1) in subsection (a), by striking ''based upon determinations made under the first sentence of section 4(b) are in effect'' and inserting ''are in effect during a calendar year'';

(2) in subsection (a), by striking ''November 1, 1964'' and all that follows through ''November 1, 1972'' and inserting ''the applicable date of coverage''; and

(3) by adding at the end the following new subsection:

''(e) The term 'applicable date of coverage' means, with respect to a State or political subdivision—

''(1) June 25, 2013, if the most recent determination for such State or subdivision under section 4(b) was made on or before December 31, 2021; or

''(2) the date on which the most recent determination for such State or subdivision under section 4(b) was made, if such determination was made after December 31, 2021.''.

SEC. 16. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of such a provision or amendment to any person or circumstance, is held to be unconstitutional or is otherwise enjoined or unenforceable, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, and any remaining provision of the Voting Rights Act of 1965, shall not be affected by the holding.

SEC. 17. GRANTS TO ASSIST WITH NOTICE REQUIREMENTS UNDER THE VOTING RIGHTS ACT OF 1965.

(a) IN GENERAL.—The Attorney General shall make grants each fiscal year to small jurisdictions who submit applications under subsection (b) for purposes of assisting such small jurisdictions with compliance with the requirements of the Voting Rights Act of 1965 to submit or publish notice of any change to a qualification, prerequisite, standard, practice or procedure affecting voting.

(b) APPLICATION.—To be eligible for a grant under this section, a small jurisdiction shall submit an application to the Attorney General in such form and containing such information as the Attorney General may require regarding the compliance of such small jurisdiction with the provisions of the Voting Rights Act of 1965.

(c) SMALL JURISDICTION DEFINED.—For purposes of this section, the term ''small jurisdiction'' means any political subdivision of a State with a population of 10,000 or less.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour equally divided and controlled by the chair and the ranking minority member of the Committee on the Judiciary or their respective designees.

The gentleman from New York (Mr. NADLER) and the gentleman from Ohio (Mr. JORDAN) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

□ 1615

GENERAL LEAVE

Mr. NADLER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 4.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021, would revitalize and strengthen the Voting Rights Act of 1965 to confront the onslaught of discriminatory voting laws and practices that have emerged in recent years across the country.

In 2013, the Supreme Court, in Shelby County v. Holder, gutted the Voting Rights Act's most important enforcement mechanism, the Section 5 preclearance regime, which required jurisdictions with a history of discrimination against racial and ethnic minority voters to seek approval of any changes to their voting laws before they could go into effect.

Almost immediately after the decision, many of these jurisdictions unleashed a raft of voter suppression measures, knowing that these laws now could only be challenged after the fact and only through a costly and time-consuming process that made such challenges unlikely and when people's votes had already been improperly invalidated.

When the Court struck down the coverage formula that determined which jurisdictions were subject to preclearance, it explicitly invited Congress to devise a new formula to meet the current need to remedy voting discrimination.

H.R. 4 answers that call.

This legislation would create a new geographic coverage formula that is fine-tuned to capture only those places with longstanding and persistent discrimination. At the same time, it targets only recent discrimination and does not leave jurisdictions frozen in time.

The bill also requires preclearance of certain practices that are historically associated with voting discrimination; it responds to the recent Supreme Court decision in Brnovich v. DNC, which severely limited enforcement of Section 2 of the Voting Rights Act; and it provides other important tools to strengthen enforcement of the VRA.

H.R. 4 rests on a substantial record that documents the myriad ways that

the right to vote, the most fundamental right in a democracy, remains under threat for too many Americans.

I want to thank TERRI SEWELL for introducing this bill, STEVE COHEN for the 13 hearings he held on voting rights in the Constitution Subcommittee, as well as our colleagues on the Subcommittee on Elections and the Committee on House Administration for their work.

I urge all Members to join me in honoring the legacy of our beloved colleague, the late John Lewis, who shed his blood to secure passage of the Voting Rights Act, by supporting this vital legislation.

Madam Speaker, I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. RODNEY DAVIS), the ranking member of the House Administration Committee.

Mr. RODNEY DAVIS of Illinois. Madam Speaker, recently, another friend of ours and our colleague, Congressman BURGESS OWENS, who grew up in the Jim Crow South, testified before my committee, and I want to highlight two very important points he made: Not only is our country not facing a new era of Jim Crow voting laws, as many of my Democrat colleagues have falsely claimed, but it is incredibly offensive to lie to the American people to further a political agenda.

Our country has come a long way since the Jim Crow era, and it is in part because of the Voting Rights Act of 1965.

More Americans voted in the last two elections than in any midterm or Presidential election in our Nation's history. This includes historic turnouts among African Americans and other minority voters.

We should celebrate this progress, not ignore it.

Using Georgia as an example, since my friends on the other side of the aisle were so quick to condemn new election integrity laws in this State; in Georgia, which was once covered under the VRA's preclearance formula, African-American turnout in the last election was 64 percent, compared to 27 percent in 1965. And an amazing 95 percent of the total eligible voting-age population in Georgia is registered to vote.

That is incredible. It is easier to vote in Georgia than it is in Democrat-run States like New York and Delaware and even others.

Democrats on the Committee on House Administration held hearing after hearing on election issues where they produced zero evidence of voter suppression, likely due to the fact that voter discrimination and suppression remain against the law in this country.

Yet, the bill before us goes far beyond the original VRA and would subject every State to preclearance, an extraordinary measure established in 1965 to prevent Democratic-led Southern States, with a history of discrimination, from intimidating and preventing African Americans from voting.

If you vote for this legislation, you are voting for a Federal takeover of elections; you are removing the people elected at the State and local level to run elections from making decisions about how elections are run, including voter ID laws, and putting an unaccountable, unelected election czar at the DOJ, the Attorney General, in charge of all election decisions in this country.

Members of this body and the American people should be asking the simple question: If it is easier to vote today than at any time in our history and more Americans are voting than ever before, then why are Democrats going to such extreme measures to ensure a Federal takeover of elections?

I hope my colleagues and the American people will see this bill for what it is, a partisan power grab which circumvents the people to ensure a one-party rule.

I urge a ''no'' vote on the underlying legislation.

Madam Speaker, I include in the RECORD a report I released as ranking member of the House Administration Committee earlier this month titled ''The Elections Clause: States' Primary Constitutional Authority Over Elections.''

[From Representative Rodney Davis (IL–13), Ranking Member, House of Representatives, Committee on House Administration, Aug. 12, 2021]

REPORT—THE ELECTIONS CLAUSE: STATES' PRIMARY CONSTITUTIONAL AUTHORITY OVER ELECTIONS

EXECUTIVE SUMMARY

Republicans believe that every eligible voter who wants to vote must be able to do so, and all lawful votes must be counted according to state law. Through an examination of history, precedent, the Framers' words, debates concerning ratification, the Supreme Court, and the Constitution itself, this document explains the constitutional division of power envisioned by the Framers between the States and the federal government with respect to election administration. Article 1, Section 4 of the Constitution explains that the States have the primary authority over election administration, the ''times, places, and manner of holding elections''. Conversely, the Constitution grants the Congress a purely secondary role to alter or create election laws only in the extreme cases of invasion, legislative neglect, or obstinate refusal to pass election laws. As do other aspects of our federal system, this division of sovereignty continues to serve to protect one of Americans' most precious freedoms, the right to vote.

The Constitution reserves to the States the primary authority to set election legislation and administer elections—the ''times, places, and manner of holding of elections''—and Congress' power in this space is purely secondary to the States' power. Congress' power is to be employed only in the direst of circumstances. Despite Democrats' insistence that Congress' power over elections is unfettered and permits Congress to enact sweeping legislation like H.R. 1, it is simply not true. History, precedent, the Framers' words, debates concerning ratification, the Supreme Court, and the Constitution itself make this exceedingly clear.

The Framing Generation grappled with the failure of the Articles of Confederation, which provided for only a weak national government incapable of preserving the Union. Under the Articles, the States had exclusive authority over federal elections held within their territory; but, given the difficulties the national government had experienced with State cooperation (e.g., the failure of Rhode Island to send delegates to the Confederation Congress), the Federalists, including Alexander Hamilton, were concerned with the possibility that the States, in an effort to destroy the federal government, simply might not hold elections or that an emergency, such as an invasion or insurrection, might prevent the operation of a State's government, leaving the Congress without Members and the federal government unable to respond. Indeed, as counsel for the Democrat Members of our Committee so keenly observed:

For the Founders, particularly during the Federal Constitutional Convention, the primary concern was informing the discussions of federal elections in Article I was the risk of uncooperative states. For example, Alexander Hamilton noted that by providing states the authority to run congressional elections, under Article I, Section 4, ''risk[ed] 'leaving the existence of the Union entirely at their mercy.''' Following the failings of the Articles of Confederation, the Founders looked for processes that would insulate Congress from recalcitrant states. Indeed, ''[t]he dominant purpose of the Elections Clause, the historical record bears out, was to empower Congress to override state election rules, not to restrict the way States enact legislation[,]'' and that ''the Clause 'was the Framers' insurance against the possibility that a State would refuse to provide for the election of representatives to the Federal Congress.' ''

Quite plainly, Alexander Hamilton, a leading Federalist and proponent of our Constitution, understood the Elections Clause as serving only as a sort of emergency fail-safe, not as a cudgel used to nationalize our elections process. Writing as Publius to the people of New York, Hamilton further expounds on the correct understanding of the Elections Clause: ''T[he] natural order of the subject leads us to consider, in this place, that provision of the Constitution which authorizes the national legislature to regulate, in the last resort, the election of its own members.''

When questioned at the States' constitutional ratifying conventions with respect to this provision, the Federalists confirmed this understanding of a constitutionally limited, secondary congressional power under Article 1, Section 4:

Maryland: ''[C]onvention delegate James McHenry added that the risk to the federal government [without a fail-safe provision] might not arise from state malice: An insurrection or rebellion might prevent a state legislature from administering an election.''

N. Carolina: ''An occasion may arise when the exercise of this ultimate power of Congress may be necessary . . . if a state should be involved in war, and its legislature could not assemble, (as was the case of South Carolina and occasionally of some other states, during the [Revolutionary] war).''

Pennsylvania: ''Sir, let it be remembered that this power can only operate in a case of necessity, after the factious or listless disposition of a particular state has rendered an interference essential to the salvation of the general government.''

John Jay made similar claims in New York. And, as constitutional scholar Robert Natelson, notes in his invaluable article, The Original Scope of the Congressional Power to

Regulate Elections, Alexander Contee Hanson, a member of Congress whose pamphlet supporting the Constitution proved popular, stated flatly that Congress would exercise its times, places, and manner authority only in cases of invasion, legislative neglect or obstinate refusal to pass election laws [providing for the election of Members of Congress], or if a state crafted its election laws with a 'sinister purpose' or to injure the general government.''

Cementing his point, Hanson goes further to decree, ''The exercise of this power must at all times be so very invidious, that congress will not venture upon it without some very cogent and substantial reason.'' In Floor debate during the 117th Congress concerning H.R. 1, the Democrats' intended nationalization of elections, Ranking Member Davis argued, as he has many other times, that:

According to Article 1, Section 4 of the Constitution, States have the primary role in establishing ''[t]he Times, Places and Manner of holding Elections for Senators and Representatives.'' Under the Constitution, Congress has a purely secondary role in this space and must restrain itself from acting improperly and unconstitutionally. Federal election legislation should never be the first step and must never impose burdensome, unfunded federal mandates on state and local elections officials. When Congress does speak, it must devote its efforts only to resolving highly significant and substantial deficiencies. State legislatures are the primary venues to correct most issues.

In fact, had the Democrats' view of the Elections Clause been accepted at the time of the Constitution's drafting—that is, that it offers Congress unfettered power over federal elections—it is likely that the Constitution would not have been ratified or that an amendment to this language would have been required. Indeed, at least seven of the original 13 states—over half and enough to prevent the Constitution from being ratified—expressed specific concerns with the language of the Elections Clause. However, ''[l]eading Federalists . . .'' assured them, ''. . . that, even without amendment, the [Elections] Clause should be construed as limited to emergencies.''

Three states, New York, North Carolina, and Rhode Island, specifically made their ratification contingent on this understanding being made express:

New York: ''Under these impressions and declaring that the rights aforesaid cannot be abridged or violated, and the Explanations aforesaid are consistent with the said Constitution, And in confidence that the Amendments which have been proposed to the said Constitution will receive early and mature Consideration: We the said Delegates, in the Name and in [sic] the behalf of the People of the State of New York Do by these presents Assent to and Ratify the said Constitution. In full Confidence . . . that the Congress will not make or alter any Regulation in this State respecting the times places and manner of holding Elections for Senators or Representatives unless the Legislature of this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and that in those cases such power will only be exercised until the Legislature of this State shall make provision in the Premises[.]''

N. Carolina: ''That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse or be disabled by invasion or rebellion, to prescribe the same.''

Rhode Island: ''Under these impressions, and declaring, that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid, are consistent with the said constitution, and in confidence that the amendments hereafter mentioned, will receive an early and mature consideration, and conformably to the fifth article of said constitution, speedily become a part thereof; We the said delegates, in the name, and in [sic] the behalf of the People, of the State of Rhode-Island and Providence-Plantations, do by these Presents, assent to, and ratify the said Constitution. In full confidence . . . That the Congress will not make or alter any regulation in this State, respecting the times, places and manner of holding elections for senators and representatives, unless the legislature of this state shall neglect, or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that [i]n those cases, such power will only be exercised, until the legislature of this State shall make provision in the Premises[.]

This clearly demonstrates that the Framers designed and the ratifying States understood the Elections Clause to serve solely as a protective backstop to ensure the preservation of the Federal Government, not as a font of limitless power for Congress to wrest control of federal elections from the States.

This understanding was also reinforced by debate during the first Congress that convened under the Constitution. ''During the first session of the First Congress . . . Representative Aedanus Burke unsuccessfully proposed a constitutional amendment to limit the Times, Places and Manner Clause to emergencies.'' But those on both sides of the Burke amendment debate already understood the Elections Clause to limit Federal elections power to emergencies.

For example, the recorded description of opponent Representative Goodhue's comments notes that he believed the Elections Clause as written was intended to prevent ''. . . the State Governments [from] oppos[ing] and thwart[ing] the general one to such a degree as finally to overturn it. Now, to guard against this evil, he wished the Federal Government to possess every power necessary to its existence.'' With any change to the original text therefore unnecessary to achieve Burke's desired goal, Mr. Goodhue voted against the proposed amendment.

Similarly, proponent Representative Smith of South Carolina also believed the original text of the Elections Clause already limited the Federal Government's power over federal elections to emergencies and so thought there would be no harm in supporting an amendment to make that language express. So, even the records of the First Congress reflect a recognition of the emergency nature of congressional power over federal elections.

Similarly, the Supreme Court has supported this understanding. In Smiley v. Holm, the Court held that Article 1, Section 4 of the Constitution reserved to the States the primary

''. . . authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. And these requirements would be nugatory if they did not have appropriate sanctions in the definition of offenses and punishments. All this is comprised in the subject of ''times, places and manner of holding elections,'' and involves lawmaking in its essential features and most important aspect.''

This holding, of course, is consistent with the understanding of the Elections Clause since the framing of the Constitution. The Smiley Court also held that while Congress maintains the authority to ''. . . supplement these state regulations or [to] substitute its own[]'', such authority remains merely ''a general supervisory power over the whole subject.'' More recently, the Court noted in Arizona v. Inter-Tribal Council of Ariz., Inc. that ''[t]his grant of congressional power [that is, the fail-safe provision in the Elections Clause] was the Framers' insurance against the possibility that a State would refuse to provide for the election of representatives to the Federal Congress.'' The Court explained that the Elections Clause ''. . . imposes [upon the States] the duty . . . to prescribe the time, place, and manner of electing Representatives and Senators[.]'' And, while, as the Court noted, ''[t]he power of Congress over the 'Times, Places and Manner' of congressional elections 'is paramount, and may be exercised at any time, and to any extent which it deems expedient; and so far as it is exercised, and no farther, the regulations effected supersede those of the State which are inconsistent therewith[]'', the Inter-Tribal Court explained, quoting extensively from The Federalist no. 59, that it was clear that the congressional fail-safe included in the Elections Clause was intended for the sorts of governmental self-preservation discussed in this Report: ''[E]very government ought to contain in itself the means of its own preservation[.]''; ''[A]n exclusive power of regulating elections for the national government, in the hands of the State legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs.''

CONCLUSION

It is clear in every respect that the congressional fail-safe described in the Elections Clause vests purely secondary authority over federal elections in the federal legislative branch and that the primary authority rests with the States. Congressional authority is intended to be, and as a matter of constitutional fact is, limited to addressing the worst imaginable issues, such as invasion or other matters that might lead to a State not electing representatives to constitute the two Houses of Congress.'' Our authority has never extended to the day-to-day authority over the ''Times, Places and Manner of Election'' that the Constitution clearly reserves to the States. Unfortunately for Democrats, this clear restriction on congressional authority means that we do not have the power to implement the overwhelming majority—if not the entirety—of their biggest legislative priority, H.R. 1 and related legislation, which would purport to nationalize our elections and centralize their administration in Washington, D.C. Thankfully, the Framers had the foresight to write our Constitution so as to prevent those bad policies from going into effect and preserve the health of our republic.

Mr. NADLER. Madam Speaker, I yield 3 minutes to the gentlewoman from Alabama (Ms. SEWELL), the chief sponsor of this legislation.

Ms. SEWELL. Madam Speaker, I rise today in full support of H.R. 4, the John R. Lewis Voting Rights Advancement Act.

Nothing is more fundamental to our democracy than the right to vote.

Nothing is more precious to my district, Alabama's 7th Congressional District, the home of Birmingham, Montgomery, and my hometown of Selma, Alabama, than the fight to protect the right to vote for all Americans.

It was in my district that ordinary Americans peacefully protested for the equal right to vote for all Americans.

Nothing is more personal to me, nothing more represents America's civil rights district than to be able to stand here, as so many of us have, with John Lewis at the foot of the Edmund Pettus Bridge, as I announced with glee that we have reintroduced H.R. 4, the John R. Lewis Voting Rights Advancement Act.

It was on that same bridge in Selma, Alabama, that a 26-year-old John Lewis was bludgeoned by State troopers with billy clubs in the name of justice.

Their efforts led to the passage of the Voting Rights Act of 1965, the seminal piece of legislation in Congress to protect the right of all Americans to vote.

Those protections were gutted in 2013 by the Supreme Court's decision in Shelby v. Holder, and Section 2 was also affected by the most recent decision in Brnovich.

Today, 8 years after Shelby, Congress is finally answering the Supreme Court's call to action by passing H.R. 4.

H.R. 4 will create a new coverage formula to determine which States have been the most egregious actors and subject them to preclearance that is based on current evidence of voter discrimination.

Madam Speaker, old battles have indeed become new again. While literacy tests and poll taxes no longer exist, certain States and local jurisdictions have passed laws that are modern-day barriers to voting. As long as voter suppression exists, the need for the full protections of VRA will continue. We must fully restore the VRA.

Why? Because as John Lewis would say: When you hear something or see something that is not right, that is not just, that is not fair, we have a moral obligation to do something about it.

We, the Members of the House of Representatives, can today do something about it. Let's pass H.R. 4. Let's do so not just in the name of John Lewis; let's do so for the people, the American people. We must secure the right to vote.

Madam Speaker, I include in the RECORD 14 letters of support and statements of support from all across this Nation, from civil rights groups, from labor groups, from amazing folks who are fighting every day on the front lines for the right to vote.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4—JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021—REP. SEWELL, D–AL, AND 218 COSPONSORS

The Administration strongly supports House passage of H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021 (VRAA).

The right to vote freely, the right to vote fairly, the right to have your vote counted is fundamental. In the last election, all told, more than 150 million Americans of every age, of every race, of every background exercised their right to vote.

This historic level of participation in the face of a once-in-a-century pandemic should have been celebrated by everyone. Instead, some have sought to delegitimize the election and make it harder to vote, in many cases by targeting the methods of voting that made it possible for many voters to participate. These efforts violate the most basic ideals of America.

Yet another massive wave of discriminatory action may be imminent as we enter a new legislative redistricting cycle. Unfortunately, incumbents too often cling to power by drawing district lines to favor their own prospects at the expense of minority communities, choosing their voters instead of the other way around.

While anti-voter action undermines democracy for all Americans, we know that communities of color often suffer the worst effects of these measures—and all too often, that is not by accident.

The sacred right to vote is under attack across the country.

The VRAA will strengthen vital legal protections to ensure that all Americans have a fair opportunity to participate in our democracy. Among other things, it would create a new framework for allowing DOJ to review voting changes in jurisdictions with a history of discrimination to ensure that they do not discriminate based on race. It would also clarify the scope of legal tools designed to challenge discriminatory voting laws in court, ensuring that the Voting Rights Act offers protection against modern forms of voter suppression.

In an essay published shortly after he died, Congressman John Lewis wrote, ''Democracy is not a state. It is an act[.]'' This bill not only bears his name, it heeds his call. The Administration looks forward to working with Congress as the VRAA proceeds through the legislative process to ensure that the bill achieves lasting reform consistent with Congress' broad constitutional authority to protect voting rights and to strengthen our democracy.

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AUGUST 18, 2021.

DEAR REPRESENTATIVE: On behalf of the Southern Poverty Law Center Action Fund, we write to urge you to support H.R. 4, the John R. Lewis Voting Rights Advancement Act, when the House considers this essential legislation next week. When enacted into law, this legislation will restore Section 5 of the Voting Rights Act of 1965 (VRA) and require states and localities with recent histories of racial discrimination to seek federal approval before implementing any voting changes; would require any state or jurisdiction to seek federal approval before implementing any voting practice known to have racially discriminatory impact; and would strengthen Section 2 of the VRA, which gives the Department of Justice and voters the ability to challenge discriminatory voting laws and practices.

Through our collaborative, intersectional work with community partners around the Deep South, the SPLC has witnessed firsthand continued efforts to suppress the vote and undermine the democratic process—particularly for communities of color—since the Supreme Court's Shelby County v. Holder decision in 2013. Earlier this week, during an oversight hearing held by the U.S. House of Representatives Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties on the need for federal voting rights protection legislation, SPLC submitted a series of detailed reports revealing current, consistent, and well-documented racial discrimination in voting in Alabama, Louisiana, and Mississippi for the legislative record. The reports highlight a range of recent and persistent efforts to make it more difficult to vote, from reducing early voting to closing polling places in majority-Black communities and banning Sunday voting that has the effect—and often the intent—of blocking Black voters and other voters of color from voting. The United States claims to be the world's oldest democracy, but from its founding to today it has never fully secured and defended the right to vote for all Americans, particularly Black Americans and other voters of color.

For generations, legislators of both parties and Americans across all ideologies have supported the VRA—because they have understood that for our democracy to be healthy, every voter in the country must have safe, easy, and equitable access to their fundamental right to vote. The VRA has extraordinary bipartisan roots. Passed in 1965, Congress has reauthorized the VRA four times since then, with four Republican Presidents signing the legislation into law: President Nixon in 1970, President Ford in 1975, President Reagan in 1982, and President George W. Bush in 2006. In 2006, after more than twenty hearings, with over 90 witnesses, and over 15,000 pages of evidence of ongoing voter suppression and discrimination, Congress approved a 25-year extension of the VRA by a vote of 98–0 in the Senate and 390–33 in the House. More than ninety current Members of Congress voted for that legislation. Yet, notwithstanding well-documented findings and overwhelming congressional support, just seven years later, in the Shelby County decision, a 5–4 majority of the Supreme Court held that Section 5's coverage formula was not based on ''current conditions,'' and we lost a critical tool in the fight for equal voting rights—the Justice Department's opportunity to review and reject discriminatory voting changes in jurisdictions with a history of racial discrimination in voting.

Enactment of the John R. Lewis Voting Rights Advancement Act will enable the federal government to once again act as a barrier to prevent racially discriminatory voting changes and help protect a democracy that works for all of us—no matter where we live. Congress should utilize every legislative tool in its capacity to get this done; democracy is too important to be subject to a minority veto.

Last month, Justice Elena Kagan wrote eloquently about the Voting Rights Act in her stirring dissent in another Supreme Court refusal to recognize and enforce broad voting rights, the deeply disappointing Brnovich v. Democratic National Committee decision:

''If a single statute represents the best of America, it is the Voting Rights Act. It marries two great ideals: democracy and racial equality . . . . If a single statute reminds us of the worst of America, it is the Voting Rights Act. Because it was—and remains—so necessary.''

We could not agree more.

In the wake of Supreme Court decisions that have significantly weakened the VRA, and a proliferation of state anti-voter laws—primarily in the South—Congress must act to restore the Voting Rights Act to its full vigor and promise and ensure that citizens in every state have broad opportunities to exercise their constitutional right to vote.

Respectfully,

LASHAWN Y. WARREN,
Chief Policy Officer.
NANCY ABUDU,
Interim Director of Strategic Litigation

& Deputy Legal Director for Voting Rights.

AUGUST 23, 2021.

FRIENDS: This week, the House is scheduled to take up the FY22 Budget Resolution (S. Con. Res. 14) and the John Lewis Voting Rights Advancement Act (H.R. 4), as well as the rule to consider these bills. The Human Rights Campaign urges Members to vote in favor of the rule, the budget resolution, and the John Lewis Voting Rights Advancement Act. We will consider these key votes.

The FY22 Budget Resolution (S. Con. Res. 14) will pave the way for reconciliation. The provisions of that package will include paid leave, a long-needed benefit particularly for the 40% LGBTQ+ adults working in restaurants and food service, who often lack the ability to take leave care for a family member. It will also provide a pathway to citizenship for the approximately 75,000 LGBTQ+ Dreamers living in the United States, as well as the millions of TPS holders, many of whom are essential workers that have helped keep our country running during the pandemic.

The John Lewis Voting Rights Advancement Act (H.R. 4) would restore key voting rights protections that the Supreme Court gutted in the 2013 Shelby County v. Holder decision. Since the Supreme Court's decision, states and localities have brazenly pushed forward discriminatory changes to voting practices, such as changing district boundaries to disadvantage select voters, instituting more onerous voter identification laws, and changing polling locations with little notice. These laws especially disenfranchise people of color, the elderly, low-income people, transgender people and people with disabilities.

Transgender people are particularly vulnerable to voting discrimination and disenfranchisement due primarily to challenges around valid identification documents. Many transgender people do not have forms of ID that reflect their true gender identity, either because they are in the process of changing their documents or because they face financial or legal barriers to doing so. In addition, many LGBTQ+ people face compounded discrimination based on other characteristics, including race, age, disability, and economic status. These vulnerabilities weaken our entire community's voting power.

Again, we urge Members to vote in favor of the rule, S. Con. Res. 14, and H.R. 4.

Best,

DAVID STACY,
Government Affairs Director, Human Rights Campaign.

HI HILLARY: J Street, along with over 100 other organizations, is proud to share our support for the newly reintroduced John Lewis Voting Rights Advancement Act of 2021 (H.R. 4). The bill would restore the preclearance protections stripped from the Voting Rights Act and strengthen voting rights across the country.

With voting rights under threat, the passage of H.R. 4 would be a critical step toward protecting the future of our democracy and functioning governance.

J Street urges both co-sponsorship and a YES vote when the bill comes to the floor next week.

As always, please do not hesitate to let me know if you have any questions.

All the best,

HANNAH MORRIS,
Deputy Director of Government Affairs, J Street.

TUESDAY, AUGUST 17, 2021.

LDF Media
For Immediate Release

LDF ISSUES STATEMENT ON INTRODUCTION OF H.R. 4, THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT, BY THE U.S. HOUSE OF REPRESENTATIVES

Today, the U.S. House of Representatives introduced H.R. 4, the John Lewis Voting Rights Advancement Act, a much needed piece of legislation aimed at protecting the right to vote. In response, Sherrilyn Ifill, President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (LDF) issued the following statement:

''We commend the House of Representatives for taking this critically important step in protecting the right to vote with its introduction today of the John Lewis Voting Rights Advancement Act, H.R. 4. This legislation provides the building blocks for Congress to fully engage in its duty to protect citizens from any efforts to restrict or abridge their most fundamental right—the right to vote.

''H.R. 4 includes provisions that would require states and localities with recent records of discrimination in voting to have their proposed voting changes reviewed before they are implemented to ensure they are not discriminatory. These provisions are crucial to ensure that people are not disenfranchised and able to freely participate in the political process. If these provisions had been in effect this year—as was the case prior to the Shelby County decision—the restrictive voting bills that were recently enacted in states, such as Georgia, Florida, and Arizona, would not have been able to go into effect unless and until the states proved that those laws would not discriminate against racial, ethnic, or language minorities.

''Time is of the essence. Today's introduction of H.R. 4 is the beginning of the process that ultimately must end in the passage of this critically important piece of legislation. With the fall election season nearly upon us and nation-wide midterm elections a year away, Congress must ensure that every voter—especially Black voters and other voters of color—can exercise their right to participate in the political process without barriers to having their votes cast and counted.''

AUGUST 20, 2021.

DEAR REPRESENTATIVE: As President and CEO of the National Urban League, and on behalf of its 91 affiliates in 37 states and the District of Columbia, I am writing to express our strong support for H.R. 4, the John Lewis Voting Rights Advancement Act as it is considered on the House floor this week. As a historic civil rights organization dedicated to ensuring that all people are able to exercise their fundamental right to vote, we stand with our fellow racial justice organizations in supporting this bill.

The John Lewis Voting Rights Advancement Act reauthorizes the Voting Rights Act, while putting in place ''fixes'' in response to the Shelby County v. Holder (2013) and Brnovich v. Democratic National Committee (2021) decisions. After the Shelby County decision, the number of discriminatory voting laws and practices have drastically increased across the country. The bill is in response to the current needs of this nation in the fight for voting rights, which have been presented in months-long congressional investigations and hearings. The Voting Rights Act has a long history of bipartisan support that must continue to prevent future inequitable bills and manipulative redistricting efforts from discriminating against voters of color.

Specifically, this legislation updates the ''preclearance formula'' that blocks discriminatory voting laws from being implemented by establishing a new review criterion that accounts for current conditions and requires federal review of specific voting practices known to impact voters of color. Additionally, the bill mandates greater nationwide transparency of voting laws and policy changes, expands and updates the frameworks that allow courts to ''bail in'' and ''bail out'' judicial review of jurisdictional practices, and restores voters' ability to legally challenge racially discriminatory changes in voting laws and policies. Lastly, the bill allows the Justice Department to compel documents to investigate voting rights violations, expands the federal observer program, and pauses discriminatory voting changes during judicial review.

This bill is a concrete way to advance the nation's fight against discriminatory voting laws which specifically target people of color. We will continue to support the John Lewis Voting Rights Advancement Act and other proposals that advance the fight for the rights, safety, and empowerment of all people in our nation.

For more information, please contact Yvette Badu-Nimako, Senior Director for Judiciary, Civil Rights and Social Justice at ybadu@nul.org.

Sincerely,

MARC H. MORIAL,
President and Chief Executive Officer, National Urban League.

PASS THE JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT

THE BILL WOULD RESTORE CRUCIAL PROTECTIONS THAT HAVE BEEN REMOVED FROM THE VOTING RIGHTS ACT OF 1965.

On Tuesday afternoon, Democratic lawmakers stood on consecrated ground—the foot of the Edmund Pettus Bridge in Selma, Alabama.

The members of Congress weren't there simply to honor the sacrifices of the late civil rights icon John Lewis and the hundreds of other marchers who braved police tear gas and clubs for the right to vote, as they've done in the past. They were gathered to announce the introduction of the John R. Lewis Voting Rights Advancement Act (H. R. 4), transformative legislation that would restore the protections of the Voting Rights Act that Lewis fought so hard to enact as a civil rights activist.

In 2013, the Supreme Court's infamous Shelby County v. Holder decision invalidated the 1965 law's Section 5 ''preclearance'' requirements. which prevented jurisdictions with a history of racial discrimination from changing voting rules without permission from the Justice Department or a federal court. In the ruling gutting the landmark civil rights law, Chief Justice John Roberts waved away concerns of new voting restrictions, claiming that ''nearly 50 years later, things have changed dramatically.''

Unfortunately, things have changed dramatically—just not how Roberts thought.

The danger of new voting restrictions is no longer theoretical. It's a grim reality. After record voter turnout in 2020, Republican state legislators around the country have responded by cracking down on the right to vote. Brennan Center research shows that this year, 49 states have introduced over 400 bills with provisions that make it harder to vote, 30 of which have become law in 18 states. Just last month, the Supreme Court's decision in Brnovich v. Democratic National Committee weakened Section 2 of the Voting Rights Act, degrading citizens' ability to challenge policies that lead to voting discrimination.

This all paints a bleak picture as the nation's first redistricting cycle since the Shelby County decision looms, potentially redefining the balance of power in Congress and state legislatures for the next decade.

As my colleague Wendy Weiser told Congress yesterday, the bill named for Lewis is an essential step in turning the tide in this war on voting rights. Restoring preclearance and strengthening Section 2 of the original Voting Rights Act would undo much of the damage from the Brnovich and the Shelby County rulings.

President Biden has placed his full support behind it, and his Justice Department has told Congress that the bill must be passed so that the federal government can properly protect Americans' voting rights nationwide as the midterms quickly approach. The legislation would provide a desperately needed bulwark against continuing state voter suppression efforts.

Congress must pass the John R. Lewis Voting Rights Advancement Act without delay.

Re: NHLA Urges Support of the John Lewis Voting Rights Advancement Act, H.R. 4

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: We write on behalf of the National Hispanic Leadership Agenda (NHLA), a coalition of the nation's leading Latino nonpartisan civil rights and advocacy organizations, to urge you to vote ''yes'' on the John Lewis Voting Rights Advancement Act of 2021 (VRAA), H.R. 4. This legislation restores necessary voting protections to ensure that discriminatory voting-related changes are blocked before they are implemented. There is no right more fundamental to our democracy than the right to vote, and for more than 50 years the Voting Rights Act (VRA) provided voters with one of the most effective mechanisms for protecting that right. H.R. 4 would provide Latino voters and other voters of color new and forward-looking protections against voter discrimination. NHLA will closely monitor all votes related to this legislation for inclusion in future NHLA scorecards evaluating Member support for the Latino community.

The VRA is regarded as one of the most important and effective pieces of civil rights legislation in our country's history because it protected voters of color from discriminatory voting practices before they occurred. In 2013, the Supreme Court, in its decision in Shelby County v. Holder, struck down the formula that determined which states and political subdivisions were required to seek federal pre-approval of their voting-related changes to ensure they did not discriminate against minority voters. After Supreme Court's decision, states or political subdivisions were no longer required to seek preclearance unless ordered by a federal court in the course of litigation. The Supreme Court put the onus on Congress to enact a new formula better tailored to current conditions.

H.R. 4 includes both a new geographic coverage formula to identify those jurisdictions that will have to ''preclear'' their voting-related changes and a new provision requiring practice-based preclearance, or ''known-practices coverage.'' Known-practices coverage would focus administrative or judicial review narrowly on suspect practices that are most likely to be tainted by discriminatory intent or to have discriminatory effects, as demonstrated by a broad historical record. Any jurisdiction in the U.S. that is home to a racially, ethnically, or linguistically diverse population and that seeks to adopt a covered practice will be required to preclear the change before implementation. The known practices covered under the bill include: (1) changes in method of election to change a single-member district to an at-large seat or to add an at-large seat to a governing body; (2) certain redistricting plans where there is significant minority population growth in the previous decade; (3) annexations or deannexations that would significantly alter the composition of the jurisdiction's electorate; (4) certain identification and proof of citizenship requirements; (5) certain polling place closures, realignments, or efforts to deny sustenance to voters waiting in line; (6) the withdrawal of multilingual materials and assistance not matched by the reduction of those services in English; and (7) certain voter registration list maintenance changes. Preclearance is an efficient and effective form of alternative dispute resolution that prevents the implementation of voting-related changes that would deny voters of color a voice in our elections. Preclearance saves taxpayers in covered jurisdictions a considerable amount of money because the jurisdiction can obtain quick decisions without having to pay attorneys. expert witnesses, or prevailing plaintiffs fees and costs that are incurred in complex and expensive litigation.

Across the U.S., racial, ethnic, and language-minority communities are rapidly growing-the country's total population is projected to become majority-minority by 2044. Between 2007 and 2014, five of the ten U.S. counties with the most rapid rates of Latino population growth were in North Dakota or South Dakota, two states whose overall Latino populations still account for less than ten percent of their residents, and are dwarfed by Latino communities in states like New Mexico, Texas, and California. It is precisely this rapid growth of different racial or ethnic populations that results in the perception that emerging communities of color are a threat to those in political power. H.R. 4 identifies different voting changes most likely to discriminatorily affect access to the vote in increasingly diverse jurisdictions whose minority populations are attaining visibility and influence. The approach is tailored to the current needs of voters today and is supported by a large body of evidence that shows that certain practices are used routinely to discriminate against voters of color.

Congress must protect the access to the polls, and it must include a known-practices coverage formula. H.R. 4 is a critical piece of legislation, including to the Latino community, that will restore voter protections that were lost after the Shelby County decision. NHLA urges you to stand with voters and to vote ''yes'' on H.R. 4.

Please feel free to contact Andrea Senteno, of MALDEF, at asenteno@maldef.org or (202) 293–2828 with any questions.

Sincerely,

THOMAS A. SAENZ,
NHLA Civil Rights Committee, Co-Chair
MALDEF, President & General Counsel.

JUAN CARTAGENA,
NHLA Civil Rights Committee, Co-Chair
LatinoJustice PRLDEF, President & General Counsel.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 23, 2021.

Re: MALDEF Support for the John Lewis Voting Rights Advancement Act of 2021, H.R. 4

DEAR CONGRESSMEMBER: On behalf of MALDEF (Mexican American Legal Defense and Educational Fund), I write to strongly urge you to support the John Lewis Voting Rights Advancement Act of 2021, H.R. 4. Following the 2013 Shelby County v. Holder decision, which effectively ended pre-clearance review under Section 5 of the Voting Rights Act of 1965 (VRA), states and localities moved to implement discriminatory voting practices that would previously have been blocked by the VRA. What we have seen post-Shelby County confirms what we have long-known—that voter discrimination lives on. Congress must act to restore the preclearance coverage formula in the VRA, legislation that has long-enjoyed bipartisan support.

Founded in 1968, MALDEF is the nation's leading Latino legal civil rights organization. Commonly known as the ''law firm of the Latino community,'' MALDEF promotes social change in the areas of voting rights, immigrants' rights, education, employment, and access to justice. Since its founding, MALDEF has worked diligently to secure equal voting rights for Latinos and to promote increased civic engagement and participation within the Latino community. MALDEF played a leading role in securing the full protection of the VRA for the Latino community through the 1975 congressional reauthorization of the 1965 VRA. In court, MALDEF has, over the years, litigated numerous cases under Section 2, Section 5, and Section 203 of the VRA, challenging at-large systems, discriminatory redistricting, ballot access barriers, undue voter registration requirements, voter assistance restrictions, and failure to provide bilingual ballot materials.

Discrimination in voting, including against Latino voters, continues to be a serious and persistent threat to our democracy today. This is demonstrated in the comparative rates of voter registration and voter participation among racial groups, including Latinos. The 2020 presidential general election showed unprecedented numbers of voters participating and rates of eligible participation unseen in a century, but instead of celebrating this work to reduce voter suppression and continue a trend toward expanding the franchise, the election has been used to justify increased efforts to reduce minority voter participation in future elections. This is a continuation of a recent pattern of increasing voter suppression efforts, which stems from ongoing demographic changes, including in particular the unprecedented growth of the Latino voting community.

In the aftermath of Shelby County, MALDEF originated the idea of practice-based pre-clearance coverage as a limited complement to a geographic, history-based formula for broader pre-clearance coverage. Practice-based coverage would address the increasing introduction and enactment of voter suppression measures precisely in response to the growth of the local Latino community to a level viewed as a threat to the political establishment. Practice-based pre-clearance would focus administrative or judicial review narrowly on suspect practices that are most likely to be tainted by discriminatory intent or to have discriminatory effects, as demonstrated by a broad historical record. This coverage would extend to any jurisdiction in the U.S. that is home to a racially, ethnically, or linguistically diverse population and that seeks to adopt a covered practice, despite that practice's known likelihood of being discriminatory when used in a diverse population.

While litigation, by private parties and by the Department of Justice, under Section 2 of the VRA remains a powerful means to stop voter suppression, such litigation is not sufficient to address all the current and future potential for elections changes tied to voter suppression. Pre-clearance review benefits jurisdictions by reducing their costs in

defending potential elections changes, and benefits voting rights by yielding more timely resolution of voting rights disputes.

Congress must protect access to the polls and pass H.R. 4, including provisions for practice-based preclearance. This legislation is critical to restore voter protections that were lost due to Shelby County. We cannot allow any more time to pass without ensuring that every voter can register and cast a meaningful ballot. MALDEF urges you to stand with all voters and to vote ''yes'' on H.R. 4.

Thank you for your time and consideration.

Sincerely,

ANDREA SENTENO,
Regional Counsel.

AUGUST 24, 2021.

DEAR REPRESENTATIVE: Democracy 21 strongly urges you to vote for passage of H.R. 4, the John Lewis Voting Rights Advancement Act, when it comes to the floor for a vote.

H.R. 4 is a vitally important—and urgently needed—step forward in the work to protect the sacred right to vote for all eligible citizens.

Today, millions of Black, brown, other minorities, the disabled, elderly, and young, are at risk of losing their ability to vote due to voter suppression laws being passed in numerous states.

These efforts, if not overridden, will represent the greatest voter suppression in the United States since the Jim Crow era.

H.R. 4 will restore the preclearance provision of the Voting Rights Act of 1965 and would modernize the formula for determining which states have a pattern of discrimination and would fall under the preclearance provision.

Voting is not a privilege, it is a right. It is incumbent that Congress act now as the right to vote is being severely threatened in states around the country.

The passage of H.R. 4 and H.R. 1, the For the People Act, which the House passed in March, are essential if we are to protect the right to vote in federal elections for all eligible citizens. The two bills protect the right to vote in complementary ways and both must be enacted.

''The vote is precious. It is almost sacred,'' the late Representative John Lewis, the civil rights champion, once said. ''It is the most powerful non-violent tool we have in a democracy.''

Democracy 21 strongly urges you to vote for H.R. 4.

Our democracy deserves nothing less.

Sincerely,

FRED WERTHEIMER,
President.

AUGUST 17, 2021.

END CITIZENS UNITED // LET AMERICA VOTE ACTION FUND STATEMENT ON THE INTRODUCTION OF THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT

END CITIZENS UNITED // LET AMERICA VOTE ACTION FUND PRESIDENT TIFFANY MULLER RELEASED THE FOLLOWING STATEMENT ON THE U.S. HOUSE INTRODUCING THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT:

''In 1965, President Lyndon B. Johnson signed the landmark Voting Rights Act of 1965 during a critical moment in our nation when Jim Crow laws were being used to prevent Black Americans from exercising their fundamental right to vote. Since then, the Voting Rights Act has been gutted by a right-wing Supreme Court and partisan Republican-led legislatures have moved once again to take away that right. We've seen 400 bills introduced nationwide that include restrictive voting proposals with 30 of these bills becoming law in 18 states just this year alone.

''The John Lewis Voting Rights Advancement Act is a fundamental step in protecting our freedom to vote by fully restoring the power of the 1965 Voting Rights Act and ensuring that any changes to voting rules could not discriminate against voters based on race and that we all have an equal voice in our democracy.

''From his historic march across the Edmund Pettus Bridge, to his decades of fighting for voting rights and social justice, Congressman John Lewis never gave up in the pursuit of America adhering to its core values and principles—that every American citizen should be heard and have a voice. Congress must honor his legacy by passing the John Lewis Voting Rights Advancement Act and the For the People Act to protect access to the ballot and ensure that our democracy is truly representative of the American people.''

DEAR HILLARY: As you prepare to consider H.R. 4, the John Lewis Voting Rights Advancement Act, Foreign Policy for America encourages you to uphold the principles of democracy and efforts to protect the right to vote. Foreign Policy for America urges members of the House of Representatives to support H.R. 4 to restore democracy and safeguard the right to vote. We will consider scoring final passage in our 117th Congressional Scorecard.

Foreign Policy for America (FP4A) is a non-partisan 501c4 organization founded to promote principled American engagement in the world. Each Congress, we convene a group of experts from across the foreign policy community to advise on the development of our Policy Agenda and our biennial Congressional Scorecard. The FP4A Scorecard offers our members, concerned voters nationwide, and the media a way to quickly and easily understand the degree to which Members of Congress support strong, principled American foreign policy.

America's commitment to pluralism, equality, and non-partisan election administration are the hallmarks of our democracy and have inspired transitions to democracy in every region of the world. The United States is able to rally allies and mobilize action on the biggest global challenges because of who we are as a pluralistic, democratic country that for generations has inspired the world. H.R. 4 is needed to safeguard our democracy—the beating heart of our prosperity and strength.

Our democracy is at risk today. The John Lewis Voting Rights Advancement Act restores and expands key ballot access provisions enshrined in the Voting Rights Act of 1965 that were dramatically weakened by 2013 Supreme Court decision in Shelby County v. Holder. The right to vote is one of the most critical pillars of American Democracy. We must protect it.

We urge all Members of the House of Representatives to support the John Lewis Voting Rights Act (H.R. 4) to help strengthen our democracy and protect the right to vote.

Please don't hesitate to reach out if we can answer any questions about our position.

Sincerely,

CASSANDRA VARANKA,
Advocacy Director,
Foreign Policy for America.

CIVIL RIGHTS GROUPS TELL CONGRESS TO PASS JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT NOW

WASHINGTON, D.C.—Today at 1pm ET, standing on the Edmund Pettus Bridge, Rep. Terri Sewell will introduce H.R. 4, the John R. Lewis Voting Rights Advancement Act, a bill to restore the pre-clearance protections stripped from the Voting Rights Act, and strengthen voting rights across the country. The bill is expected to be voted on in the House next week.

Stephany Spaulding, Just Democracy Spokesperson and Founder of Truth and Conciliation, issued the following statement:

''H.R. 4 is essential legislation to ensure that the over 400 state-level voter suppression laws proposed around the country will be countered by federal law. But this bill can only stop the bleeding—it cannot repeal the dangerous suppression laws already passed in Georgia, Florida, and more. We need Congress to take comprehensive action to protect our country's voting rights and pass the For the People Act, the John Lewis Voting Rights Act, and the Washington, D.C. Admissions Act—and we have to eliminate the Jim Crow filibuster to get it done.

This fight for voting rights won't be easy, but it is an existential turning point for the fate of our democracy—that's why we're marching in cities around the country in the March On for Voting Rights on August 28, to raise our voices and demand Congress take action. We're marching in the spirit of Congressman John Lewis, Martin Luther King Jr., Rosa Parks, and countless civil rights leaders who never gave up on the fight for voting rights—and neither will we.''

About Just Democracy. Just Democracy is an intersectional coalition with racial justice at its core—uplifting voices from all walks of American life that are too often left out of the conversation. The coalition is made up of over 40 Black and Brown-led organizations working across issue areas. It mobilizes thousands who know that advancing social and racial justice issues first requires bold structural democracy reform.

FOR IMMEDIATE RELEASE,
AUGUST 17, 2021.

MARCH ON FOR VOTING RIGHTS RESPONDS TO JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT INTRODUCTION IN THE HOUSE

MARTIN LUTHER KING III, ARNDREA WATERS KING, REV. AL SHARPTON, ANDI PRINGLE AND OTHER VOTING RIGHTS LEADERS ORGANIZE MASS MOBILIZATION TO PASS THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT

WASHINGTON, D.C.—Today, standing on the Edmund Pettus Bridge, Congresswoman Terri Sewell (D–AL) introduced the John Lewis Voting Rights Advancement Act, which will restore critical provisions of the Voting Rights Act gutted by the Supreme Court. Expected to receive a vote in the House of Representatives next week, the bill will help stem the rush of attacks on voting rights across the country by ensuring that states with a recent history of voter discrimination are once again subject to federal oversight.

March On for Voting Rights will call on the Senate to pass the John Lewis Voting Rights Advancement Act and the For the People Act on Saturday, August 28, when millions join the March On for Voting Rights in D.C., Phoenix, Atlanta, Houston, Miami and more than 40 other cities across the country to make their voices heard. Marchers will also call for the Senate to remove the filibuster as a roadblock to critical voting rights legislation.

Rev. Al Sharpton, President and Founder of National Action Network, commented in response: ''If you want to understand why the vote is so important, look at the last 4 years, the last 10 years, and the last 100 years. Freedom fighter and Congressman John Lewis knew it was essential that every vote must count in order to assure every voice is represented, but unfortunately

through federal voter suppression and gerrymandering, that hasn't been the case. Today, Members of Congress continue to fight for the rights of the voiceless with the introduction of H.R. 4, the first step to right the wrongs done to the Voting Rights Act and reassert our Constitutional authority over democracy. Whether in Congress, in the streets, or during our March On for Voting Rights, this is the summer of activism.''

Martin Luther King III, Chairman of the Drum Major Institute, commented in response: ''Both John Lewis and my father agreed that there is no right more central to democracy than our right to vote. It is the cornerstone of democracy, the way we have our voices heard. Congress must pass the John Lewis Voting Rights Restoration Act. Our nation is being put to the test, and we must remember my father's words about the fierce urgency of now.

Arndrea Waters King, President of the Drum Major Institute, commented in response: ''Coretta Scott King told us, 'Freedom is never really won, you earn it and win it in every generation.' Now is the time to earn and win our sacred right to vote. It is up to us to remind Congress they represent the people, and the people demand the passage of the John Lewis Voting Rights Restoration Act.''

Andi Pringle, Political and Strategic Campaigns Director at March On, commented in response: ''Voting rights in America hang by a thread, and we are grateful to our leaders in Congress who understand the gravity of this moment. But some of those in Congress act as though voting rights are debatable. They are not—voting rights are a fundamental requirement of democracy. Without legislation like the John R. Lewis Voting Rights Advancement Act and the For the People Act to protect both voters and elections, millions will be disenfranchised and America will cease to be the democracy we claim to be. This is why millions will take to the streets on August 28 to demand passage of this legislation before it's too late.''

Stasha Rhodes, Campaign Manager of 51 for 51, commented in response: ''We are resolved to march on August 28 to make sure Congress does everything in its power to pass the John Lewis Voting Rights Advancement Act, the For the People Act and the Washington D.C. Admissions Act. We can no longer allow states with long histories of disenfranchising our communities to strip away voting rights for Black and Brown people. After it passes the House, the Senate must remove the Jim Crow filibuster as a roadblock. Millions will march to make that call crystal clear.''

Sopia Woodrow, Community Manager of Future Coalition commented in response: ''As a young advocate, it is fundamental that our voting rights be protected. This act, combined with the action imminent with March On For Voting Rights, demonstrates a renewed commitment to protecting the voices of every American. Congress must pass the John Lewis Voting Rights Act to ensure the voices of Americans and youth for generations to come are heard. Disenfranchised communities have waited far too long for the voting rights necessary to justice.''

Ms. SEWELL. Madam Speaker, in conclusion, I want to thank the chairman of this committee, Chairman NADLER; the chairman of the subcommittee, STEVE COHEN; the chairwoman of the House Administration Committee, Representative ZOE LOFGREN; as well as G.K. BUTTERFIELD, for the countless hours of testimony and the reams of documents that show that voter suppression is still alive and well.

The price of freedom is not free. Let's pay for it by passing the John R. Lewis Voting Rights Advancement Act.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Thousands of Americans are stranded in Afghanistan, fearing for their lives, and Democrats are focused on passing legislation to make sure States can't require a photo ID to vote.

Thousands of Americans are stranded in Afghanistan, while hundreds of thousands of illegal immigrants cross our southern border every single month. March was the largest month on record for illegal crossings until April; April was the largest month of illegal crossings until May; May was the largest month until June; and June was the largest month until July; and Democrats are focused on passing legislation which says: States who want to go back to the election law they had just a year ago before the virus, you can't do that unless you come get permission from the Department of Justice.

As Mr. DAVIS said, in 1965, Congress passed the Voting Rights Act, a good piece of legislation that did things that needed to be done, put things in place that needed to be put in place. But we are a long way from that and so much better.

In 2013, in the Shelby County v. Holder Supreme Court decision, the Court said there is no need to continue preclearance requirements. Here's a quote from the Chief Justice: ''The conditions that originally justified'' these measures ''no longer characterize voting in the covered jurisdictions,'' Justice Roberts stated. African-American turnout today exceeds White voter turnout in five of the six originally covered States. During the past election, voter turnout was higher across all racial groups as compared to prior presidential elections.

The United States of America is the greatest country in the history of the world. There is no question that our country has done more to advance the cause of liberty and democracy than any other Nation. But, unfortunately, it seems the Democrats do not want to acknowledge all of that amazing progress that has been made and where we are at today.

H.R. 4 would subject States and localities to the whims of partisan bureaucrats within President Biden's Department of Justice. They get to decide—not States, as our Constitution says—no, no, no, you have to go get permission from the big Federal Government, do what they say, when it comes to your election laws, even if, as I said before, you just want to go back to where you were a year before COVID.

Republican States that Democrats always want to target actually do better than Democrat States, like President Biden's home State of Delaware. But for some reason, you don't hear Democrats raising alarms about Delaware, and you don't see the Biden administration bringing lawsuits against Delaware.

Democrats want to focus on this manufactured crisis, because they have no plans to deal with the real crises that are facing our country: inflation; crime; the border; and, of course, what is going on in Afghanistan as we speak.

Don't be fooled. Today, it is easier to vote than ever in our country. We need to applaud the strides this Nation has taken. We need to embrace the greatness of our country. This bill is not about expanding voting rights; it is about Democrats consolidating their political power. That is why they are focused on this. At a time when there are so many critical issues and crises facing our Nation, they are focused on consolidating their power and, I think, taking it away from the States.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Madam Speaker, I support the John R. Lewis Voting Rights Advancement Act.

Congress first passed the Voting Rights Act while Martin Luther King, Jr. led for civil rights and John Lewis stood by his side. The law made a difference, defeating racial discrimination in voting.

But the Court, in the Shelby and Brnovich cases, destroyed important parts of the law. This bill fixes that. With an updated coverage formula, practice-based preclearance, and rational standards to challenge racial discrimination, this bill is essential.

Representatives BUTTERFIELD and FUDGE both chaired the Subcommittee on Elections, whose hearings established the factual bases for this bill. All the members of the Subcommittee on Elections worked hard holding hearings around America. I thank them, and I thank my colleagues on the Judiciary Committee for their work.

As we vote to restore the Voting Rights Act, to protect the rights of Americans from being denied the right to vote because of their race, we should remember, honor, and thank those who came before us, and especially our late colleague, John Lewis.

I urge a ''yes'' vote.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. ISSA).

□ 1630

Mr. ISSA. Madam Speaker, our colleague Rahm Emanuel famously said: ''You never let a serious crisis go to waste.'' Today, my Democratic colleagues are not letting a serious crisis go to waste.

While America is focused on the tragedy halfway around the world in Afghanistan, a plan to fail that now has successfully failed, the reality is, here, instead of holding real hearings, looking at the causes, and maybe, in fact, being more helpful in preventing further suffering of the 37 million people

in Afghanistan, what are we doing? We are codifying a permanent majority of the Democratic Party everywhere they can. We are making changes to election law that pull into Washington and into the Attorney General's office control of elections that the Constitution clearly gave to legislatures.

What we are doing, by the statements of my own colleagues on the other side of the aisle, is we are clearly saying we don't like the Supreme Court's decisions, so we are going to find a way to do what we want to do even though, in fact, the time and the success of the Civil Rights Act has, in fact, mostly passed.

Why can't you take success? Because it no longer benefits the goals of a permanent Democratic majority. I am sorry for my Democratic colleagues that, in fact, the people of America do not at times approve of things like the tragedy in Afghanistan or, in fact, are not willing to accept a permanent smear of we can never have elections without Federal intervention.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Madam Speaker, the Republicans say we don't need this voting rights bill, that we should leave the power with the States. My subcommittee had 13 hearings over 2 years, and the professors and the attorneys told us that every time Black and Brown people gain in population and start to take power, there start to be changes in the laws to stop them from having power.

Just this year, 18 States have enacted 30 laws restricting the ability to vote. There were at least 495 voter suppression bills pending in the States as of yesterday.

For them to say we don't need a bill in the year that this Capitol faced an insurrection, when they tried to overturn the electoral college and overturn a free and fair election, and after that happened, two-thirds of the Republicans voted to overturn the election by throwing out the results in Arizona and Pennsylvania. And then we wanted to study that insurrection, and a very thin number of Republicans even voted to study it.

Democracy is on the line. The right to vote is on the line. What we learned from our hearings is that we need to pass the Voting Rights Act and protect people's rights to vote because that is what America is about. I support this John R. Lewis Voting Rights Act.

Mr. JORDAN. Madam Speaker, I would just remind the gentleman that Democrats have objected to the electors for every Republican President this century—every single one.

I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. STEIL).

Mr. STEIL. Madam Speaker, this House just passed a spending framework for $3.5 trillion in new government spending. And immediately following, what is next? A plan for a Federal Government takeover of elections.

H.R. 4 is focused on overturning the Supreme Court decision in Shelby County v. Holder and reinstituting Federal power over State election laws.

Preclearance was established in 1965 because there were blatant attempts to disenfranchise African Americans. We are not debating that today. We have made great progress since 1965.

What is the purpose of H.R. 4? H.R. 4 is a Federal power grab. This bill would gut voter ID laws across the country. The bill would allow the Biden Department of Justice to veto State voter ID laws.

In my home State of Wisconsin, some said commonsense voter ID laws would lower turnout. They were wrong. In 2020, Wisconsin had the fourth highest voter turnout in the country.

This bill would make it harder for States to maintain accurate voter rolls. Accurate voter rolls are essential for local election officials to accurately administer elections.

This bill is a Federal overreach. Instead of Federal overreach, let's get to work and make it easier to vote and hard to cheat.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island (Mr. CICILLINE).

Mr. CICILLINE. Madam Speaker, I rise in strong support of H.R. 4, the John R. Lewis Voting Rights Advancement Act. I am proud to be an original cosponsor of this vital legislation. This is one of the most important bills we will consider this Congress.

Voting rights are the foundation of our democracy, ensuring that every American gets a fair say in who represents them and who makes the laws governing their lives.

Voting rights have been under attack all across this country. This year alone, 30 new discriminatory voting restriction laws have targeted communities of color, young people, and working people across 18 States. We cannot allow this in America.

This critical legislation will restore voting rights protections and provide the tools necessary to ensure discriminatory voting laws cannot stand. There is nothing more American than protecting the right to vote.

I want to thank my colleague, Congresswoman SEWELL, for her leadership. I thank Chairman NADLER, Speaker PELOSI, and all the leadership for the important work they are doing to ensure that voting rights are protected for all Americans.

I want to end by taking a moment to recognize and remember the late Congressman John Lewis, our colleague and friend, one of history's greatest fighters for equality and voting rights, after whom this legislation is so appropriately named.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. JOHNSON).

Mr. JOHNSON of Louisiana. Madam Speaker, we have to be clear about what is happening here.

Congress passed the Voting Rights Act in 1965 to overcome shameful State resistance and barriers that prevented minorities from exercising their right.

But in 2013, the U.S. Supreme Court held that continuing to require States to preclear election law changes based upon conduct from a half century ago was an unconstitutional invasion of State sovereignty.

The truth is, as JIM said a moment ago, it is easier today for Americans to vote than it has ever been before in our Nation's history. The VRA worked. Thank the Lord that it did. We overcame those problems.

In fact, voter registration disparities between minority and nonminority voters in States like Texas, Florida, North Carolina, Mississippi, and my home State of Louisiana, all previously covered under the old VRA provisions, are now below the national average and, get this, they are lower than Democrat-run States like New York, California, and President Biden's home State of Delaware.

H.R. 4 is a radical, unprecedented Federal power grab by unaccountable bureaucrats in Washington that every conscientious American ought to oppose. I urge my colleagues to vote ''no'' on this.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Florida (Mrs. DEMINGS).

Mrs. DEMINGS. Madam Speaker, my mother was a maid and my father a janitor, but they were good, decent, honest people who saw voting as their duty and knew their vote mattered regardless of who they were and where they lived.

When did some of us, as elected officials, start believing it is okay to no longer protect basic rights but to lie if you have to, cheat if you have to, suppress the vote if you have to, and then stand up and claim victory?

John Lewis called the right to vote ''precious, almost sacred,'' and he was willing to risk his life to protect it.

We reject the politically motivated lies that seek to undermine faith in our elections. We are the United States of America. Yes, we are the greatest Nation in the world.

Let's live up to America's promise once again by protecting the precious, almost sacred right to vote.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. Madam Speaker, not long ago, our elections worked well. We maintained accurate voter registration rolls and routinely removed people who moved or died.

After all the candidates had their say, on election day, we went to our local polling place. We brought our children to watch the process and taught them to respect it.

Our neighbors on the precinct board handed us our ballot after we identified ourselves and signed the roll. We took

it into a curtained booth where no one could pressure us to vote a certain way. We then handed that ballot back to our neighbor, who placed it in a locked box.

It was very hard to cheat because every ballot had a simple chain of custody.

The woke left seeks to destroy that process. Where they control the law, registration is instant, and outdated registrations are rarely removed. Ballots are sent to every name, followed by partisan harvesters to collect them. In fact, over 300 mail-in recall ballots were just found in the possession of a felon passed out in his car in Torrance, California.

Back in California, you can print ballots on your home printer and then send them in. Ballots are no longer secret. Family members, spouses, caregivers, or party hacks can cajole or pressure you as you cast your vote.

Every fraudulent vote disenfranchises a legitimate voter. That is the ultimate in voter suppression.

This bill effectively makes it impossible for States to restore integrity measures like in-person election day voting or voter ID. It ensures that the chaos and turmoil of recent elections is magnified and institutionalized.

In every election, somebody wins and somebody loses. Democracy depends on both sides having the confidence that an election was fair and accurately reflects the will of the majority. How can anyone have that confidence under such a system as the left would impose? The answer is we can't.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Madam Speaker, I include in the RECORD an article with breaking news: The Texas Speaker of the House signs arrest warrants for absent Democrats in bid to end chamber's weekslong stalemate to fight against suppression and oppression in S.B. 7.

[From the Texas Tribune, Aug. 10, 2021]

TEXAS HOUSE SPEAKER DADE PHELAN SIGNS ARREST WARRANTS FOR ABSENT DEMOCRATS IN BID TO END CHAMBER'S WEEKSLONG STALEMATE

(By Cassandra Pollock and Patrick Svitek)

House Speaker Dade Phelan signed arrest warrants Tuesday evening for Democrats who broke quorum to block a controversial GOP elections bill. The warrants will be delivered to the House Sergeant-at-Arms Wednesday. Credit: Jordan Vonderhaar for The Texas Tribune. Sign up for The Brief, our daily newsletter that keeps readers up to speed on the most essential Texas news.

Texas House Speaker Dade Phelan on Tuesday evening signed civil arrest warrants for 52 House Democrats still missing from the state Capitol as he aimed to regain the quorum needed for the chamber to begin moving legislation during the second special session.

The move was confirmed by Phelan spokesperson Enrique Marquez, who said the warrants ''will be delivered to the House Sergeant-at-Arms tomorrow morning for service.''

The warrants were first reported by The Dallas Morning News. Democrats who may be arrested would not face criminal charges or fines and could only be brought to the House chamber. Dozens of minority party members fled to Washington, D.C., during the first special session to block a GOP voting restrictions bill.

The 52 warrants represent all but 15 Democrats in the lower chamber. There were at least 11 present Tuesday. There were no additional new Democrats on the floor Tuesday after four returned a day earlier—and drew the wrath of some Democratic colleagues still in Washington, and prompted a renewed push inside the party to hold the line.

Earlier Tuesday, the House voted overwhelmingly to authorize law enforcement to track down lawmakers absent from the chamber.

That 80–12 vote came hours after the Texas Supreme Court ordered that those missing Democrats could soon be detained by state authorities. The order by the all-GOP court came at the request of Gov. Greg Abbott and Phelan, both of whom had asked the court Monday to overturn a ruling from a state district judge that blocked those leaders from ordering the arrest of the quorum-breaking Democrats.

In a statement after the warrants were signed Tuesday evening, state Rep. Chris Turner of Grand Prairie, who chairs the House Democratic Caucus, said it is ''fully within our rights as legislators to break quorum to protect our constituents'' and reiterated Democrats' commitment ''to fighting with everything we have against Republicans' attacks on our freedom to vote.''

Since the Legislature gaveled in Saturday for its second special session ordered by Abbott, the House has been unable to make a quorum as dozens of Democrats have remained absent from the chamber.

When the House was unable to meet its 100-member threshold to conduct business Monday, members adopted a procedural move known as a ''call of the House'' in an effort to secure a quorum. That move locks doors to the chamber and prevents members on the floor from leaving unless they have permission in writing from the speaker.

That vote earlier Tuesday marks the second time in recent weeks that the chamber has voted to send law enforcement after Democrats still missing from the House.

During the first special session in July, and after more than 50 House Democrats flew to D.C., members present authorized state authorities to track down their colleagues—but the move carried little weight since Texas law enforcement lacks jurisdiction outside the state.

By the time that first 30-day stretch ended last week, Phelan had signed only one civil arrest warrant, for Rep. Philip Cortez, a San Antonio Democrat. But that move came too late since Cortez, who had briefly returned to Austin, had already gone back to the nation's capital.

Intraparty pressure has been mounting on House Democrats since the second special session started. After at least four of them returned to the floor Monday, bringing the chamber within five members of a quorum, some of their Democratic colleagues who were still in Washington unleashed on them. Rep. Ana-Maria Ramos of Richardson tweeted at the returning Democrats that they ''all threw us under the bus today.''

Pressure ramped up Tuesday morning, when a coalition of Democratic-aligned groups released a statement urging House Democrats to hold firm and continue breaking quorum. The 21 groups included Planned Parenthood Texas Votes, the state's Sierra Club chapter, the Texas Organizing Project, Progress Texas, the Communications Workers of America and several groups that advocate for Latino Texans.

''To every pro-democracy Texas lawmaker: the only way to preserve our right to vote and the best way to fight is to stay off the House floor,'' the coalition's statement said.

The group also released a four-page memo arguing that far more was at stake in the second special session than just the elections bill, citing a ''host of radical conservative priorities'' throughout the agenda. The memo was particularly emphatic about a new proposal for the second special session—dropping the quorum threshold to a simple majority—calling it an ''ominous allusion to reducing or eliminating minority rights in the Legislature, breaking centuries of Texas bipartisanship.''

Meanwhile, a number of House Democrats have returned to Texas but have not come to the House floor to help provide quorum.

One of them is state Rep. Evelina ''Lina'' Ortega, who says she is home in El Paso but not showing up on the House floor until there is already a quorum or a majority of the Democratic caucus decides to be there.

''I pretty much feel that it's a shame that the governor and Republicans . . . are really using the dirtiest tactic available to them,'' Ortega told the Tribune on Tuesday evening after the House's vote to send law enforcement after the absentee Democrats. ''To me it's all about a power grab. I'm glad to stay away and continue to fight them.''

As for whether she is concerned about arrest, Ortega said she believes it would be a ''big mistake'' by Republicans.

''We'll see what happens,'' she said.

Ms. JACKSON LEE. This is John Lewis, and he says: ''We will stand up for what is right, for what is fair, and what is just,'' and we will ensure that we have courage, the kind of courage that is ''raw courage.''

Today, I ask my Republican colleagues to reject the big lie, to reject the insurrection, and to reject the idea that there is not voter suppression.

I stand with H.R. 4, a bill that is the continuation of the reauthorization that I have done over the years as a member of the Judiciary Committee. I thank Chairman NADLER, Chairman COHEN, TERRI SEWELL, all those who are part of this great effort, and our whip.

But the real important point is that we give the vote back to the American people, to the disabled, to young people, to senior citizens, and we reject that unfortunate statement. The State of Texas attorney general, the secretary of state, never found any fraud in the election, in particular in 2020.

I am very glad that this will particularly have the look-back. It will protect us against such dilution and diminution.

This is a bill that has to pass, and the Senate has to pass it. Give the vote back to the American people. Have raw courage.

Madam Speaker, as a senior member of the Judiciary Committee and an original cosponsor, I rise today in strong support of H.R. 4, the John Lewis Voting Rights Advancement Act, which corrects the damage done in recent years to the Voting Rights Act of 1965 and commits the national government to protecting the right of all Americans to vote free from discrimination and without injustices that previously prevented them from exercising this most fundamental right of citizenship.

I thank my colleague, Congresswoman TERRI SEWELL of Alabama for introducing this

legislation, to Speaker PELOSI, Chairman NADLER, and the Democratic leadership, and to the many colleagues and countless number of ordinary Americans who never stopped agitating and working to protect the precious right to vote.

Madam Speaker, in response to the Supreme Court's invitation in *Shelby County* v. *Holder*, 570 U.S. 193 (2013), H.R. 4 provides a new coverage formula based on ''current conditions'' and creates a new coverage formula that hinges on a finding of repeated voting rights violations in the preceding 25 years.

It is significant that this 25-year period is measured on a rolling basis to keep up with ''current conditions,'' so only states and political subdivisions that have a recent record of racial discrimination in voting are covered.

States and political subdivisions that qualify for preclearance will be covered for a period of 10 years, but if they have a clean record during that time period, they can be extracted from coverage.

H.R. 4 also establishes ''practice-based preclearance,'' which would focus administrative or judicial review narrowly on suspect practices that are most likely to be tainted by discriminatory intent or to have discriminatory effects, as demonstrated by a broad historical record.

Under the bill, this process of reviewing changes in voting is limited to a set of specific practices, including such things as:

1. Changes to the methods of elections (to or from at-large elections) in areas that are racially, ethnically, or linguistically diverse.

2. Redistricting in areas that are racially, ethnically, or linguistically diverse.

3. Reducing, consolidating, or relocating polling in areas that are racially, ethnically, or linguistically diverse; and

4. Changes in documentation or requirements to vote or to register.

Madam Speaker, while I am proud to strongly support this bill, I would be remiss if I did not express my disappointment at the decision to not include my amendments to this bill.

Jackson Lee Amendments #6, #7, and #8 are easy to understand and vitally important—they simply protect state legislators who, in keeping with their sacred oath to uphold the Constitution of the United States, refuse to perform unconstitutional acts under the guise of legislative process.

Specifically:

Jackson Lee Amendment #6 allows for federal judicial review of any warrants issued for the arrest of a state legislator where said state legislator refuses to engage in the state legislative process due to a reasonably held belief that doing so would infringe on the right to vote.

Jackson Lee Amendment #7 inserts a Sense of the Congress stating that a state's power to arrest a duly elected representative of a constituency for refusal to engage in a state's legislative process should be subject to federal judicial review where such elected representative's refusal is premised upon a reasonable belief that participation would result in the suppression of voting rights or other violations of the Constitution of the United States of America.

Jackson Lee Amendment #8 privileges against arrest any member of a state legislature for any reason except treason or murder while the legislature of that state is debating or voting on legislation relating to redistricting or election practices or legislation relating to the right to vote in federal, state, or municipal elections.

These amendments would have critically strengthened H.R. 4 because state legislatures across the country are utilizing every weapon in their arsenal to curtail voting rights; and no one should fear arrest due to fighting for the Constitutional rights of their constituents.

This includes my home state of Texas, where earlier this month officers of the Texas House of Representatives delivered civil arrest warrants, signed by the Texas state Speaker of the House, for more than 50 absent Democrats in an attempt force a vote on the naked attempt at voter suppression known as Texas S.B. 7.

This is the latest Republican attack on these brave state legislators, which began on May 30, where after a night of impassioned debate and procedural objections, these Democratic lawmakers in Texas took action to block passage of this massive overhaul of the state's election laws.

With little more than an hour before the voting deadline, these Democrats staged a walkout, depriving their Republican colleagues of the 100-member quorum needed to pass the measure.

And when Governor Abbot called a special session in Texas for the purpose of passing horrific voter suppression legislation, those brave Texas Democrats rose to the challenge again and broke quorum.

Under the threat of arrest, those heroes fighting for voting rights have escaped to Washington, D.C.

Since the arrest warrants were issued, it is my understanding that mass intimidation of the Texas House Democrats has occurred.

State officials came to their homes with the purpose of dragging them back to eviscerate the voting rights of thousands of Texas.

These elected Texas Representatives have had to hide away from their friends, their families, and their loved ones, all to ensure that Texans retain their most sacred of rights.

They are risking their freedom to ensure every Texan has full access to their constitutional right to vote.

Although the Republicans have tried to spin this in many different ways, let's be clear—Texas Democrats are taking a righteous stand for our democracy.

Breaking quorum isn't an easy choice—legislators must leave family, friends, constituents, and their important work for days or weeks.

But by making this choice, these Texas Democrats are fighting for all of us, because voting is not a partisan issue.

Access to the ballot is a sacred cornerstone of our democracy, and we must protect it at all costs.

Last month marked one year since we lost a champion for voting rights, and the namesake of H.R. 4, Congressman John Lewis.

In his final words, he reminded us that, ''the vote is the most powerful nonviolent change agent [we] have in a democratic society,'' and that ''Though I may not be here with you, I urge you to answer the highest calling of your heart and stand up for what you truly believe.''

We may no longer have John Lewis with us, but in his absence, the Texas Democrats are following his example, and stirring up good trouble, necessary trouble, for our right to vote.

They have followed the truth in his words and have sacrificed much to follow the highest calling of their hearts.

Texas Republicans seek to pass voting regulation laws focused on 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.

These bills would limit extended early voting hours, prohibits drive-thru voting and makes it illegal for local election officials to proactively send applications to vote by mail to voters, even if they qualify.

These bills are 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.

Standing between all of this and the voting rights of thousands of Texans are those brave state legislators who currently have a warrant out for their arrest.

No elected representative in this great nation should fear that he or she will be locked away for simply standing up for justice and ensuring that America's citizens have the right to vote.

For this reason, I believe that H.R. 4 would have been greatly strengthened by the inclusion of my amendments in the Rule.

Madam Speaker, I strongly encourage all Members of Congress to support this bill, because 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 by passing H.R. 4, the John Lewis Voting Rights Advancement Act.

It is useful, Madam Speaker, to recount how we arrived at this day. Madam Speaker, fifty-six years ago, in Selma, Alabama, hundreds of heroic souls risked their lives for freedom and to secure the right to vote for all Americans by their participation in marches for voting rights on ''Bloody Sunday,'' ''Turnaround Tuesday,'' or the final, completed march from Selma to Montgomery.

Those ''foot soldiers'' of Selma, brave and determined men and women, boys and girls, persons of all races and creeds, loved their country so much that they were willing to risk their lives to make it better, to bring it even closer to its founding ideals.

The foot soldiers marched because they believed that all persons have dignity and the right to equal treatment under the law, and in the making of the laws, which is the fundamental essence of the right to vote.

On that day, Sunday, March 7, 1965, more than 600 civil rights demonstrators, including our beloved colleague, Congressman John Lewis of Georgia for whom this important legislation is named, were brutally attacked by state and local police at the Edmund Pettus Bridge as they marched from Selma to Montgomery in support of the right to vote.

''Bloody Sunday'' was a defining moment in American history because it crystallized for the nation the necessity of enacting a strong and effective federal law to protect the right to vote of every American.

No one who witnessed the violence and brutally suffered by the foot soldiers for justice who gathered at the Edmund Pettus Bridge will never forget it; the images are deeply seared in the American memory and experience.

On August 6, 1965, in the Rotunda of the Capitol President Johnson addressed the nation before signing the Voting Rights Act:

The vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.

The Voting Rights Act of 1965 was critical to preventing brazen voter discrimination violations that historically left millions of African Americans disenfranchised.

In 1940, for example, there were less than 30,000 African Americans registered to vote in Texas and only about 3 percent of African Americans living in the South were registered to vote.

Poll taxes, literacy tests, and threats of violence were the major causes of these racially discriminatory results.

After passage of the Voting Rights Act in 1965, which prohibited these discriminatory practices, registration and electoral participation steadily increased to the point that by 2012, more than 1.2 million African Americans living in Texas were registered to vote.

In 1964, the year before the Voting Rights Act became law, there were approximately 300 African-Americans in public office, including just three in Congress.

Few, if any, African Americans held elective office anywhere in the South.

Because of the Voting Rights Act, in 2007 there were more than 9,100 black elected officials, including 46 members of Congress, the largest number ever.

Madam Speaker, the Voting Rights Act opened the political process for many of the approximately 6,000 Hispanic public officials that have been elected and appointed nationwide, including more than 275 at the state or federal level, 32 of whom serve in Congress.

Native Americans, Asians and others who have historically encountered harsh barriers to full political participation also have benefited greatly.

The crown jewel of the Voting Rights Act of 1965 is Section 5, which requires that states and localities with a chronic record of discrimination in voting practices secure federal approval before making any changes to voting processes.

The preclearance requirement of Section 5 protects minority voting rights where voter discrimination has historically been the worst.

Between 1982 and 2006, Section 5 stopped more than 1,000 discriminatory voting changes in their tracks, including 107 discriminatory changes right here in Texas.

Passed in 1965 with the extraordinary leadership of President Lyndon Johnson, the greatest legislative genius of our lifetime, the Voting Rights Act of 1965 was bringing dramatic change in many states across the South.

But in 1972, change was not coming fast enough or in many places in Texas.

In fact, Texas, which had never elected a woman to Congress or an African American to the Texas State Senate, was not covered by Section 5 of the 1965 Voting Rights Act and the language minorities living in South Texas were not protected at all.

But thanks to the Voting Rights Act of 1965, Barbara Jordan was elected to Congress, giving meaning to the promise of the Voting Rights Act that all citizens would at long last have the right to cast a vote for person of their community, from their community, for their community.

Madam Speaker, it is a source of eternal pride to all of us in Houston that in pursuit of extending the full measure of citizenship to all Americans, in 1975 Congresswoman Barbara Jordan, who also represented this historic 18th Congressional District of Texas, introduced, and the Congress adopted, what are now Sections 4(f)(3) and 4(f)(4) of the Voting Rights Act, which extended the protections of Section 4(a) and Section 5 to language minorities.

We must remain ever vigilant and oppose all schemes that will abridge or dilute the precious right to vote.

Madam Speaker, I am here today to remind the nation that the need to pass this legislation is urgent because the right to vote—that ''powerful instrument that can break down the walls of injustice''—faces grave threats.

The threats stem 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.

Not to be content with the monument to disgrace that is the Shelby County decision, the activist right-wing conservative majority on the Roberts Court, on July 1, 2021, issued its evil twin, the decision in *Brnovich* v. *DNC*, 594 U.S. ___, No. 19–1257 and 19–1258 (July 1, 2021), which engrafts on Section 2 of the Voting Rights Act onerous burdens that Congress never intended and explicitly legislated against.

Madam Speaker, were it not for the 24th Amendment, I venture to say that this conservative majority on the Court would subject poll taxes and literacy tests to the review standard enunciated in Brnovich v. DNC.

According to the Supreme Court majority, the reason for striking down Section 4(b) of the Voting Rights Act 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 and that is why we must pass H.R. 4, the John Lewis Voting Rights Advancement Act.

Let me put it this way: in the same way that the vaccine invented by Dr. Jonas Salk in 1953 eradicated the crippling effects but did not eliminate the cause of polio, the Voting Rights Act succeeded in stymieing the practices that resulted in the wholesale disenfranchisement of African Americans and language minorities but did not eliminate them entirely.

The Voting Rights Act is needed as much today to prevent another epidemic of voting disenfranchisement as Dr. Salk's vaccine is still needed to prevent another polio epidemic.

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.''

Madam Speaker, in many ways my home state of Texas is ground-zero for testing and perfecting schemes to deprive communities of color and language minorities of the right to vote and to have their votes counted.

Consider what has transpired in Texas in recent past, let alone the noxious voter suppression bill, SB7, it is currently trying to ramrod through the legislature.

Only 68 percent of eligible voters are registered in Texas and state restrictions on third party registration, such as the Volunteer Deputy Registrar program, exacerbate the systemic disenfranchisement of minority communities.

These types of programs are often aimed at minority and underserved communities that, for many, many other reasons (like demonization by the president, for example) or mistrust of law enforcement are afraid to live as openly as they should.

In Harris County, we had a system where voters were getting purged from the rolls, effectively requiring people to keep active their registrations and hundreds of polling locations closed in Texas, significantly more in number and percentage than any other state.

In addition, the Texas Election Code only requires a 72-hour notice of polling location changes.

Next, take what happened here in Texas in 2019 when the Texas Secretary of State claimed that his office had identified 95,000 possible noncitizens on the voter rolls and gave the list to the Texas State Attorney General for possible prosecution—leading to a claim from President Trump about widespread voter fraud and outrage from Democrats and activist groups.

The only problem was that list was not accurate.

At least 20,000 names turned out to be there by mistake, leading to chaos, confusion, and concern that people's eligibility vote was being questioned based on flawed data.

The list was made through state records going back to 1996 that show which Texas residents were not citizens when they got a driver's license or other state ID.

But many of the persons who may have had green cards or work visas at the time they got a Texas ID are on the secretary of state's office's list, and many have become citizens since then since nearly 50,000 people become naturalized U.S. citizens in Texas annually.

Latinos made up a big portion of the 95,000-person list.

Texas Republicans adopted racial and partisan gerrymandered congressional, State legislative redistricting plans that federal courts have ruled violate the Voting Rights Act and were drawn with discriminatory intent.

Even after changes were demanded by the courts, much of the damage was already done.

Reversing the position by the Obama administration, the Trump Department of [in]Justice represented to a federal court that it no longer believed past discrimination by Texas officials should require the state to get outside approval for redistricting maps that will be drawn in 2021.

In addition to affirmative ways to making it harder to vote, we also know face other odious impediments in Texas.

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.

This is the harm that can be done without preclearance, so on a federal level, there is an impetus to act.

Consider the demographic groups who lack a government issued ID:

1. African Americans: 25 percent
2. Asian Americans: 20 percent
3. Hispanic Americans: 19 percent
4. Young people, aged 18–24: 18 percent
5. Persons with incomes less than $35,000: 15 percent

And there are other ways abridging or suppressing the right to vote, including:

1. Curtailing or eliminating early voting.
2. Ending same-day registration.
3. Not counting provisional ballots cast in the wrong precinct on Election Day will not count.
4. Eliminating adolescent pre-registration.
5. Shortening poll hours.
6. Lessening the standards governing voter challenges thus allowing self-proclaimed ''ballot security vigilantes'' like the King Street Patriots to cause trouble at the polls.

The malevolent practice of voter purging is not limited to Texas; we saw it in 2018 in Georgia, where then Secretary of State and now Governor Brian Kemp purged more than 53,000 persons from the voter, nearly the exact margin of his narrow win over his opponent, Stacy Abrams in the 2018 gubernatorial election.

Voter purging is a sinister and malevolent practice visited on voters, who are disproportionately members of communities of color, by state and local election officials.

This practice, which would have not passed muster under section 5 of the Voting Rights Act, has proliferated in the years since the Supreme Court neutralized the preclearance provision, or as Justice Ginsburg observed in Shelby County v. Holder, ''threw out the umbrella'' of protection.

Madam Speaker, citizens in my congressional district and elsewhere know and have experienced the pain and heartbreak of receiving a letter from state or local election officials that they have been removed from the election rolls, or worse, learn this fact on Election Day.

That is why I am very pleased that H.R. 4 includes language that I worked hard to include in the Manager's Amendment to the Voting Rights Advancement Act of 2019 that strengthens the bill's ''practice-based preclearance'' provisions by adding specifically to the preclearance provision, voting practices that add a new basis or process for removing a name from the list of active registered voters and the practice of reducing the days or hours of in-person voting on Sundays during an early voting period.

For millions of Americans, the right to vote protected by the Voting Rights Act of 1965 is a 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.

Madam Speaker, 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 by passing H.R. 4, the John Lewis Voting Rights Advancement Act.

Mr. JORDAN. Madam Speaker, was it a big lie when the Democrats for 4 years questioned the 2016 election, when in October of 2020 Secretary Clinton said the election was stolen from her in 2016? Was that the big lie that the previous speaker was talking about?

I yield 2 minutes to the distinguished gentleman from Oregon (Mr. BENTZ).

Mr. BENTZ. Madam Speaker, this bill would operate to freeze in place, to substantially chill, changes to the election processes of some of the 90,126 State and local government units found in this United States.

Madam Speaker, I assure you, the election processes of many of these State and local units are not perfect, but this bill would chill necessary corrections and updating of such election processes. Why? Because the bill creates a private enforcement cause of action, with attorney fees to the prevailing party, and establishes a clear risk to these 90,126 government units of incurring tens if not hundreds of thousands of dollars of attorney fees if the government unit gets it wrong and violates the subjective standards, such as the undefined term ''diminishes'' found in section 4A(c)(2) in the bill.

Madam Speaker, after what we have been through in the last election, we should be working to encourage certainty and clarity in our election processes. This bill does not do that. It does the opposite.

□ 1645

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. JEFFRIES).

Mr. JEFFRIES. Madam Speaker, how dare Republicans come to this floor and lecture America about masks and liberty over and over again while at the same time undermining the precious right to vote?

Free and fair elections are central to our liberty, and we are not going to let anyone take that away from us.

Those who worship at the altar of voter suppression will fail. Those who worship at the altar of Jim Crow-like oppression will fail. Those who worship at the altar of turning back the clock to make America hate again will fail.

We are not going backward.

The John Robert Lewis Voting Rights Advancement Act will become law, and when it is all said and done, democracy will prevail, and good trouble will win the day.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Madam Speaker, as has been said earlier by DARRELL ISSA, it was Rahm Emanuel that pointed out, don't let a good crisis go to waste.

So here we have a crisis on our southern border and Afghanistan, and what do we do? The majority comes in here and says, we don't want our Members to have to vote on a $3.5 trillion spending bill, so we will just pass a rule that says without anybody voting on it we pass a $3.5 trillion spending bill. And then we will immediately jump over to a noble man with a great name that did such great work for America along with Dr. King, John Lewis, the John Lewis Voting Rights Act bill.

Well, I was here when that was reauthorized, when that was redone, and I begged, after talking to some liberal constitutional professors of law, I begged Jim Sensenbrenner and John Conyers not to go forward with section 4(b) the way it was and section 5. Let's do this right so that it won't be struck down. Mr. Sensenbrenner was not open to that whatsoever; John Conyers, to his credit, was. I said, please talk to some professors, let them tell you, it is at risk of being struck down. And he said, well, they say there is a decent chance of that, but let's see what happens.

What happens now? We come in here, and we are going to disenfranchise American voters by taking over the voting across America. The Constitution reserves those provisions to the State legislature. We shouldn't be doing this.

Back after the 2000 election when there were some people in Florida that were not as smart as fifth graders because they couldn't figure out the butterfly ballots, this body jumped in, took over, and said everybody go to electronic ballots and electronic voting, and they have caused us misery ever since.

Let's let States and local government do the job the Constitution gave them.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. CORREA).

Mr. CORREA. Madam Speaker, today I rise in strong support of the John Lewis Voting Rights Act.

Today across the Nation, States are eliminating same-day voter registration, reducing voting times, and limiting the availability of polling places. These changes essentially make it harder for our friends and neighbors to vote.

This bill is a simple bill. It ensures that all legally cast ballots are counted. It ensures that the voices of Americans are louder than those of special interests.

I urge my colleagues to vote ''yes'' on the John Lewis Voting Rights Act.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from Georgia (Mr. CARTER).

Mr. CARTER of Georgia. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I rise today in strong opposition to H.R. 4.

This legislation is named after a good man and a fellow Georgian, John Lewis, whom I was honored to call friend while we served together in this body.

And let me remind my colleagues on the other side of the aisle and the Speaker that I was the only Republican to join you in San Diego for the christening of the USNS *John Lewis*, and I

did it because he was my friend. I did it because he should be honored.

While he was a good man, this legislation does nothing to advance the rights of our citizens to vote as my friends on the other side of the aisle would claim.

H.R. 4 is a radical and unprecedented Federal power grab over State-administered elections under the guise of updating the Voting Rights Act of 1965.

At the time, the extraordinary measures employed by the Voting Rights Act were important, however, thankfully, as the U.S. Supreme Court recognized in a 2013 decision, things have changed dramatically in the U.S. since 1965.

In fact, elections in 2018 and 2020 saw record turnout among Americans from minority communities.

Madam Speaker, H.R. 4 must be rejected to ensure that the Federal takeover of our elections stops right here.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished Speaker of the House.

Ms. PELOSI. Madam Speaker, I thank the gentleman for the recognition, and I acknowledge his tremendous leadership over time, including right now on the issue of voting rights in our country. I thank him for bringing this important legislation to the floor and to do so under the name of Congresswoman TERRI SEWELL, the author of the bill, who has been working on this for a long time, since the assault on the legislation, on these laws by the Supreme Court.

I also thank Mr. CLYBURN, a champion from the civil rights era to now, always fighting for all of this; and ZOE LOFGREN, the chair of the Committee on House Administration.

We have so many people to acknowledge; Mr. BUTTERFIELD for his work in establishing the constitutional record, as well as Marcia Fudge, now Secretary Fudge, for her work. So many people worked to build a constitutional basis to make it ironclad so that the Supreme Court of the United States cannot once again do violence as it did in Shelby County v. Holder and the most recent assault on section 2.

Madam Speaker, I think my colleagues will all agree that many wonderful honors are afforded us as Members of Congress. I can think of none that is more poignant than being here today to be able to speak on this important issue named for John Lewis. It is almost a religious experience because of the sanctity of the vote, which is greatly at risk.

Our colleagues have mentioned some of the assaults on voting that have taken place to undermine what we are, a democracy. We talk about the preamble where 230 years ago our Founders gave us guidance in the words, ''we the people'' establishing a government in which the people, not a king, would shape their own destiny.

Ever since, Americans have fought to make real that promise for all citizens while enshrining in the Constitution the 13th and 15th amendments and the 19th amendment, which we are celebrating this week to expand voting rights to women and to passing landmark civil and voting rights protections, including the Voting Rights Act.

Right here in this very Chamber the Voting Rights Act was passed. President Lyndon Johnson spoke in a beautiful speech, the ''We Shall Overcome'' speech, in which he called the VRA's passage, ''The history of this country, in large measure, is the history of the expansion of that right to all of our people.''

We all know that the story of America is a story of ever-expanding freedoms, yet today, that story and those rights are under threat from a targeted, brazen, and partisan campaign to deny Americans the ballot.

This campaign is anti-democratic, it is dangerous, and it demands action.

Today, the House will pass H.R. 4, the John R. Lewis Voting Rights Advancement Act to combat this anti-democratic tide. This bill restores the power of the Voting Rights Act, as President Johnson said, '' . . . one of the most monumental laws in the entire history of American freedom.''

Any diminishment of the Voting Rights Act is a diminishment of our democracy. In America, the right to vote must never be compromised.

Again, I thank Representatives SEWELL, Mr. BUTTERFIELD, Marcia Fudge, JERRY NADLER, ZOE LOFGREN, Mr. CLYBURN, and so many who made this day possible.

And let me pause to salute our beloved conscience of the Congress, the late John Lewis, whose words guide us. ''The vote is precious,'' he said. ''It is almost sacred. It is the most powerful, nonviolent tool we have in a democracy.''

The previous speaker mentioned that he had been at the christening of the USNS John Lewis. We were all together in San Diego, and we were honored that the Congressman was there with us.

As he was saying those words, I was remembering that day. We were all very excited. It was the largest contingent of Members of Congress to go to the christening of a ship—and I have been to several, so I know—and what it was reminding me of is when we had gone a couple years ago in 2019 to Ghana; John Lewis led us there. It was the 400th anniversary. You were there, Madam Speaker. Mr. CLYBURN and so many others were there. We were there with John Lewis, and we went to the door of no return, which now is the door of return as they were welcoming people back.

I have on this bracelet that I got from the President of Ghana when we were there as a remembrance of that trip, and I have it on now because what John Lewis said then, and apropos of the christening of a ship, We may have all come to this country on different ships, but now we're all in the same boat. That is what John Lewis said. He said it in Ghana. He said it many times.

We are all in the same boat. We all should have the right to vote. And that should not be diminished by anyone. It is unpatriotic to undermine the ability of people who have a right to vote to have access to the polls.

As John knew, this precious pillar of our democracy is under attack from what is the worst voter suppression campaign in America since Jim Crow. Unleashed by the dangerous Shelby v. Holder in 2013 and 2021, State lawmakers have introduced over 400 suppression bills.

I am very honored today, Madam Speaker, that we have legislators from the State of Texas who are fighting the fight for voting rights for people in their State and in our country. They are patriotic Americans. And let us hear applause for those Texans who have done so much.

Much has been said about preclearance and thousands of discriminatory voting changes. But let us just say that in the Shelby decision, the dissent was written by Justice Ginsburg, and she noted in her dissent the Court's reasoning in Shelby was nonsensical. ''Throwing 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.''

Sadly, the Court has since continued that assault on the ballot.

So H.R. 4, the John R. Lewis Voting Rights Advancement Act, would be a remedy to this assault and to restore the preclearance provisions.

I have said earlier today on the rule on this vote, in 2006 we all came together in a bipartisan way to pass the Voting Rights Act. Nearly 400 votes in the House, unanimous in the Senate. We came together in the center of the Capitol, marched down the Capitol steps celebrating that.

The bill was signed by President George Bush proudly. He joined us in Selma, hosted by Congresswoman SEWELL. He and President Obama joined us in Selma, and he came and spoke as the President who had signed the Voting Rights Act. As I say, more importantly, Mrs. Laura Bush was there, so their hearts were in all of this. It was bipartisan. I wish it could be today.

In our work to protect the ballot, let us recall John Lewis' final message published after his passing. ''Democracy is not a state. It is an act.'' With H.R. 4, his namesake, the Congress takes this action to build a future in which we all have equitable access to the ballot and to our democracy.

In memory of our beloved John, for whom this legislation is named, and in the interest of passing it and H.R. 1, of which he wrote the first 300 pages, let us honor our patriotic duty and make justice and equality there for everyone to vote.

□ 1700

Mr. JORDAN. Madam Speaker, the Speaker of the United States House of Representatives just applauded Texas legislators for not showing up to work, for not doing their job. I mean, the things we see today, it is truly amazing to me.

Madam Speaker, I yield the balance of my time to the gentleman from Louisiana (Mr. JOHNSON).

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Pennsylvania (Ms. SCANLON).

Ms. SCANLON. Madam Speaker, since the founding of our country, our quest for a more perfect union has featured measures to expand, not contract, the right to vote.

In 1965, activists, including a young John Lewis, put their lives on the line to pass the original Voting Rights Act.

For decades, that law enjoyed broad bipartisan support, but in recent years, State legislatures have passed hundreds of laws to restrict voter access.

In 2020, our system held. It held because voters turned out in overwhelming numbers. It held because election officials did their jobs faithfully, regardless of party. It held because brave officers of the U.S. Capitol and Metro Police defended our Constitution.

But let's be clear, the assault on voting rights continues, inspired by corrupt and cynical efforts to hold power at all costs. We must do our job to protect and reinforce our democratic system against these new threats because it won't hold indefinitely.

Madam Speaker, I urge all Americans to hold the line to protect and defend our democracy. I urge swift passage of the John R. Lewis Voting Rights Advancement Act by the House and the Senate.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time once more.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. GARCIA).

Ms. GARCIA of Texas. Madam Speaker, I rise today in support of H.R. 4 and its efforts to protect access to the ballot box and advance justice and democracy for all, including Latinos, which represent 77 percent of my district.

We are all equal under the law and should be treated equally at the ballot box. Recent attempts by the GOP-led legislatures in States like my home State of Texas, demonstrate how urgent it is to protect our democracy. These attempts could disenfranchise nearly 8 in every 10 of my constituents.

Our country has one of the strongest democracies in the world, and it is simply un-American to disenfranchise voters. I urge my colleagues to pass H.R. 4, which would maintain elections free, fair, and accessible to all eligible voters. Let's make our democracy stronger. Si se puede. Yes, we can.

I urge my colleagues to join me in support of H.R. 4.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 1 minute to the gentlewoman from New York (Ms. TENNEY).

Ms. TENNEY. Madam Speaker, I am strongly opposed to H.R. 4. When our Founders created this self-governing constitutional republic, they vested the power to administer time, place, and manner of elections with our State legislatures. They knew the sacred right to vote would be better preserved by democratically elected, accountable State and local officials rather than unelected Federal bureaucrats. This principle has endured for two centuries. However, this principle is now under attack here in the people's House.

My colleagues on the other side of the aisle argue that democracy is somehow in peril. And their solution to this problem is to relinquish total control of our elections, again, to Federal, unelected bureaucrats—a complete opposite of democratic concepts; bureaucrats with the power to prosecute based on political views and party affiliations.

These are the same officials who were absent when now-disgraced former Democrat Governor Cuomo unilaterally altered New York election laws last year in violation of New York's constitution, which chaotically overstressed the system and compromised the guarantee of a free, secure, and fair election.

Madam Speaker, I urge my colleagues to vote against this legislation.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Georgia (Mrs. MCBATH).

Mrs. MCBATH. Madam Speaker, I rise in support of H.R. 4, the John R. Lewis Voting Rights Advancement Act.

During the Civil Rights Movement, I was a child in the stroller at the March on Washington. And my father, who was the president of the Illinois branch of the NAACP for over 20 years, he raised me to always fight for what is right and what is just; to stand up for those who don't always have a voice.

John Lewis embodied the spirit of justice, and he inspired so many to fight for voting rights. John did say, ''Freedom is not a state, it is an act.'' Freedom is the continuous action we all must take, and each generation must do its part to create an even more fair and more just society.

Today, we do our part. We stand up for the right to vote; freedoms this Nation was founded upon and freedoms which must long endure.

Madam Speaker, I ask my colleagues to join me today in the act of fighting for freedom, fighting for democracy, and supporting the John R. Lewis Voting Rights Advancement Act.

Madam Speaker, I include in the RECORD letters of support for the Advancement Act.

[From the New Democrat Coalition, Aug. 23, 2021]

NEW DEMOCRAT COALITION ENDORSES H.R. 4

The New Democrat Coalition (NDC) announced its endorsement of H.R. 4, the John R. Lewis Voting Rights Advancement Act. The bill, introduced by NDC Member Terri Sewell (AL–07), seeks to address the most egregious forms of recent voter suppression by restoring the protections of the 1965 Voting Rights Act and determining which states and localities with a recent history of voting rights violations must pre-clear election changes with the U.S. Department of Justice.

''Our responsibility as members of Congress is to ensure that the American people have trust in our democratic process and equitable access to the ballot box,'' said New Democrat Coalition Chair Suzan DelBene. ''Congresswoman Sewell is continuing Congressman John Lewis' legacy by reintroducing this crucial legislation all to keep our elections fair and open. The Coalition endorsed this bill because the right to vote is the most sacred and fundamental right our nation offers. We urge our colleagues on both sides of the aisle to join us in passing this historic piece of legislation.''

I'm so proud that the John R. Lewis Voting Rights Advancement Act has earned the endorsement of the New Democrat Coalition,'' said New Democrat Member Rep. Terri Sewell. ''The right to vote is the most sacred and fundamental right we enjoy as American citizens and one that the Foot Soldiers fought, bled, and died for in my hometown of Selma, Alabama. Today, old battles have become new again as we face the most pernicious assault on the right to vote in generations. By restoring federal oversight and preventing states with a recent history of voter discrimination from restricting the right to vote, this bill keeps the promise of our democracy alive for all Americans and advances the legacy of those brave Foot Soldiers like John Lewis who dedicated their lives to preserving the sacred right to vote.

The Coalition has long been an advocate for promoting voting rights and protecting American elections and endorsed H.R. 4 last Congress. Earlier this year, the Coalition also endorsed H.R. 1. the For the People Act, earlier this year. With the endorsement and expected House action on H.R. 4, the Coalition remains committed to advancing voting and campaign reform legislation through the Senate and to the President as soon as possible.

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SIERRA CLUB,
August, 24, 2021.

DEAR REPRESENTATIVE: On behalf of the Sierra Club's 4 million members and volunteers, we are writing to urge a YES vote on the rule for the upcoming budget resolution and H.R. 4, the John Lewis Voting Rights Advancement Act, and the Senate Amendment to H.R. 3684.

Vote yes on the Rule containing S. Con 14/H.R. 3684 and H.R. 4.

The vote on this rule will deem the budget resolution that would initiate the reconciliation process to tackle the ongoing climate crisis, one of our nation's greatest threats.

Today's vote comes just days after the Intergovernmental Panel on Climate Change (IPCC) warned that the changing climate and extreme weather events we're already experiencing will continue to rapidly worsen. For many states this includes sea level rise, coastal flooding, more frequent storms, and extreme weather conditions, all of which threaten infrastructure and the abundant natural resources critical for the local economy. The growing local impacts of climate change are clear, but so too is the fact that

climate inaction will have severe costs for the nation's economy.

The Sierra Club strongly urges you to consider the enormous significance of this moment and, VOTE YES on the budget resolution, so we can begin the necessary process through budget Reconciliation to address the climate crisis.

Vote yes on H.R. 4 The John Lewis Voting Rights Advancement Act.

In addition to addressing our nation's climate crisis, it is imperative that we also protect our nation's democracy. The same communities most vulnerable to climate impacts are those disproportionately impacted and have been harmed by the dilution of the Voting Rights Act by the Supreme Court in 2013 and 2021.

Since then we have seen a rise in discriminatory voter laws, from cuts to early voting days to restrictive voter identification requirements. The John Lewis Voting Rights Advancement Act would restore preclearance coverage for state, localities, and political subdivisions with a history of voter discrimination, and would increase transparency and public awareness for changes to voting and polling practices that can be confusing and deter American voters.

For these reasons we urge a yes vote on the rule for the budget resolution, and for democracy and the John Lewis Voting Rights Advancement Act.

Sincerely,

DAN CHU,
Acting Executive Director.

AFT,
August 23, 2021.

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.7 million members of the American Federation of Teachers, I strongly urge you to support the John Lewis Voting Rights Advancement Act (H.R. 4). The need to strengthen and reestablish the protections of the Voting Rights Act of 1965, the crowning achievement of the civil rights movement, is more pressing now than ever before.

The late Rep. John Lewis once said, ''The vote is precious. It is almost sacred. It is the most powerful non-violent tool we have in our democracy.'' The bedrock of American democracy is participation at the ballot box for all, no matter their religion, their race, their income, their gender, their age, where they come from, what state they reside in or their ZIP code. Everything relies on voting rights, from the ability of local communities to run their schools and manage local services to the peaceful transfer of presidential power.

In the wake of two U.S. Supreme Court decisions—Shelby County v. Holder and Brnovich v. Democratic National Committee that gutted the Voting Rights Act, states have considered and enacted a rush of new laws making the right to vote harder to exercise, especially for communities of color. According to the Brennan Center for Justice, more than 400 voter suppression bills have been taken up by state legislatures since January of this year, and 18 states have already enacted 30 laws restricting the right to vote. Recent voter suppression measures embrace a variety of tactics including reducing early voting, eliminating polling places, giving local judges the ability to overturn elections, and making it a crime to deliver water or food to voters standing in line. While companion legislation with comprehensive national voting standards and reforms, such as the For the People Act, is needed to address the state laws already enacted, passing the John Lewis Voting Rights Advancement Act is essential to prevent new state voter suppression measures from being enacted.

The latest actions of state legislatures show that the protections of the Voting Rights Act are still woefully needed. They prove that the late Supreme Court Justice Ruth Bader Ginsburg was right in her Shelby County dissent when she wrote that to use the success of the Voting Rights Act as proof that it is unneeded is as wise as not using an umbrella in a storm because you don't feel the rain. Most of the states that have recently enacted, or are currently debating, laws restricting the right to vote have a history of having their efforts blocked when the Voting Rights Act's preclearance requirements were in full effect. H.R. 4 would establish new preclearance formulas that would prevent states with a history of voter discrimination from enacting new laws that would suppress the vote. It would also ensure that last-minute voting changes do not adversely affect voters by requiring officials to publicly announce all voting changes at least 180 days before an election, and it would expand the government's authority to send federal observers to any jurisdiction where there may be a substantial risk of discrimination at the polls on Election Day or during an early voting period.

John Lewis reminded us, ''Each of us has a moral obligation to stand up, speak up and speak out. When you see something that is not right, you must say something. You must do something.'' This is your chance.

We urge you to defend voting rights throughout the country by supporting the John Lewis Voting Rights Advancement Act and renewing the fight for the comprehensive voting rights legislation that must accompany it.

Thank you for considering our views on this critical legislation.

Sincerely,

RANDI WEINGARTEN,
President.

SEIU,
August 20, 2021.

DEAR REPRESENTATIVE: On behalf of the 2 million members of the Service Employees International Union (SEIU), I write in support of the Infrastructure Investment and Jobs Act (IIJA) as well as the Federal Fiscal Year 2022 Budget Resolution, and the John R. Lewis Voting Rights Advancement Act. Taken together, these critical bills will help strengthen our democracy and deliver on the full promise of President Biden's Build Back Better agenda.

After years of inaction, the IIJA advances important programs in public transportation, clean water, broadband and climate resilience. These public investments would give our communities a much-needed boost and help support safer roadways and schools, cleaner water, and more available and affordable Internet. But much more has to be done to build our country back better and ensure that workers have unions and a voice in their own futures.

By advancing the infrastructure bill along with the Build Back Better reconciliation package, with its commitments to living-wage care jobs with the opportunity to join together in a union—a path to citizenship and climate justice, Congress can take bold measures needed to meet essential workers' demands for common-sense and transformative policy solutions.

The budget resolution is the key to creating the pathway we need for both the IIJA and the reconciliation bill. We call on you to act immediately to pass the FY 2022 budget resolution to move forward on President Biden's Build Back Better full vision. In addition, we strongly urge you to support the John R. Lewis Voting Rights Advancement Act. This crucial legislation will help protect our democracy against the widespread attacks on our freedom to vote that are being mounted across our country—so that we all have an equal say in our future and our rights are protected.

For these reasons, we urge you to support the IIJA, the FY2022 budget resolution, and the John R. Lewis Voting Rights Advancement Act. We will add votes on each of these bills to our legislative scorecard for the 117th Congress.

Sincerely,

MARY KAY HENRY,
International President.

LIUNA!,
August 23, 2021.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 500,000 members of the Laborers' International Union of North America (LIUNA), I want to express our strong support for H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021.

Since the 2013 Supreme Court Shelby County v. Holder decision, which challenged portions of the Voting Rights Act of 1965, many states have enacted laws that restrict access to the polls by shortening early voting hours, enacting strict voter ID requirements, and decreasing the number of polling locations. These changes to the law disproportionally effect minority and disenfranchised communities. Just last month, in Brnovich v. Democratic National Committee, the Supreme Court decided that rules that impacted different populations unequally were not unfair. This decision opened the door even more broadly to different forms of voter suppression.

H.R. 4 is critically needed to help to reverse the negative effects of these restrictive state laws by requiring states and localities with a history of voting rights violations to pre-clear any changes to election laws with the Department of Justice. This important legislation will ensure that elections across this country remain fair and will restore the portions of the Voting Rights Act of 1965 that recent Supreme Court decisions have eliminated. In addition, this legislation will ensure that multilingual voting materials are more widely available and that polling places do not disproportionally serve privileged communities over communities of color.

For decades LIUNA has stood side by side with civil rights activists, including the late Congressman John Lewis, as they marched and took to the streets to fight for the critical issue of voting rights—one of the cornerstones of our democracy. LIUNA will continue to speak out against discriminatory laws and practices that attempt to disenfranchise voters. Ensuring all Americans have equal access to their constitutionally enshrined right to vote is a top priority.

LIUNA supports H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021, which passed the U.S. House of Representatives with a bipartisan vote in the last Congress and urges you to vote for this much-needed legislation.

With kind regards, I am

Sincerely yours,

TERRY O'SULLIVAN,
General President.

NATIONAL EDUCATION ASSOCIATION,
August 23, 2021.

Hon. TERRI A. SEWELL,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN SEWELL: On behalf of the 3 million members of the National Education Association who work in 14,000 communities across the nation, we urge you to vote YES on the John Lewis Voting

Rights Advancement Act of 2021 (H.R. 4) because it will protect our most fundamental right as citizens and safeguard the integrity of our democracy. Votes on this issue may be included in NEA's Report Card for the 117th Congress.

NEA members help prepare students for the privileges and responsibilities of citizenship. They want students to understand how our government works and their role in making it work—especially through voting. Yet, accessing the vote has become more difficult in recent years, particularly for African Americans and other people of color, people with disabilities, students, and senior citizens. In fact, from January through mid-July of this year, nearly 400 bills were introduced in 49 states that would make voting more difficult, according to the Brennan Center for Justice. At least 18 of those states have enacted 30 new laws that restrict our freedom to vote.

The U.S. Supreme Court in the 2013 Shelby v. Holder decision invalidated a crucial provision in the Voting Rights Act of 1965 (VRA) that prevented states with a history of discriminating against voters from changing their voting laws and practices without preclearance by federal officials. This federal review was an important feature of the Voting Rights Act; doing away with it has virtually annulled the federal oversight that was—and remains—crucial to ensuring that millions of people have equal access to the ballot box. Since the Shelby decision, several states have changed their voting practices in ways that have created barriers for people of color, low-income people, transgender people, college students, the elderly, and those with disabilities.

Furthermore, just last month, the Supreme Court ruled in Brnovich v. Democratic National Committee that two discriminatory Arizona voting laws did not violate Section 2 of the Voting Rights Act. In its opinion in Brnovich, the Court disregards the congressional purpose of Section 2, which is to provide a powerful means to combat race discrimination in voting and representation. The decision relies on a limited interpretation of the Voting Rights Act that will make it more difficult to challenge discriminatory voting laws. This decision underscores the need for Congress to pass the John Lewis Voting Rights Advancement Act to restore the legislative purpose of Section 2.

The John Lewis Voting Rights Advancement Act fills a distinct and critical role in protecting the freedom to vote and ensuring elections are safe and accessible by reversing these dangerous, undemocratic trends by taking several steps that include:

Updating the criteria used for identifying states and political subdivisions required to obtain federal review and approval of voting changes to ensure those changes do not infringe upon the freedom to vote for people of color;

Requiring that every state and locality nationwide that is sufficiently diverse obtain federal review before enacting specific types of voting changes that are known to be discriminatory in their use to silence the growing political power of voters of color;

Requiring all states and localities to publicly disclose, 180 days before an election, all voting changes, such as reductions in language assistance and changes in requirements to vote or register;

Authorizing the Attorney General to send federal observers to any jurisdiction where there is a substantial risk of racial discrimination at the polls;

Addressing the Brnovich decision by clarifying factors that voters of color can use to prove a vote dilution or vote denial claim under Section 2 of the VRA and restoring voters' full ability to challenge racial discrimination in voting in court;

Allowing the Department of Justice and voters of color to challenge changes in a voting rule that would make voters of color worse off in terms of their voting rights than the status quo;

Expanding authority for courts to ''bail-in'' jurisdictions to the preclearance process and updating the ability of jurisdictions to ''bail-out'' of the preclearance process once they demonstrate a record of not harming voters of color; and

Providing voters with additional protection by easing the standard for when courts can temporarily block certain types of voting changes while the change is under review in court. This is important because once a voter is discriminated against in an election, it cannot be undone.

NEA members live, work, and vote in every precinct, county, and congressional district in the United States. They take their obligation to vote seriously, viewing it as essential to protecting the opportunities that they believe all students should have. Educators teach students that voting is a responsibility of citizenship, a privilege people have died to protect, and a right we must dedicate ourselves to upholding. We urge you to vote YES on the John Lewis Voting Rights Advancement Act so that all may participate in the electoral process and have a voice in our democracy.

Sincerely,

MARC EGAN,
Director of Government Relations, National Education Association.

AARP,
August 24, 2021.

Hon. TERRI SEWELL,
Washington, DC.

DEAR REPRESENTATIVE SEWELL: AARP, on behalf of our nearly 38 million members and all older Americans, is proud to support H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021. The right to vote is the most fundamental of all political rights, and all Americans must be able to exercise their vote freely, easily, and safely.

The Voting Rights Act of 1965 (VRA) has been our nation's preeminent law protecting the voting rights of all Americans. But recent Supreme Court decisions have weakened several provisions of the law. H.R. 4 would help restore the law and ensure the protections contained in the 14th and 15th Amendments to the Constitution are enforced, by:

Creating a new coverage formula for all states and political subdivisions that takes into consideration repeated voting rights violations in the preceding 25 years;

Establishing a process for reviewing voting changes, focusing on measures that have historically been used to discriminate, including voter ID laws, the reduction of multilingual voting materials, changes to voting districts, and reductions in the number of polling locations;

Increasing transparency through public notice when voting changes are made; Expanding voting accessibility for Native American and Alaska Native voters; Allowing the Attorney General authority to request federal observers where there is a threat of racial discrimination in voting;

Allowing a federal court to order states or jurisdictions to be covered for results-based violations,

Clarifying that a voting change or practice is discriminatory even if other forms of voting are available to a protected class and;

Directing the Judicial Branch to discount a state or locality's claims of fraud as a reason to pass harmful voting laws if no evidence is presented of such fraud.

AARP looks forward to working with Congress and the Administration to ensure every citizen's right to vote.

Sincerely,

NANCY A. LEAMOND,
Executive Vice President and Chief Advocacy & Engagement Officer.

AMERICAN PUBLIC HEALTH ASSOCIATION,
August 23, 2021.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the American Public Health Association, a diverse community of public health professionals that champions the health of all people and communities, I write in strong support of H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021.

Over the past decade, U.S. Supreme Court decisions such as Shelby County v. Holder and Brnovich v. Democratic National Committee have unfortunately eroded key protections provided by the Voting Rights Act that protect against racial discrimination in the voting process, giving many states the ability to suppress and discriminate against voters. This year alone, state lawmakers have introduced 400 bills and enacted 30 laws restricting access to voting in 48 states. The John R. Lewis Voting Rights Advancement Act of 2021 would restore VRA protections by establishing a federal review process of changes to state voting laws. Potentially discriminatory changes would be paused until federal review is completed, and changes found to be discriminatory would be blocked entirely. Furthermore, strict oversight would be applied to states with histories of voter discrimination and policy changes known to be used to discriminate against voters of color.

Decades ago, the Institute of Medicine established in a report that voting is a public health issue because it helps shape ''the conditions in which people can be healthy.'' The ballot box is where community members can come together to decide on key issues that shape our response to today's public health emergencies: police brutality, gun violence, climate change and the ongoing COVID–19 pandemic. We commend Congresswoman TERRI SEWELL and the other sponsors for introducing this landmark legislation and the House for bringing it up for a vote. I write in strong support of H.R. 4 and urge you to vote yes on the bill. The provisions in this bill would support the advancement of racial and health equity, a key APHA priority and a crucial step toward achieving the healthiest nation in one generation.

Sincerely,

GEORGES C. BENJAMIN, MD,
Executive Director.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), the distinguished majority leader of the House.

Mr. HOYER. Madam Speaker, how pleased our friend would be that NIKEMA WILLIAMS is presiding, his successor. He was one of her mentors.

Madam Speaker, how proud you must be to preside at this critical time in our history.

Madam Speaker, I thank the gentlewoman from Selma, Alabama, TERRI SEWELL. I have been with Terri and her church, worshipped with her, prayed

with John Lewis in her church, walked down the streets of her town and over a bridge called the Edmund Pettus Bridge. And unlike John Lewis, when we walked across it, there were Alabama troopers to protect us rather than prevent us from voting.

Madam Speaker, I have heard a lot of discussion on the floor today about how there is no problem in America; people have full access. Too many people that I talk to throughout the country have told me that is not the case.

The Supreme Court passed a ruling and said, Oh, everything was fine. And as soon as they did, as soon as they took this preclearance off, State after State after State enacted legislation to make it more difficult to vote; like that.

Justice Ginsburg made an analogy in Shelby that the Supreme Court was saying, Oh, well, there is no problem left. She said it was like the man with the umbrella who had the umbrella up; wasn't getting wet. It was raining, but he wasn't getting wet. So he gave the umbrella away and said, I'm okay. I am dry. And then immediately, of course, he got all wet.

Madam Speaker, I am proud to join my sister, TERRI SEWELL; John's sister. John called me brother, and he called all of us brothers and sisters, in this, the beloved community that he envisioned. That was King's vision, as John was his disciple.

Today, we are honoring the legacy of a historic Member of this House. In my view, I have served with two historic Members of the Congress of the United States and the Senate and the House. There were a lot of famous, but two historic figures: One was John Lewis. And the other is NANCY PELOSI, the first woman Speaker and, in my view, the most effective Speaker with whom I have served in the 40 years that I have been here.

John Lewis was my dear friend, and he was your dear friend. I called him the most Christlike person I have ever seen, our dear Saint John, who preached to us the gospel of getting into ''good trouble'' and creating a beloved community; the gospel of John Robert Lewis.

He would be proud of us today for bringing this bill to the floor. He worked hard on this bill. I can remember sitting— JIM CLYBURN and I, and John Lewis and others—sitting in my whip's conference room, working on voting rights' legislation.

So let us honor his memory today with strong support for its voting rights' protection, for its reversal of the damage wrought by the 2013 Shelby v. Holder ruling, and for its recognition that our democracy is imperfect if it is not open to all eligible to vote.

In that ruling, Shelby v. Holder, the Supreme Court erred in its assessment of how necessary the Voting Rights Act's preclearance section was for protecting Americans' right to vote. You are not protecting Americans' right to vote if the relief that you can seek is after the fact, after the governor or the President or the Senator or the House of Delegates or representative, Member has been elected. It is too late. That is why preclearance was so critically important to reform and to protection of voters' rights.

In her powerful dissent, as I said, Justice Ginsburg pointed out that throwing out preclearance when it has worked and has continued to work to stop discriminatory changes is like that gentleman giving away his umbrella.

Indeed, since 2013, we have seen a veritable downpour of discriminatory and exclusionary voter suppression measures. I hear people arguing—I heard a Texan argue on this floor about how it is so easy to vote in Texas. Yet, we see them fighting for legislation, which half of their body—or not quite half, unfortunately—but a big number of their body who represents minority citizens says, No, you are wrong. You ought to walk in our shoes and find that they are making it more difficult for me to vote.

Since 2013, we have seen a veritable downpour, as I said. The John R. Lewis Voting Rights Advancement Act, sponsored by TERRI SEWELL, would confront this tempest head on. We have seen a campaign of voter suppression efforts in Republican-led jurisdictions that have changed their laws and voting rules to make it harder for eligible Americans to vote.

Their leader, Donald Trump, says there was fraud, there was theft. The problem is the Republican judges to which they appealed said no. The problem is Attorney General Barr, who covered up almost everything that Donald Trump said, even he couldn't say that there was fraud.

□ 1715

And so they justify these laws by somehow there is fraud out there, they are stealing our elections. That is baloney. It is the same kind of lie that Donald Trump continues to parrot. And if you say, like LIZ CHENEY did, he is lying, you are kicked out of your party.

We have seen a campaign of voter suppression over and over and over again, making it harder for eligible Americans to vote, disproportionately targeting African Americans. I am not an African American. It is hard for me to walk in those shoes.

I try to empathize, but I know if I am not Black, I can't really be as knowledgeable as I would be if I were Black, and I was every day subjected to discrimination, or if I were another person of color.

They have reduced early voting opportunities that help working people cast ballots. They want to eliminate—they haven't in every place—mail balloting, because they feel somehow if I don't see them when they fill out that form and attest that they are who they are under penalties of perjury that somehow——

Now, I can understand, from a party that in the last seven elections, in the last quarter of a century, have elected a number of Presidents, only one got a majority; only one, but they won the electoral college vote. That is why some Republicans said: Are you crazy? You confirm the electoral college, because it is what is protecting us against the majority.

They purged voter rolls so that people who believed themselves to be registered because they had registered and voted in the past, showed up to vote but were turned away.

I sponsored the Help America Vote Act with a guy named Bob Ney, who was from Ohio and a Republican, and a dear friend of mine. Unfortunately, he got in trouble, but he is a good man, still a good man. And we provided for provisional ballots, which simply said, if you made a mistake and came to the wrong precinct, fill out the ballot, we are going to check it tomorrow or the next day and make sure you are eligible to vote, and if you are, we will count it. That made sense; efforts to eliminate those.

These are real and pressing challenges facing our elections and our democracy; not imaginary fraud, but active and visible voter suppression. We have a duty, my colleagues, Democrat and Republican colleagues, we have a duty, a responsibility, a moral responsibility to make sure that people can vote and that we facilitate their vote, not impede it. Not make it more difficult. Facilitate it. Encourage them. Lift them up and let them vote.

And we owe it to John Lewis and the other heroes of Selma, and all the other small towns and byways and big cities and big States, where people fought, demonstrated, were bruised, battered, beaten, and yes, some died, so that their brothers and sisters could have the vote.

My colleagues, it falls to us now, today, to continue their march forward, and to carry on their work. There are no Alabama troopers waiting on the other side that are going to beat us or batter us or prevent us. We are not at risk. Whatever way we vote, we are going to walk out of there today and we are going to be fine.

But we have a moral responsibility to those who fought here and around the world to protect the vote, to protect democracy.

I urge my colleagues, Madam Speaker, to join you, to join me, to join our fellow colleagues in voting for H.R. 4, and for the protection of voting rights in our country. H.R. 4 the people.

PARLIAMENTARY INQUIRY

Mr. BUCK. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Ms. WILLIAMS of Georgia). The gentleman will state his parliamentary inquiry.

Mr. BUCK. Madam Speaker, my inquiry is, if it is appropriate to call the previous President a liar, is it appropriate that we can refer to the current President as a liar also?

The SPEAKER pro tempore. As recorded in section 370 of the House Rules and Manual, the prohibition against engaging in personalities does not apply to former Presidents.

Mr. BUCK. Does not apply to past Presidents?

The SPEAKER pro tempore. That is correct.

Mr. BUCK. Understood. I thank the Speaker.

PARLIAMENTARY INQUIRY

Mr. HOYER. Madam Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Madam Speaker, is it appropriate on the floor of the House to tell the truth?

The SPEAKER pro tempore. The gentleman is not stating a proper parliamentary inquiry.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. Madam Speaker, it is interesting when President Trump was in office that the name-calling in this place about him occurred often during the President's time in office.

In California, we currently have a special election about to be underway here. Just the other day, 300 mail-in ballots were found in the car of a guy passed out in a 7–Eleven parking lot, 300 ballots. And we don't think there is an issue sometimes with the way mail-in ballots are distributed.

I get anecdotes all the time from folks like this current special election. Oh, I received three ballots for people that haven't lived at my apartment for a long time, or relatives that have long since passed away, because you just mail them out willy-nilly everywhere.

H.R. 4 is not about voting rights, it is about election control and manipulation. It is about political appointees at the Department of Justice overturning State and legislative process, and controlling from D.C. local election decisions.

We know that Americans of the right age and legal status have the right to vote, and no one here is trying to take that away from them. Voter suppression hype is just a big lie. It is absurd what is trying to be perpetrated in this legislation.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. JONES).

Mr. JONES. Madam Speaker, 8 years ago the Supreme Court demolished the Voting Rights Act, in the deluded, dangerous belief that we had somehow overcome white supremacy and no longer needed the greatest achievement of the Civil Rights Movement.

The next day, States began making it harder for Black and Brown Americans to vote, initiating the biggest wave of racist voter suppression since Jim Crow. But today, we act to restore the Voting Rights Act. We also act to reverse the Supreme Court's recent assault on the right to vote by passing my bill with Representative RUBEN GALLEGO, the Inclusive Elections Act, which is part of this package.

Having said that, let us be clear-eyed about how we got here and the threat that remains. The John R. Lewis Voting Rights Act will not be safe so long as six far-right justices of the Supreme Court stand ready to destroy our democracy.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. FITZGERALD).

Mr. FITZGERALD. Madam Speaker, I want to just remind everybody, no matter what side of the bill you are on, there is a huge trust issue going on in America right now. People do not trust the system, and that is everyone's problem. If you think a centralized election bill to move the power to Washington, D.C., and put it in the hands of Congress and the courts is going to help, you are wrong. They don't trust us and they don't trust the courts.

A decentralized system is what has worked in America. So make sure that after you support this legislation, you go back and you meet with the town clerk that runs the elections, the county clerks, the parish clerks, the municipal clerks, and yes, the State legislatures. I notice the State legislatures are taking a real beating here today.

Pre-clearance expansion. Is that a can of worms that this body really wants to open up? Printed ballots. Photo ID. Now we are going to mandate polling places, election timelines, primary mechanics, who can be a poll worker. These are all things that are included in H.R. 4. I just want to make sure the public is aware of that.

We are now taking the power away from the people and placing it right here in Washington, D.C., in Congress and in the courts exclusively.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. Madam Speaker, for years I have said that the 1965 Voting Rights Act was written between Selma and Montgomery. The Voting Rights Act leveled the playing field and transformed southern electoral politics.

Since the Shelby decision, the right to vote and access to the ballot box are being compromised. The Subcommittee on Elections, which I chair, held five hearings, we called over 35 witnesses, produced a report detailing clear evidence of ongoing voter discrimination all across the country.

I thank Chairman NADLER, Chairman COHEN, and Ms. SEWELL for a good bill. The Voting Rights Act is as important today as ever. Passage of H.R. 4 will protect the right to vote and fully enforce the 15th Amendment.

Madam Speaker, I urge my colleagues to vote ''yes.''

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. BISHOP).

Mr. BISHOP of North Carolina. Madam Speaker, to come to the correct conclusion, a law professor used to say, ''You've got to know the facts.'' And that is what the American people need here: the facts, not emotion.

This bill would comprehensively transfer the power to govern elections in this country from the sovereign States to the Federal Government permanently and everywhere.

So what is the factual premise for so fundamentally concentrating the power here in Washington and diminishing the States? What has happened to justify making pervasive and permanent what Chief Justice Roberts explained was ''a drastic departure from basic principles of freedom'' when it was necessarily undertaken in the 1960s, temporarily and in limited parts of the country?

Well, Democrats offer lurid claims, but the American people are catching on. Like earlier this year, Stacey Abrams claimed that a simple voter ID law would be Jim Crow 2.0, but once the absurdity of that caught up to her, she looked so ridiculous that she tried to deny ever having claimed it.

Nothing epitomizes this better than the slur repeated in the Rules Committee yesterday by my law school classmate and colleague, Congresswoman ROSS. She quoted three ultraliberal judges in the Fourth Circuit who said that when the North Carolina legislature enacted voter ID and other reforms in 2013, it ''targeted African Americans with almost surgical precision.''

Activists and media have quoted that phrase over 7,500 times, according to Google. But few know that the three judges who stated that finding of fact were appellate judges who were supposed to be bound by the trial judge's finding of fact; or that the trial judge found in a painstaking 400-page analysis that the legislature's bill was not discriminatory. So the three appellate judges abused their power.

Few know how the three liberal appellate judges became the final word, that a Democrat State Attorney General intentionally sabotaged the State's appeal to prevent an upcoming review by the Supreme Court. That AG abused his power.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. JOHNSON of Louisiana. I yield an additional 30 seconds to the gentleman from North Carolina.

Mr. BISHOP of North Carolina. Madam Speaker, when the details are known, the absence of factual basis becomes plain. Nobody is getting wet. A University of Oregon economist showed, just in February, that the Shelby County decision to which this bill purports to respond, has not impaired Black voter turnout at all. There is no Jim Crow 2.0. This bill is about abuse of power.

Democrats wish to entrench themselves in power and to use the Federal

Government to obliterate the States in order to achieve it. You have to know the facts.

□ 1730

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Madam Speaker, I rise in strong support of the John R. Lewis Voting Rights Advancement Act. As Rhode Island's former secretary of state, I know the importance of access to the ballot box.

That is why I was devastated when the Supreme Court gutted one of our most momentous civil rights bills, opening the door to a litany of voter suppression laws.

Our dearly departed John Lewis was bloodied on the bridge at Selma while peacefully urging passage of the Voting Rights Act of 1965. The scars he carried were not in vain, as decades of progress have shown us. But it is abundantly clear that we have not yet achieved equality of access. There are forces at work in this country trying to undo what we have so painstakingly earned.

That is why it is so important that we pass this bill to restore the Voting Rights Act and ensure that every American, regardless of race, can have his or her voice heard in our democracy.

Let's vote in favor of this bill and send a clear message that we want to protect every vote in America.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentlewoman from Ohio (Mrs. BEATTY).

Mrs. BEATTY. Madam Speaker, I am not sure what John Lewis my Republican colleagues are talking about when they say he was their friend and what he would have wanted. He helped write this bill.

Let me just say that, on behalf of millions of Black voters who stood in lines across this country, including in my home State of Ohio, and leaders like our beloved John Lewis, who risked his life as he crossed the Edmund Pettus Bridge, I rise in strong support of H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021.

On behalf of the Congressional Black Caucus, we say we step into history today as we tread the same path when, 56 years ago, President Johnson signed the Voting Rights Act into law calling the day ''a triumph for freedom as huge as any victory won on any battlefield.''

So to all of my colleagues, I say: Support this bill. Our power, our message, the Congressional Black Caucus.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentlewoman from Georgia (Ms. BOURDEAUX).

Ms. BOURDEAUX. Madam Speaker, Georgia was one of the first States in the country to pass a voter suppression bill after the 2020 general election, but S.B. 202 is just our State's latest attempt to disenfranchise minority communities.

Georgia has a long history of undermining the right to vote, from the Jim Crow era to recent tactics like voter roll purges and exact match policies.

It is time for Congress to fix what the Supreme Court broke in their 2013 ruling, which effectively gutted the Voting Rights Act.

When I came to Congress, I vowed to support the John R. Lewis Voting Rights Advancement Act, and I am proud to keep that commitment today.

Madam Speaker, I urge my colleagues to support H.R. 4 and protect the sacred right to vote.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 1½ minutes to the gentleman from Colorado (Mr. BUCK).

Mr. BUCK. Madam Speaker, I appreciate the gentleman yielding.

Madam Speaker, we have weak leadership now and a crisis in Afghanistan. We have a crisis at our border because of weak leadership. We have an inflation crisis because of weak leadership. And we have a crime issue in our cities as a result of weak leadership.

Now, we debate preclearance requirements that are unnecessary and unconstitutional. We hear that they are necessary because of voter ID laws.

It takes identification to buy liquor in this country, to buy marijuana in this country, and to drive a car in this country. To enter this building, it takes identification.

Yet, it is such a burden that we need to have preclearance with the Department of Justice because of that heavy burden that is being placed on citizens, preclearance from an administration that has screwed up Afghanistan, screwed up the border, screwed up inflation. We are supposed to go to them and ask them for permission because voter ID is such a burden.

If there weren't people streaming across this border who could potentially vote, we wouldn't be asking for voter ID laws across this country, but we are.

Madam Speaker, you can't screw things up on the one hand and, on the other hand, try to require preclearance.

It is wrong, and I ask my colleagues to vote ''no.''

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise in strong support of H.R. 4, critical legislation that confronts the crisis facing our democracy.

In Florida, we witnessed a Republican legislature attempting to cling to power through voter suppression, taking special aim at Black and Brown voices. The blatantly antidemocratic legislation signed by Governor DeSantis this year makes voter registration harder, limits voting by mail, and curbs the use of secure ballot drop boxes. Similar suppression tactics took root across the Nation, with at least 18 States making it harder to vote this year.

To honor our dear friend and colleague, Congressman Lewis, we must stand up to this assault on our constitutional rights. This bill would stop those who want to shape the electorate to help them win elections because they can't win on their losing agenda.

At this moment in history, bold action is necessary to protect the right to vote. After we pass this bill, we must ensure it moves through the Senate. Our very democracy depends on it.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentleman from Arizona (Mr. GALLEGO).

Mr. GALLEGO. Madam Speaker, I rise today in support of the John R. Lewis Voting Rights Advancement Act.

It is because of the courage and sacrifices of civil rights leaders like Congressman John Lewis that we were able to pass the Voting Rights Act of 1965. But for over a decade, we have witnessed a new era of voter suppression and Jim Crow laws pursued by Republican State legislatures, including in my State of Arizona.

These attacks on our right to vote are nothing new. For too long, Black, Latino, and Native American voters have overcome incredible barriers to cast their votes.

That is not how American democracy should work. That is why Representative MONDAIRE JONES and I were proud to add a provision to this bill today that bans discriminatory voting laws that harm voters of color.

I strongly urge my colleagues to pass this bill and this provision with it.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentleman from Illinois (Mr. QUIGLEY).

Mr. QUIGLEY. Madam Speaker, 66 years ago this week, Emmett Till was brutally lynched by two white supremacists.

When his body was returned to his mother, Mamie Till, in Chicago, she held an open casket funeral because, in her words: ''I wanted the world to see what they did to my baby.''

This was a galvanizing moment for the civil rights movement, but it was not the end of Mamie Till-Mobley's activism. She spent the rest of her life touring the country, speaking out about the injustice of her son's murder and the vital importance of eliminating racial discrimination, disenfranchisement, and segregation.

She also spent 23 years teaching in the Chicago public school system, continuing to speak to students in the Chicago area about civil rights as late as the year 2000.

Today, we are witnessing the reemergence of the kinds of voting discrimination that she spoke out against. We must pass the John R. Lewis Voting Rights Act for Mamie Till, for John Lewis, and for every hero who fought for civil rights.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I have a joint report from the Committee on House Administration and the Committee on the Judiciary Republicans titled ''An Unprecedented and Unconstitutional Power Grab: How Democrats are Abusing the Constitution to Nationalize Elections.''

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentlewoman from North Carolina (Ms. ADAMS).

Ms. ADAMS. Madam Speaker, Congressman John Lewis earned his reputation as the conscience of this body because of his leadership during the long march for equal rights at the ballot box.

John and so many people of conscience and courage were arrested, beaten, bruised, and even murdered. The memory of being denied the right to vote still dwells in the minds of countless Americans. Many of those minds, like John's, survived crushing blows to the skull to earn that right.

John fought and bled for voting rights. He led the charge for voting rights. He should be honored by passing this bill drafted in his name.

We have had the promise of one man, one vote since the birth of this country, and we can't backslide on this progress.

The John R. Lewis Voting Rights Advancement Act will help us get to the promised land where every person has the right to vote.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I have the Census Bureau report detailing record turnout in 2020; the Election Integrity Network H.R. 4 fact sheet; the Honest Election Project analysis titled ''H.R. 4 Legal and Constitutional Challenges''; the Independent Women's Forum analysis titled ''D.C. Bureaucrats and Judges Will Steal the Pen in Drawing Voting Districts''; and also the Foundation for Government Accountability analysis titled ''H.R. 4 Isn't Voting Progress. It is a Power Grab.''

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Madam Speaker, and still I rise to announce that I will not only vote for H.R. 4 but I will also vote for those who are making it possible and who have made it possible for me to vote for H.R. 4.

I will vote for Medgar Evers, who was assassinated trying to secure the right to vote.

I will vote for Schwerner and Goodman, two Jews who died in Mississippi trying to secure the right to vote.

I will vote for all of those who suffered on the Edmund Pettus Bridge on Bloody Sunday to secure the right to vote.

I will do so because although it was signed in ink by a courageous President, it was written in blood.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I have the following reports: an analysis of H.R. 4 titled ''How H.R. 4 Would Let Leftist Extremists Control the Entire Nation's Elections''; the Lawyers Democracy Fund H.R. 4 analysis; a RealClear Politics article titled '''Jim Crow 2.0' Is Imaginary''; a letter opposing H.R. 4 from the Independent Women's Forum and others; a Heritage analysis titled ''Another Bill in Congress to Give Partisan Bureaucrats Control Over State Election Laws''; and lastly, the Honest Elections Project Action analysis titled ''H.R. 4: The Nancy Pelosi Power Grab.''

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE of California. Madam Speaker, I thank Chairman NADLER for yielding. I thank Congresswoman TERRI SEWELL, Speaker NANCY PELOSI, Whip CLYBURN, and so many Members for their leadership in keeping our eyes on the prize.

Now, the Supreme Court gutted critical protections of the Voting Rights Act of 1965. Today, we are restoring that constitutional right that so many States are taking away from Black and Brown people, rural people, people of color—everyone. Sooner or later, it will be all of us who will be subject to these voter restrictions acts.

So make no mistake, these are efforts to turn the clock back to the days of Jim Crow. That is not something I am imagining. Madam Speaker, I vividly remember, as one who was born and raised in El Paso, Texas. So I, too, salute our Texas legislators for their boldness in protecting the right to vote.

H.R. 4 can restore these crucial protections that our beloved John Lewis and so many others fought for. John said that the right to vote is ''precious, almost sacred.'' In honor of his legacy as a paragon of democracy, let us vote to pass the John R. Lewis Voting Rights Advancement Act.

I thank Congresswoman TERRI SEWELL, G. K. BUTTERFIELD, our Speaker, everyone who has brought this bill to the floor.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

□ 1745

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentlewoman from Michigan (Mrs. LAWRENCE).

Mrs. LAWRENCE. Madam Speaker, like in many States, Republicans in Michigan's legislature have introduced legislation to suppress the right to vote. Make no mistake about it, the fundamental right to vote in this country is under assault. That is why my dear friend, John Lewis, once said: Voting is the most powerful, nonviolent tool we have in our democracy.

Today, we fight back. Today, we have an opportunity to restore the power of the vote. I urge my colleagues to support the John R. Lewis Voting Rights Advancement Act.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Speaker, one of the greatest honors and privileges of my life has been to serve with John Lewis whom I had the privilege of calling a precious friend.

In August, 58 years ago, the young John Lewis led a march to Washington with Martin Luther King and on August 16 of 1965, the momentous Voting Rights Act was signed into law, thanks to John Lewis.

Today, on August 25, 2021, we are here to vote for the John R. Lewis Voting Rights Advancement Act. A bill that he almost gave his life to pass all of those years ago will now restore the power of the Voting Rights Act, the right to vote, in the new legislation named for our dear friend and the conscience of this Congress. Let's vote ''yes.''

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. ARRINGTON).

Mr. ARRINGTON. Madam Speaker, I thank my friend from Louisiana for yielding.

Madam Speaker, COVID was the excuse to bail out blue States poorly managed and union pensions poorly managed. Our current recession has been the excuse to pay people more to be on unemployment than to be at work or to permanently expand the social welfare programs that were supposed to be temporary and targeted.

The supposed climate crisis is the excuse for destroying our energy independence. And if you listen to my colleagues' comments today, you would think there was rampant voter suppression and a rise of racial discrimination in voting. That is not true. That is

simply not true. It is divisive, and I would suggest that it is dangerous for our country.

The real crisis, Madam Speaker, is America's confidence in the integrity of our elections because elections are the backbone of our democracy, and so we need to make sure we do everything to ensure a free and fair process and an accurate outcome.

That is the responsibility, according to the Constitution, of the States. We don't need Federal Government lawyers or the DOJ to be weaponized against States' efforts to make these reforms with respect to voter ID, mail-in ballot eligibility, and other integrity reform measures.

Madam Speaker, let's stick to the Constitution. Let's uphold it. Let's protect the States' right to secure and improve election integrity for our citizens and our electoral process in this great country.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the gentlewoman from Florida (Ms. CASTOR).

Ms. CASTOR of Florida. Madam Speaker, over the past decades when officials in Florida tried to restrict access to the ballot box, the Voting Rights Act provided protections for all Floridians to cast their vote.

Maybe they limited hours of voting, or didn't provide timely notice to changes in polling places, or didn't provide clear ballot language, but the Voting Rights Act was there. But, unfortunately, the U.S. Supreme Court gutted the Voting Rights Act and after that State officials moved to enact other discriminatory practices to keep certain people and people of color from casting ballots.

It is wrong. So it is vitally important that the Congress adopt the John R. Lewis Voting Rights Advancement Act to make sure voting is fair, especially in places where voting discrimination has been historically prevalent.

As John Lewis said: When you see something that is not right and not fair, you have to speak up. You have to say something. You have to do something. And that is what we are going to do today. I say to Representative SEWELL, We are going to cast a reinvigorated Voting Rights Act. And I urge my colleagues to vote ''yes.''

Mr. JOHNSON of Louisiana. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Madam Speaker, a foundational dependency of any democracy sustaining is its citizens having confidence in the outcome of its elections. Simply put, if people don't have faith in elections, democracy doesn't work.

According to a recent Gallup poll, America's confidence in our elections has decreased by 20 percent since 2009. Ensuring that our elections are run in a way that makes it easy to vote and hard to cheat increases confidence. A common best practice to ensure election integrity are voter IDs, a way for people to prove they are who they say they are.

For Democrats to equate this with the poll taxes of the early 20th century is a ludicrous, false equivalency. According to the Honest Elections Project, 77 percent of all Americans support voter ID requirements, including 75 percent of independents, 64 percent of African Americans, and 76 percent of low-income voters.

Knowing that, what does the majority do? They include language in H.R. 4 that would restrict commonsense voter ID requirements and require the judicial branch to consider voter ID laws as evidence of voter suppression, and by extension, racism. That doesn't restore faith in elections.

H.R. 4, as introduced, would require preapproval by an unaccountable election czar in the Biden DOJ before any State or locality under preclearance could enact popular, commonsense voter ID laws. H.R. 4 goes even further, requiring almost a dozen States to have their existing voter ID laws examined by the Biden DOJ before they can continue to be enforced.

These are the same election integrity laws that have been in place for years. This is a partisan power grab of maintaining control.

Madam Speaker, if we adopt the motion to recommit, we will instruct the Committee on the Judiciary to consider my amendment to H.R. 4 to strike from the bill the provisions that penalize State and local governments who implement commonsense voter ID requirements.

Madam Speaker, I ask unanimous consent to insert the text of my amendment in the RECORD immediately prior to the vote on the motion to recommit.

The SPEAKER pro tempore (Ms. BLUNT ROCHESTER). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. NADLER. Madam Speaker, I yield 45 seconds to the distinguished gentlewoman from Georgia (Ms. WILLIAMS).

Ms. WILLIAMS of Georgia. Madam Speaker, I rise today in the spirit of my predecessor, Congressman John Lewis.

Congressman Lewis taught us that when you see something that is not fair, not just, not right, you have a moral obligation to find a way to get in the way.

The voter suppression laws that have been enacted across the country and what is happening in my home State of Georgia is the very definition of the good trouble that John Lewis taught us to get into, to push back against.

We might not be counting jelly beans in a jar but make no mistake, they seek the same purpose: to stop people who look like me from accessing their right to vote.

We all have an opportunity to get in the way today by voting ''yes'' on the John R. Lewis Voting Rights Advancement Act.

If my colleagues ever wondered what they would have done during the civil rights movement, this is your opportunity to find out. Our democracy is on the line.

Mr. JOHNSON of Louisiana. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, we have one final Speaker who will close for us, so I reserve the balance of my time.

Mr. JOHNSON of Louisiana. Madam Speaker, I yield myself the balance of my time.

The American people can see clearly what is happening here. Democrats in the Congress are more focused on taking Federal control over the election processes in Republican-led States than addressing the ongoing catastrophe that the Biden administration has created in Afghanistan, at our southern border, with inflation, and the ongoing pandemic. There are so many things that should be occupying our time and, yet, they are using it for this.

The cry of voter suppression is not only untrue, but as Mr. ARRINGTON said so well here just a few moments ago, it is also divisive and dangerous. We need to speak truth, as Mr. HOYER said a little while ago, and we are.

We had six hearings in the Constitution, Civil Rights, and Civil Liberties Subcommittee since January on this. I am the ranking Republican there. Not a scintilla of evidence was presented that said that voters are being suppressed, that the election integrity laws that are being passed by the States, pursuant to their constitutional authority, are in any way inappropriate. To the contrary, they are expanding access to the ballot. As we have said so many times, as I close, it has never been easier in America to vote.

I yield back the balance of my time.

Mr. NADLER. Madam Speaker, I yield the balance of my time to the gentleman from South Carolina (Mr. CLYBURN), the distinguished majority whip.

Mr. CLYBURN. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I want to take this time to thank my colleagues in this august body for the civility that we have demonstrated here as we approach this final vote.

I want to thank the Democrats, every single one of whom cosponsored this legislation. I am hopeful that this can be a bipartisan result. I think all of us know that our country has a history of voter suppression and voter denial. I think all of us are quite aware of recent efforts being made in many States. Forty-nine have passed laws that are called restrictive by objective analyses that have been made. These laws are not needed. These laws are very creative instruments that will be used if not checked to suppress the vote.

We all heard a recent candidate having lost an election call upon election officials to: Just find me the number of votes that I need to win this election. If that is not voter suppression, I would like to know how we would define it.

So I want to thank all of us for what we have done here today, and I hope that this result can be a bipartisan one.

Mr. NADLER. Madam Speaker, I yield back the balance of my time.

Ms. JOHNSON of Texas. Madam Speaker, it is my honor to rise today in support of H.R. 4, the John R. Lewis Voting Rights Advancement Act. I'd like to thank Congresswoman SEWELL, a daughter of Selma, for introducing this bill and for being a fierce and relentless advocate of the right to vote.

How wonderful is it, Madam Speaker, that this bill bears the name of our late colleague, one of the greatest Americans to ever walk these halls, Congressman John Lewis. His legacy—and the legacies of other civil rights leaders who dedicated their lives to ensuring free, fair, and equitable access to the polls—lives on through this legislation.

For Texans, this fight for voting rights is personal. We have witnessed, over the past several months, a systematic and antiquated effort to strip the right to vote away from millions across the state. This effort is built upon the decades and decades of unfair voting practices in the history of Texas. In fact, I remember having to pay a poll tax when I voted in my first election in Dallas. And although these new efforts are not as blatant as a poll tax, they are equally as obstructive.

Texas is Just one of many states battling waves of restrictive voting legislation spurred by Republican majorities at the local level. These attempts at our rights are not new—and neither is the vigorous, concerted opposition to them. From Martin Luther King, Jr. and John Lewis's march on Bloody Sunday to the Texas Democrats risking arrest to filibuster the passage of these laws, there are always people who are willing to fight. And as long as there are generations of people who are willing to fight, our cause will never perish.

But now, Madam Speaker, it's time for Congress to meet the moment. We must pass H.R. 4—not only because it would prohibit the implementation of strict voter requirements and reductions in polling locations and hours; not only because it would restore the originals provisions and intent of the Voting Rights Act; but because it is also fundamentally the right thing to do in our democracy.

As a proud cosponsor of H.R. 4, I would urge all of my colleagues, Democrat and Republican, to support this legislation and, in doing so, express your support of the right to vote for all Americans.

Mr. ESPAILLAT. Madam Speaker, we are living through a 21st century assault on the right to vote—the likes of which we haven't seen since Jim Crow.

Without a doubt, it's the most significant test of our democracy since the Civil War—and future generations will never forgive us if we don't meet this moment.

Meeting this moment requires us to act—and we need the John Lewis Voting Rights Act.

The right to vote is sacred, the cornerstone of our Republic. But like Franklin Roosevelt warned—our Republic, if we can keep it.

Today's vote is a referendum on how willing we are to stand by our oath—the oath we took to protect our democracy.

We must keep it.

Our democracy depends on how we vote today.

Vote to protect the future of this country.

The SPEAKER pro tempore (Ms. WILLIAMS of Georgia). Pursuant to House Resolution 601, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rodney Davis of Illinois moves to recommit the bill H.R. 4 to the Committee on the Judiciary.

The material previously referred to by Mr. RODNEY DAVIS of Illinois is as follows:

Page 7, strike lines 10 through 17.

Page 26, strike line 19 and all that follows through line 18 on page 27.

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RODNEY DAVIS of Illinois. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 212, nays 218, not voting 1, as follows:

[Roll No. 259]

YEAS—212

Aderholt
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bentz
Bergman
Bice (OK)
Biggs
Bilirakis
Bishop (NC)
Boebert
Bost
Brady
Brooks
Buchanan
Buck
Bucshon
Budd
Burchett
Burgess
Calvert
Cammack
Carl
Carter (GA)
Carter (TX)
Cawthorn
Chabot
Cheney
Cline
Cloud
Clyde
Cole
Comer
Crawford
Crenshaw
Curtis
Davidson
Davis, Rodney
DesJarlais
Diaz-Balart
Donalds
Duncan
Dunn
Ellzey
Emmer
Estes
Fallon
Feenstra
Ferguson
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Fortenberry
Foxx
Franklin, C. Scott
Fulcher
Gaetz
Gallagher
Garbarino
Garcia (CA)
Gibbs
Gimenez
Gohmert
Gonzales, Tony
Gonzalez (OH)
Good (VA)
Gooden (TX)
Gosar
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Harshbarger
Hartzler
Hern
Herrell
Herrera Beutler
Hice (GA)
Higgins (LA)
Hill
Hinson
Hollingsworth
Hudson
Huizenga
Issa
Jackson
Jacobs (NY)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (MS)
Kelly (PA)
Kim (CA)
Kinzinger
Kustoff
LaHood
LaMalfa
Lamborn
Latta
LaTurner
Lesko
Letlow
Long
Loudermilk
Lucas
Luetkemeyer
Mace
Malliotakis
Mann
Massie
Mast
McCarthy
McCaul
McClain
McClintock
McHenry
McKinley
Meijer
Meuser
Miller (IL)
Miller (WV)
Miller-Meeks
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Mullin
Murphy (NC)
Nehls
Newhouse
Norman
Nunes
Obernolte
Owens
Palazzo
Palmer
Pence
Perry
Pfluger
Posey
Reed
Reschenthaler
Rice (SC)
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Scalise
Schweikert
Scott, Austin
Sessions
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Spartz
Stauber
Steel
Stefanik
Steil
Steube
Stewart
Taylor
Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Upton
Valadao
Van Drew
Van Duyne
Wagner
Walberg
Walorski
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (TX)
Wilson (SC)
Wittman
Womack
Young
Zeldin

NAYS—218

Adams
Aguilar
Allred
Auchincloss
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Bourdeaux
Bowman
Boyle, Brendan F.
Brown
Brownley
Bush
Bustos
Butterfield
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Case
Casten
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Courtney
Craig
Crist
Crow
Cuellar
Davids (KS)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Escobar
Eshoo
Espaillat
Evans
Fletcher
Foster
Frankel, Lois
Gallego
Garamendi
Garcia (IL)
Garcia (TX)
Golden
Gomez
Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Grijalva
Harder (CA)
Hayes
Higgins (NY)
Himes
Horsford
Houlahan
Hoyer
Huffman
Jackson Lee
Jacobs (CA)
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Jones
Kahele
Kaptur
Keating
Kelly (IL)
Khanna
Kildee
Kilmer
Kim (NJ)
Kind
Kirkpatrick
Krishnamoorthi
Kuster
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Leger Fernandez
Levin (CA)
Levin (MI)
Lieu
Lofgren
Lowenthal
Luria
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Manning
Matsui
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Mfume
Moore (WI)
Morelle
Moulton
Mrvan
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Newman
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Ross

Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Spanberger
Speier
Stansbury
Stanton
Stevens
Strickland
Suozzi
Swalwell
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Williams (GA)
Wilson (FL)
Yarmuth

NOT VOTING—1

Costa

□ 1637

Messrs. BROWN, HOYER, KIND, Ms. TITUS, and Mr. TRONE changed their vote from ''yea'' to ''nay.''

Messrs. SESSIONS, GRAVES of Louisiana, BABIN, ARRINGTON, and REED changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

Aderholt (Moolenaar)
Amodei (Balderson)
Barragán (Raskin)
Blumenauer (Bonamici)
Bowman (Omar)
Brownley (Clark (MA))
Buchanan (Dunn)
Calvert (Garcia (CA))
Cárdenas (Correa)
Cuellar (Green (TX))
Curtis (Moore (UT))
Davids (KS) (Kim (NJ))
DeFazio (Brown)
DeGette (Blunt Rochester)
DeSaulnier (Thompson (CA))
Deutch (Rice (NY))
Diaz-Balart (Cammack)
Duncan (Babin)
Emmer (Cammack)
Escobar (Garcia (TX))
Fleischmann (Bilirakis)
Frankel, Lois (Clark (MA))
Garbarino (Miller-Meeks)
Garamendi (Sherman)
Gibbs (Smucker)
Gomez (Raskin)
Granger (Cole)
Grijalva (Stanton)
Hagedorn (Meuser)
Harshbarger (Kustoff)
Herrera Beutler (Simpson)
Horsford (Kilmer)
Jayapal (Raskin)
Johnson (TX) (Jeffries)
Katko (Malliotakis)
Kelly (IL) (Clarke (NY))
Khanna (Lee (CA))
Kind (Connolly)
Kirkpatrick (Stanton)
Lawson (FL) (Evans)
Leger Fernandez (Aguilar)
Luetkemeyer (Long)
Maloney, Carolyn B. (Clarke (NY))
Maloney, Sean (Jeffries)
McEachin (Wexton)
McHenry (Budd)
McNerney (Huffman)
Meijer (Moore (UT))
Meng (Jeffries)
Moore (AL) (Brooks)
Moulton (McGovern)
Mullin (Lucas)
Napolitano (Correa)
Nehls (Jackson)
Newman (Casten)
Nunes (Garcia (CA))
Payne (Pallone)
Pingree (Kuster)
Pocan (Raskin)
Porter (Wexton)
Pressley (Omar)
Reed (Arrington)
Reschenthaler (Meuser)
Rodgers (WA) (Joyce (PA))
Roybal-Allard (Aguilar)
Ruiz (Correa)
Rush (Underwood)
Salazar (Cammack)
Sánchez (Aguilar)
Scott, David (Cartwright)
Sires (Pallone)
Steel (Obernolte)
Stefanik (Meuser)
Steube (Cammack)
Stevens (Dingell)
Stewart (Owens)
Strickland (Larsen (WA))
Thompson (PA) (Meuser)
Timmons (Cammack)
Titus (Connolly)
Tonko (Pallone)
Torres (CA) (Correa)
Trone (Connolly)
Vargas (Correa)
Velázquez (Clarke (NY))
Wagner (Long)
Walorski (Baird)
Watson Coleman (Pallone)
Welch (McGovern)
Wilson (FL) (Hayes)
Young (Malliotakis)

The SPEAKER pro tempore (Ms. BLUNT ROCHESTER). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. FISCHBACH. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 219, nays 212, not voting 1, as follows:

[Roll No. 260]

YEAS—219

Adams
Aguilar
Allred
Auchincloss
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Bourdeaux
Bowman
Boyle, Brendan F.
Brown
Brownley
Bush
Bustos
Butterfield
Carbajal
Cárdenas
Carson
Carter (LA)
Cartwright
Case
Casten
Castor (FL)
Castro (TX)
Chu
Cicilline
Clark (MA)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Courtney
Craig
Crist
Crow
Cuellar
Davids (KS)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Escobar
Eshoo
Espaillat
Evans
Fletcher
Foster
Frankel, Lois
Gallego
Garamendi
García (IL)
Garcia (TX)
Golden
Gomez
Gonzalez, Vicente
Gottheimer
Green, Al (TX)
Grijalva
Harder (CA)
Hayes
Higgins (NY)
Himes
Horsford
Houlahan
Hoyer
Huffman
Jackson Lee
Jacobs (CA)
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Jones
Kahele
Kaptur
Keating
Kelly (IL)
Khanna
Kildee
Kilmer
Kim (NJ)
Kind
Kirkpatrick
Krishnamoorthi
Kuster
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Leger Fernandez
Levin (CA)
Levin (MI)
Lieu
Lofgren
Lowenthal
Luria
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Manning
Matsui
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Mfume
Moore (WI)
Morelle
Moulton
Mrvan
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Newman
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Pelosi
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Ross
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Sewell
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Spanberger
Speier
Stansbury
Stanton
Stevens
Strickland
Suozzi
Swalwell
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres (NY)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Williams (GA)
Wilson (FL)
Yarmuth

NAYS—212

Aderholt
Allen
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bentz
Bergman
Bice (OK)
Biggs
Bilirakis
Bishop (NC)
Boebert
Bost
Brady
Brooks
Buchanan
Buck
Bucshon
Budd
Burchett
Burgess
Calvert
Cammack
Carl
Carter (GA)
Carter (TX)
Cawthorn
Chabot
Cheney
Cline
Cloud
Clyde
Cole
Comer
Crawford
Crenshaw
Curtis
Davidson
Davis, Rodney
DesJarlais
Diaz-Balart
Donalds
Duncan
Dunn
Ellzey
Emmer
Estes
Fallon
Feenstra
Ferguson
Fischbach
Fitzgerald
Fitzpatrick
Fleischmann
Fortenberry
Foxx
Franklin, C. Scott
Fulcher
Gaetz
Gallagher
Garbarino
Garcia (CA)
Gibbs
Gimenez
Gohmert
Gonzales, Tony
Gonzalez (OH)
Good (VA)
Gooden (TX)
Gosar
Granger
Graves (LA)
Graves (MO)
Green (TN)
Greene (GA)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Harshbarger
Hartzler
Hern
Herrell
Herrera Beutler
Hice (GA)
Higgins (LA)
Hill
Hinson
Hollingsworth
Hudson
Huizenga
Issa
Jackson
Jacobs (NY)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (MS)
Kelly (PA)
Kim (CA)
Kinzinger
Kustoff
LaHood
LaMalfa
Lamborn
Latta
LaTurner
Lesko
Letlow
Long
Loudermilk
Lucas
Luetkemeyer
Mace
Malliotakis
Mann
Massie
Mast
McCarthy
McCaul
McClain
McClintock
McHenry
McKinley
Meijer
Meuser
Miller (IL)
Miller (WV)
Miller-Meeks
Moolenaar
Mooney
Moore (AL)
Moore (UT)
Mullin
Murphy (NC)
Nehls
Newhouse
Norman
Nunes
Obernolte
Owens
Palazzo
Palmer
Pence
Perry
Pfluger
Posey
Reed
Reschenthaler
Rice (SC)
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose
Rosendale
Rouzer
Roy
Rutherford
Salazar
Scalise
Schweikert
Scott, Austin
Sessions
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Spartz
Stauber
Steel
Stefanik
Steil
Steube
Stewart
Taylor
Tenney
Thompson (PA)
Tiffany
Timmons
Turner
Upton
Valadao
Van Drew
Van Duyne
Wagner
Walberg
Walorski
Waltz
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams (TX)
Wilson (SC)
Wittman
Womack
Young
Zeldin

NOT VOTING—1

Costa

□ 1910

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

Aderholt (Moolenaar)
Amodei (Balderson)
Barragán (Raskin)
Blumenauer (Bonamici)
Bowman (Omar)
Brownley (Clark (MA))
Buchanan (Dunn)
Calvert (Garcia (CA))
Cárdenas (Correa)
Cuellar (Green (TX))
Curtis (Moore (UT))
Davids (KS) (Kim (NJ))
DeFazio (Brown)
DeGette (Blunt Rochester)
DeSaulnier (Thompson (CA))
Deutch (Rice (NY))
Diaz-Balart (Cammack)
Duncan (Babin)
Emmer (Cammack)
Escobar (Garcia (TX))
Fleischmann (Bilirakis)
Frankel, Lois (Clark (MA))
Garbarino (Miller-Meeks)
Garamendi (Sherman)
Gibbs (Smucker)
Gomez (Raskin)
Granger (Cole)
Grijalva (Stanton)
Hagedorn (Meuser)

Harshbarger (Kustoff)
Herrera Beutler (Simpson)
Horsford (Kilmer)
Jayapal (Raskin)
Johnson (TX) (Jeffries)
Katko (Malliotakis)
Kelly (IL) (Clarke (NY))
Khanna (Lee (CA))
Kind (Connolly)
Kirkpatrick (Stanton)
Lawson (FL) (Evans)
Leger Fernandez (Aguilar)
Luetkemeyer (Long)
Maloney, Carolyn B. (Clarke (NY))
Maloney, Sean (Jeffries)
McEachin (Wexton)
McHenry (Budd)
McNerney (Huffman)
Meijer (Moore (UT))
Meng (Jeffries)
Moore (AL) (Brooks)
Moulton (McGovern)
Mullin (Lucas)
Napolitano (Correa)
Nehls (Jackson)
Newman (Casten)
Nunes (Garcia (CA))
Payne (Pallone)
Pingree (Kuster)
Pocan (Raskin)
Porter (Wexton)
Pressley (Omar)
Reed (Arrington)
Reschenthaler (Meuser)
Rodgers (WA) (Joyce (PA))
Roybal-Allard (Aguilar)
Ruiz (Correa)
Rush (Underwood)
Salazar (Cammack)
Sánchez (Aguilar)
Scott, David (Cartwright)
Sires (Pallone)
Steel (Obernolte)
Stefanik (Meuser)
Steube (Cammack)
Stevens (Dingell)
Stewart (Owens)
Strickland (Larsen (WA))
Thompson (PA) (Meuser)
Timmons (Cammack)
Titus (Connolly)
Tonko (Pallone)
Torres (CA) (Correa)
Trone (Connolly)
Vargas (Correa)
Velázquez (Clarke (NY))
Wagner (Long)
Walorski (Baird)
Watson Coleman (Pallone)
Welch (McGovern)
Wilson (FL) (Hayes)
Young (Malliotakis)

□ 1915

ELECTING A MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. HUDSON. Madam Speaker, by direction of the Republican Conference, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 602

Resolved, That the following named Member be, and is hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY: Mr. Ellzey.

COMMITTEE ON VETERANS' AFFAIRS: Mr. Ellzey.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EMERGENCY REPATRIATION ASSISTANCE FOR RETURNING AMERICANS ACT

Mr. DANNY K. DAVIS of Illinois. Madam Speaker, I ask unanimous consent that the Committee on Ways and Means and the Committee on the Budget be discharged from further consideration of the bill (H.R. 5085) to amend section 1113 of the Social Security Act to provide authority for increased payments for temporary assistance to United States citizens returned from foreign countries, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Ms. BLUNT ROCHESTER). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of the bill is as follows:

H.R. 5085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Emergency Repatriation Assistance for Returning Americans Act''.

SEC. 2. INCREASE IN AGGREGATE PAYMENTS.

(a) IN GENERAL.—Section 1113(d) of the Social Security Act (42 U.S.C. 1313(d)) is amended by striking ''fiscal year 2020, the total amount of such assistance provided during such fiscal year shall not exceed $10,000,000'' and inserting ''fiscal years 2021 and 2022, the total amount of such assistance provided during each such fiscal year shall not exceed $10,000,000''.

(b) EMERGENCY DESIGNATION.—

(1) IN GENERAL.—The amounts provided by the amendment made by this section are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(2) DESIGNATION IN SENATE.—In the Senate, this section and the amendment made by this section are designated as an emergency requirement pursuant to section 4001(a)(1) of S. Con. Res. 14 (117th Congress), the concurrent resolution on the budget for fiscal year 2022.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING THE SERVICE OF RICHARD ''DICK'' LAMM

(Mr. PERLMUTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERLMUTTER. Madam Speaker, on behalf of Congressman CROW, Congressman NEGUSE, and myself, I rise today to recognize and honor Richard ''Dick'' Lamm, the former Governor of Colorado from 1975 to 1987.

Governor Lamm was a tremendous leader and public servant for our great State of Colorado. He passed away on July 29, 2021. As a three-term Governor, he was one of the longest-serving Governors in Colorado history.

Governor Lamm was born in Wisconsin and moved to Denver in 1962. He served as a State representative from 1966 to 1974, where he rose to the position of assistant minority leader. During that time, he sponsored and helped pass several pieces of noteworthy legislation, including the Nation's first abortion law in 1967, ensuring women access to critical healthcare, including abortion services in cases of rape or incest.

In 1987, he began his first term as Governor of Colorado and went on to serve for 12 years, earning support from people across the State with his nononsense attitude and strong commitment to equality, education, and the environment.

Before holding office, Governor Lamm served as a first lieutenant in the United States Army and worked as an attorney and a certified public accountant. After leaving office, he coordinated and co-directed the University of Denver Institute for Public Policy Studies.

Above all else, Dick Lamm was a devoted husband and loving father. He stayed active in politics and kept up with Colorado news until his death. While Colorado has been blessed with many great leaders throughout its history, few rise to the caliber and reputation of Dick Lamm.

SOCIALISM IN AMERICA

(Mr. CAWTHORN asked and was given permission to address the House for 1 minute.)

Mr. CAWTHORN. Madam Speaker, you have squandered the inheritance of a generation today. You have governed with abandon and exchanged financial assurance for instant gratification.

Today, you didn't pass a budget plan. You passed a death wish for America. It is easy for you to sit up there and authorize $68 trillion over the next 10 years because you will never have to shoulder the financial burden of your actions.

Your road map for our future is a highway to hell. You have exchanged the American Dream for a socialist nightmare.

To the American people: You have been lied to. Your taxes will be raised because of the actions of Democrats today.

I shudder to think of what our country, our city on a hill, our beacon of freedom, will look like in a generation when we deliver a Nation devoid of treasure to our children.

We will give account one day for our actions in this Congress. Madam Speaker, if we hand over a bankrupt legacy to our children, your actions today will be indicted, and you will be without excuse. Madam Speaker, you are walking around with my generation's checkbook, and we want it back.

BUILDING BACK BETTER

(Mr. SOTO asked and was given permission to address the House for 1 minute.)

Mr. SOTO. Madam Speaker, the American people have spoken. It is time to build back better.

Today's historic vote shows that President Biden and the Democratic Congress are united and that we are keeping our promises to the American people who put us in office.

Today, we move forward on the bipartisan infrastructure package to rebuild our Nation. Today, we move forward on the Build Back Better reconciliation bill to invest in American families. And today, we move forward on restoring the Voting Rights Act to protect our democracy.

It is not a moment too soon. Florida's Ninth Congressional District is the fastest growing district in the Nation, 40 percent growth, as I represent 955,000 constituents.

Whether it is central Florida or across the Nation, it is time to upgrade America's roads, bridges, ports, airports, rural broadband, clean water, and resilient and renewable energy. It is time to make childcare costs and

workforce education more affordable. It is time to help our seniors, extend middle-class tax cuts, combat climate change, and build back better.

HONORING MICHAEL K. DEMICHAEL

(Mr. RODNEY DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I rise today in honor of Michael DeMichael of my hometown of Taylorville, Illinois, who passed away on August 17 at the age of 69.

Mike was a true lover of sports, especially when it came to coaching. He began as the coach of the seventh grade Terriers basketball team. His coaching career lasted over 20 years, taking teams to the State tournament on four occasions. He loved the game, but his true passion was caring for the kids he coached throughout the years.

Mike gave back to our community in many ways. He was a member of St. Mary's Catholic Church, the Knights of Columbus, and the Moose Lodge. He was a founding member of the Sertoma Club, the Taylorville Public Schools Foundation, and the Lakeshore Golf Course improvement committee. He was also a member of the Taylorville Junior High Terriers Sports Boosters, the High School Band Boosters, and the Tornado Open.

His passing is a loss for our Taylorville community and everyone who had the pleasure of knowing him. Shannon and I send our thoughts and prayers to his wife, Karen; his children, Brent and Susie; his grandchildren, Hudson, Hayden, Peyton, and Brayden; his brother, Tony; his sister, Patricia; and the rest of his family.

May my friend Mike rest in peace.

ATROCITY IN AFGHANISTAN

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. Mr. Speaker, we got a couple of calls at the office today. We got numerous calls. But two veterans fighting in Afghanistan wept in the calls about the sacrifices that they made, the friends they had lost fighting in Afghanistan, and the Afghan people.

I have been meeting with Northern Alliance leaders for a decade or so. They have asked not that we stay forever. We couldn't do that, and they didn't want us to do that. But they said: Whatever you do, leave us in a position to fight the Taliban when you are gone because if you don't, they will kill every one of us who fought for you and with you, and then there will be nobody to fight them after you are hit worse than you were on 9/11.

This is an atrocity. Let's leave the Northern Alliance the weapons that the Taliban should never have, and let's get the Americans out.

CELEBRATING THE LIFE OF WANDA RIDDLE

(Ms. VAN DUYNE asked and was given permission to address the House for 1 minute.)

Ms. VAN DUYNE. Mr. Speaker, I rise today to celebrate the life of Wanda Riddle of Irving, Texas, who passed on August 5, 2021. She was a great friend and faithful supporter of our community for over 35 years.

Wanda was known as the mayor of south Irving and had a heart for public service. We have been fortunate to hear stories from her family over the past few weeks, which painted a picture of her life.

Wanda and her late husband, Jim, started a family and raised their sons Rick, Ron, and Rod in Irving. They left a lasting impact on their community through the Jim and Wanda Riddle Memorial Scholarship, which is set to award a student-athlete from Nimitz High School a $1,000 scholarship annually.

Wanda's passing was a great loss for Irving and everyone who had the pleasure of knowing her. Our community would not be the same without Wanda's guidance, friendship, and support.

May God continue to bless the community and the Riddle family at this difficult time.

REMEMBERING FRANK KOHLER PEEPLES

(Mr. CARTER of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER of Georgia. Mr. Speaker, I rise today to remember and honor Frank Peeples of Savannah, Georgia, who passed away on August 18 at the age of 93.

Frank's accomplishments in life are nothing less than remarkable. He graduated from the Georgia Institute of Technology and earned a degree in industrial engineering. Under the leadership of Coach Bobby Dodd, Frank made history as the first sophomore to become head manager of the football team. He was inducted into the Georgia Tech School of Engineering Hall of Fame and the Athletic Hall of Fame for his remarkable achievements.

Following graduation, he served this country in the Korean war in the United States Army. After the war, Frank achieved a global reputation as an entrepreneur, inventor, and businessman. Frank's pride in his service to his country and community is remarkable, and I am honored to recognize him today.

My thoughts and prayers are with his family, friends, and all who knew him during this most difficult time.

UPHOLDING THE LEGACY OF THE HONORABLE JOHN LEWIS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I rise with pride and in support of tonight's passage of the John Lewis Voting Rights Act.

As we know, the right to vote is fundamental to our Nation. That is why we should be doing everything possible not to make it more difficult to vote but to enhance voting rights.

H.R. 4 does that by modifying the Voting Rights Act to restore and strengthen its antidiscrimination enforcement authorities.

Now, in my district, prior to the Shelby decision, we had a voting rights county. But, clearly, the threats to our ability to vote are not limited to my district as this year alone 18 States across the country have passed 30 laws making it harder to vote.

That is why I voted for this bill. That is why John Lewis served and sacrificed, and that is why he crossed the Edmund Pettus Bridge in 1965 and in 2020 when I was honored to cross it with him, hand in hand.

Tonight, we not only upheld the legacy of John Lewis but, by passing H.R. 4, we were able to eventually provide citizens with more opportunity to vote in our democracy.

RECOGNIZING ALLYSON RENEAU

(Mrs. BICE of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BICE of Oklahoma. Mr. Speaker, I rise today to recognize an American helping our Afghan allies.

The situation unfolding in Afghanistan is dire, but in the midst of crisis, there is always light to be found. In Oklahoma's Fifth Congressional District, that light is Allyson Reneau.

She took matters into her own hands to help 10 members of an Afghan girls robotics team escape. She has nine daughters of her own and met the girls at a 2019 robotics competition. As the Taliban took over the country, she could not stop thinking about their safety.

Reneau reached out to a friend who worked in the U.S. Embassy in Qatar. They completed the necessary paperwork, the Government of Qatar sent a plane, and the girls were flown to safety.

It is women like Allyson Reneau who remind us that there is always a light in the dark, even if it shines from one lone candle.

□ 1930

THANKING STAFF FOR THEIR HARD WORK

(Mr. MOORE of Utah asked and was given permission to address the House for 1 minute.)

Mr. MOORE of Utah. Mr. Speaker, I rise today to simply tell my team thank you for the work that they have

been putting in in the last several weeks.

The individuals that work in our Washington, D.C. and our Ogden, Utah, district offices are truly the unsung heroes in our world.

I often get the credit by having my name on a bill or my name on an interview, but the work that they have been doing to help our American citizens in Afghanistan and our partners is unprecedented.

All summer we have been dealing with State Department backlogs to get their passports so they can go to Costa Rica or something like that, and they have been doing a very good job. It all turned very real as we have been working around the clock and taking an enormous amount of stress and anguish to do our part.

I hope that the First District of Utah knows that our team is working to do everything we can to help out those families who are directly affected by this.

Our thoughts and prayers are going to a better outcome as we come out of this.

EXPLANATORY MATERIAL STATEMENT ON H.R. 4, JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021, SUBMITTED BY MR. NADLER, CHAIR OF THE COMMITTEE ON THE JUDICIARY

Mr. NADLER. Madam Speaker, pursuant to section 2 of H. Res. 601, I submit the following materials into the CONGRESSIONAL RECORD as Explanatory Materials for H.R. 4. Taken together, these materials help explain the reasons why H.R. 4 is necessary as well as the reasons for the particular provisions in the bill. The materials are as follows:

1. A section-by-section analysis of H.R. 4, as perfected by the Manager's Amendment;

2. A memorandum explaining the inclusion of key provisions in the bill in light of the records developed in hearings before the House Judiciary Committee and the Committee on House Administration;

3. Testimony of Wade Henderson of the Leadership Conference for Civil and Human Rights, explaining ongoing voting discrimination in certain states;

4. Testimony of Peyton McCrary of George Washington University Law School, explaining the data that supports the coverage formula in H.R. 4;

5. Testimony of Sophia Lin Lakin, Deputy Director of the Voting Rights Project, American Civil Liberties Union, explaining the need for a revised preliminary injunction standard, a Purcell fix, and a burden-shifting test for section 2 vote denial claims;

6. Testimony of Wendy Weiser, Vice President, Democracy, the Brennan Center for Justice, explaining the constitutionality of H.R. 4's geographic coverage formula;

7. Testimony of Jon Greenbaum, Chief Counsel of the Lawyers' Committee for Civil Rights Under Law, explaining the need for the incorporation of a retrogression standard in section 2 and the need for a prescriptive approach to assessing vote denial claims under section 2;

8. Testimony of Bernard Fraga of Emory University regarding evidence in support of the practice-based coverage formula and its demographic thresholds;

9. Letter from the Leadership Conference on Civil and Human Rights and other civil rights groups in support of H.R. 4 and outlining the need for the bill;

10. Statement of Administration Policy in support of H.R. 4 from the Executive Office of the President;

11. Brennan Center—Racial Voter Suppression in 2020 Executive Summary, outlining the contemporary nature of voting discrimination;

12. Brennan Center—Representation for Some Executive Summary;

13. Brennan Center—Racial Turnout Gap Grew in Jurisdictions Previously Covered by the Voting Rights Act, outlining the reasons why focusing on increases in minority turnout, alone, masks a continuing racial disparity in voter turnout;

14. Brennan Center—Large Racial Turnout Gap Persisted in 2020 Election; and

15. A report prepared by the Subcommittee on Elections of the Committee on House Administration, outlining ongoing voter suppression efforts in various states.

SECTION-BY-SECTION ANALYSIS OF JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021 FOR THE 117TH CONGRESS AS AMENDED

Section 1. Short Title. Section 1 sets forth the short title of the bill as the ''John R. Lewis Voting Rights Advancement Act of 2021'' (''VRAA'').

Section 2. Vote Dilution, Denial, and Abridgement Claims. Section 2 of the bill would amend Section 2 of the Voting Rights Act of 1965 (''VRA'') in response to the Supreme Court's decision in Brnovich v. Democratic National Committee. VRA Section 2(a) prohibits states and localities from imposing a voting rule that has the purpose or effect of denying or abridging citizens' right to vote because of race, color, or language minority status. VRA Section 2(b) currently lays out a test for determining when such a violation has occurred, providing that a violation is established if, ''based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.''

In response to the Brnovich Court's narrowing of Section 2(b) in vote denial cases (and with potential risk for vote dilution cases), the bill creates a bifurcated test, one that would apply to vote dilution claims (e.g., challenges to redistricting or changes in district or jurisdictional boundaries) and vote denial claims (e.g., challenges to changes in voting rules).

Section 2(a) of the bill would amend Section 2(a) of the VRA by making technical amendments to clarify that subsection (b) and new subsections (c), (d), or (e) apply when determining a violation under Section 2(a) of the VRA.

Section 2(b) of the bill amends Section 2(b) of the VRA to preserve the existing ''totality of the circumstances'' test, and expressly adopt the list of non-exhaustive factors applied by federal courts considering Section 2 vote dilution claims that were outlined in the Supreme Court's 1986 decision in Thornburg v. Gingles. Section 2(b) of the bill requires a plaintiff to establish as a threshold matter that 1) the members of the protected are sufficiently numerous and geographically compact to constitute a majority in a single member district; 2) the members of the protected class are politically cohesive; and 3) the residents of that district who are not the members of the protected class usually vote sufficiently as a bloc to enable them to defeat the preferred candidates of the members of the protected class.

Section 2(b) of the bill also provides that once the plaintiff establishes the required threshold showing, a court must consider a totality of the circumstances analysis with respect to a claim of vote dilution to determine whether there has been a violation of Section 2(A) of the VRA, which must include consideration of the following factors:

(1) The extent of any history of official voting discrimination in the state or political subdivision that affected the right of members of the protected class to register, to vote, or otherwise to participate in the political process.

(2) The extent to which voting in the elections of the state or political subdivision is racially polarized.

(3) The extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the members of the protected class, such as unusually large elections districts, majority vote requirements, anti-single shot provisions, or other qualifications, prerequisites, standards, practices, or procedures that may enhance the opportunity for discrimination against the members of the protected class.

(4) If there is a candidate slating process, whether the members of the protected class have been denied access to that process.

(5) The extent to which members of the protected class in the state or political subdivision bear the effects of discrimination, both public or private, in such areas as education, employment, health, housing, and transportation which hinder their ability to participate effectively in the political process.

(6) Whether political campaigns have been characterized by over or subtle racial appeals.

(7) The extent to which members of the protected class have been elected to public office in the jurisdiction.

Section 2(b) also provides that in conducting a totality of the circumstances analysis under this subsection a court may consider such other factors as the court may determine to be relevant, including 1) whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the protected class, including a lack of concern for or responsiveness to the requests and proposals of the members of the protected class, except that compliance with a court order may not be considered evidence of responsiveness on the part of the jurisdiction; and 2) whether the policy underlying the state or political subdivision's use of such voting practices is tenuous. In making this second determination, Section 2(b) further requires a court to consider whether the qualification, prerequisite, standard, practice, or procedure in question was designed to advance and materially advances a valid and substantiated state interest.

Section 2(b) of the bill also amends Section 2 of the VRA to create a new subsection 2(c) to govern claims of vote denial. Under new subsection 2(c) , a violation of Section 2(a) is established if a voting standard, practice, or procedure 1) results or will result in members of a protected class facing greater costs or burdens in participating in the political process than other voters and 2) that the greater costs or burdens are, at least in part, caused by or linked to social and historical conditions that have or currently produce on the date of such challenge discrimination on the basis of race, color, or language minority status. Section 2(b) further states that in determining the existence of a burden, the absolute number or the percent of voters affected or the presence of voters who are not

members of a protected class in the affected area is not be dispositive, and the affected area may be smaller than the jurisdiction to which the qualification, prerequisite, standard, practice, or procedure applies. Additionally, Section 2(b) provides that the challenged voting rule need only be one ''but-for'' cause of the discriminatory result.

Section 2(b) also expressly outlines for courts the factors that are relevant to the totality of the circumstances analysis in a vote denial claim under new subsection 2(c). The factors that are relevant include the following:

(1) The extent of any history of official voting-related discrimination in the state or political subdivision that affected the right of members of the protected class to register, to vote, or otherwise to participate in the political process.

(2) The extent to which voting in the elections of the state or political subdivision is racially polarized.

(3) The extent to which the state or political subdivision has used photo ID requirements, documentary proof of citizenship requirements, documentary proof of residence requirements, or other voting practices or procedure beyond those required by federal law that impair the ability of members of the minority group to participate fully in the political process.

(4) The extent to which minority group members bear the effects of discrimination both public or private, in areas such as education, employment, health, housing, and transportation, which hinder their ability to participate effectively in the political process.

(5) The use of overt or subtle racial appeals either in political campaigns or surrounding adoption or maintenance of the challenge practice.

(6) The extent to which members of the minority group have been elected to public office in the jurisdiction, provided that the fat that the minority group is too small to elect candidates of its choice shall not defeat a vote denial claims.

(7) Whether there is a lack of responsiveness on the part of elected officials to the particularized needs of minority group members including a lack of concern for or responsiveness to the requests and proposals of the group, except that compliance with a court order may not be considered evidence of responsiveness on the part of the jurisdiction.

(8) Whether the policy underlying the state or political subdivision's use of the challenged voting practice is tenuous. In making a determination under this clause, a court shall consider whether the qualification, prerequisite, standard, practice, or procedure in question was designed to advance and materially advances a valid and substantiated State interest.

(9) Such other factors as the court may determine to be relevant subject to the limitations set forth in this subsection.

Section 2(b) also outlines the factors that are not relevant to the ''totality of the circumstances'' in a vote denial claim under new subsection 2(c). The factors that are not relevant include the following:

(1) The degree to which the challenged voting practice has a long pedigree or was in widespread use at some earlier date.

(2) The use of an identical or similar voting practice in other states or jurisdictions.

(3) The availability of other forms of voting unimpacted by the challenged voting practice to all members of the electorate, including members of the protected class, unless the jurisdiction is simultaneously expanding such other practices to eliminate any disproportionate burden imposed by the challenged voting practice.

(4) Unsubstantiated defenses that the qualification, prerequisite, standard, practice, or procedure is necessary to address criminal activity.

Section 2(b) creates new subsection 2(d) which clarifies that 1) a violation of Section 2(a) of the VRA for the purpose of a vote denial or abridgement is established if the challenged voting practice is intended, at least in part, to dilute minority voting strength or to deny the right of any citizen to vote on account of race, color, or membership in a language minority group; 2) that racial discrimination need only be one purpose behind the challenged voting rule in order to establish a violation of Section 2(a) of the VRA; 3) that a voting practice intended to dilute minority voting strength or make it more difficult for minority voters to cast a ballot that will be counted violates this subsection even if an additional purpose of the voting practice is to benefit a particular political party or group; 4) that the context for the adoption of the challenged voting practices, including actions by official decisionmakers, may be relevant to a violation of this subsection; and 5) that claims under this subsection require proof of a discriminatory impact but do not require proof of a violation of new subsection 2(b) or new subsection 2(c).

Lastly, Section 2(b) creates new subsection 2(e) which for the purposes of Section 2 defines the term 'affected area' to mean any geographic area in which members of a protected class are affected by a qualification, prerequisite, standard, practice, or procedure allegedly in violation of this section, within a State (including any Indian lands).

Section 3. Retrogression. Section 3 of the bill would add after Section 2 of the VRA as amended by the Act a new Section 2(f). Section 2(f) effectively imports Section 5's retrogression standard into Section 2 by establishing that a violation of Section 2(a) occurs where a r voting law or rule makes minority citizens worse off than the status quo in terms of their ability to vote. Specifically, such a voting rule would violate Section 2(a) if it had the purpose or will have the effect of diminishing the ability of any citizen to participate in the electoral process or elect a candidate of their choice on account of their race, color, or membership in a language minority group. The subsection applies retroactively to any action taken on or after January 1, 2021.

Section 3 also creates a new subsection 2(g) which clarifies that the decisions of the United States District Court for the District of Columbia preclearing any state or political subdivision's change to a voting law or practice supersedes new subsection 2(f).

Section 4. Violations Triggering Authority of Court to Retain Jurisdiction. Section 4(a) amends Section 3(c) of the VRA to strengthen the ''bail-in'' provision by permitting courts to bail in jurisdictions where there have been violations of the VRA and other federal prohibitions against discrimination in voting, in addition to instances where there have been violations of the Fourteenth or Fifteenth Amendments. Section 3(c) of the VRA, known as the ''bail-in'' provision, currently allows courts to retain jurisdiction to supervise further voting changes in jurisdictions where the court has found violations of the Fourteenth or Fifteenth Amendments. If a jurisdiction is ''bailed in,'' it must submit any changes to its voting procedures for approval either to a U.S. district court or to the Attorney General. Section 4(a) strikes ''violations of the Fourteenth and Fifteenth amendment'' and inserts ''violations of the Fourteenth or Fifteenth Amendments, violations of this Act, or violations of any Federal law that prohibits discrimination in voting on the basis of race, color, or membership in a language minority group.''

Lastly, Section 4(b) of the bill also makes technical and conforming amendments to Section 3(a) of the VRA.

Section 5. Criteria for Coverage of States and Political Subdivisions. Section 5(a)(1) of the bill amends Section 4(b) of the VRA by inserting a new coverage formula intended to meet the requirements set out in Shelby County. Formerly, Section 4(b) provided the coverage formula for determining which jurisdictions were subject to the Section 5 preclearance requirement. The coverage formula was triggered if a state or political subdivision, as of various points in the 1960s or early 1970s, (1) employed prohibited ''tests or devices'' used to limit voting and (2) had fewer than 50 percent voter registration or turnout among its voting-age population. In Shelby County, the Court held that Section 4(b) was unconstitutional because it imposed current burdens that were no longer responsive to the current conditions in the voting districts in question.

Under the new coverage formula in Section 5(a)(1), ''a State and all political subdivisions within the State'' during a calendar year would be covered if, during the previous 25 calendar years, there were 1) 15 or more voting rights violations occurred in the state; 2) ten or more voting rights violations occurred in the state and at least one violation was committed by the state itself, rather than a political subdivision (e.g., county, town, school district); or (3) three or more voting rights violations occurred in the state and the state itself administers elections in the state or in political subdivisions in which the voting rights violations occurred. In addition, Section 5(a)(1) provides that a political subdivision would be covered if three or more voting rights violations occurred in that subdivision during the past 25 years. Section 5(a)(1) specifies that the 25-year coverage period ends 10 years after a jurisdiction is covered.

Section 5(a)(1) provides that if a state or political subdivision obtains declaratory judgment and the judgment remains in effect, coverage under preclearance shall no longer apply unless voting rights violations occur after the issuance of a declaratory judgment.

Section 5(a)(1) defines several types of events or incidents as ''voting rights violations.'' The definition includes:

(1) a final judgment or any preliminary, temporary, or declaratory relief that was not reversed on appeal in which the plaintiff prevailed or a federal court found that the plaintiff demonstrated a likelihood of success on the merits or raised a serious question with regard to race discrimination, in which any federal court determined that a state or political subdivision denied or abridged the right to vote on account of race, color, or membership in a language minority group, or that a voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting, created an ''undue burden'' in connection with a claim that the challenged rule unduly burdened minority citizens in violation of the Fourteenth or Fifteenth Amendment anywhere in the state or subdivision;

(2) a final judgment or any preliminary, temporary, or declaratory relief that was not reversed on appeal in which the plaintiff prevailed or a federal court found that the plaintiff demonstrated a likelihood of success on the merits or raised a serious question with regard to race discrimination, in which any federal court determined that a voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting was imposed or applied or

would have been imposed or applied anywhere in the state or subdivision in a manner that denied or abridged or would have denied or abridged minority citizens' right to vote, in violation of various VRA provisions;

(3) a final judgment, that is not reversed on appeal, by a federal court denying a state or political subdivision's lawsuit seeking a declaratory judgment under Section 3(c) or Section 5 of the VRA that its proposed change does not have the purpose or effect of denying citizens the right to vote on account of race, color, or language-minority status and thereby prevented a voting practice from being enforced anywhere within the state or subdivision;

(4) an objection by the Attorney General under Section 3(c) or Section 5 of the VRA, which thereby prevent a voting practice to be enforced anywhere within the state or subdivision. A violation does not occur if the Attorney General has withdrawn an objection unless the withdrawal was in response to a change in the law or practice that served as the basis of the objection. A violation also does not occur where the objection is based solely on a state or political subdivisions' failure to comply with a procedural process that would not otherwise constitute an independent violation of this act; or

(5) a consent decree, settlement, or other agreement that was adopted or entered by a federal court or contained an admission of liability by the defendants, which resulted in the alteration or abandonment of a voting practice anywhere within the territory of the state or subdivision that had been challenged as discriminatory under the VRA. An extension or modification of such consent decree, settlement, or other agreement that has been in place for 10 years or longer constitutes an independent violation. If a court finds that an agreement itself defined by this subsection denied or abridged the right to vote of any citizen on account of race, color, or membership in a language minority group, violated the provisions of the VRA, or created an undue burden on minority citizens' right to vote in connection with a claim that the consent decree, settlement, or other agreement unduly burdened voters of a particular race, color, or language minority group, that finding shall count as an independent violation.

(6) in the case of multiple violations committed by a jurisdiction, each violation is to count as an independent violation, and within a redistricting plan, each violation found to discriminate against any group of voters based on race, color, or language minority group shall count as an independent violation.

Section 5(a)(1) sets forth the timing of determinations of voting rights violations by the Attorney General and requires that the determinations are made ''[a]s early as practicable during each calendar year . . . including updating the list of voting rights violations occurring in each State and political subdivision for the previous calendar year.'' This section also provides that the determination or certification of the Attorney General shall be effective upon publication in the Federal Register.

Section 5(a)(2) of the bill makes conforming amendments to Section 4(a) of the VRA. Section 4(a) of the VRA provides the mechanism by which a covered jurisdiction can ''bail out'' of the preclearance requirement. Essentially, a jurisdiction must demonstrate to a court that it has not engaged in discriminatory practices and has complied with the preclearance process in the preceding 10 years.

Section 5(b) of the bill amends Section 4(a)(1) by striking ''race or color,'' and inserting ''race, color, or in contravention of the guarantees of subsection (f)(2),'' which protects the voting rights of a member of a language minority.

Section 5(c)(1) of the bill amends Section 4 of the VRA by adding a new subsection (g), New subsection (g) provides an administrative bailout process for local jurisdictions without a history of discrimination that might be captured by geographic preclearance coverage.

New subsection (g)(1)(A) requires the Attorney General after making the determination as to which states are subject to geographic preclearance to also determine which political subdivisions of those states are eligible for an exemption under subsection (g) and to publish the list of any such political subdivisions in the Federal Register. Furthermore, any political subdivision so listed is not subject to any requirement under Section 5 until the date on which any application under this section has been finally disposed of or no such application may be made.

New subsection (g)(1)(B) creates a rule of construction that states that determinations made pursuant to inclusion on the published list under subsection (g)(1)(A) does not have any binding or preclusive effect nor does inclusion constitute a final determination by the Attorney General that a listee is eligible for an exemption; that a listee has satisfied eligibility requirements (A) through (F) provided under new subsection (g)(2); or that the listee is entitled to an exemption under new subsection (g).

New subsection (g)(2) sets forth the eligibility requirements for an exemption under this new subsection. New subsection (g)(2) states that a political subdivision that makes an application under new subsection (g)(3) is eligible for an exemption under this subsection provided that during the ten years preceding the filing of the application, and during the pendency of such application:

(A) no test or device referred to in subsection 4(a)(1) of the VRA has been used within the political subdivision with the purpose or effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group;

(B) no final judgement of any court of the United States, other than the denial of declaratory judgment under this section, has determined that denials or abridgements of the right to vote on account of race, color, or membership in a language minority group have occurred anywhere in the territory of such political subdivision and no consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting law or practice challenged on such grounds; and no declaratory judgment under this section has been entered during the pendency of an action commenced before the filing of an action under this section and alleging such denials or abridgements of the right to vote;

(C) no federal examiners or observers under the VRA have been assigned to such political subdivision;

(D) such political subdivision and all governmental units within its territory have complied with Section 5 of the VRA, including compliance with the requirement that no change covered by Section 5 has been enforced without preclearance under Section 5, and have repealed all changes covered by Section 5 to which the Attorney General has successfully objected or as to which the United States District Court for the District of Columbia has denied declaratory judgment;

(E) the Attorney General has not interposed any objection (that has not been overturned by a final judgment of a court) and no declaratory judgment has been denied under Section 5, with respect to any submission or by or on behalf of the plaintiff or any governmental unit within its territory under Section 5, and no such submissions or declaratory judgment actions are pending; and

(F) such political subdivisions and all governmental units within its territory have eliminated voting procedures and methods of election which inhibit or dilute equal access to the electoral process; engaged in constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under the VRA; and engaged in other constructive efforts, such as expanded opportunity for convenient registration and voting for every person of voting age and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process.

New subsection (g)(3) establishes the application period for the exemption provided under new subsection (g). Not later than 90 days after the publication of the list under new subsection (g)(1)(A), a political subdivision included under such a list may submit an application containing such information that the Attorney General may require, and the Attorney General must provide notice in the Federal Register of such an application.

New subsection (g)(4) requires the Attorney General to establish a comment period during the 90 days beginning on the date that notice is published under new subsection (g)(3) to give interested persons an opportunity to submit objections to the Attorney General regarding the issuance of an exemption under this subsection to a political subdivision on the basis that it may not meet the eligibility requirements under new subsection (g)(2). New subsection (g)(4) also requires the 90–day period to be extended for an additional 30 days during the 1–year period beginning on the effective date of this subsection. Additionally, the Attorney General must notify the political subdivision of each submitted objection and afford the political subdivision the opportunity to respond.

New subsection (g)(5) sets forth requirements for the Attorney General when making a determination as to the objections submitted during the 90–day comment period established under new subsection (g)(4). Under this subsection, the Attorney General must consider and respond to each objection (and any response of the political subdivision) during the 60–day period beginning on the day after the comment period under new subsection (g)(4) concludes. If the Attorney General determines that any objection is justified, the Attorney General must publish notice in the Federal Register denying the application for an exemption. If the Attorney General determines that no objection submitted is justified, no later than 90 days after the 60-day comment period established under this subsection concludes, each person that submitted an objection may filed in the District Court of the District of Columbia, an action for judicial review of such determination in according with 5 U.S.C. Ch. 7.

New subsection (g)(6) provides the Attorney General the authority to issue an exemption under this subsection by publication in the Federal Register from the application of the preclearance formula in Section 4(a) with respect to a political subdivision that is eligible under new subsection (g)(2) and to which no objection submitted under new subsection (g)(4) or determined justified under new subsection (g)(5).

New subsection (g)(7) states that, unless explicitly provided in this subsection, no determination under this subsection shall be subject to judicial review, and that all determinations under this subsection are committed to the discretion of the Attorney General.

New subsection (g)(8) exempts a political subdivision from geographic preclearance

coverage under Section 4(a) if that political subdivision obtained a declaratory judgment entered prior to the effective date of this subsection ''bailing out'' the political subdivision and the political subdivision has not violated any of the eligibility requirements set forth in new subsection (g)(2) any time thereafter.

Section 5(c)(2)(A) of the bill makes several technical and conforming amendments to Section 4(a)(1) of the VRA.

Section 5(c)(2)(B) of the bill creates a self-executing amendment to the VRA, establishing that 1 year following the effective date of new subsection (g), Section 4(g)(3) of the VRA (new subsection (g)(3) in this document) is amended by striking ''During the 1 year period beginning on the effective date of this subsection, such 90-day period shall be extended by an additional 30 days.'' Section 5(c)(2)(B) also provides that for the purposes of any periods under such section commenced as of such date, the 90-day period shall remain extended by an additional 30 days.

Section 6. Determination of States and Political Subdivisions Subject to Preclearance for Covered Practices. Section 6 of the bill would add after Section 4 of the VRA a new ''Section 4A'' that would provide a new ''practice-based preclearance'' formula for known practices that would apply nationwide and cover voting law changes that have historically been used to discriminate against voters.

New Section 4A(a)(1) provides that each state and political subdivision must identify all new laws, regulations, or policies that include voting qualifications or prerequisites to voting covered by subsection (b) and ensure that no covered practice is implemented unless it has been precleared.

New Section 4A(a)(2)(A) provides that the Attorney General, in consultation with the Director of the Bureau of Census and the heads of other relevant governmental offices, must determine as early as possible each calendar year the voting-age populations and characteristics of those populations, and publish a list of the states and subdivisions to which a voting-age population characteristic described in the ''Covered Practices'' section. Section 4A(a)(2(B) of the bill sets forth that a ''determination or certification of the Attorney General under this paragraph shall be effective upon publication in the Federal Register.''

New Section 4A(b) defines the following as ''covered practices'' and includes additional protections for Native American voters:

(1) any change to the method of election to (a) add seats elected at-large or (b) convert one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district in a state or subdivision where ''2 or more racial groups or language minority groups each represent 20 percent or more of the political subdivision's voting-age population'' or ''a single language minority group represents 20 percent or more of the voting-age population on Indian lands located in whole or in part in the political subdivision'';

(2) any change or series of changes within a year to the boundaries of jurisdictions that reduces by 3 or more percentage points the proportion of the jurisdiction's voting-age population that is comprised of members of a single racial group or language minority group in a state or subdivision where ''2 or more racial groups or language minority groups each represent 20 percent or more of the political subdivision's voting-age population'' or ''a single language minority group represents 20 percent or more of the voting-age population on Indian lands located in whole or in part in the political subdivision'';

(3) any change to redistricting in a state or subdivision where any racial group or minority language group that is not the largest racial group or language minority group in the jurisdiction and that represents 15 percent or more of the jurisdiction's voting age population experiences a population increase over the preceding decade of at least 20 percent of its voting-age population in the jurisdiction;

(4) any change to requirements for documentation or proof of identity to vote or to register to vote such that the requirements will exceed or be more stringent than those under state law on the day before the date of enactment of the John R. Lewis Voting Rights Advancement Act of 2021, and, where a state imposes an identification requirement for receiving and casting a ballot in a federal election, if the State does not permit the individual to meet the requirement and cast a ballot in the election in the same manner as an individual who presents identification by permitting the in-person or vote by mail voters to submit a sworn statement attesting to their identity and eligibility to vote in lieu of identification;

(5) any change that reduces multilingual voting materials or alters the manner in which such materials are provided or distributed, where no similar reduction or alteration occurs in materials provided in English; or

(6) any change that reduces, consolidates, or relocates voting locations, including early, absentee, and election-day voting locations, including early, absentee, and election-day voting locations, or reduces days or hours of in person voting on any Sunday during a period occurring prior to the date of an election during which voters may cast ballots in such election, or prohibits the provision of food or non-alcoholic drink to persons waiting to vote in an election except where the provision would violate prohibitions on expenditures to influence voting: (a) in one or more census tracts wherein two or more language minority groups or racial groups represent 20 percent or more of the voting-age population of the political subdivision; or

(b) on Indian lands wherein at least 20 percent of the voting-age population belongs to a single language minority group.

(7) any change to the maintenance of voter registration lists that adds a new basis for removal from the list of active registered voters or that incorporates new sources of information in determining a voter's eligibility to vote, wherein such a change would have a statistically significant disparate impact on the removal from voter rolls of members of racial groups or language minority groups that constitute greater than 5 percent of the voting-age population. This would apply only to political subdivisions where (a) two or more racial groups or language minority groups comprise 20 percent each of the voting age population or (b) on Indian lands, a single language minority group comprises at least 20 percent of the voting age population located within the subdivision. With respect to states, this provision would apply to those states with where at least 20 percent of the voting age population of the state or of a political subdivision within a state is composed of two or more racial groups or language minority groups, except the preclearance requirement apply only with respect to each such political subdivision.

New Section 4A(c)(1) sets forth a preclearance process for the covered practices described above. A state or political subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that the covered practice ''neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.'' The covered practice cannot be implemented unless and until the court enters such judgment. A state or subdivision can forego pursuing the described court action and implement the covered practice if the Attorney General has not interposed an objection within 60 days. Section 4A(c)(1) provides that the Attorney General or any aggrieved citizen may file an action in a U.S. district court to compel any state or political subdivision to satisfy the preclearance requirements. The court must provide injunctive relief as a remedy unless the ''voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting'' is not a covered practice or the State or political subdivision has complied with the preclearance requirements.

New Section 4A(c)(2) provides that any covered practice defined in New Section 4A(b) that has the purpose of effect of diminishing the ability of citizens to elect their preferred candidates of choice on account of race, color, or language minority status is considered a denial or abridgement of the right to vote for purposes of this practice-based preclearance provision.

New Section 4A(c)(3) defines ''purpose'' as used in Section 4A to include any discriminatory purpose.

New Section 4A(c)(4) defines the purpose of Section 4A(c)(2) to protect the ability of citizens to elect their candidate of choice.

New Section 4A(d) grants authority to the Attorney General or a private party to file a civil action in federal district court to compel any state or locality to comply with this section. Such actions are to be heard before a three-judge panel. This subsection requires such a court to enjoin the challenged voting practice unless the challenged practice is not a covered practice or the jurisdiction has precleared the challenged practice.

New Section 4A(e) specifies that the calculation of the population of a racial or language minority group must be carried out using the methodology outlined in regulatory guidance.

New Section 4A(f) provides that Census Bureau data, whether estimates or actual enumerations, cannot be subject to challenge or review in court for purposes of any determinations under this section.

New Section 4A(g) defines ''multilingual voting materials'' as used in this section to mean ''registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, provided in the language or languages of one or more language minority groups.''

Section 7. Promoting Transparency to Enforce the Voting Rights Act. Section 7 adds after Section 5 of the VRA a new Section 6. New Section 6 imposes new notice and disclosure by states and political subdivisions for three voting-related matters, including: (1) late breaking voting changes involving federal elections (e.g., changes in voting standards or procedures enacted 180 days before a federal election); (2) polling resources involving federal elections (e.g., information concerning precincts/polling places, number of voting age and registered voters, voting machines, and poll workers); and (3) redistricting, reapportionment, and other changes in voting districts involving federal, state, and local elections. Section 7 of the bill provides that public notice for each of these matters must be in a format that is accessible to voters with disabilities, including persons who have low vision or who are blind. Section 7 also provides that the right to vote of any person shall not be abridged or denied because that person failed to comply with any voting law change if the state or

political subdivision involved did not meet the applicable requirements of this section with respect to that change.

Section 8. Authority to Assign Observers. Section 8 of the bill amends Section 8 of the VRA. Section 8 of the VRA currently allows the Attorney General to certify the need for federal election observers in jurisdictions covered by the VRA's coverage formula where the Attorney General has received ''meritorious complaints'' from residents, local officials, or organizations that voting violations are likely to occur, or where the Attorney General determines that assignment of observers is ''otherwise necessary'' to enforce the Fourteenth or Fifteenth Amendment. These observers must be authorized to enter polling places to observe whether people who are entitled to vote are being permitted to do so, and to observe the processes in which votes are tabulated. VRA Section 8 gives the Director of the Office of Personnel Management the authority to designate and assign individuals to be observers.

Section 8 of the bill would expand the set of circumstances under which the Attorney General may seek to assign election observers and would transfer control of the observer program from OPM to DOJ. Section 8(a) of the bill would amend Section 8(a)(2)(b) of the VRA to allow the Attorney General to certify the need for observers in instances where doing so is considered necessary to enforce statutory provisions of the VRA and other federal law protecting citizens' voting rights, rather than solely to enforce the Fourteenth and Fifteenth Amendments. Section 8(b) would amend Section 8(a) of the VRA to permit the Attorney General to assign election observers in response to written meritorious complaints by residents, elected officials, or civic participation organizations that bilingual election requirements are likely to occur and if in the Attorney General's judgment, it is necessary to enforce those requirements. Finally, Section 8(c) of the bill would amend Section 3(a) of the Voting Rights Act to transfer the authority to assign and terminate election observers from OPM to DOJ.

Section 9. Clarification of Authority to Seek Relief. Section 9 amends several provisions of the VRA to add an explicit private right of action. Section 9(a) of the bill amends Section 10(b) of the VRA. Section 10(b) currently provides that the Attorney General may institute a civil action to enforce Section 10's prohibition on the enforced payment of poll taxes as a device to impair voting rights. Section 9(a) amends this provision to provide that, in addition to the Attorney General, there is a private right of action for anyone who has been injured by a violation of Section 10.

Section 9(b) of the bill amends Section 12(d) of the VRA. Section 9(b) of the bill adds a new section 12(d)(1) that provides, in addition to the Attorney General, for an aggrieved person to file an action for preventive relief, ''[w]henever there are reasonable grounds to believe that any person has implemented or will implement any voting qualification or perquisite to voting or standard, practice, or procedure that would deny any citizen the right to vote'' in violation of the 14th, 15th, 19th, 24th, or 26th Amendments, the VRA (except for Section 4A), or another federal law that prohibits discrimination in the voting process on the basis of race or membership in a minority.

Section 9(c) of the bill amends Section 204 of the VRA to provide an explicit private right of action whenever ''[t]here are reasonable grounds to believe that a State or political subdivision has engaged in or is about to engage in any act or practice'' prohibited by the VRA's provisions prohibiting the denial of the right to vote because of failure to comply with any test or device, durational residency requirements, or language-minority status.

Section 9(d) of the bill amends Section 301(a)(1) of the VRA to provide an explicit private right of action to enforce the 26th Amendment, which prohibits states and the federal government from denying the right to vote to anyone aged 18 and older.

Section 10. Preventive Relief. Section 10 of the bill amends Section 12(d) of the VRA to provide a new standard for preliminary relief in any action for preventive relief described in this subsection.

Specifically, Section 10 adds new section 12(d)(2)(A) would require that a court grant relief if it determines that the complainant has raised a serious question as to whether the challenged voting practice violations the VRA or the Constitution and, on balance, the hardship imposed on the defendant by the grant of the relief will be less than the hardship which would be imposed on the plaintiff if the relief where not granted.

Section 10 also adds new Section 12(d)(2)(B) would require the court to examine a number of factors in making the determination under new section 12(d)(2)(A), including (1) whether the voting act or practice in effect prior to the change was adopted as a remedy for a federal court judgment, consent decree, or admission regarding race discrimination in violation of the 14th or 15th Amendment, a violation of the 19th, 24th, or 26th Amendments, a violation of the VRA, or voting discrimination on the basis of race, color, or language-minority status in violation of any other federal or state law; (2) whether the voting act or practice in effect prior to the change served as a ground for dismissal or settlement of such a claim; (3) whether the change was adopted fewer than 180 days before the date of the election with respect to which the change is to take effect; and (4) whether the defendant failed to provide timely or adequate notice of the adoption of the change as required by federal or state law.

Finally, section 10 would also amend section 12(d) by adding new section 12(d)(3) which deems that a jurisdiction's inability to enforce its voting or elections laws, regulations, policies, or restricting plans, standing alone, shall not constitute irreparable harm to the public interest or to the interest of a defendant in an action arising under the Constitution or any federal law that prohibits discrimination in the voting process on the basis of race or membership in a language minority group, for the purposes of determining whether a stay of court or an interlocutory appeal is warranted.

Section 11. Relief for Violation of Voting Rights Laws. Section 11 provides a fix for federal courts' misapplication of the Purcell doctrine.

Under that doctrine, federal courts are cautioned not to issue decisions that would change election rules ''too close'' to an election. In practice, federal courts have applied that doctrine to consistently deny preliminary injunctions for voting rights plaintiffs even when they may have enough evidence to demonstrate a substantial likelihood of success on the merits.

Section 11(a)(1) of the bill defines a ''prohibited act or practice'' as one that violates 1) the 14th Amendment by creating an undue burden on the fundamental right to vote or by violating the 14th Amendment's Equal Protection Clause; 2) violates the 15th, 19th, 24th, or 26th Amendment or a number of specified federal voting statutes; 3) or one that violates any federal law prohibiting voting discrimination, including the Americans with Disabilities Act.

Section 11(a)(2) of the bill provides a rule of construction stating that noting in this section shall be construed to diminish the authority of any person to bring an action under any federal law.

Section 11(a)(3) of the bill provides for the attorneys' fees pursuant to 42 U.S.C. § 1988.

Section 11(b) prohibits courts from denying, granting, staying, or vacating the issue of equitable relief sought pursuant to an action brought under any law listed in subsection 11(a) because of proximity of the action to an election. Under Section 11(b), the exception to this default rule is when the party opposing relief demonstrates, through clear and convincing evidence, that issuance of the relief would be so close in time to the election that it would cause irreparable harm to the public interest or impose serious burdens on the party opposing relief.

Section 11(b)(1) requires a court to give substantial weight to the public interest in expanding access to the ballot when reviewing whether to issue, stay, or vacate the grant of equitable relief and provides that state's generalized interest in enforcing its enacted laws is not a relevant consideration in determining whether relief is warranted.

Section 11(b)(2) also creates the presumption that the grant of equitable relief close to an election would not harm the public interest or burden an opposing party if such relief is sought within 30 days of the adoption or reasonable public notice of the challenged voting policy or practice, or more than 45 days before an election.

Section 11(c)(1) requires a court, when reviewing an application for a stay or vacatur of equitable relief sought pursuant to a law listed in subsection 11(a), to give substantial weight to the reliance interests of citizens who acted pursuant to the order for equitable relief under review. It would also prohibit a court from issuing a stay or vacatur order that has the effect of denying or abridging the right to vote of any citizen who acted in reliance on the underlying order being stayed or vacated.

Section 11(c)(2) prohibits a court from issuing a stay or vacatur unless it finds that the public intertest will be harmed by the continuing operation of the equitable relief that has been granted or that compliance with such relief will impose serious burdens on the party seeking a stay or vacatur such that the burdens substantially outweigh the benefits to the public interest. In issuing a stay or vacatur of equitable relief, a court can set aside any factual findings in support of such relief only for clear error.

Section 12. Enforcement of Voting Rights By Attorney General. Section 12 of the bill amends Section 12 of the VRA by adding at the end a new subsection (g). New Subsection 12(g)(1) provides that whenever the Attorney General or a designee has reason to believe that any person may be in possession, custody, or control of any documents relevant to an investigation under the VRA or other federal voting rights statute, he or she may, prior to commencing an action, issue in writing and serve on such person an order requiring the production of such information.

New subsection 12(g)(2) set forth the contents of any order issued by the Attorney General under new subsection 12(g)(1).

New subsection 12(g)(3) sets forth the contents of any response to an order issued by the Attorney General under new subsection 12(g)(1).

New subsection 12(g)(4) sets forth judicial proceedings related to an order issued by the Attorney General under new subsection 12(g)(1).

Section 13. Definitions. Section 13 of the bill amends Title I of the VRA by clarifying several definitions related to the Native American voting population. The defined terms include ''Indian,'' ''Indian Lands,'' ''Indian Tribe,'' ''Tribal Government,'' and

''Voting-Age Population,'' which are referred to in amended Section 4 of the VRA.

Section 14. Attorneys' Fees. Section 14 of the bill adds at the end of Section 14(c) of the VRA, which provides definitions for the Act's attorneys' fee provision, a definition for ''prevailing party'' to mean ''a party to an action that receives at least some of the benefit sought by such action, states a colorable claim, and can establish that the action was a significant cause of a change to the status quo.''

Section 15. Other Technical and Confirming Amendments. Section 15 of the bill makes technical and conforming amendments to Sections 3(c), 4(f), and 5 of the VRA.

Section 16. Severability. Section 16 adds a severability to clause to the bill, providing that if any part of the VRAA or any amendments made by the Act, or any application of any part of the Act or amendments made by the Act, is held to be unconstitutional or is otherwise enjoined or unenforceable, the rest of the VRAA, and the remainder of the Act and any amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, and any remaining provisions of the VRA, shall not be affected by the holding.

Section 17. Grants to Assist with Notice Requirements Under the Voting Rights Act of 1965. Section 17(a) requires the Attorney General to make grants each fiscal year to small jurisdictions who submit applications for financial assistance to comply with the VRA's notice requirements.

Section 17(b) requires a small jurisdiction seeking such a grant to file an application to the Attorney General containing such information as the Attorney General requires.

Section 17(c) defines a small jurisdiction to mean any political subdivisions with a population of 10,000 or less.

MEMORANDUM REGARDING THE INCLUSION OF CERTAIN PROVISIONS IN H.R. 4, THE ''JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021''—AUGUST 24, 2021

I. INTRODUCTION

The following is an analysis of key provisions included in H.R. 4, the ''John R. Lewis Voting Rights Advancement Act of 2021.'' This legislation will strengthen and revitalize the Voting Rights Act of 1965 (VRA) in the wake of the Supreme Court's decisions in Shelby County v. Holder and Brnovich v. Democratic National Committee in light of the record developed before the House Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Civil Liberties (Constitution Subcommittee) over the course of six hearings this year and seven hearings in the 116th Congress as well as the Committee on House Administration's Elections Subcommittee.

H.R. 4 includes provisions addressing the following: (1) a geographic coverage formula to determine which jurisdictions should be subject to the VRA's preclearance requirement that is broad enough to accurately capture the full extent of contemporary voting discrimination while accounting for the federalism and state sovereignty concerns expressed by the Court in Shelby County; (2) a practice-based coverage formula to complement the geographic coverage formula in order to cover jurisdictions where, because of demographic changes, the risk of voting discrimination is heightened even in the absence of a history of voting discrimination and to cover practices that are historically associated with voting discrimination; (3) a statutory standard for vote denial claims under Section 2 of the VRA in light of the Supreme Court's recent decision in Brnovich; (4) the inclusion of a non-retrogression standard in Section 2; (5) the creation of an explicit private right of action under the VRA; (6) the expansion of the causes of action available under the VRA to include violations of a broader spectrum of voting discrimination-related constitutional and statutory provisions; (7) a revision of the preliminary injunction standard applicable to actions under the VRA to make it easier for plaintiffs to obtain such relief; (8) a fix for federal courts' misapplication of the Purcell doctrine, which counsels courts against granting preliminary injunctions or making other changes to election rules too close to an election; (9) greater notice and transparency requirements; (10) expanded bases for the assignment of federal election observers; and (11) expanded bail-in preclearance jurisdiction for federal courts. Congress's constitutional authority to adopt these provisions remains broad even when accounting for the terms of the Supreme Court's decisions in Shelby County and Brnovich.

II. THE VOTING RIGHTS ACT: A BRIEF SUMMARY OF KEY PROVISIONS

Below is a brief summary of the VRA's key provisions to provide context for understanding the legislation's provisions described later in this memorandum.

Section 2(a) of the VRA applies nationwide and prohibits any state or political subdivision from enacting any ''voting qualification or prerequisite to voting or standard, practice, or procedure . . . in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color,'' or on account of ''member[ship] [in] a language minority group.'' Section 2 thus prohibits measures that are discriminatory in purpose or in effect. Prohibited measures can include practices that affect the ability to cast a vote (such as through photo ID laws or by closing polling places) as well as redistricting that dilutes the voting power of minority citizens.

Section 2(b) of the VRA clarifies how to determine when there is a violation of Section 2(a) by providing that: ''A violation of subsection (a) is established if, based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.''

Section 3(a) of the VRA provides that a federal court may authorize the appointment of federal election observers by the Director of the Office of Personnel Management (OPM) to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments in the context of an enforcement proceeding.

Section 3(c) of the VRA, known as the ''bail-in'' provision, allows courts to retain jurisdiction to supervise further voting changes in jurisdictions where the court has found violations of the Fourteenth or Fifteenth Amendments. If a jurisdiction is ''bailed in,'' it must submit any changes to its voting rules and procedures for approval either to the court or to DOJ.

Section 203 was added to the VRA by Congress in 1975 and contains a number of protections for members of ''language minorities'' (i.e., non-English speakers). It supplements Section 2 to prohibit voting discrimination against language minorities, including by requiring provision of language assistance to voters. It also added to the preclearance coverage formula to include jurisdictions that provided English-only voting materials where 5% or more of voting-age citizens were from a single language minority.

Section 4(b) of the VRA, known the ''coverage formula,'' determined which states or political subdivisions are required to submit changes to any voting laws for preclearance under Section 5 prior to their implementation. If a state is subject to preclearance, all of its political subdivisions are as well. As described in detail below, in 2013 the Supreme Court invalidated the coverage formula as unconstitutional in Shelby County v. Holder.

Section 5 of the VRA, known the ''preclearance provision,'' requires prior approval or preclearance of a proposed change to any voting law in any states or political subdivisions covered under Section 4(b). The Supreme Court's decision in Shelby County effectively rendered Section 5 inoperative. A covered jurisdiction can comply with Section 5 by preclearing a proposed voting law change via two methods: administrative or judicial review.

Under administrative review, a covered jurisdiction can submit a proposed voting change to DOJ. If DOJ affirmatively indicates no objection to the proposed change, or if after 60 days DOJ has interposed no objection, the covered jurisdiction can implement the change.

Under judicial review, a covered jurisdiction can file suit against the United States or the Attorney General in the U.S. District Court for the District of Columbia for declaratory judgment, whereby a three-judge panel must be convened to hear the case (and with direct appeals to the Supreme Court). Unlike in a Section 2 case, in an action brought under Section 5, the burden is on the covered jurisdiction to establish that it does not violate the substantive prohibition in the preclearance provision.

Section 5 prohibits covered jurisdictions from implementing any changes to voting rules that have the purpose or effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. This standard is referred to as the ''retrogression standard.'' The Supreme Court has interpreted this substantive prohibition to mean that a proposed voting rule change cannot place minority citizens in a worse position to participate in the electoral process or elect a candidate of their choice than under the status quo. In this way, the standard for establishing whether a proposed change must be precleared differs from the standard for establishing a violation under Section 2 of the Act, even though the wording appears similar. Under the retrogression standard, a proposed voting change is entitled to preclearance, even if the current electoral system is potentially discriminatory under Section 2, so long as the change does not further increase the degree of discrimination against minority voters.

Sections 4(b) and 5 were originally set to expire after 5 years, but Congress reauthorized them several times since the VRA's original enactment in 1965. Congress last reauthorized the VRA in 2006, when it extended these provisions for an additional 25 years.

Section 8 of the VRA allows DOJ to certify the need for federal election observers in covered jurisdictions where the Attorney General has received ''meritorious complaints'' from residents, local officials, or organizations that violations of the VRA are likely to occur, or where the Attorney General determines that assignment of observers is ''otherwise necessary'' to enforce the Fourteenth or Fifteenth Amendment. These observers must be authorized to enter polling places to observe whether people who are entitled to vote are being permitted to do so, and to observe the processes in which votes are tabulated.

Section 12(d) of the VRA provides the Attorney General with the authority to institute a legal action for preventive relief, including temporary or permanent injunctions, restraining orders, or other relief, whenever any person has engaged in, or there are reasonable grounds to believe that any person is about to engage in, any violation of the VRA. This provision has also been interpreted to provide an implied right of action for private plaintiffs.

III. CONGRESS'S CONSTITUTIONAL AUTHORITY TO DEVISE PROTECTIONS AGAINST RACIAL DISCRIMINATION IN VOTING

Congress has broad constitutional authority to protect voting rights. Specifically, this authority is derived from its powers to enforce the guarantees of the Fourteenth and Fifteenth Amendments. Additionally, Congress has the authority to ultimately determine the time, place, or manner of congressional elections under the Elections Clause.

The Fourteenth and Fifteenth Amendments to the Constitution confer authority on the Congress to pass laws that regulate federal, state, and local elections to protect voting rights. Section 1 of the Fourteenth Amendment provides that ''[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.'' Section 2 requires members of Congress to be apportioned among the states ''according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed.'' Section 5 vests Congress with the ''power to enforce, by appropriate legislation, the provisions of this article.''

The Fifteenth Amendment prohibits racial discrimination in the right to vote. Section 1 of the Amendment provides that ''[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.'' Like the Fourteenth Amendment, Section 2 of the Fifteenth Amendment provides Congress with the ''power to enforce this article by appropriate legislation.''

The Elections Clause also provides Congress additional authority to adopt voting rights protections. Article I, Section 4, Clause 1 of the Constitution provides that ''[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.'' While the Elections Clause grants the States the authority to regulate the time, place, and manner for holding elections for Representatives and Senators, it vests Congress with the ultimate authority to determine the election ''Regulations'' for those offices, with only one explicit textual exception. As the Supreme Court, in an opinion by Justice Antonin Scalia, noted, the ''Clause's substantive scope is broad. 'Time, Places, and Manner,' we have written, are 'comprehensive words,' which 'embrace authority to provide a complete code for congressional elections.' ''

The Supreme Court's earlier decisions upholding the constitutionality of the VRA appear to have understood Congress's constitutional authority to protect voting rights in broad terms. In South Carolina v. Katzenbach, the first case to uphold the VRA and its preclearance regime, the Court appeared to apply a ''rationality'' test for measures enacted to enforce the Fifteenth Amendment, noting that Congress need only show that it had a legitimate end in adopting that law and that the means to achieve that ''are plainly adapted to that end.'' The Supreme Court decided Katzenbach in 1966 and maintained the same standard of review for the VRA's preclearance provisions, despite several challenges, and, at least as to the scope of Congress's Fifteenth Amendment authority, Katzenbach remains in effect.

One caveat as to the scope of congressional authority over voting rights legislation has arisen due to Supreme Court interpretations of Congress's authority under the Fourteenth Amendment. In a series of cases starting in the late 1990's that were unrelated to voting rights, the Court began to place limits on Congress's ability to adopt legislation enforcing the Fourteenth Amendment's guarantees. In City of Boerne v. Flores, the Court struck down as unconstitutional as applied to states the Religious Freedom Restoration Act, a statute that Congress passed to enhance protections for religious minorities and other minority groups. It did so based on an interpretation of Section 5 of the Fourteenth Amendment that viewed Congress's authority to enact legislation as primarily remedial in nature. Given this remedial nature, the Court concluded that congressional action in this area had to be congruent and proportional to the injury being addressed. The ''congruence and proportionality'' test adopted by the Court has raised some question as to the scope of Congress's authority to adapt voting rights legislation—particularly with respect to language minorities—given the similarities in wording between Section 5 of the Fourteenth Amendment and Section 2 of the Fifteenth Amendment.

Nonetheless, existing precedent continues to establish Congress's broad authority to adopt legislation to protect voters against racial discrimination. As noted, the Court has not overturned Katzenbach or related cases upholding the VRA's preclearance scheme and the substantial deference that the Court gave to Congress's exercise of its authority to pass legislation enforcing the Fifteenth Amendment. Thus, Congress can continue to adopt legislation that is rationally related to its authority to protect against voter discrimination.

The Elections Clause also remains an oft-overlooked source of congressional authority to prescribe voting rights protections—though its reach is limited to federal elections. Professor Franita Tolson previously testified twice on the subject of Congress's authority to protect voting rights under the Elections Clause. In her testimony, Professor Tolson argued that enacting protections pursuant to the Elections Clause provides several benefits as it ''avoids many of the traps that have constrained congressional power under the Reconstruction Amendments.'' She observed that because it ''depriv[es] states of the final policymaking authority that is the hallmark of sovereignty, the [Elections] Clause is impervious to the federalism concerns that have constrained congressional action under the Fourteenth and Fifteenth Amendments.'' Moreover, Professor Tolson noted that the Elections Clause is further distinguished from the Reconstruction Amendments because it ''does not require any evidence of discriminatory intent in order for Congress to intervene, providing further justification for a legislative record that shows that states acted with discriminatory effect or in ways that otherwise abridge or deny the right to vote.''

Finally, Article IV's Guarantee Clause may provide Congress additional authority to protect minority voting rights as a means of ensuring the guarantee that every state has a republican form of government. That Clause requires that the ''United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.''

IV. KEY ISSUES ADDRESSED BY H.R. 4

A. New Geographic Coverage Formula to Revitalize Section 5 Preclearance Post-Shelby County

On June 25, 2013, in Shelby County v. Holder, the Supreme Court struck down as unconstitutional the coverage formula in Section 4(b) of the VRA, effectively neutering the Act's Section 5 preclearance provision. Citing its decision in an earlier case called Northwest Austin Municipal Utility District One v. Holder, the Supreme Court held that Congress must justify the unequal burdens placed on state sovereignty by the VRA's preclearance regime based on ''current needs'' and that it had to demonstrate that the coverage formula was ''sufficiently related to the problem that it targets.'' The Court emphasized the principle of ''equal sovereignty'' of the states, highlighting that ''a departure from the fundamental principle of equal sovereignty requires a showing that a statute's disparate geographic coverage is sufficiently related to the problem that it targets.'' In other words, the Court believed that Congress was required to further justify the coverage formula because it applied the burden of the VRA's preclearance requirement to some states but not others.

The Court struck down the VRA's coverage formula based on its conclusion that Congress had failed to demonstrate that the coverage formula—first enacted in 1965—was sufficiently connected to the present condition of voting rights in the covered states, and because Congress could not justify the disparate burdens placed by VRA's preclearance provision on the sovereignty of some states and not others.

Significantly, the Court invited Congress to ''draft another formula based on current conditions.'' The Court went on to note that, ''[o]ur country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.''

To that end, H.R. 4 includes a geographic coverage formula that would cover jurisdictions as follows. A state and all political subdivisions in that state would be covered for 10 years if, looking back 25 years, there were 15 or more violations in that state, or if there were 10 or more violations in that state if at least one of those violations was committed by the state itself (as opposed to a political subdivision). A state is also covered if there are 3 or more violations in that state when the state itself controls elections in the state or its political subdivisions. Separately, a political subdivision could be covered for 10 years if it committed 3 or more violations in the preceding 25 years. Drawing from Shelby County, any coverage formula must reflect current needs, though the Court left unanswered the question of how ''current'' is sufficiently ''current.'' The formula in H.R. 4 reasonably meets this test because it is a dynamic and self-updating formula, and preclearance coverage would only last for 10 years for any given jurisdiction, thereby always reflecting contemporary conditions. Moreover, the 25–year lookback period reflects two redistricting cycles and six presidential elections, enough to ensure that the coverage formula only captures jurisdictions that have engaged in a pattern of voting discrimination, rather than those that may have committed a ''one-off'' violation.

B. Practice-Based Coverage

''Known practices coverage,'' also known as practice-based preclearance, is a form of

preclearance coverage formula that applies to certain voting law changes that have historically been associated with racial discrimination. This is distinct from geographic-based preclearance, under which coverage is determined based on a jurisdiction's history of voting rights violations. One potential drawback of a geographic-based coverage formula is that it does not cover jurisdictions with significant emerging minority populations, where the risk of voter suppression efforts against such populations is heightened but there is no documented history of voting rights violations.

This has proven to be problematic as jurisdictions that do not have a documented history of voting rights violations have nonetheless responded to surges in the minority population by turning to practices historically utilized to discriminate against or disenfranchise minority voters. Practice-based preclearance addresses this gap in coverage by subjecting certain specific practices with a proven historical association with discrimination to preclearance. Moreover, such a practice-based coverage formula could be limited in some instances to those jurisdictions that, based on demographic changes, are most likely to engage in voter suppression efforts. Unlike the VRA's currently defunct preclearance coverage formula, practice-based preclearance would apply to states and localities nationwide and not just to certain states and political subdivisions.

As such, H.R. 4 includes a practice-based preclearance regime to supplement geographic-based preclearance. Specifically, H.R. 4 includes a practice-based preclearance provision that covered jurisdictions engaged in one of several categories of practices, including changes to voter ID requirements to be more stringent and changes to multilingual voting materials when no such similar change occurs in materials provided in English. Other categories of voting procedures and practices are subject to preclearance only in political subdivisions where certain demographic thresholds are met. For instance, changing from single member districts to at-large elections, redistricting, and the consolidation or relocation of polling places could be covered practices subject to preclearance in jurisdictions where two or more racial groups or language minority groups make up 20 percent or more of a political subdivision's voting-age population.

C. Clarifying Section 2 In Response to Brnovich v. Democratic National Committee

Prior to 2013, Section 2 had largely been used to challenge state and local efforts that resulted in the dilution of the effectiveness of minority citizens' votes, rather than in the outright denial of the ability to vote. These ''vote dilution'' cases mostly concern challenges to the drawing of legislative districts or at-large voting systems. In Thornburg v. Gingles, the Supreme Court outlined a non-exhaustive list of factors that a court should consider in determining whether, under the totality of the circumstances, a challenged voting rule violated Section 2's ''results test'' as established under subsection 2(b). In evaluating these ''vote dilution'' claims, courts were required to apply the Gingles factors, which were geared toward consideration of such ''vote dilution'' claims.

Since 2013, in the effective absence of preclearance in the wake of Shelby County, voting rights plaintiffs have been forced to rely on Section 2 litigation to challenge discriminatory voting rules after they had been implemented. These kinds of claims were ''vote denial'' claims—i.e., those claims alleging that the discriminatory effect of a voting rule or practice was such that it effectively denied minority citizens the equal opportunity to vote compared to non-minority citizens. Until the Brnovich decision, the Supreme Court had never addressed how a court should assess ''vote denial'' claims under Section 2's results test, partly because there were relatively few such cases while preclearance was in effect.

In the absence of Supreme Court guidance, a number of federal appeals courts had attempted to articulate how the results test would apply to vote denial claims under Section 2. For example, the Fourth, Fifth, Sixth and Ninth Circuits articulated a two-part test: (1) the challenged voting rule must impose a discriminatory burden on members of the protected class, meaning that they have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice; and (2) the burden must in part be caused by or linked to social and historical conditions that have or currently produce discrimination against members of the protected class.

On July 1, 2021, the Supreme Court decided the consolidated case of Brnovich v. Democratic National Committee and Arizona Republican Party v. Democratic National Committee. In a divided 6–3 opinion authored by Justice Samuel Alito and joined by Chief Justice John Roberts and Justices Clarence Thomas, Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett, the Court upheld two Arizona measures challenged under Section 2 of the VRA. One challenged measure required that voters cast their ballots in their assigned precinct, and any ballots cast out of precinct had to be discarded. The other measure at issue was a criminal statute making it a felony for a third party to collect early ballots from voters (described by some as ''ballot harvesting''). Plaintiffs had alleged that these voting rules violated Section 2's results test and that the third-party ballot collection statute also was motivated by a discriminatory purpose.

At issue in the case was not just the legality of the two challenged Arizona measures, but the impact that the Court's decision may have on future Section 2 vote denial claims alleging that a facially neutral voting practice governing the time, place, or manner of an election denied the right of minority citizens to vote. The full impact of the Court's decision on these types of Section 2 vote denial claims remains to be seen, but it appears from initial analyses that the Brnovich decision will significantly curtail plaintiffs' ability to bring or prove such claims, which could be especially problematic in the effective absence of preclearance.

Although the majority in Brnovich expressly disclaimed the notion that it was creating a new and narrow results test for assessing Section 2 vote denial claims, it set forth what it characterized as ''guideposts'' for considering such claims, all of which, individually and taken together, significantly narrowed the scope of Section 2 for vote denial claims and will make it harder for future Section 2 vote denial claims to prevail using the existing results test. In the majority's view, the interpretive touchstone for Section 2's statutory language is the term ''equally open'' as used in Section 2 and that in evaluating whether a plaintiff has established a violation under Section 2 (i.e., that the challenged practice ''results in'' discrimination), a court must examine the jurisdiction's entire election system from a holistic perspective to determine whether voting is ''equally open'' to minorities.

In her dissent, Justice Elena Kagan, joined by Justices Stephen Breyer and Sonia Sotomayor, sharply criticized the majority opinion, writing that ''Section 2 of the [VRA] remains, as written, as expansive as ever'' and accusing the Court of crafting ''its own set of rules, limiting Section 2 from multiple directions'' and giving ''a cramped reading to broad language.'' Justice Kagan further found it ''tragic . . . that the Court has (yet again) rewritten—in order to weaken—a statute that stands as a monument to America's greatness, and protects against its basest impulses.''

In Justice Kagan's reading, Section 2: (1) applies to any voting rule; (2) prohibits both denial and abridgement of a citizen's voting rights based on race; (3) requires a court to focus its inquiry on the effects of a challenged voting rule and whether that rule results in racial discrimination, not on the reasons why public officials enacted that rule; (4) concerns itself with discrimination that results in inequality of the opportunity to vote, which can arise from facially neutral rules and not just targeted ones; (5) is violated when an election rule, operating against the backdrop of historical, social, and economic conditions, makes it harder for minority citizens to vote than for others; and (6) requires the state or locality imposing the challenged rule to show that any strong governmental interest justifying the challenged rule is the least discriminatory rule necessary to satisfy the state interest. In short, Justice Kagan wrote, Section 2 directs courts ''to eliminate facially neutral (as well as targeted) electoral rules that unnecessarily create inequalities of access to the political process.''

Although Brnovich is a deeply troubling decision, one silver lining to the decision is that it left Congress with the authority to respond with a legislative fix for the damage that the Court has inflicted on Section 2. Because the Court's decision is based on its interpretation of a statute drafted by Congress, rather than on constitutional principles restricting Congress's authority to legislate, Congress can amend Section 2 to reverse the Court's decision in Brnovich.

There were at least three potential approaches to ''fixing'' the issues created by the Brnovich decision that were considered. All three would essentially create a separate standard for courts to apply when evaluating vote denial (the situation in Brnovich) and vote dilution claims under Section 2.

Under the approach ultimately included in H.R. 4, Congress clarifies that as to vote dilution claims, courts must continue to apply the framework of the Gingles decision to such claims. The legislation then creates a separate test for courts to apply to vote denial claims that would require a plaintiff to prove a violation of Section 2(a) by establishing that the challenged voting practice imposes a discriminatory burden on members of a class of citizens protected by Section 2(a). Under this standard, the bill codifies a separate set of detailed factors that courts must consider when evaluating whether, under the totality of the circumstances, the challenged voting practice ''results in'' a discriminatory burden—while also precluding courts from considering the ''guideposts'' described by the court in Brnovich.

Other possible approaches that were considered but not ultimately included would have involved creating a burden-shifting test for vote denial claims under Section 2. Like the previous approach, this approach would have largely preserved Section 2(b) as applied to vote dilution claims, which were not at issue in Brnovich. Under one potential burden-shifting approach for vote denial claims, a plaintiff could establish a prima facie case by demonstrating that a challenged voting rule or practice interacts with historical and socioeconomic factors to ''result in'' a disparate burden on the opportunities enjoyed by members of a class of citizens

protected by Section 2(a) to participate in the political process relative to other members of the electorate. The burden then shifts to the defendant jurisdiction to demonstrate by clear and convincing evidence that the challenged rule is specifically tailored to materially advance an important and particularized government interest. If the state or political subdivision meets its burden, the burden would then shift to the plaintiff to show by a preponderance of the evidence that the state or political subdivision could have implemented a procedure that furthered the government's interest through a less burdensome means.

Similarly, a third potential approach that was considered but not ultimately included was suggested by Professor Nick Stephanopoulos, who appeared before the Constitution Subcommittee at its hearing held on July 16, 2021. His proposal would import the disparate impact standard used in other areas of civil rights law for vote denial claims. Under his proposed standard for vote denial claims, a plaintiff would have to show that an electoral practice causes a statistically significant racial disparity. If the plaintiff meets that burden, then the burden would shift to the jurisdiction that imposed the challenged practice to demonstrate that the practice is necessary to achieve a strong state interest. The burden would then shift back to the plaintiff to demonstrate that the interest could be achieved through less discriminatory means, suggesting that the state's asserted interest was pretextual.

D. Section 2 Retrogression Standard

As noted earlier, the substantive standard applied when assessing a proposed voting change under the Section 5 preclearance regime is the retrogression standard—i.e., whether the proposed voting change makes minority citizens worse off than the status quo in terms of their ability to vote. If the proposed change is retrogressive, then it cannot be precleared.

H.R. 4 imports this substantive standard into Section 2 to apply to cases where an already-enacted voting law or rule has a retrogressive effect. In such cases, a Section 2 retrogression standard would help to prevent the harm of retrogression in the absence of preclearance in non-covered jurisdictions. This measure also provides an additional basis for finding a Section 2 violation.

E. Enhancing Section 3(c) Bail-in Jurisdiction

Section 3(c) of the VRA, known as the ''bail-in'' provision, allows courts to retain jurisdiction to supervise further voting changes in jurisdictions where the court has found violations of the Fourteenth or Fifteenth Amendments. If a jurisdiction is ''bailed in,'' it must submit any changes to its voting procedures for approval either to the court or to the DOJ. In practice, however, plaintiffs face a high, perhaps insurmountable, burden in proving violations as federal courts have determined that Section 3(c) requires a finding of intentional discrimination. Thus, a jurisdiction may have a history of VRA violations due to implementing voting laws with a discriminatory effect, but because there may not have been a constitutional violation, which requires a showing of discriminatory intent, courts cannot invoke Section 3(c) to subject a jurisdiction to preclearance as a remedy. Additionally, even when there is substantial evidence that government officials were motivated by discriminatory intent, courts have proven reluctant to find that such officials engaged in purposeful discrimination. Moreover, since the Shelby County decision, some courts have suggested that not all violations of the Fourteenth and Fifteenth Amendments support Section 3(c) bail-in coverage. For these reasons, courts have rarely invoked their authority under Section 3(c) to impose bail-in preclearance on a jurisdiction.

As a result, H.R. 4 enhances the ''bail-in'' provision in Section 3(c) of the VRA by permitting courts to impose a preclearance requirement on a case-by-case basis on jurisdictions where there have been violations of the VRA and other federal statutory prohibitions against discrimination in voting—in addition to instances where there have been violations of the Fourteenth or Fifteenth Amendment. This gives federal courts more flexibility and opportunity to impose bail-in preclearance on a jurisdiction while avoiding the federalism concerns that the Supreme Court articulated in Shelby County, given the remedial and case-by-case nature of bail-in coverage.

F. Promoting Transparency to Enforce the Voting Rights Act

Beyond effectively gutting the VRA's preclearance mechanism, the Shelby County decision also undermined the ability of DOJ and the general public to have notice of any changes to voting laws, policies, or procedures. In addition to being an effective enforcement mechanism, preclearance had functioned as an effective notice regime. To address this lack of transparency post-Shelby County, the legislation imposes a notice and disclosure requirement on states and political subdivisions for three voting-related matters, including: (1) late breaking voting changes involving federal elections (e.g., changes in voting standards or procedures enacted 180 days before a federal election); (2) polling resources involving federal elections (e.g., information concerning precincts/polling places, number of voting age and registered voters, voting machines, and poll workers); and (3) redistricting, reapportionment, and other changes in voting districts involving federal, state, and local elections. The legislation also ensures that public notice for each of these matters must be in a format that is accessible to voters with disabilities such as those who have low vision or who are blind. This type of reporting requirement imposes a low burden on states and plainly bears a logical relation to facilitating Congress's ability to ensure proper enforcement of the law.

G. Expanding the Authority to Assign Federal Elections Observers

Under Section 8, the Attorney General can certify the need for OPM to assign federal observers to jurisdictions covered by Section 5 of the VRA when the Attorney General ''received written meritorious complaints . . . that efforts to deny or abridge the right to vote . . . on account of race or color . . . are likely to occur'' or when the Attorney General considered the assignment of observers ''necessary to enforce the guarantees of the 14th or 15th amendment.'' These observers are authorized to ''(1) enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote; and (2) enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.'' They are also authorized to conduct investigations and report to the Attorney General. Additionally, under Section 3(a) of the VRA, federal courts are also currently empowered to authorize the appointment of federal observers by OPM to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments.

As Jon Greenbaum, Chief Counsel for the Lawyers' Committee for Civil Rights Under Law, noted in his testimony before the Constitution Subcommittee at a hearing in May 2021, an oft overlooked side effect of the Shelby County decision is the reduced number of federal observer appointments under Section 8 of the VRA. DOJ has interpreted the Shelby County decision as barring the use of the coverage formula to send observers under Section 8 of the VRA. In place of full-fledged observers, DOJ has relied on ''monitors'' to ensure that jurisdictions with a history of discriminatory voting practices hold elections in a fair manner that does not disenfranchise minority voters. Unfortunately, these monitors do not possess the same authority as an observer, and as such jurisdictions are not required to provide them the same access to the voting process as observers. Moreover, when operating as intended, the authority of the Attorney General and federal courts to appoint observers under the VRA is generally limited to circumstances where such observers are necessary to enforce the Fourteenth and Fifteenth Amendments.

In order to address this problem, H.R. 4 expands the circumstances under which both federal courts and the Attorney General could certify the need for federal election observers under Sections 3(a) and 8 of the VRA, respectively. Section 3(a) is amended to permit federal courts to have observers assigned where there are violations of the VRA or any other federal law prohibiting discrimination in voting on the basis of race, color, or language minority status, supplementing its authority to do so to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments. Similarly, the Attorney General's authority to certify the need for observers is expanded to include instances when they are considered necessary to enforce statutory provisions prohibiting race, color, or language-minority discrimination in voting and for the purpose of enforcing bilingual election requirements.

The legislation also amends the VRA so that the Attorney General, rather than OPM, is authorized to control the appointment and termination of federal election observers. This is intended to ease administrative burdens on OPM and improve the appointment process, given that DOJ possesses the voting rights expertise necessary to evaluate candidates' suitability to act as observers

H. Strengthening the Effectiveness of VRA Enforcement Actions

As noted by many Majority witnesses at most of the hearings before the Constitution Subcommittee regarding the VRA, Section 2 litigation has many drawbacks, including the time, expense, and drain on resources that such litigation entails. Most significantly, these witnesses noted that the biggest drawback to Section 2 litigation is that it is difficult, if not impossible, to stop the harm to voters that a discriminatory voting law, policy, or practice can inflict before such a measure is implemented. Being able to stop harm to voters before a discriminatory voting measure took effect was one of the primary benefits of preclearance.

Part of the problem for those seeking to vindicate their rights under the VRA using Section 2 litigation is that because courts are reluctant to grant a preliminary injunction and voting rights litigation is often lengthy, several elections for federal, state, and local offices could occur under voting laws or procedures that are later found by the court to be discriminatory. Thus, thousands of minority voters often remain disenfranchised before a court renders a decision on the merits of a case brought under Section 2.

For example, one witness testified during the 116th Congress that ''Section 2 cases take a substantial amount of time to litigate, leaving discriminatory voting practices in place for months or years before they are

ultimately blocked or rescinded,'' with the average time to fully litigate a case to resolution being more than a year and a half. Furthermore, he testified that because elections take place during the time that Section 2 litigation is pending, ''government officials are often elected under election regimes that are later found to be discriminatory—and there is no way to adequately compensate victims of voting discrimination after-the-fact.'' As an example, he cited the ACLU's litigation challenging a sprawling North Carolina voter suppression law, which took 34 months to litigate from filing the complaint to a ruling by the U.S. Court of Appeals for the Fourth Circuit, with the 2014 general election taking place in the interim. As he noted, ''almost 200 federal and state officials in North Carolina were elected under a discriminatory regime that the Fourth Circuit found 'target[ed] African Americans with almost surgical precision' '' and that although the law was ultimately struck down, ''there is no way to now compensate the African-American voters of North Carolina—or our democracy itself—for that gross injustice.''

To address these drawbacks inherent to Section 2 litigation, H.R. 4 strengthens the ability of Attorney General and private parties to bring enforcement actions by amending the VRA to enhance the standard for preliminary injunctions; to address federal courts undue reliance on the Purcell principle when considering whether to grant equitable relief; to expand the scope of the existing cause of action available under the VRA; and to grant private parties an explicit private right of action to obtain equitable relief.

1. Enhancing the Standard for Preliminary Injunctions

The legislation amends the VRA to enhance the standard for preliminary injunctions by requiring a court considering a preliminary injunction motion in Section 2 cases to grant injunctive relief to the plaintiff if the court determines that the plaintiff has raised a ''serious question'' regarding the lawfulness of the challenged voting rule or practice, and if the court determines that the balance of interests and hardships favors the plaintiff.

This standard departs from the traditional standard for obtaining a preliminary injunction, under which a plaintiff must show that he or she ''is likely to succeed on the merits'' and is likely to suffer ''irreparable harm'' absent an injunction and must demonstrate that the overall balance of interests tilts in his or her favor. The Supreme Court, however, has repeatedly held that Congress may alter common-law standards for seeking equitable relief so long as the ''alternative comports with constitutional due process,'' particularly in cases presenting issues of public interest.

2. Addressing the Purcell Principle

Compounding the difficulties and relative ineffectiveness of relying solely on Section 2 litigation are some federal courts' undue reliance on what is known as the Purcell principle, named for the Supreme Court decision in which it was articulated, Purcell v. Gonzalez. Briefly stated, the Purcell principle holds that courts should not change election rules in the time period close to an election because it could cause voter confusion or problems for election administration officials.

As Professor Justin Levitt noted in his September 2019 testimony, ''[r]esponsive litigation often features substantial discovery battles and extended motion practice, all of which often precedes the awarding of even preliminary relief. Such preliminary relief, according to experienced litigators, is itself quite rare in affirmative voting rights litigation, under the existing standard.'' Professor Levitt further noted that the rarity of preliminary injunctive relief ''only increases in the period shortly before an election—when immediate rulings are most necessary to prevent harm—based in part on the Supreme Court's admonishment that the judiciary should be particularly wary of enjoining enacted electoral rules under traditional equitable standards when there is 'inadequate time to resolve . . . factual disputes' before the election proceeds.''

The legislation addresses this problem by amending the VRA to require a court evaluating any action for equitable relief under Section 2 to shift the burden on to the jurisdictions opposing the requested relief to prove that compliance with such relief would be too burdensome. Courts are required to not consider the proximity of the action to an election to be a valid reason to grant or deny such relief, unless the party opposing the relief—typically a State or political subdivision thereof—meets the burden of proving by clear and convincing evidence that the issuance of the relief would be so close in time to the election as to cause irreparable harm to the public interest or that compliance with such relief would impose serious burdens on the opposing party.

3. Empowering Private Parties by Providing an Explicit Cause of Action

Currently, the VRA expressly authorizes only the Attorney General to seek preventive relief, including preliminary injunctions. Although federal courts have interpreted the VRA to provide private parties the ability to seek such preventive relief, some courts have begun to express doubt about whether such a cause of action exists, including Justice Gorsuch in a concurring opinion in the Brnovich case. To address this problem, the legislation explicitly provides for a private right of action under the VRA, as H.R. 4 from the 116th Congress did.

V. THE CONTINUING NEED FOR A REVITALIZED VOTING RIGHTS ACT

A. Congressional Consideration of Voter Suppression Efforts Post-Shelby County

During the 116th Congress, two subcommittees, the Committee on the Judiciary's Subcommittee on the Constitution, Civil Rights, and Civil Liberties and the Committee on House Administration's Subcommittee on Elections, conducted a series of hearings to examine the landscape of voting in America following the Supreme Court's decision in Shelby County v. Holder, current barriers to voting, and potential remedies. During these hearings, Congress heard testimony from leading civil rights advocates and organizations that described a process akin to evolution whereby State and local efforts to discriminate against minority voters have changed over time in response to federal efforts to provide a remedy. Accordingly, witness testimony described these barriers to voting in terms of ''generations'' to best capture the fact that voter discrimination continues to persist over time despite changing form.

''First generation'' barriers: These barriers include poll taxes, literacy tests, and other devices meant to overtly disenfranchise racial minorities by preventing them from registering and voting. States and localities enacted them following the end of the Reconstruction Era. The VRA was initially passed to address these barriers.

''Second generation'' barriers: These barriers include racially gerrymandering electoral districts, adopting at-large election districts instead of smaller, single-member individual electoral districts, and annexing another political subdivision. States and localities enacted these barriers to blunt the impact of minority voters on the outcome of an election by diluting or underrepresenting the strength of minority voters. The VRA was amended by Congress to forbid these practices, though they remain a threat to voting rights today.

''Third generation'' barriers: These barriers include adopting procedures to make registering to vote more difficult for language minorities, placing burdensome restrictions on third-party voter registration activities, moving or closing down polling places to increase the difficulty for minorities to vote, and enacting voter ID laws. These barriers are designed to make voting more onerous for minority voters.

Over the course of these hearings, the witnesses presented extensive evidence supporting the conclusion that voter discrimination remains a persistent problem. Furthermore, the Constitution Subcommittee heard testimony that the Supreme Court's decision in Shelby County has allowed these evolving barriers to minority voting to proliferate further.

At the time of the hearings, at least 23 states had enacted restrictive voter laws since the Shelby County decision including strict voter ID laws; barriers to voter registration, such as requiring proof of citizenship documents, allowing challenges of voters on the voter rolls, and unfairly purging voters from the voter rolls; reductions in early voting; and the moving or elimination of polling places. Witness testimony particularly highlighted ongoing efforts at voter discrimination in several states that were previously covered by the VRA's preclearance formula: Texas, Georgia, North Carolina, and Alabama.

In Texas, within just hours of the Shelby County decision, the state announced it would implement its voter ID law despite a federal court having ruled that the same law could not receive preclearance due to its effects on minority voters. Other examples of voting barriers in Texas included the reinstatement of at-large voting districts; criminal and civil penalties for so-called ''voter fraud,'' including for errors on voter registration forms; widespread purging of voters from the rolls, including a policy targeting naturalized citizens; a failure to comply with the National Voter Registration Act; election judges and polling officials engaging in discrimination against and hostility toward minority voters; not processing voter registration of minority voters; last-minute changes to polling sites and assigning inconvenient polling sites to minority voters; long lines; nonfunctioning voting equipment; elimination of straight-ticket voting; and intimidation by state troopers and harassment of African American voters by vigilante groups.

In Georgia, following Shelby County, discriminatory barriers to voting included attacks on third party registration; restrictive voter ID laws; the closure of hundreds of precincts; database challenges that impacted legitimate registrations; voter purges of more than a million voters; a flawed process of ''exact match'' that impacted 53,000 people's registrations; undertrained and underresourced election staff who could not meet the needs of voters; long lines; policies that resulted in naturalized citizens having to go to court for their voting rights; lack of ballots in languages other than English for language minority voters; broken voting machines; inadequate distribution of voting machines; disparate application of state laws between counties and inconsistent application of the provisional ballot system; misapplied or miscommunicated district lines (forcing do-over elections and disqualifying candidates who would have otherwise been

eligible); and high rates of rejecting absentee ballots.

In North Carolina, after the Shelby County decision, the legislature passed an omnibus voter restriction law that the U.S. Court of Appeals for the Fourth Circuit would later describe as ''the most restrictive voting law North Carolina has seen since the era of Jim Crow'' with ''provisions [that] target African Americans with almost surgical precision.'' It included a ban on paid voter registration drives, the elimination of same-day voter registration, a reduction of early voting by a week, the elimination of the option of early voting sites at different hours, and the reduction of satellite polling sites for voters with disabilities and elderly voters. Other examples of barriers to voting included gerrymandering, voter roll purges, a voter ID constitutional amendment, reductions to early voting, long lines, issues with voting machines and curbside voting, and poll worker misconduct.

In Alabama, after the Shelby County decision, discriminatory barriers to voting included a photo ID law, the closure of DMV offices—which were needed to acquire the necessary photo ID—in areas with the highest proportions of Black Americans, restrictive absentee ballot rules, the requirement of documents to prove citizenship to register to vote, polling site closures, untrained poll workers, and felon re-enfranchisement issues.

In describing these voting barriers in specific states, the witnesses' testimony pointed to a pattern demonstrating that certain voting practices, enacted across multiple states in the post-Shelby County era, consistently resulted in minority voter disenfranchisement, including:

Restrictions on voter registration, early voting, and voting by mail;

Restrictive voter ID laws;

Voter roll purges;

Issues with polling sites, such as the closure and relocation of polling sites, long lines, intimidation of voters primarily in communities of color, locating polling places extremely far from where a resident lives—especially in Native American communities, and denying limited English proficient voters the right to language assistance;

Vote dilution through redistricting plans, transitions to at-large voting systems, and by other means; and

Obstacles to restoring the right to vote for formerly incarcerated individuals

One witness summarized the numerous impacts of Shelby County on voting rights as including the following:

A resurgence of discriminatory voting practices, including practices motivated by intentional discrimination, especially in jurisdictions that were once covered by Section 5 of the VRA;

The institution and re-institution of discriminatory voting policies with impunity by recalcitrant and hostile elected officials;

The lack of notification to the public of voting policy changes that could have a discriminatory effect, which is especially significant considering most of these actions occur in small towns where constant oversight would be difficult;

The inability of the public to participate in reviewing practices before they take effect;

The elimination of the preclearance process' deterrent effect;

An unsustainable status quo where civil rights organizations are attempting to fill the gaps created by the Shelby County decision at huge expense; and

The first redistricting cycle in decades without the full protections of the Voting Rights Act.

The record accumulated during the 116th Congress clearly established that voter discrimination persists and continues to evolve more than five decades after the passing of the VRA. The Supreme Court's decision in Shelby County has effectively permitted these laws to flourish across the states unimpeded. The evidence highlights the need for the Voting Rights Act's preclearance regime—both in areas where voting discrimination has been substantial and persistent and based on particular voting practices that are likely to result in unconstitutional discrimination—and to update and clarify other provisions of the VRA.

During the 117th Congress, the Constitution Subcommittee built upon the record from the previous Congress, holding six additional hearings during which witnesses again presented documented evidence of widespread discrimination in the voting process. As one witness described at a hearing held in May 2021, these ''direct burdens on the right to vote'' include discriminatory voter purges; significantly longer wait times at the polls for minority voters as compared to white voters, disparities ''that discriminatory state and local practices are at least partially responsible for''; new strict voter ID laws; restrictions on voter registration such as ''exact match'' laws ''mandating that voters' names on registration records must perfectly match their names on approved forms of identification''; cutbacks to early voting; and new laws restricting access to mail in voting and absentee ballots.

The record compiled over the past two Congresses indicates that states and political subdivisions have intensified their efforts to suppress minority voters through the enactment of facially neutral yet discriminatory voting practices and procedures in the eight years since the Supreme Court's Shelby County decision. As discussed in greater detail below, President Trump and his allies' campaign to spread the falsehood that his loss in the 2020 presidential election was due to widespread fraud has further catalyzed state and local efforts to enact discriminatory changes to voting laws under the guise of ''election integrity protections.''

B. Changes to State Voting Laws Since the 2020 Election

Particularly salient to demonstrating the current need to revitalize the VRA is the renewed effort by many states to enact additional voting restrictions following former President Trump's efforts to discredit the 2020 election results by publicly promoting baseless claims that the vote was marred by fraud and irregularities. As previously noted, even before the 2020 election, states formerly subject to the VRA's preclearance requirement enacted a series of new voting restrictions in the wake of the Supreme Court's decision in Shelby County. Taking cues from the baseless allegations promoted by President Trump and his allies, several state legislatures have proposed or enacted restrictive voting laws in the name of protecting so-called ''election integrity protection'', including in states previously subject to the VRA's preclearance regime.

According to a July 22, 2021 Brennan Center for Justice report, as of July 14, 18 states have enacted 30 laws that restrict the right to vote. The Brennan Center report also observes that these restrictive voting laws target mail in and absentee voting, ''make faulty voter purges more likely'', and impose stricter voter ID requirements. As of August 23, 2021, the non-partisan organization Voting Rights Lab was tracking 495 anti-voter bills in the states.

The recent voting law changes enacted by Georgia exemplify many of the most restrictive voting measures adopted following the 2020 election. Notably, the entire state of Georgia was subject to preclearance under the VRA at the time of the Shelby County decision. Signed into law by Governor Brian Kemp (R–GA) on March 25, 2021, SB 202 incorporated several restrictive voting proposals into a single omnibus elections law. Several of SB 202's provisions are designed to limit absentee voting. It requires absentee voters to provide a Georgia driver's license or state identification card number or photocopy of another identifying document with their absentee ballot application; prohibits election officials from providing ballot applications unless requested by the voter; and reduces the time period in which a voter can apply for an absentee ballot. Instead of allowing municipalities and counties some discretion to set the hours and days for early voting as was permitted previously, SB 202 standardizes early voting periods, effectively reducing many voters' opportunities to vote early. One particularly notorious provision of SB 202 criminalizes as a prohibited ''gift'' the giving food or water to those standing in line at a polling place.

There is evidence in the public domain to suggest that Georgia's recent changes to its election laws are more about preserving partisan political advantage by burdening minority communities' exercise of the right to vote than protecting the integrity of elections. For example, a Gwinnett County Republican official was quoted saying ''I was on a Zoom call the other day and I said, 'I'm like a dog with a bone. I will not let them end this session without changing some of these laws.' They don't have to change all of them, but they've got to change the major parts of them so that we at least have a shot at winning.''

Other states that have enacted restrictive voter laws include Florida and Arizona. On May 6, Florida's Republican Governor, Ron DeSantis, signed into law an omnibus voter suppression bill that makes voter registration and vote by mail more difficult, changes rules for observers in ways that could disrupt election administration, and restricts the ability to give water and food to people waiting in line to vote. On May 11, Arizona's Republican Governor, Doug Ducey, signed into law a bill to make it harder for Arizonans to vote by mail by purging voters who do not regularly vote from Arizona's early voting list (which, before enactment of the law, had previously been known as the state's permanent early voting list).

In July 2021, the Texas Legislature began a special session to pass a new restrictive voting omnibus measure. Texas Senate Bill 1 and House Bill 3 each would create new ID requirements for voting by mail and clamp down on new voting rules instituted by Harris County—the state's most populous county and one of its most diverse—designed to increase voter access, including banning drive-thru voting, and new regulations for early voting hours. Senate Bill 1 passed on August 12, 2021.

STATEMENT OF WADE HENDERSON, INTERIM PRESIDENT AND CEO, THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

U.S. HOUSE OF REPRESENTATIVES, HOUSE COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

HEARING ON ''OVERSIGHT OF THE VOTING RIGHTS ACT: POTENTIAL LEGISLATIVE REFORMS''—AUGUST 16, 2021

Chairman Cohen, Ranking Member Johnson, and members of the subcommittee: Thank you for holding this important hearing today to highlight the ongoing crisis of racial discrimination in our voting system and the urgency to fulfill the promise of our democracy. My name is Wade Henderson, and I am the interim president and CEO of The Leadership Conference on Civil and Human

Rights, a coalition of more than 220 national organizations working to build an America as good as its ideals.

The Leadership Conference was founded in 1950 and has coordinated national advocacy efforts on behalf of every major civil rights law since 1957, including the Voting Rights Act of 1965 and subsequent reauthorizations. Much of our work today focuses on making sure that every voter has a voice in key decisions like pandemic relief, access to affordable health care, and policing accountability. At The Leadership Conference, we aim to ensure that every voter can cast a vote and have it counted. We are deeply grateful to this subcommittee for its work to restore the Voting Rights Act and for introducing voluminous evidence of racial discrimination into the record with integrity, deliberation, and due diligence.

In 1965, Congress passed the Voting Rights Act to outlaw racial discrimination in voting. Previously, many states barred Black voters from participating in the political system through literacy tests, poll taxes, voter intimidation, and violence. In the mid-1950s, only 25 percent of African Americans were registered to vote, and the registration rate was even lower in some states. In Mississippi, for example, fewer than 5 percent of African Americans were registered to vote. Those rates soared after Congress enacted the Voting Rights Act. By 1970, almost as many African Americans registered to vote in Alabama, Mississippi, Georgia, Louisiana, North Carolina, and South Carolina as had registered in the century before 1965. The Voting Rights Act became the nation's most effective defense against racially discriminatory voting policies.

Only 15 years ago, this body reauthorized the Voting Rights Act for the fourth time with sweeping bipartisan support. The House of Representatives reauthorized this legislation by a 390–33 vote and the Senate passed it unanimously, 98–0. Given the importance of the Voting Rights Act, Congress undertook that reauthorization with care and deliberation—holding 21 hearings, hearing from more than 90 witnesses, and compiling a record of more than 15,000 pages of evidence of continuing racial discrimination in voting.

Then, in 2013, the U.S. Supreme Court in Shelby County v. Holder eviscerated the most powerful provision of the Voting Rights Act: the Section 5 preclearance system. This provision applied to nine states and localities in another six states. These jurisdictions with histories of voting discrimination were required to obtain preclearance from the U.S. District Court for the District of Columbia or the U.S. Department of Justice before implementing any change in a voting practice or procedure. As discussed herein, Section 5 was incredibly successful in blocking proposed voting restrictions in certain states and localities with histories of racial discrimination. It also ensured that changes to voting rules were public, transparent, and evaluated to protect voters against discrimination based on race and language. But, in Shelby County, Chief Justice John Roberts, on behalf of the majority, declared that ''Our country has changed.'' The Court held that the formula that decided which jurisdictions were subject to preclearance was based on ''decades-old data and eradicated practices.'' It instructed Congress to assess ''current conditions'' in order to require states and political jurisdictions to preclear voting changes. Now that this assessment has been conducted, there can be no question of the persistent racial discrimination at the ballot box. Congress must act.

Despite the best efforts of The Leadership Conference and its many member organizations to protect voting rights and promote civic participation, the eight-year impact of the Shelby County ruling has been devastating to our democracy. The Supreme Court's invalidation of the preclearance formula released an immediate and sustained flood of new voting restrictions in formerly covered jurisdictions. Without the Voting Rights Act's tools to fight the most blatant forms of discrimination, people of color continue to face barriers to exercising their most important civil right, including voter intimidation, disenfranchisement laws built on top of a system of mass incarceration, burdensome and costly voter ID requirements, and purges from the voter rolls. States have also cut back early voting opportunities, eliminated same-day voter registration, and shuttered polling places. The pattern is familiar: Gains in participation in voting among communities of color are met with concerted efforts to impose new barriers in the path of those voters.

Attached to this testimony are reports covering several states which document the ''current conditions'' surrounding voting discrimination, the same conditions required by the Supreme Court in Shelby County as the basis for Congress to update a coverage formula. Additional reports will be submitted into the congressional record. These reports highlight the pervasiveness and persistence of voting discrimination in its modern-day form. They demonstrate the importance of reinstating Section 5 preclearance to stop discriminatory voting changes from going into effect and thereby ensuring that voters of color can fully participate in the political process and have their voices heard.

Alabama

In reviewing the current state of voting discrimination, it is only appropriate to begin with the State of Alabama, the birthplace of the Voting Rights Act of 1965. From Selma to Shelby County, Alabama has served as ground zero for the struggle by Black voters to exercise the franchise. In 1982, Congress had to explicitly add a results test to Section 2 of the Voting Rights Act after the Supreme Court required proof of intent in a Section 2 case challenging the City of Mobile's at-large voting districts as a dilution of Black voting power in City of Mobile v. Bolden. As the report written by the NAACP Legal Defense and Educational Fund indicates, ''racial discrimination in voting remains a persistent and significant problem in Alabama today.'' The Southern Poverty Law Center states in its report, also attached to this testimony: ''The State of Alabama has never rested in its efforts to undermine its Black citizens' right to vote.''

Since the Shelby County decision, Alabama is the only state in the nation where federal courts have ordered more than one jurisdiction to submit to preclearance under Section 3(c) of the Voting Rights Act. Plaintiffs in a longstanding school desegregation case, Stout v. Jefferson County Board of Education, challenged the hybrid system of electing school board members in Jefferson County under which four were elected at-large from a ''multi-member'' district and a fifth was elected from a single-member district. No Black person had ever been elected to an at-large seat. A federal court ruled that at-large districts violated Section 2 of the Voting Rights Act, finding that the state legislature created the districts ''for the purpose of limiting the influence of Black voters.'' It ordered that multi-member districts be divided into four single-member districts and the county to submit future voting changes for Section 3(c) preclearance through 2031.

The City of Evergreen became the first jurisdiction in the nation to be subjected to preclearance after Shelby County. A lawsuit by Black voters challenged Evergreen's post-2010 Census redistricting plan for five single-member districts, which retained three districts with white majorities even though 62 percent of Evergreen's population is Black. The lawsuit also challenged the city's system for determining voter eligibility, which removed registered voters if their names did not also appear on the list of utility customers, a practice which disproportionately removed Black voters from the voter list. Evergreen failed to obtain preclearance for these changes before the Shelby County ruling, and a federal court issued a preliminary injunction against the redistricting plan. After Shelby County, the court granted the plaintiffs' motion for summary judgment on their intentional discrimination claims and ordered Evergreen to submit future voting changes relating to redistricting and voter eligibility for preclearance until December 2020.

The Alabama report reveals additional ''stunning evidence'' of intentional racial discrimination against Black voters by the Alabama state legislature and local jurisdictions. African-American state legislators filed a lawsuit alleging that the Republican-led legislature intentionally sought to dilute the Black vote in violation of the Voting Rights Act and the Fourteenth Amendment by redrawing the state's legislative districts to pack Black voters into majority-Black districts, thereby reducing their influence in other districts. The legislators also claimed that the redistricting plan was an unconstitutional ''racial gerrymander,'' where it deliberately segregated voters into districts based on their race without adequate legal justification. A three-judge district rejected the claims, and the case was appealed to the Supreme Court, which vacated the lower court ruling and remanded the case for reconsideration. The Court concluded that the fact that the legislature ''expressly adopted and applied a policy of prioritizing mechanical racial targets above all other districting criteria (save one-person, one-vote) provides evidence that race motivated the drawing of particular lines in multiple districts in the State.'' On remand, one of the Eleventh Circuit's most conservative judges, William Pryor, authored an opinion for the three-judge court, ruling that 12 of the majority-minority districts were unconstitutional because the legislature relied too heavily on race in drawing their boundaries.

Another glaring example of intentional discrimination by Alabama arose in a federal bribery investigation in which recordings by White Alabama legislators revealed a plot by legislators to stop a gambling referendum from appearing on the ballot because it would increase Black voter turnout. The legislators were overheard calling Black voters ''Aborigines'' and predicting that the referendum would lead '''[e]very black, every illiterate to be ''bussed [to the polls] on HUD financed busses.'' A district court judge presiding over the bribery trial ruled that these legislators were not credible because they tried to ''increase Republican political fortunes by reducing African American voter turnout'' and because ''the record establishes their purposeful, racist intent.'' The court concluded that the ''recordings represent compelling evidence that political exclusion through racism remains a real and enduring problem'' in Alabama, and that overt racism ''remain[s] regrettably entrenched in the high echelons of state government.''

Finally, Alabama's efforts to enact photo ID laws, which disproportionately burden voters of color, dates back several decades. Although Alabama was required to seek preclearance before enforcing a 2011 law enacted prior to the Shelby County ruling, it did not. Instead, it waited until the ruling and then allowed the law to go into effect.

The photo ID law was the subject of multiple lawsuits, recounted by both the NAACP Legal Defense Fund and the Southern Poverty Law Center in their reports. A key issue in the litigation was the limited ability of Black voters to obtain photo ID. In 2015, the Alabama governor and a state agency announced the closure of 31 driver's license offices, many in majority Black counties. The U.S. Department of Transportation opened a civil rights investigation under Title VI of the Civil Rights Act of 1964 and concluded that the closures had a disparate impact on Black Alabamians in violation of the law.

Alaska

There is a well-developed record of Alaska's discrimination against the state's indigenous peoples, Alaska Natives, which continues to this day and which was outlined in a 2017 article attached to the testimony. In 1975, the Section 4(b) coverage formula was amended to address the ''pervasive'' problem of ''voting discrimination against citizens of language minorities.'' Congress identified what it described as ''substantial'' evidence of discriminatory practices against Alaska Natives. That evidence came in four forms: (1) Alaska Natives suffered from severe and systemic educational discrimination. (2) Alaska Natives suffered from illiteracy rates rivaling and even exceeding rates of Black voters in the South. (3) The illiteracy of Alaska Natives was exacerbated by their high limited-English proficiency (LEP) rates and need for interpreters to understand even the most basic voting materials written in English. (4) Congress considered evidence of Alaska's constitutional literacy test and its impact on Alaska Native voters.

When Section 4(b) was reauthorized in 2006, Congress considered substantial evidence of the impact of past and present educational discrimination on Native voters. Court decisions found ''degraded educational opportunities'' for Alaska Natives, resulting in graduation rates that lagged far behind non-Natives. Alaska's continued failure to provide equal educational opportunities profoundly affected the ability of Native voters to read registration and voting materials. Congress determined that because of Alaska's discrimination, Native voters continued ''to experience hardships and barriers to voting and casting ballots because of their limited abilities to speak English and high illiteracy rates . . . particularly among the elders.'' The sad legacy of education discrimination remains. According to the most recent census data from the 2016 language coverage determinations under Section 203, approximately one in five adult citizens of voting age in the Bethel Census Area is Limited English Proficient in the Yup'ik language.

Alaska's record of voting discrimination has exacerbated the continuing effects of its educational discrimination against Alaska Natives. While Shelby County was being litigated, Alaska was under a settlement agreement for violating the language assistance provisions in Section 203 of the Voting Rights Act and the voter assistance provisions in Section 208 of the Act. In 2009, a federal court issued a preliminary injunction in Nick v. Bethel finding that the State of Alaska had engaged in a wholesale failure to provide language assistance to Yup'ik-speaking voters in the Bethel Census Area. The court noted that ''State officials became aware of potential problems with their language-assistance program in the spring of 2006,'' but their ''efforts to overhaul the language assistance program did not begin in earnest until after this litigation.'' At that time, Alaska had been covered under Section 5 for Alaska Natives since 1975. However, state officials had taken no steps ''to ensure that Yup'ik-speaking voters have the means to fully participate in the upcoming State-run elections'' in 2008, a third of a century later.

Alaska Native villages outside of the Bethel region expected that the fruits of the hard-fought victory in the Nick litigation would be applied to other regions of Alaska where language coverage was mandated. However, Alaska officials made a ''policy decision'' not to do so. The state directed its bilingual coordinator to deny language assistance to other areas. The bilingual coordinator's last day of employment was on December 31, 2012, the very day that the Nick agreement ended. That led Alaska Native voters and villages from three covered regions, the Dillingham and Wade Hampton Census Areas for Yup'ik and the Yukon-Koyukuk Census Area for the Athabascan language of Gwich'in, to file suit just a month after Shelby County was decided. In Toyukak v. Treadwell, Alaska Natives sued the state for again violating Section 203 and for intentional discrimination in violation of the U.S. Constitution because election officials deliberately chose to deny language assistance to other regions of Alaska even while the Nick settlement was in effect. Alaska's recalcitrance to comply with the Voting Rights Act is particularly noteworthy because it was the first Section 203 case fully litigated to a decision in 35 years.

In defending the latter claim, Alaska argued that the Fifteenth Amendment was inapplicable to Alaska Native voters. State officials argued that Alaska Natives were entitled to less voting information than English-speaking voters. The Alaska Native voters prevailed, but only after nearly two million dollars in attorneys' fees and costs, the passage of 14 months for the ''expedited'' litigation, and a two-week trial in federal court. The court concluded that ''based upon the considerable evidence,'' the plaintiffs had established that Alaska's actions in the three census areas were ''not designed to transmit substantially equivalent information in the applicable minority . . . languages.'' The Toyukak decision came just 14 months after Shelby County, which refutes the majority's conclusion that ''things have changed dramatically'' and ''[b]latantly discriminatory evasions of federal decrees are rare.'' The norm in many areas like Alaska in a post-Shelby world is defiance and deliberate violations of federal voting rights law to suppress registration and voting by American Indians and Alaska Natives.

Florida

The combination of a large and racially diverse electorate, two different time zones, and a history of razor-thin, contested elections would be enough basis for any state to become a focal point in an examination of voting rights. Florida's place in the ongoing conversation about the need for a renewed Voting Rights Act is well-deserved. Since situating itself at the epicenter of a modern meltdown in the 2000 presidential election, the leaders who run the state's government have been on the wrong side of policy reform opportunities that would protect the right to vote. As a result, communities of color, who comprise nearly half of Florida's population in excess of 21 million voters, remain unable to enjoy the franchise by participating fully in deciding who represents them.

Since the entire nation witnessed its ballot counting meltdown during a presidential election more than two decades ago, Florida has not ceased to find its way into voting rights controversy. The Florida report prepared by the Advancement Project and submitted with this testimony outlines a series of issues that have required careful federal oversight and intervention in support of voting rights. Prior to the Shelby County decision, the state had crafted several policies that elicited multiple inquiries and preclearance objections from the Justice Department. For instance, the department interposed objections to Florida's state legislative maps along with subsequence policies purporting to ''reform'' its election administration system. All of these objections demonstrated threats to voters' ability to access the ballot due to the state's inattention to the effect of language accessibility.

Since Shelby County, however, the scope of the loss of voting rights has been exceedingly apparent. Florida has moved quickly to adopt changes in its election system, and challengers now must resort to court challenges in place of the preclearance administrative review process. For example, Florida's secretary of state was enjoined by the Northern District of Florida from employing a ballot review process based on a flawed signature mismatch examination due to a lack of notice for people to cure perceived issues with their signatures. At the same time, it should be noted that certain policy decisions that had not reached disposition under the preclearance regime slipped through the cracks, like Florida's 2012 voter purge policy where the challenge was dismissed due to the Shelby County decision in Mi Familia Voter Education Fund v. Detzner.

Florida has sustained its habit of undermining the will of the people, even when it was expressed clearly in a public ballot measure. In 2018, more than 60 percent of Florida voters approved a constitutional mandate to restore the rights of its returning citizens. After moving slowly to even review applications for pardons and clemency before Amendment Four, state officials doubled down by severely curtailing eligibility for rights restoration. Florida Senate Bill 7066, signed into law in 2019, created a new barrier between these citizens and the franchise: a modern-day poll tax. The new rules require these citizens to resolve all fees and costs associated with their prior convictions before becoming eligible to register.

In practice, this policy is arguably worse than the classic poll tax, because Florida acknowledges that it does not keep reliable documentation to allow a person to pay outstanding costs. Further, the impact of this law shows significant racial effects in several counties, meaning that people of color will be less likely than others to pursue the restoration of their rights. While the federal challenge to the law was not successful, the fact that the state still did not understand the likely impact of its fines and fees policy makes clear the work that preclearance review would address; this provision would be more carefully researched and either revised or eliminated due to the significant limits on the franchise.

In multiple ways, Florida impeded efforts to enhance voter accessibility during the 2020 election. Amidst a global pandemic, where voters could not cast ballots in person without risking life and health, the state did precious little to provide more opportunities to vote from home. To the extent the state took affirmative steps, officials made the problems for voters worse, not better. Even though Florida has an established record of allowing citizens to vote by mail, the state limited the number of drop boxes and locations to drop off ballots, and also curtailed the period in which early voting would occur. These policies were compounded by the troubling policy of signature matching for ballots, an arbitrary methodology which placed doubts on many cast ballots. All of this occurred against the backdrop of a well-documented fiasco with delivery times in the U.S. Postal Service. The results placed unnecessary pressures on participation rates in low-income areas of the state, as well as in communities of color.

Finally, Florida adopted S.B. 90 this year, following efforts elsewhere to push back on many of the activities and third party organizations working to address the above problems with voting practices. The new law places restrictions on the ability of organizations to assist with voter registration, a bedrock activity for many groups whose mission is to enhance participation among voters of color. Additionally, the bill directs these organizations to warn citizens who register through their systems that their applications might not arrive in time, which sows doubt and uncertainty into these private efforts to expand the franchise. And focusing on election management by local officials, the bill eliminates ballot drop-offs on Sundays, which is widely used by churches in Souls to the Polls programs. It is difficult to see these changes by Florida's leadership as motivated by anything more than a hostile move against threats to their power.

Georgia

Georgia is home to history. In 2021, Black voters in Georgia turned out in record numbers, electing the state's first Black U.S. senator, Reverend Raphael Warnock. These voters were able to make their voices heard despite tremendous obstacles enacted by the state to limit Black Georgians' participation. Their ability to not just overcome, but to triumph, is yet another example of Black Georgians' achievements, including those of storied civil rights leaders like Martin Luther King Jr. and the late Congressman John Lewis. Black and Brown Georgians deserve a democracy that allows for and encourages their full participation. Sadly, the state remains relentless in its pursuit of racial discrimination in voting.

The state has a long and sordid history of relentless efforts to disenfranchise voters of color, beginning with prohibitions against Black voting enshrined in the state's first Constitution in 1777. As Fair Fight Action demonstrates in its report, ''Georgia's Enduring Racial Discrimination in Voting and the Urgent Need to Modernize the Voting Rights Act,'' which is attached to this testimony, there is ''an urgent and overwhelming need for Congress to bring the preclearance formula found in the Voting Rights Act (''VRA'') of 1965 . . . into the modern era, to reinstate robust federal oversight over discriminatory voting practices, and to strengthen and protect voting rights—for all eligible voters in Georgia and nationwide.''

The glaring examples of current disenfranchisement take many forms and are recounted, chapter and verse, in the Fair Fight Action report. For example, the two recent objections interposed directly against the State of Georgia arose in the five years preceding the Shelby County ruling. In both cases, the Department of Justice found that Georgia had attempted to implement new laws that would have a retrogressive and disproportionate impact on voters of color. Most recently, in 2012, Georgia submitted for preclearance an amendment to the Georgia election code that required all nonpartisan elections for members of consolidated governments to be held in conjunction with the July primary, rather than in November. The Department of Justice objected, finding the change would affect Augusta-Richmond County, in which Black voters had just become a majority. Because Black voters were less likely to vote in July, the Department determined the change depressed turnout for voters of color and further, that the state had not sustained its burden of showing a lack of discriminatory purpose or effect.

Three years earlier, in 2009, the Department of Justice lodged an objection to a version of Georgia's voter verification program. It found that the ''seriously flawed'' program, which improperly removed voters from the rolls, disproportionately affected voters of color. It made this finding based on the ''actual results of the state's verification process'' because Georgia had violated Section 5 of the Voting Rights Act by not seeking preclearance before implementing the program.

Fair Fight Action has collected the stories of thousands of voters across the state who faced incredible barriers to voting in the 2018 general election and the 2020–21 election cycle. For example, a DeKalb County physician, one of the country's leading infectious disease specialists, was challenged at his polling location because there was a slight discrepancy with the spelling of his last name on his driver's license as compared with his registration information. A Fulton County voter was initially refused a ballot because he was classified as a non-citizen, despite presenting his U.S. passport. Voters across the state expressed frustration at the closing and moving of polling locations, including a voter from Clay County, who was forced to drive an hour to a new polling location because her old polling location down the street closed.

Voter purges have also disenfranchised eligible and properly registered voters whose only mistake was not voting recently enough, like a voter in Warner Robins who has lived at the same address for 50 years but did not vote in recent elections. In 2019, he was placed on the state's purge list impermissibly, with no notice. Georgia voters also experienced unacceptably long lines when trying to vote, such that many voters were forced to leave without voting or experienced other adverse consequences. For example, a voter from Cobb County left her home at 6:30 a.m. to vote on Election Day in 2018. The line was too long, so she left and came back on her lunch break at 2:20 p.m. She was not able to cast her ballot until 5:30 p.m., and lost two hours of pay. In the Fair Fight Action report, there are also powerful examples of how the state abdicated its responsibility to adequately train local officials and poll workers about provisional ballots, which in turn, has resulted in conflicting and incorrect information given to voters.

Despite the high standards applied to voter discrimination claims by federal courts, at least two cases have resulted in a final judgment that a practice within the State of Georgia violated the Voting Rights Act. In a 2018 ruling, a federal court found that Sumter County's redrawn school board district map, which reduced the number of single-member districts and added two new at-large districts, violated Section 2. The plaintiff claimed the new map diluted the voting strength of Black voters. The court agreed, finding that the ''infringement of black voters' right to vote in Sumter County is severe.'' The court specifically found there was a ''glaring lack of success for African American candidates running for county-wide office, both historically and recently, despite their plurality in voting-age population.'' And the low rate of Black turnout was attributable to the indisputable history of discrimination in Sumter County and in Georgia. A court made a similar finding in 1997 after a bench trial on claims challenging the City of LaGrange's at-large city council district plan. Noting that LaGrange and Georgia had a long history of discrimination, the court found the plan violated Section 2 of the Voting Rights Act because it deprived citizens of color of the opportunity to elect candidates of their choice.

For further proof that attacks on voting represent an escalating threat to the rights of Georgians of color, one need look no further than the state's recently enacted Senate Bill 202. Georgia's Republican-led General Assembly hastily passed S.B. 202 after a historic turnout for the 2020 election and the 2021 Senate runoff, in which record participation among Black and Brown voters led to the election of Senator Warnock, and in response to conspiracy theory-fueled, groundless allegations of voter fraud. Provisions such as the photo ID requirement, reduced minimum early voting for runoff elections, limited access to drop boxes, and prohibition of most out-of-precinct voting will disparately impact voters of color, particularly those with limited resources and time to navigate the complex requirements. Private parties have filed seven suits against Georgia's governor, the secretary of state, the State Election Board and its members, and various county election officials for declaratory and injunctive relief challenging various provisions of S.B. 202. On June 25, 2021, the Department of Justice sued the state, the secretary of state, and the State Election Board, bringing the number of pending lawsuits challenging S.B. 202 to eight.

Louisiana

Louisiana's record of racial discrimination in voting is ever present and well-documented. As the Southern Poverty Law Center demonstrates in its report attached to this testimony, Louisiana officials have consistently developed methods of denying or diluting the votes of Black Louisianans. The tactics may have changed over time, but the outcome is the same: Black voters disproportionately bear the impact and are less able to participate in the political process.

Louisiana's population is nearly one-third Black. Since Reconstruction, however, the state has not elected a Black candidate to statewide office. Louisiana lawmakers continue to reduce the power of Black communities through at-large elections, proposed annexations, incorporation, and redistricting plans. Louisiana currently unnecessarily restricts registration, purges eligible voters from the rolls, and makes registration onerous for people with felony convictions. Since Shelby County, Louisiana has also eliminated dozens of polling places, mostly in Black communities. And while the state provides early voting, it limits the number of sites, creating incredibly long lines in the most populous parishes, including those with the most Black residents. The state also banned early voting on Sundays in 2016, which is a well-known tool for increasing Black voter turnout. The state narrowly restricts access to absentee ballots, erects barriers to ensuring that votes are counted, and engages in voter intimidation. Despite myriad barriers to voting placed in their path, Louisiana voters persevere. Southern Poverty Law Center's report recounts more than 70 Louisiana voters' stories demonstrating the personal side of voter suppression.

In 2000, the Department of Justice sued Morgan City, alleging that the at-large system for electing members to the city council violated Section 2. After five private plaintiffs filed a similar action, the cases were consolidated and the parties settled. The court entered a consent judgment, finding ''a reasonable factual and legal basis to conclude that under the at-large system for election of City Council in Morgan City, minority voters have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.'' As a condition of the settlement, the parties agreed that all future elections for the city council would proceed according to a single-member election system.

In 2002, a residents' association sued the St. Bernard Parish School Board under Section 2 to prevent it from adopting a redistricting plan that reduced the board's size

and created two at-large seats. The redistricting plan arose from Act No. 173, which required St. Bernard Parish, upon the collection of a sufficient number of petitions, to hold a referendum to transform the parish school board from a body composed of 11 members elected from single-member districts to one composed of seven members, five elected from single-member districts and two elected at-large. Parish voters approved the ''5–2'' plan. Under the 11-member single-district plan, it had been possible to create a majority-Black district; indeed, prior to the referendum, the school board had tentatively approved doing just that. But the 5–2 plan made a majority-Black district impossible. The court invalidated the plan, finding that it diluted the voting strength of the parish's Black voters in violation of Section 2.

In 2007, Black residents of Jefferson Parish filed suit against the State of Louisiana, alleging that the method for electing judges on an at-large basis to the First District of the Fifth Circuit Court of Appeals diluted Black voting strength. On July 6, 2007, the Louisiana governor signed Act 261, dividing the First District into two single-member ''election sections.'' The court entered a consent judgement, confirming that Act 261 provided a framework for resolving the litigation. The court ordered that the action be dismissed, subject to preclearance and implementation of Act 261.

In 2021, the Department of Justice filed suit against the City of West Monroe under Section 2, challenging the at-large method of electing representatives to the West Monroe Board of Aldermen. Although Black residents comprised nearly 30 percent of the voting-age population in West Monroe, no Black candidate had ever been elected to the board. The court entered a consent judgment adopting a ''mixed'' election method that provided for three single-member districts and two at-large seats.

As a harbinger of what is to come, in the latest legislative session, state lawmakers passed five bills that would have further restricted voting rights, including a bill that would unnecessarily purge registered voters, a bill that would add additional identification requirements to absentee ballots, and a bill that would ban absentee ballot drop boxes. Only fierce and persistent advocacy from dedicated organizers and a veto from the governor prevented these bills from becoming law. Louisiana's current conditions of racial discrimination in voting are unequivocal. Without federal preclearance, the promise of the Fifteenth Amendment and the Voting Rights Act to guarantee equal voting rights will slip further away.

Mississippi

Home to voting rights heroes like Fannie Lou Hamer and Medgar Evers and the site of Freedom Summer, Mississippi is notorious for its exclusion and suppression of Black voters throughout history. Mississippi enforced white supremacy through explicit legal impediments to Black voting as well as state-sanctioned murder, including more than 650 lynchings from Reconstruction through 1950—the most of any state in the country. Mississippi was the first state sued by the Department of Justice after the Voting Rights Act was passed. Between 1965 and 2006, the department objected to more than 169 proposed voting changes in Mississippi that disenfranchised voters of color, including redistricting plans, at-large election schemes, polling place changes, candidate qualification requirements, and open primary laws. The state has the highest percentage of Black residents in the country—38 percent—yet no Black candidate has been elected to statewide office since Reconstruction.

As documented in the Southern Poverty Law Center's report, ''Freedom Summer, Shelby County, & Beyond: Mississippi's Continued Record of Racial Discrimination in Voting, the Tireless Mississippians Who Push Forward, & the Critical Need to Restore the Voting Rights Act,'' the state and many of its jurisdictions have made strident and continuous efforts to prevent Black Mississippians from participating in the political process. For example, instead of paying a ''poll tax'' to vote, Black Mississippians are now required to incur the burdensome expense of having certain absentee ballots and applications notarized. Additionally, instead of being asked to interpret complex legal provisions under the guise of literacy tests, Black Mississippians are now subject to unevenly applied voter ID requirements.

Voting rights litigation during the last 25 years demonstrates the ongoing struggle of voters of color. In 1993, a nonprofit group sued the City of Quitman, Mississippi, arguing that the city violated Section 2 of the Voting Rights Act by electing its five aldermen from at-large districts, thus diluting the voting strength of the city's Black voters. A federal court granted a preliminary injunction, enjoining the upcoming 1993 alderman elections. The court later entered a final judgment, concluding that the city's system of electing its aldermen from at-large districts violated Section 2. In 1996, Black voters challenged Calhoun County's redistricting plan. Rather than drawing a ''geographically compact black majority district,'' the county created a plan that divided Black residents between five districts, where the Black population ranged from 19 percent to 42 percent. A federal appellate court held that the plan ''dilute[d] minority voting strength'' and therefore violated Section 2 of the Voting Rights Act. In 1997, a federal court found that Chickasaw County's redistricting plan for its justice court judge and constable elections violated Section 2 of the Voting Rights Act. The court concluded that ''the lingering effect of the past history of discrimination, the racially polarized voting patterns, the substantial socio-economic differences between black and white citizens, and the lack of success of black candidates in country-wide, county district and city-wide elections in Chickasaw County causes black voters to 'have less opportunity than other members of the electorate in the political process and to elect candidates of their choice.'''

It is harder to vote in Mississippi than in almost any other state. Mississippi ranked 47 out of 50 in the 2020 Cost of Voting Index—which considers election system features that impact voting access, including registration deadlines, availability of pre-registration and early voting, number of polling places, poll hours, and voter ID laws. It was a modest improvement from 2016 when it ranked dead last. There is no online voter registration. No automatic or same-day registration. No early voting. Mississippi has a strict photo ID law for voting in person. One can only vote absentee by qualifying for one of a narrow set of excuses. Even those who qualify to vote absentee must have their absentee ballot application and their absentee ballot notarized. During the 2020 election season, the state refused to lift these burdensome requirements even amid a global pandemic, endangering Mississippians wishing to avail themselves of their rights and make their voices heard while keeping themselves and their families safe.

In its report, the Southern Poverty Law Center documented Mississippians' obstacles to cast their votes. On Election Day 2012, a Hinds County resident arrived at the polling location at which she had voted for years, only to be told that her name was not in the register, and she was not able to vote. After the election, she took time off from work to go to the courthouse and ask why her name had been removed from the rolls. She was eventually informed that her name had been removed as part of a redistricting—the first time she had ever been notified of this fact. In the 2016 presidential election, a Grenada County resident and Ole Miss student attempted to vote absentee but was charged $10 for each document she needed to get notarized, for a total of $20. She had to spend her last $20 on the notary and points out that this notarization requirement is ''equivalent to charging a poll tax.'' A Harrison County resident moved in fall 2020 and promptly re-registered to vote at her new address. On Election Day 2020, she was turned away from her nearest polling place and was told she needed to vote at another location 30 minutes away. Once there, however, she was required to vote using a provisional ballot and later received a letter indicating her ballot had not been counted. It ultimately took her three attempts to update her address before she was finally able to receive her voter card. In the 2020 election, a Hinds County resident encountered delays and overcrowding at her polling location, which was located on the corner of two roads with no sidewalks. She and other voters had to wait in line on the side of the road for about an hour, which was difficult for many disabled and elderly voters, including the voter in front of her in line, whose wheelchair broke while waiting in line due to the poor road conditions.

Mississippi officials are relentless in curtailing the right to vote for their constituents of color. Earlier this year, House Bill 586 proposed that Mississippi direct its voter registration system to identify registered voters who may not be U.S. citizens by checking other unspecified ''identification databases.'' Voters flagged as ''potential non-citizens'' would have faced an immediate challenge to their registrations: The bill ''mandated a 30-day period in which flagged voters would have had to provide a birth certificate, passport, or naturalization documents to the relevant authority.'' Failure to do so would result in an immediate purge from the registered voter roll. Under threat of litigation by advocates, the bill ultimately failed, but it demonstrates that many Mississippi lawmakers remain determined to make it even more difficult to vote.

North Carolina

North Carolina's shameful history of racism in voting includes the only successful violent municipal coup d'état in our nation's history in the Wilmington massacre of 1898; enactment of a literacy test, poll tax, and felony-based disenfranchisement; prohibitions on single-shot voting; and discriminatory multi-member districts of 1982 that led to the landmark Thornburg v. Gingles decision. Yet, as documented in Forward Justice's report, ''The Struggle for Voting Rights in North Carolina: 2006–2021,'' North Carolina's recent history demonstrates the effectiveness of the Voting Rights Act prior to Shelby County and the urgent need for its reinvigoration.

In the two decades before Shelby County, the Voting Rights Act was working in North Carolina. Prior to 2013, 40 out of 100 counties were covered by Section 5, primarily located in Eastern North Carolina. As the report describes, ''[w]hile the impact of Section 2 litigation since 1965 cannot be underestimated, Section 5 was the critical legal protection undergirding the fragile, but notable, gains by Black voters in the state.'' From 1982 to 2013, more than 49 Section 5 objection letters were issued by the Department of Justice to North Carolina and its local jurisdictions. By

2012, African Americans were ''poised to act as a major electoral force.''

After Shelby County, North Carolina became ''a national testing ground for modern manifestations of Jim Crow-era voter suppression strategies and epicenter for a renewed voting rights movement to prevent discrimination at the ballot box.'' In just a matter of hours after Shelby County was handed down, leadership of the North Carolina General Assembly announced that because the decision had rid them of the ''headache'' of the Voting Rights Act's preclearance protections, they could now move forward with the ''full bill.'' H.B. 589 became known as the ''monster'' voter suppression law—and was more restrictive than bills seen in any other state. Among other changes, the law eliminated same-day registration, pre-registration for 16- and 17-year-olds, out-of-precinct ballots, and the first week of early voting, and instituted one of the nation's most stringent voter ID requirements.

More than three years after H.B. 589's passage, the U.S. Court of Appeals for the Fourth Circuit invalidated the omnibus suppression legislation, holding that the State of North Carolina illegally and intentionally targeted the right to vote of African Americans ''with almost surgical precision'' in violation of Section 2 and the Fourteenth and Fifteenth Amendments. The Court concluded ''in sum, relying on . . . racial data, the General Assembly enacted legislation restricting all—and only—practices disproportionately used by African Americans'' and ''that, because of race, the legislature enacted one of the largest restrictions of the franchise in modern North Carolina.''

As described in Forward Justice's report, North Carolinians have labored for close to a decade defending against an all-out attack on voting rights. On top of the ''surgical precision'' of the omnibus voter suppression legislation, North Carolina's racially discriminatory redistricting following the 2010 decennial census represents some of the most egregious gerrymandering violations in the country to dilute and suppress the power of voters of color. Two federal decisions, Covington v. North Carolina and Cooper v. Harris, held that, in drawing the state legislative districts, the state manufactured one of the ''largest racial gerrymanders ever encountered by a Federal Court'' and, in constructing both Congressional District 1 and 12, the General Assembly illegally used a ''racial target that subordinated other districting criteria and produced boundaries amplifying divisions between blacks and whites.'' These cases are among the most prominent of the state's complex web of voting rights violations since 2013, many documented in state and federal court challenges, which dominated the past decade.

Voting rights litigation, voter outreach and education, and voter protection work over the last decade yielded a detailed body of evidence summarized in the Forward Justice report, including in the form of coordinated third-party challenges to voter eligibility, significant reductions to polling locations and hours available in formerly covered counties, and county-level efforts to change methods of elections from single-member to at-large. As North Carolina's elections developed into a federal battleground the state also experienced continued racial appeals in campaigning, and incidents of harassment and voter intimidation by both third-party groups and partisan actors, particularly heightened in the 2020 election cycle. One shocking incident took place on the last day of early voting on October 31, 2020, when a peaceful ''Souls to the Polls'' march in Graham, North Carolina, organized by Black clergy, ended with those gathered, including the elderly and children, being pepper-sprayed and prevented from completing their walk to the early voting site in Alamance County.

Without the preventative umbrella of Section 5, North Carolinians were left working overtime to seek after-the-fact remedies, and equal democracy in the state suffered. North Carolina's General Assembly remains in legislative session today, with legislation pending that threatens the right to vote. Following the census data release, the 2021 redistricting process is officially underway. The state produced remarkable leaders in the modern struggle for voting rights, including elders Mother Rosa Eaton and Mother Grace Hardison, who represent the best of America, as they fought under the banner of the Forward Together Moral Mondays Movement to realize the full promise of our democracy. But, as Rev. Dr. William Barber, II, a leading architect of that movement described, ''these battles should never have occurred at all.'' Without urgent congressional action, North Carolinians are bracing for another decade of struggle for the equal ballot, recognizing that the state's past is a harbinger of the scope and scale of voter suppression to come.

South Carolina

South Carolina, where Black residents represent more than one quarter of the state's population, has a long and deep history of racial discrimination in voting. It was the first state to challenge the constitutionality of the Voting Rights Act, in South Carolina v. Katzenbach, almost immediately after its passage in 1965. As the South Carolina report by veteran voting rights lawyer Mark Posner makes clear, that legacy of discrimination continues today, both in how the state runs elections and in structural election practices. The state has one of the most restrictive voter registration deadlines in the country; one of the most restrictive systems regarding the opportunity for voters to cast their ballot ahead of Election Day, either by mail or in person; and one of the worst recent records for wait times at the polls.

While some advances have been made in safeguarding the freedom to vote, particularly for Black Americans, they have largely been the result of Section 5 objections and litigation. Between 1996 and the Shelby County ruling, the Department of Justice issued 14 objections to voting changes which jurisdictions, including the state itself, were seeking to implement. The glaring example of the challenge to the state's restrictive photo ID law is a case in point. It illustrates the power and the efficacy of the Voting Rights Act to block discriminatory voting changes and to deter jurisdictions from seeking to implement such changes.

In 2011, South Carolina adopted an exceedingly onerous photo ID law for voting in person and for in-person absentee voting. It recognized only five limited forms of ID: a South Carolina driver's license, another form of photo ID issued by the South Carolina Department of Motor Vehicles, a voter registration card with a photograph (issued only by visiting a local board of registration office); a federal military photo ID; and a passport. Voters without ID could cast a provisional ballot by presenting a non-photo voter registration card and signing an affidavit that ''the elector suffers from a reasonable impediment that prevents him from obtaining a photo ID.''

The Department of Justice blocked the new requirement from being implemented on the basis that it would disenfranchise tens of thousands of voters of color. It concluded that ''[n]on-white voters were . . . disproportionately represented . . . in the group of registered voters who . . . would be rendered ineligible to go to the polls and participate in the election.'' The state filed a Section 5 declaratory judgement seeking preclearance from a three-judge court but failed to demonstrate that the limited roster of acceptable IDs would not have a discriminatory effect.

Facing a likely denial of preclearance, South Carolina reinterpreted the law to liberally construe the ''reasonable impediment'' exception to the photo ID requirement in an effort to neutralize the discriminatory effect. Under this new subjective test, the reasonableness of the impediment was ''to be determined by the individual voter, not by a poll manager or county board.'' Based on this interpretation, the district court precleared the revised photo ID provision for elections after 2012 but denied preclearance for the 2012 general election on the ground that there was too little time to properly implement the new provision.

In a concurring opinion, U.S. Judge John Bates famously emphasized the key role Section 5 had played in South Carolina ultimately putting forth a nondiscriminatory photo ID provision: ''[O]ne cannot doubt the vital function that Section 5 of the Voting Rights Act has played here . . . . Congress has recognized the importance of such a deterrent effect. . . . Rather, the history of [the new law] demonstrates the continuing utility of Section 5 of the Voting Rights Act in deterring problematic, and hence encouraging nondiscriminatory, changes in state and local voting laws.''

Texas

They say that everything's bigger in Texas. The battle for voting rights is no exception, as documented in the Texas report submitted with this testimony. Last week's census results illustrate that Texas gained more residents than any other state since 2010, with people of color accounting for over 95 percent of this growth. Non-Hispanic White Texans now make up just 39.8 percent of the state's population—down from 45 percent in 2010. Meanwhile, the share of Hispanic Texans has grown to 39.3 percent. The state's growth of Black and Asian populations also significantly outpaced that of the White population since 2010. These changes will no doubt affect the electorate for decades to come. Nearly half of all Texans under age 18 are Latino, and two million more will become eligible to vote in the next decade. Not surprisingly, Texas added a record number of new voters between last two presidential elections.

These dramatic demographic shifts in the electorate coincide with continuing and harmful attacks on voting rights in the state. At the end of last year, researchers examining the time and effort required to vote in different states ranked Texas as the worst for voting.The creation of—in their words—''the state with the most restrictive electoral climate'' in light of unparalleled expansion and diversification of the electorate reflects the state's past and foreshadows its future without federal oversight. Indeed, the pattern here is familiar one: Gains in minority participation in voting are met with concerted efforts to impose new barriers in the path of those voters. As Justice Kennedy observed in LULAC v. Perry,

''Texas has a long, well-documented history of discrimination that has touched upon the rights of African-Americans and Hispanics to register, to vote, or to participate otherwise in the electoral process. Devices such as the poll tax, an all-white primary system, and restrictive voter registration time periods are an unfortunate part of this State's minority voting rights history. . . . [T]he 'political, social, and economic legacy of past discrimination' for Latinos in Texas

may well 'hinder their ability to participate effectively in the political process.' ''

Tory Gavito, a minority politics movement builder and founder of the Texas Futures Project and Way To Win, described that: ''Texas is where the South meets the West. We have a legacy of slavery in the state. We have a legacy of stealing lands and killing Mexican landowners who lived here from before the state was part of the United States of America.'' Its shared history demonstrates how the expansion or restriction of voting rights in Texas has implications across the country. In 1944, Thurgood Marshall successfully argued in Smith v. Allwright that the Texas Democratic Party's policy of prohibiting Black people from voting in primary elections violated the Fourteenth and Fifteenth Amendments. Black voter registration markedly improved immediately following the Court's ruling in Smith, causing Marshall to recognize the case as ''a giant milestone in the progress of Negro Americans toward full citizenship.'' Though the white primary was struck down, several features of vote denial and abridgement in Texas remain: redistricting, the imposition of additional candidate qualifications, new at-large voting arrangements, photo ID laws, onerous voter registration procedures, voter roll purges, relocation, closures and overcrowded polling sites, and hurdles related to mail-in voting.

The wave of new voters of color in Texas have been met with the ''most restrictive pre-registration law in the country.'' In particular, Texas has an in-person voter registration deadline 30 days prior to Election Day and prohibits online voter registration. Voters must print their registration and bring it to the county voter registrar. Texas also does not offer simultaneous registration for the 1.5 million Texans who renew or update their driver's licenses online. In contrast, other states permit an automatic voter registration process, same-day registration during early voting, and online registration options.

These same voters may need to journey to polling places that are distant from minority neighborhoods. A report by The Leadership Conference Education Fund recently noted that Texas ''stands out for the volume, scale, and breadth of its polling place closures since Shelby County.'' This study shows that Texas has closed more polling places since Shelby County than any other state. The 750 polls closed constituted approximately 50 percent of the state's total polling places, and 590 were closed before the 2016 presidential election—the first presidential election after Shelby County. Furthermore, five of the six largest county closers of polling places are in Texas. Unsurprisingly, these counties—Dallas, Harris, Brazoria, and Nueces—are all majority-minority jurisdictions with significant Latino and Black population.

Courts have previously found Texas' voting restrictions to bear racial animus and hinder the ability of minorities to effectively participate in the political process. One recent example is from Texas' photo ID law. In 2011, Texas adopted a voter ID law that courts later found to have been passed with discriminatory intent. Senate Bill 14 required voters to present one of the specified types of photo ID when voting at the polls. The Justice Department successfully blocked the implementation of the law in 2012 under its Section 5 preclearance authority. However, Texas began enforcing S.B. 14 shortly after the Shelby County decision. Although the bill's proponents asserted that the law was necessary, both the district court and Fifth Circuit held that it violated Section 2 of the Voting Rights Act by intentionally discriminating against Black and Hispanic voters who were less likely to hold a required photo ID.

The Texas House just passed what must be regarded as a voter suppression bill, after Texas Republicans issued civil arrest warrants for 52 of their Democratic colleagues who refused to show up to legislative votes because they oppose the legislation. If enacted, the bill would create stricter vote-by-mail rules, add new requirements to the voting process, ban drive-thru and 24–hour voting, bolster access for partisan poll watchers, and curb local voting options that would make voting easier. These requirements only build on some of the most restrictive voting laws in the nation from the last election cycle. That election night, Jolt Action, a group aimed at building political momentum among Latinos in Texas, held a get together at its headquarters. Artwork of youth of color adorned the walls of the office. One painting showed children holding hands before a wall, with the caption ''They tried to bury us. They didn't know we were seeds.'' The question remains: Will voting restrictions scorch the earth upon which these seeds seek to grow, or will we see a garden of vibrant democracy, one tended to by federal and state protections, over decades to come?

Virginia

The post-Shelby County landscape in Virginia is devastated by rollbacks of protections for the right to vote. The Virginia report prepared by Campaign Legal Center details ongoing discrimination exposed through litigation, as well as anti-voter laws, voter intimidation and disinformation campaigns, and other tactics that disproportionately burden and disenfranchise voters of color.

Very recent litigation in Virginia Beach powerfully demonstrates the toll that discrimination in voting takes on communities of color in the state. In March 2021, a federal court held that Virginia Beach's at-large system for electing city council members violates Section 2 of the Voting Rights Act because it dilutes the voting strength of Black, Latino, and Asian American voters. The state's largest city had an 11–member city council, composed of the mayor and 10 councilmembers, each elected at-large for four-year staggered terms. The city had relied upon an at-large system since 1966, but in 50 years, the city's racial composition had changed dramatically: People of color now constitute 31.6 percent of the city's population. Despite sizable communities of color, only six candidates of color have ever been elected to Virginia Beach's city council, and barring special circumstances triggered by the pendency of litigation under the Voting Rights Act, no Black candidate has ever been re-elected to serve a second term.

In enjoining the at-large system, the federal court recognized that its discriminatory effects reflect a broader culture of racial discrimination in the city and the state that continues to impact residents of color today: ''[t]he Commonwealth of Virginia and the City have histories of voter discrimination as it pertains to registration, voter suppression, gerrymandering, and other forms of discrimination.'' The Campaign Legal Center powerfully documents the many facets of this discrimination and concludes: ''The vast evidence of racial discrimination this case has uncovered alone demonstrates the need for preclearance and other means of federal oversight to protect the right of all Americans to vote.''

The Campaign Legal Center's report also sets forth discriminatory barriers to in-person voting, such as the closing, consolidating, and relocating of polling places documented in The Leadership Conference Education Fund's reports in 2016 and 2019. These changes no longer require preclearance and disproportionately impact communities of color. Because Virginia law caps the number of registered voters each precinct can serve, localities must create new precincts. But more precincts do not necessarily mean more polling locations in communities of color. Some localities opt for one polling location to serve multiple precincts, increasing the voters assigned to a single polling place. This increases poll wait times and transportation burdens to and from the polls. During the November 2020 election, Henrico County—30.9 percent of which is Black—consolidated four polling places into existing sites. Because state law allows multiple precincts to be assigned to the same polling place, the county maintained separate precincts in the same building: each had their own poll workers and entrances, heightening voter confusion.

THE TIME IS NOW TO PASS THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT

When President Lyndon Johnson signed the Voting Rights Act of 1965, he declared the law a triumph and said, ''Today we strike away the last major shackle of . . . fierce and ancient bonds.'' But 56 years later, the shackles of white supremacy still restrict the full exercise of our rights and freedom to vote.

For democracy to work for all of us, it must include us all. When certain communities cannot access the ballot and when they are not represented in the ranks of power, our democracy is in peril. The coordinated, anti-democratic campaign to restrict the vote targets the heart of the nation's promise: that every voice and every eligible vote count. Congress must meet the urgency of this moment and pass the John Lewis Voting Rights Advancement Act. This bill will restore the essential portion of the Voting Rights Act that blocks discriminatory voting policies before they go into effect, putting a transparent process in place for protecting the right to vote. It will also bring down the barriers erected to silence Black, Indigenous, young, and new Americans and ensure everyone has a voice in the decisions impacting our lives.

On March 7, 1965, just a few months before President Johnson would sign the Voting Rights Act into law, then 25–year-old John Lewis led more than 600 people across the Edmund Pettus Bridge to demand equal voting rights. State troopers unleashed brutal violence against the marchers. Lewis himself was beaten and bloodied. But he never gave up the fight. For decades, the congressman implored his colleagues in Congress to realize the promise of equal opportunity for all in our democratic process. Before his death, he wrote: ''Time is of the essence to preserve the integrity and promises of our democracy.'' Members of this body must now heed his call with all the force they can muster.

Thank you for inviting me to testify today. I am pleased to answer any questions you may have, and I look forward to working with you to ensure all of us, no matter race or place, have an equal say in our democracy.

TESTIMONY OF PEYTON MCCRARY, PROFESSORIAL LECTURER IN LAW, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL, BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND CIVIL LIBERTIES OF THE U.S. HOUSE COMMITTEE ON THE JUDICIARY

OVERSIGHT OF THE VOTING RIGHTS ACT: POTENTIAL LEGISLATIVE REFORMS—AUGUST 16, 2021

Chair Cohen, Vice Chair Raskin, Ranking Member Johnson, and distinguished Members, thank you for inviting me to testify before you today.

My name is Peyton McCrary. Although I have retired from 20 years of full-time university teaching and 26 years of government service in the U.S. Department of Justice, I still co-teach a course on voting rights law each fall at the George Washington University Law School, where adjunct faculty bear the title Professorial Lecturer in Law. My testimony today is offered in my personal capacity as a historian, not as a representative of any organization.

The focus of my testimony is evidence regarding the jurisdictions that would be covered by a new form of federal preclearance of voting changes, which I understand is being contemplated by this chamber. Representatives of the Brennan Center for Justice and the Leadership Conference Education Fund asked me some months ago to investigate the preclearance coverage formula that is being considered for inclusion in the John Lewis Voting Rights Advancement Act (VRAA). An earlier version of the VRAA passed the House of Representatives December 6, 2019, as H.R. 4 and is now under consideration in a new Congress. The VRAA is designed to restore the preclearance provisions of the 1965 Voting Rights Act by revising the coverage formula invalidated by the Supreme Court in its 2013 decision in Shelby County v. Holder. Preclearance refers to the process of receiving prior federal approval from the Department of Justice or the U.S. District Court for the District of Columbia before implementing any change affecting voting. My task was to identify the jurisdictions that would be subject to preclearance should the VRAA become law. This task required the use of research methods I have employed—both in my scholarly publications and in expert witness testimony—over the last four decades. For example, it calls among other things for methodology I applied in my sworn Declaration filed by the United States in Shelby County v. Holder in 2010.

The new formula for determining the jurisdictions that would be subject to preclearance under the VRAA would be triggered by the record of voting rights enforcement. My analysis generally focuses on the last 25 years, currently from 1996 through 2020, although the conclusions would change if the review period changed. Under some circumstances entire states would be covered; even if the entire state is not subject to preclearance, any individual political subdivision within a state could be covered if the record of voting rights violations in that subdivision meets the criteria of the VRAA.

My analysis derives from the last VRAA, which contained a coverage formula in which an entire state would be subject to preclearance if either of two patterns of violations applied: a) if 15 or more voting rights violations occurred within the state during the previous 25 years; or b) if 10 or more violations occurred in the state during the last 25 years, at least one of which was committed by the state itself, rather than by local subdivisions within the state. I also understand that even if an entire state were not subject to preclearance, any political subdivision would be covered if it had three or more violations during the previous 25 years. Relying on that understanding, my count of violations includes: a) final judgments of a voting rights violation by the federal courts; b) objections to voting changes by the Attorney General; and c) a consent decree or other settlement causing a change favorable to minority voting rights.

I understand that Congress may consider other specifics for the coverage formula. While I am not testifying as to any approach Congress should take, I note that changes to the formula could lead to different conclusions than those I have reached.

QUALIFICATIONS

I am an historian by training and taught history at the university level from 1969 until 1990. During the 1980s I served as an expert witness in numerous voting rights cases in the South. I was employed as a social science analyst by the Voting Section, Civil Rights Division, of the U.S. Department of Justice, from 1990 until my retirement in December 2016. My responsibilities in the Civil Rights Division included the planning, direction, coordination, and performance of historical research and empirical analysis for voting rights litigation, including the identification of appropriate expert witnesses to appear for the government at trial. In some instances, I was asked to provide written or courtroom testimony on behalf of the United States. Since retiring from government service, I have served as an expert in several voting rights cases brought by private plaintiffs.

I received B.A. and M.A. degrees from the University of Virginia in 1965 and 1966, respectively, and obtained my Ph.D. from Princeton University in 1972. My primary training was in the history of the United States, with a specialization in the history of the South during the 19th and 20th centuries. For 20 years I taught courses in my specialization at the University of Minnesota, Vanderbilt University, and the University of South Alabama. In 1998–99 I took leave from the Department of Justice to serve as the Eugene Lang Professor of Social Change in the Department of Political Science at Swarthmore College. For the last fourteen years, both during government service and since retiring from the Department of Justice, I have co-taught a course on voting rights law as an adjunct professor at the George Washington University Law School.

I have published a prize-winning book, Abraham Lincoln and Reconstruction: The Louisiana Experiment (Princeton, N.J., Princeton University Press, 1978), six law review articles, seven articles in refereed journals, and seven chapters in refereed books. Over the last three and a half decades my published work has focused on the history of discriminatory election laws in the South, evidence concerning discriminatory intent or racially polarized voting presented in the context of voting rights litigation, and the impact of the Voting Rights Act in the South. One of these studies was made part of the record before Congress regarding the adoption of the 2006 Voting Rights Reauthorization Act. I continued to publish scholarly work in my areas of expertise while employed by the Department of Justice and expect to continue my scholarly writing now that I have retired from government service. A detailed record of my professional qualifications is set forth in the attached curriculum vitae (Attachment 1), which I prepared and know to be accurate.

Although I write about the history of voting rights law in my scholarly publications and teach in a law school, I am not an attorney. However, the findings reflected in court opinions often provide valuable evidence for investigations by experts. I routinely utilize the factual evidence provided by court decisions in my scholarly writing. As I observed in a recent journal article: ''The factual evidence presented in court proceedings—in voting rights cases key evidence often comes in through expert witness testimony by political scientists or historians—is an invaluable resource for historical and social science research.''

THE METHODOLOGY I HAVE EMPLOYED IN THIS INVESTIGATION

Identifying final judgments in reported cases—and Section 5 objections interposed by the Attorney General—was my first task. In my files I already had both hard copies and electronic copies of many of the Section 2 cases from 1982 to the present, and of the voting rights cases decided under the 14th Amendment before the amendment of Section 2 in 1982. I utilized the detailed study by Professor Ellen Katz and her students at the University of Michigan Law School, which became part of the record before Congress for the 2006 Reauthorization Act (and subsequently published as a law review article). The website of the Civil Rights Division's Voting Section—where I worked for 26 years—gave ready access to the large number of final judgments and settlement documents in cases involving the United States (under Section 2, Section 4(e), Section 5, Section 11(b), and Section 203). Access to Westlaw through GW Law School facilitated identification of other reported decisions brought on behalf of private plaintiffs that I counted as violations. The Voting Section's website also included links to all the Attorney General's Section 5 objections from the 1960s through the Shelby County decision in 2013.

Identifying consent decrees and other settlements in voting rights cases was perhaps the most time-consuming part of the investigation. The library resources of GW Law School gave me access to LexisNexis Court Link, a database with a comprehensive collection of dockets from voting rights litigation. This was the same database I had used to identify settlement documents in my 2010 declaration in Shelby County v. Holder (cited in Note 2 above). Many Court Link dockets included links to electronic copies of consent decrees, consent orders, and other settlement documents. Where no links were available through Court Link, I had to pursue further research to locate the needed evidence of violations (for which the internet proved invaluable). Numerous publicly available reports and scholarly publications also helped document court-ordered settlements of voting rights lawsuits.

I expect to finalize a more detailed report to the Brennan Center and the Leadership Conference soon. In my testimony today, however, I will summarize my findings and attach a listing of each violation. I hope the subcommittee finds this testimony useful in considering how to proceed with the VRAA.

FINDINGS

Let me begin by focusing on the eight states that—according to my analysis—are most likely to be subject to preclearance of voting changes. Recall that under my working understanding of the coverage formula, an entire state would be subject to preclearance if either of two patterns of violations applied: a) if 15 or more voting rights violations occurred within the state during the previous 25 years; or b) if 10 or more violations occurred in the state, at least one of which was committed by the state itself, rather than by local political subdivisions within the state. I treated as a violation, based on the last VRAA: a) a final judgment that a jurisdiction has violated the 14th or 15th Amendments, violated a provision of the Voting Rights Act, or been denied preclearance by a three-judge federal district court in the District of Columbia; b) an objection to voting changes by the Attorney General; or c) a consent decree or other settlement in a lawsuit where the defendants agreed to change the challenged election practice at issue in a manner that was favorable to minority plaintiffs. The exhibits summarize the number and type of violations that in my analysis would require federal preclearance of states if the current version of the coverage formula were enacted into law. Those states are Alabama, Florida,

Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. Exhibit 1 identifies the violations in each of these states that I counted.

Although I believe they are likely to be covered, there are several states that could drop out of coverage depending on how Congress drafts the bill. Alabama, Florida, North Carolina, and South Carolina are the closest to the minimum threshold, so changes that limit what counts as a violation could drop them below 10 violations. Additionally, shortening the review period would cause many states to drop out. For example, if the review period is shortened to 20 years, I calculate that only Georgia, Louisiana, and Texas would likely be covered. At 15 years, only Georgia and Texas would likely qualify. This is not because the other states are covered only by virtue of ancient violations. To the contrary, most states I list here would still have numerous violations in recent years but would not meet the high numerical threshold under a shorter time period. This high numerical threshold ensures only states with established patterns of discrimination are covered, patterns that require a sufficient review period to capture.

On the other hand, barring wholesale changes to the coverage formula or review period, I have concluded that Georgia, Louisiana, Mississippi, and Texas are highly likely to be covered.

There are also several states that I do not think will be covered—but they could be, depending on subsequent changes in the formula. Virginia could meet the threshold of 10 violations where at least one was committed by the state, for example, if multiple findings of independent violations within one case are counted as multiple violations, although I currently calculate that Virginia has only 8 violations. New York and California are each between 10–15 violations, but none were committed by the state. If either state were to commit new violations, it would likely bring the state into coverage.

As I understand the current formula, even if an entire state would not be subject to preclearance, any political subdivision of that state in which three or more violations occurred in the preceding 25 years would be covered. The relevant political subdivision under this provision is the governmental unit responsible for voter registration—in most instances a county. Five political subdivisions in non-covered states which have three or more violations—which would therefore need to preclear voting changes—are itemized in Exhibit 3. The five counties are: Los Angeles County, California; Cook County, Illinois; Westchester County, New York; Cuyahoga County, Ohio; and Northampton County, Virginia.

CONCLUSION

I hope my analysis of the proposed coverage formula is helpful to the subcommittee's current deliberations. My testimony today has focused on empirical analysis of court decisions, Section 5 objections, and consent decrees favorable to minority voters. For a moment, however, I want to emphasize the importance of the challenge Congress currently faces. When the Section 5 preclearance process was still functional—before June 2013—it was a powerful tool for protecting minority voting rights. The bill you are considering can play a key role in confronting current efforts to limit voter registration and voting by minority citizens, as well as diluting minority voting strength. Based on my 41 years of experience in voting rights litigation, I believe firmly that strengthening enforcement of the Voting Rights Act is a critical need for our democracy.

EXHIBIT 1: STATES COVERED UNDER THE PRECLEARANCE FORMULA IN H.R. 4 IF ENACTED INTO LAW

ALABAMA: 10 VIOLATIONS—1 VIOLATION BY THE STATE

Court Decisions: (2)

Allen v. City of Evergreen, Alabama, 2014 WL 12607819 (S.D. Ala. 2014).

Ala. Legislative Black Caucus v. Alabama, 231 F. Supp. 3d 1026 (M.D. Ala. 2017), State of Alabama.

Section 5 Objections: (4)

02–06–1998: Tallapoosa County (Redistricting Plan), 97–1021.

08–16–2000: Shelby County (City of Alabaster), Annexations, 2000–2230.

01–08–2007: Mobile County (MOE change for filling county commission vacancies), 2006–6792.

08–25–2009: Shelby County (City of Calera), Annexations and redistricting plan, 2008–1621.

Consent Decrees/Settlements: (4)

Dillard v. City of Greensboro, Ala., 956 F. Supp. 1576 (M.D. Ala. 1997) (consent decree).

Dillard v. Chilton County Commission, 495 F.3d 1324 (11th Cir. 2007) (consent decree).

Jones v. Jefferson Bd. Of Education, 2019 WL 7500528 (N.D. Ala. 2019) (court-approved settlement).

Ala. State Conf. NAACP v. Pleasant Grove, Ala., 2019 WL 5172371 (N.D. Ala. 2019) (consent decree).

FLORIDA: 10 VIOLATIONS—3 VIOLATIONS BY THE STATE

Court Decisions: (3)

Stovall v. City of Cocoa, Fla., 117 F.3d 1238 (11th Cir. 1997).

U.S. v. Osceola County, Fla., 475 F. Supp. 2d 1254 (M.D. Fla. 2006).

Florida v. United States, 885 F. Supp. 2d 299 (D.D.C. 2012). State of Florida.

Section 5 Objections/Settlements: (2)

08–14–1998: State of Florida. (Changes in absentee voting certificate & absentee ballot), 98–1919.

07–01–2002: State of Florida. (2002 redistricting plan for state house), 2002–2637.

Consent Decrees/Settlements: (5)

U.S. v. Orange County, FL, No. 6:02–cv–787 (M.D. Fla. 2002) (consent decree).

U.S. v. Osceola County, FL, No. 6:02–cv–738 (M.D. Fla. 2002) (consent decree).

U.S. v. School Board of Osceola County, FL, No. 6:08–cv–582 (M.D. Fla. 2008) (consent decree).

U.S. v. Town of Lake Park, FL, C.A. No. 09–80507 (S.D. Fla. 2009) (consent decree).

Perez-Santiago v. Volusia County, No. 6:08–cv–1868 (M.D. Fla. 2010) (court-ordered settlement).

GEORGIA: 25 VIOLATIONS—4 VIOLATIONS BY THE STATE

Court Decisions: (4)

Cofield v. City of LaGrange, Ga., 969 F. Supp. 749 (N.D. Ga. 1997).

Common Cause v. Billups, 406 F. Supp. 2d 1326 (N.D. Ga., 2005).

Wright v. City of Albany, 306 F. Supp. 2d 1228 (M.D. Ga., 2003).

Wright v. Sumter County Bd. Of Elections, 301 F. Supp. 3d 1297 (M.D. Ga. 2018).

Section 5 Objections: (13)

03–15–1996: State of Georgia (1995 redistricting plans, state house & senate), 95–3656.

01–11–2000: Webster County (Redistricting plan, county school district), 98–1663.

03–17–2000: Wilkes County (MOE Tignall city council members), 99–2122.

10–01–2001: Turner County (MOE change, Ashburn), 94–4606.

08–09–2002: Putnam County (2001 redistricting plans, county commission & school board), 2002–2987, 2002–2988.

09–23–2002: Dougherty County (2001 Albany city council redistricting plan), 2001–1955.

10–15–2002: Marion County (2002 school district redistricting plan), 2002–2643.

09–12–2006: Randolph County (Change in voter registration & candidate eligibility), 2006–3856.

05–29–2009: State of Georgia (Voter verification program), 2008–5243.

11–30–2009: Lowndes County (2009 redistricting plan), 2009–1965.

04–13–2012: Greene County (2011 redistricting of commission & school board), 2011–4687.

08–27–2012: Long County (2012 redistricting of commission & school board), 2011–4687.

12–21–2012: State of Georgia (Change of election date), 2012–3262.

Consent Decrees/Settlements: (8)

McIntosh County NAACP v. McIntosh County, Ga., No. 2:77CV70 (S.D. Ga. 1977) (consent decree).

Stafford v. Mayor & Council of Folkston, Ga., No. 5:96CV00111 (S.D. Ga. 1997) (consent decree).

Simpson v. Douglasville, No. 1:96–cv–01174 (N.D. Ga. 1999) (consent decree).

McBride and U.S. v. Marion County, No. 4:99cv151 (M.D. Ga. 2000) (consent decree).

U.S. v. Long County, GA (S.D. Ga. 2006), No. CV206–040 (S.D. Ga. 2006) (consent decree).

Georgia State Conf. NAACP v. Fayette County, Ga., 118 F. Supp. 3d 1338 (N.D. Ga. 2015) (consent decree).

Georgia State Conf. NAACP v. Kemp, N. 2:16CV219 (N.D. Ga. 2017) (settlement agreement). State of Georgia.

Georgia State Conf. NAACP v. Hancock County, Ga., No. 5:15–CV–00414 (M.D. Ga. 2018) (consent decree).

LOUISIANA: 16—1 VIOLATION BY THE STATE

Court Decisions: (2)

St. Bernard Citizens for a Better Govt. v. St. Bernard Parish School Board, 2002 WL 2022589 (E.D. La. 2002).

Guillory v. Avoyelles Parish School Board, 2011 WL 499196 (W.D. La. Feb. 7, 2011).

Section 5 Objections: (13)

10–06–1997: St. Martin Parish (1997 redistricting, St. Martinsville council elections), 97–0879.

04–27–1999: Washington Parish (redistricting plan), 98–1475.

07–02–2002: Webster Parish (2001 Minden city council redistricting plan), 2002–1011.

10–04–2002: Pointe Coupee Parish (2002 redistricting, school district), 2002–2717.

12–31–2002: DeSoto Parish (2002 redistricting plan, school district), 2002–2926.

05–13–2003: Richland Parish (2002 redistricting plan, school district), 2002–3400.

10–06–2003: Tangipahoa Parish (2003 redistricting plan), 2002–3135.

12–12–2003: Iberville Parish (2003 redistricting plan, city of Plaquemine), 2003–1711.

06–04–2004: Evangeline Parish (2003 redistricting plan, city of Ville Platte), 2003–4549.

04–25–2005: Richland Parish (2003 redistricting, city of Delhi), 2003–3795.

08–10–2009: State of Louisiana (designating length of time when parish precinct boundaries are frozen during the preparation of the U.S. decennial census), 2008–3512.

Consent Decrees/Settlements: (1)

U.S. v. Morgan City, LA, No. CV00–1541 (W.D. La. 2000) (consent decree).

MISSISSIPPI: 18—2 VIOLATIONS BY THE STATE

Court Decisions: (7)

Teague v. Attala County, MS, 92 F.3d 283 15th Cir. 1996).

Clark v. Calhoun County, MS, 88 F.3d 1393 (5th Cir. 1996).

Gunn v. Chickasaw County, 1997 WL 1:02CV33426761 (N.D. Miss. 1997).

Citizens for Good Govt. v. Quitman, Ms., 148 F.3d 472 (5th Cir. 1998).

Houston v. Lafayette County, Ms., 20 F. Supp. 2d 996 (N.D. Miss. 1998).

U.S. v. Ike Brown, 494 F. Supp. 2d 440 (S.D. Miss. 2007).

Jamison v. Tupelo, 471 F. Supp. 2d 706 (N.D. Miss. 2007).

Section 5 Objections: (8)

09–22–1997: State of Mississippi (NVRA implementation plan), 95–0418.

06–28–1999: Pike County (McComb, changing polling place to American Legion), 97–3795.

12–11–2001: Montgomery County (Cancellation of election, Kilmichael), 2001–2130.

03–24–2010: State of Mississippi (majority vote requirement for county school boards, etc.), 2009–2022.

10–04–2011: Amite County (2011 redistricting plan for supervisor & election commission), 2011–1660.

04–30–2012: Adams County (2011 Natchez redistricting plan), 2011–5368.

12–03–2012: Hinds County (Redistricting plan, city of Clinton), 2012–3120.

Consent Decrees/Settlements: (3)

Coffee v. Calhoun City, MS., No. 300–cv–00103 (N.D. Miss. 2000) (consent decree).

Thornton v. City of Greenville, No. 4:93CV276 (N.D. Miss. 1998) (settlement agreement).

Tryman v. City of Starkville, No. 1:02–cv–111 (N.D. Miss. 2003) (consent decree).

NORTH CAROLINA: 11—4 VIOLATIONS BY THE STATE

Court Decisions: (3)

North Carolina Conf. NAACP v. McCrory, 831 F. 3d 204 (4th Cir. 2016), State of North Carolina.

Cooper v. Harris, 137 S. Ct. 1455 (2017), State of North Carolina.

Covington v. North Carolina, 138 S. Ct. 2548 (2018), State of North Carolina.

Section 5 Objections: (6)

02–13–1996: State of North Carolina prohibits state legislative & congressional districts from crossing precinct lines, absent Section 5 objections, 95–2922.

07–23–2002: Harnett County (2001 redistricting plan for school district), 2001–3769.

07–23–2002: Harnett County (2001 redistricting plan for commissioners), 2001–3768.

06–25–2007: Cumberland County (Change in MOE for Fayetteville city council), 2007–2233.

08–17–2009: Lenoir County (Change to nonpartisan election, City of Kinston), 2009–0216.

04–30–2012: Pitt County (Change in MOE, county school district), 2011–2474.

Consent Decrees/Settlements (2)

Wilkins v. Washington County Commissioners, No. 2:93–cv–00012 (E.D.N.C. 1996) (consent decree).

Hall v. Jones County Bd. Of Commissioners, No. 4:17–cv–00018 (ED.N.C. 2017) (consent decree).

SOUTH CAROLINA: 15—1 VIOLATION BY THE STATE

Court Decisions: (1)

U.S. v. Charleston County, SC, 365 F.3d 341 (4th Cir. 2004).

Section 5 Objections: (13)

03–05–1996: Cherokee County (Change in method of electing Gaffney Bd. Of Public Works), 95–2790.

04–01–1997: State of South Carolina (1997 senate redistricting plan), 97–0529.

05–20–1998: Horry County (1997 county council redistricting plan), 97–3787.

10–12–2001: Charleston & Berkeley Counties (2012 Charleston council redistricting), 2001–1578.

11–02–2001: Greenville & Spartanburg Counties (2001 redistricting for town of Greer), 2001–1777.

06–27–2002: Sumter County (2001 redistricting plan), 2001–3865.

09–03–2002: Union County (2002 redistricting plan for county school board), 2002–2379.

12–09–2002: Laurens County (Annexations & district assignment, Clinton), 2002–1512, 2002–2706.

06–16–2003: Cherokee County (Reduction in size of school board), 2002–3457.

09–16–2003: Orangeburg County (Annexations by town of North), 2002–5306.

02–26–2004: Charleston County (From nonpartisan to partisan school board elections), 2003–2066.

06–25–2004: Richland & Lexington Counties (MOE change for School District No. 5), 2002–3766.

08–16–2010: Fairfield County (MOE & number of members, county school board), 2010–0970.

Consent Decrees/Settlements: (1)

U.S. v. Georgetown County School District, SC, No. 2:08–889 (D.S.C. 2008) (consent decree).

TEXAS: 34—3 VIOLATIONS BY THE STATE

Court Decisions: (5)

LULAC v. Perry, 548 U.S. 399 (2006).

Benevidez v. City of Irving, TX, 638 F. Supp. 2d 709 (N.D. Tex. 2009).

Fabela v. City of Farmers' Branch, 2012 WL 3135545 (N.D. Texas).

Benevidez v. Irving ISD, 2014 WL 4055366 (N.D. Texas).

Patino v. City of Pasadena, TX, 230 F. Supp. 3d 667 (S.D. Tex. 2017).

Section 5 Objections: (18)—3 violations by the state

01–16–1996: State of Texas (Authorizing employees to determine voter eligibility based on Citizenship information in files), 95–2017.

03–17–1997: Harris County (Annexations, town of Webster), 95–2017.

12–04–1998: Galveston County (Adding numbered posts to at-large seats, Galveston), 98–2149.

07–16–1999: Dawson County (De-annexation, city of Lamesa), 99–0270.

06–05–2000: Austin County (Adding numbered posts, Sealy ISD), 99–3828.

09–24–2001: Haskell Consolidated ISD (Cumulative voting with staggered terms), 2000–4426.

11–16–2001: State of Texas (2001 redistricting, state house), 2001–2430.

06–21–2002: Waller County (Redistricting plans, commissioners court, constable districts), 2001–2430.

08–12–2002: Brazoria County (MOE, Freeport city council), 2002–1725.

05–05–2006: North Harris Montgomery Community College District (reduction in polling place & early voting locations), 2006–2240.

03–24–2009: Gonzales County (Bi-lingual election procedures), 2008–3588.

03–12–2010: Gonzales County (Bi-lingual election procedures), 2009–3078.

06–28–2010: Runnels County (Bilingual election procedures), 2009–3672.

02–07–2012: Nueces County (Redistricting, county commissioners court), 2011–3992.

03–05–2012: Galveston County (Redistricting, county commissioners court), 2011–4317.

03–12–2012: State of Texas (Voter registration & photo id procedures, SB 14), 2011–2775.

12–21–2012: Jefferson County (Beaumont ISD, reduction in single member districts), 2012–4278.

04–08–2013: Jefferson County (Beaumont ISD, change in term of office, qualification procedures), 2013–0895.

Consent Decrees/Settlements: (11)

U.S. v. Ector County, TX, No. M005CV131 (W.D. Tex. 2005) (consent decree).

U.S. v. Brazos County, TX, No. H–06–2165 (S.D. Tex.2006) (consent decree).

U.S. v. Hale County, TX, No. 5:06–CV–43 (N.D. Tex. 2006) (consent decree).

U.S. v. City of Earth, TX, 5:07–CV–144 (N.D. Tex. 2007) (consent decree).

U.S. v. Galveston County, TX, No. 3:07–CV–377 (S.D. Tex. 2007) (consent decree).

U.S. v. Littlefield ISD, TX, No. 5:07–cv–145 (N.D. Tex. 2007) (consent decree).

U.S. v. Post ISD, TX, No. 5:07–CV–146–C (N.D. Tex. 2007) (consent decree).

U.S. v. Seagraves ISD, TX, No. 5:07–CV–147 (N.D. Tex. 2007) (consent decree).

U.S. v. Smyer ISD, TX, No. 5:07–CV–148–C (N.D. Tex. 2007) (consent decree).

U.S. v. Waller County, TX, No. 4:08–cv–3022 (S.D. Texas 2008) (consent decree).

U.S. v. Fort Bend County, TX, No. 4:09–cv–1058 (S.D. Tex. 2009) (consent decree).

EXHIBIT 2: STATES NOT COVERED UNDER THE CURRENT PRECLEARANCE FORMULA IN HR 4

ALASKA: 2 VIOLATIONS

Consent Decrees/Settlements: (2)

Nick v. Bethel, No. 3:07–cv–00098 (D. Alaska) (consent decree).

Toyukak v. Treadwell, No. 3:13–CV–00137 (D. Alaska) (court-approved settlement).

ARKANSAS: 2 VIOLATIONS

Court Decisions: (0)

Consent Decrees/Settlements: (2)

Cox v. Donaldson, No. 5:02CV319 (E.D. Ark. 2003) (consent decree)

Townsend v. Watson, No. 1:89–cv–1111 (W.D. Ark. 2013) (consent decree).

ARIZONA: 4 VIOLATIONS

Section 5 Objections: (2)

05–20–2002: State of Arizona (2001 legislative redistricting plan), 2002–0276.

02–04–2003: Coconino County (MOE, Coconino Association for Vocations, Industry, and Technology), 2002–3844.

Consent Decrees/Settlements: (2)

U.S. v. Cochise County, AZ, No. CV 06–304 (D. Ariz. 2006) (consent decree).

Navajo Nation v. Brewer, No. CV 06–1575 (D. Ariz. 2008) (court-approved settlement).

CALIFORNIA: 12 VIOLATIONS

Court Decisions: (1)

Luna v. County of Kern, CA, 291 F. Supp. 3d 1088 (E.D. Cal. 2018).

Section 5 Objections: (1)

03–29–2002: Monterey County (MOE, Chualar Union Elementary School District), 2000–2967.

Consent Decrees/Settlements: (10)

U.S. v. San Benito County, CA, No. 5:04–cv–2056 (N.D. Cal. 2004) (consent decree).

U.S. v. Ventura County, CA, No. CV04–6443 (C.D. Cal. 2004) (consent decree).

U.S. v. City of Azusa, CA, No. CV05–5147 (C.D. Cal. 2005) (consent decree).

U.S. v. City of Paramount, CA, No. 05–05132 (C.D. Cal. 2005) (consent decree).

U.S. v. City of Rosemead, CA, No. CV05–5131 (C.D. Cal. 2005) (consent decree).

U.S. v. City of Walnut, CA, No: CV 07–2437 (C.D. Cal. 2007) (consent decree).

U.S. v. Riverside County, CA, CV 10–1059 (C.D. Cal. 2010) (consent decree).

U.S. v. Alameda County, CA, No. 311–cv–3262 (N.D. Cal. 2011) (court-approved settlement agreement).

U.S. v. San Diego County, CA, No. 04cv1273 (S.D. Cal. 2004) (consent decree).

U.S. v. Upper San Gabriel Valley Municipal Water District, No. CV 00–07903 (C.D. Cal. 2000) (consent decree).

COLORADO: 2 VIOLATIONS

Court Decisions: (2)

Sanchez v. State of Colorado, 97 F.3d 1303 (10th Cir. 1996).

Cuthair v. Montezuma-Cortez School District, 7 F. Supp. 2d 1152 (D. Colorado 1998).

HAWAII: 1

Court Decisions: (1)

Arakaki v. Hawaii, 314 F. 3d 1091 (9th Cir. 2002).

ILLINOIS: 4

Court Decisions: (3)

U.S. v. Town of Cicero, Illinois, 2000 WL 34342276 (N.D. Ill. 1996).

Barnett v. City of Chicago, 17 F. Supp. 2d 753 (N.D. Ill. 1998).

Harper v. Chicago Heights, IL, 223 F.3d 593 (7th Cir. 2000).

Consent Decrees/Settlements: (1)

U.S. v. Kane County, IL, No. 07–v–5451 (N.D. Ill. 2007) (memorandum of agreement).

MASSACHUSETTS: 5

Court Decisions: (1)

Black Political Task Force v. Galvin, 300 F. Supp. 2d 291 (D. Mass. 2004).

Consent Decrees/Settlements: (4)

U.S. v. City of Boston, No. 1:05–cv–11598 (D. Mass. 2005) (consent decree).

U.S. v. City of Springfield, MA, No. 06–30123 (D. Mass. 2006) (consent decree).

Huot v. City of Lowell, Mass., No. 1:17–cv–10895 (D. Mass. 2019) (consent decree).

City of Lawrence, No. 98cv12256 (D. Mass. 1998) (settlement agreement).

MICHIGAN: 3

Section 5 Objections: (1)

12–26–2007: Saginaw County (Buena Vista Township, closure of voter registration branch office), 2007–3837.

Consent Decrees/Settlements: (2)

U.S. v. City of Hamtramck, MI, No. 00–73541 (E.D. Mich. 2000) (consent decree).

U.S. v. City of Eastpointe, MI, No. 4:17–CV–10079 (2019) (consent decree).

MISSOURI: 1

Court Decisions: (1)

Missouri State Conf. NAACP v. Ferguson-Florrissant School District, 201 F. Supp. 3d 1006 (E.D. Mo. 2016).

MONTANA: 5

Court Decisions: (1)

U.S. v. Blaine County, MT, 363 F.3d 897 (9th Cir. 2004).

Consent Decrees/Settlements: (4)

Matt v. Ronan School District, No. 99–94 (D. Mont. 2000) (settlement agreement).

U.S. v. Roosevelt County, MT, No. 00–50 (D. Mont. 2000) (consent decree).

Alden v. Rosebud County Board of Commissioners, No. 99–148 (D. Mont. 2000) (consent decree).

Blackfeet Nation v. Stapleton, No. 4:20–cv–95 (D. Mont. 2020) (consent decree).

NEBRASKA: 2

Court Decisions: (1)

Stable v. Thurston County, NE, 129 F. 3d 1015 (8th Cir. 1997).

Consent Decrees/Settlements: (1)

U.S. v. Colfax County, NE, No. 8:12–CV–84 (D. Neb. 2012) (consent decree).

NEVADA: 1

Court Decisions:

Sanchez v. Cevaske, 214 F. Supp. 3d 961 (D. Nevada 2016).

NEW JERSEY: 2

Consent Decrees/Settlements: (2)

U.S. v. Salem County and Borough of Penns Grove, N.J., No. 1:08–cv–03276 (D.N.J. 2008) (court-approved settlement).

U.S. v. Passaic City and Passaic County, N.J., No. 99–2544 (D.N.J. 1999) (consent decree).

NEW MEXICO: 3

Consent Decrees/Settlements: (3)

U.S. v. Bernalillo County, N.M., No. CV–98–156 (D.N.M. 1998) (consent decree).

U.S. v. Cibola County, N.M. No. CIV 93 1134 (D.N.M. 2004) (court-approved settlement).

U.S. v. Sandoval County, N.M., No. 88–CV–1457 (D.N.M. 2004) (consent decree).

NEW YORK: 12

Court Decisions: (5)

Goosby v. Town of Hempstead, NY, 180 F.3d 476 (2nd Cir. 1999).

New Rochelle Voter Defense v. New Rochelle, NY, 308 F. Supp. 2d 152 (S.D.N.Y. 2003).

U.S. v. Village of Port Chester, NY, 704 F. Supp. 2d 411 (S.D.N.Y. 2010).

Pope v. County of Albany, N.Y., 94 F. Supp. 3d 302 (N.D.N.Y. 2013).

Molina v. Orange County, NY, 2013 WL 3009716 (S.D.N.Y. 2013).

Objections: (2)

11–15–1996: Temporary replacement of all nine elected board members of Community School District 12 by three appointed trustees and their permanent replacement by five appointed trustees: 96–3759.

02–04–1999: Change in method of election from single transferable vote to limited voting with four votes per voter for community school boards in Bronx, Kings, and New York Counties: 98–3193.

Consent Decrees/Settlements: (5)

U.S. v Suffolk County, NY, No. CV 04–2698 (E.D. N.Y. 2004) (consent decree).

Arbor Hill Concerned Citizens v. Albany County, NY, 281 F. Supp. 2d 456 (N.D.N.Y. 2004) (consent decree).

U.S. v. Westchester County, NY, No. 05 CIV. 0650 (S.D.N.Y. 2005) (consent decree).

U.S. v. Orange County, NY, 12 Civ 3071 (S.D.N.Y. 2012) (consent decree).

Flores v. Town of Islip, NY, No. 2:18–cv–3549 (E.D.N.Y. 2020) (consent decree).

NORTH DAKOTA: 2

Court Decisions: (1)

Spirit Lake Tribe v. Benson County, N.D., 2010 WL 4226614 (D.N.D. 2010).

Consent Decrees/Settlements: (1)

U.S. v. Benson County, N.D., No. A2–00–30 (D.N.D. 2000) (consent decree).

OHIO: 4

Court Decisions: (1)

U.S. v. City of Euclid, Ohio, 580 F. Supp. 2d 584 (N.D. Ohio 2008).

Consent Decrees/Settlements: (3)

U.S. v. Euclid City School Board, 632 F. Supp. 2d 740 (N.D. Ohio 2009) (court-approved settlement).

U.S. v. Cuyahoga County, OH, No.1:10–cv–1940 (N.D. Ohio 2010) (court-approved settlement).

U.S. v. Lorain County, OH, No. 1:11–cv–02122 (N.D. Ohio 2011) (memorandum of agreement).

PENNSYLVANIA: 2

Court Decisions: (1)

U.S. v. Berks County, PA, 277 F. Supp. 2d 570 (E.D. Pa. 2003).

Consent Decrees/Settlements: (1)

U.S. v. City of Philadelphia, PA, No.2:06cv4592 (E.D. Pa. 2007) (settlement agreement).

SOUTH DAKOTA: 2

Court Decisions: (1)

Bone Shirt v. Hazeltine, 336 F. Supp. 2d 976 (D.S.D. 2004).

Section 5 Objections: (1)

02–11–2008: Charles Mix County (Increase in size & redistricting of county commission), 2007–6012.

TENNESSEE: 2

Court Decisions: (1)

Rural West Tenn. v. Sundquist, 29 F. Supp. 2d 448 (W.D. Tenn. 1998).

Consent Decrees/Settlements: (1)

U.S. v. Crockett County, TN, No. 1–01–1129 (W.D. Tenn. 2001).

VIRGINIA: 8—2 BY STATE

Personhuballah v. Alcorn, 155 F. Supp. 3d 552 (E.D. Va. 2016), State of Virginia.

Bethune-Hill v. Va. State Bd. Of Elections, 326 F. Supp. 3d 128 (E.D. Va. 2018), State of Virginia.

Section 5 Objections: (6)

10–27–1999: Dinwiddie County (Polling place change), 99–2229.

09–28–2001: Northampton County (MOE & redistricting, board of supervisors), 2001–1495.

04–29–2002: Pittsylvania County (Redistricting, county supervisors & school board), 2001–2026, 2501.

07–09–2002: Cumberland County (Redistricting plan, county supervisors), 2001–2374.

05–19–2003: Northampton County (2002 redistricting plan, county supervisors), 2002–5693.

10–21–2003: Northampton County (2003 redistricting plan, county supervisors), 2003–3010.

Consent Decrees/Settlements: (0)

WASHINGTON: 3

Court Decisions: (1)

Montes v. City of Yakima, 40 F. Supp. 3d 1377 (E.D. Wash. 2014).

Consent Decrees/Settlements:

U.S. v. Yakima County, WA, No. CV–04–3072 (E.D. Wash. 2004) (settlement agreement).

Glatt v. City of Pasco, WA, No. 4:16–CV–5108 (E.D. Wash.2017) (consent decree).

WISCONSIN: 1

Court Decisions:

Baldus v. Wisc. Govt. Accountability Bd., 849 F. Supp. 2d 840 (E.D. Wisc. 2012).

WYOMING: 1

Court Decisions:

Large v. Fremont County, Wy., 709 F. Supp. 2d 1176 (D. Wyo. 2010).

EXHIBIT 3: POLITICAL SUBDIVISIONS COVERED UNDER THE PRECLEARANCE FORMULA IN HR 4

CALIFORNIA:

Los Angeles County: 5 violations

U.S. v. City of Azusa, No. CV05–5147 (C.D. Cal. 2005) (consent decree).

U.S. v. City of Paramount, No. 05–05132 (C.D. Cal. 2005) (consent decree).

U.S. v. City of Rosemead, No. CV05–5131 (C.D. Cal. 2005) (consent decree).

U.S. v. City of Walnut, No. CV 07–2437 (C.D. Cal. 2007) (consent decree).

U.S. v. Upper San Gabriel Valley Municipal Water District, No. CV 00–07903 (C.D. Cal. 2000) (consent decree).

ILLINOIS:

Cook County: 3 violations

Barnett v. City of Chicago, 17 F. Supp. 2d 753 (N.D. Ill. 1998).

Harper v. Chicago Heights, 223 F.3d 593 (7th Cir. 2000).

U.S. v. Town of Cicero, 2000 WL 34342276 (N.D. Ill. 1996).

NEW YORK:

Westchester County: 3 violations

New Rochelle Voter Defense v. New Rochelle, 308 F. Supp. 2d 152 (S.D.N.Y. 2003).

U.S. v. Village of Port Chester, 704 F. Supp. 2d 411 (S.D.N.Y. 2010).

U.S. v. Westchester County, No. 05 CIV. 0650 (S.D.N.Y. 2005) (consent decree).

OHIO:

Cuyahoga County: 3 violations

U.S. v. Cuyahoga County, No. 1:10–cv–1940 (N.D. Ohio 2010) (court-approved settlement).

U.S. v. Euclid, 580 F. Supp. 2d 584 (N.D. Ohio 2008).

U.S. v. Euclid City School Board, 632 F. Supp. 2d 740 (N.D. Ohio 2009) (court-approved settlement).

VIRGINIA:

Northampton County: 3 violations

09–28–2001: Northampton County (MOE & redistricting, board of supervisors), 2001–1495.

05–19–2003: Northampton County (2002 redistricting plan, county supervisors), 2002–5693.

10–21–2003: Northampton County (2003 redistricting plan, county supervisors), 2003–3010.

WRITTEN STATEMENT OF SOPHIA LIN LAKIN, DEPUTY DIRECTOR, VOTING RIGHTS PROJECT, AMERICAN CIVIL LIBERTIES UNION

HEARING ON OVERSIGHT OF THE VOTING RIGHTS ACT: POTENTIAL LEGISLATIVE REFORMS—AUGUST 16, 2021

Submitted to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the U.S. House Committee on the Judiciary, August 14, 2021

INTRODUCTION

Chairman Cohen, Ranking Member Johnson, and Members of the Committee, thank you for the opportunity to testify before you on the critical issue of legislative reforms to restore and strengthen the Voting Rights Act.

The ACLU Voting Rights Project was established in 1965—the same year that the historic Voting Rights Act (VRA) was enacted—and has litigated more than 350 cases since that time. Its mission is to build and defend an accessible, inclusive, and equitable democracy free from racial discrimination. The Voting Rights Project's recent docket has included more than 30 lawsuits last year alone to protect voters during the 2020 election; a pair of recent cases in the Supreme Court challenging the last administration's discriminatory census policies: Department of Commerce v. New York (successfully challenging an attempt to add a citizenship question to the 2020 Census), and Trump v. New York (challenging the exclusion of undocumented immigrants from the population count used to apportion the House of Representatives); challenges to voter purges and documentary proof of citizenship laws; and challenges to other new omnibus legislation restricting voting rights in states like Georgia and Montana.

In my capacity as Deputy Directory of the ACLU Voting Rights Project, I assist in the planning, strategy, and supervision of the ACLU's voting rights litigation nationwide, which focuses on ensuring that all Americans have access to the franchise, and that everyone is equally represented in our political processes. I recently argued successfully before the U.S. Court of Appeals for the Seventh Circuit in League of Women Voters of Indiana v. Sullivan, a case that challenged an Indiana purge program that failed to follow the procedural safeguards mandated by the National Voter Registration Act. I am currently litigating or have litigated numerous cases challenging racially discriminatory laws under Section 2 of the Voting Rights Act, including Sixth District of the African Methodist Episcopal Church v. Kemp, a challenge to Georgia's sweeping voter suppression law enacted in the wake of the 2020 elections; Thomas v. Andino, a challenge to South Carolina's absentee ballot witness requirement and required ''excuse'' for absentee voting during the COVID–19 pandemic; MOVE Texas v. Whitley, a challenge to a discriminatory purge program in Texas; Missouri State Conference of the NAACP v. Ferguson-Florissant School District, a challenge to the discriminatory at-large method of electing school board members; Frank v. Walker, a challenge to Wisconsin's voter ID law; and North Carolina State Conference of the NAACP v. McCrory, a challenge to North Carolina's monster voter suppression law passed in the immediate aftermath of Shelby County v. Holder.

More than a century ago, the Supreme Court famously described the right to vote as the one right that is preservative of all others. As Chief Justice John Roberts has explained, ''[t]here is no right more basic in our democracy than the right to participate in electing our political leaders.'' We are not truly free without self-government, which requires a vibrant participatory democracy, in which everyone is treated fairly in the process and equally represented. Unfortunately, our nation has a long and well-documented record of fencing out certain voters—Black voters and other voters of color, in particular—and today that racial discrimination in voting remains a persistent and widespread problem.

The landmark Voting Rights Act (''VRA''), one of the signature achievements of the Civil Rights Movement, has been critical in the efforts to combat this enduring blight. Passed initially in 1965, and reauthorized and amended (with bipartisan support) in 1970, 1975, 1982, 1992, and 2006, it is one of the most effective pieces of federal civil rights legislation. But eight years ago, in Shelby County v. Holder, the Supreme Court struck down the formula used to determine which jurisdictions were covered by a federal preclearance regime. This meant that the heart of the VRA—the requirement that jurisdictions with a long record of voter suppression submit proposed changes to election laws to federal officials before they went into effect—functionally ended. After Shelby County, the main protection afforded by the VRA is Section 2, which imposes a nationwide ban on the use of any ''voting qualification or prerequisite to voting . . . which results in a denial of abridgment of the right of any citizen of the United States to vote on account of race or color.'' Section 2 provides only post-enactment relief, i.e., it authorizes challenges that can be brought only after a law has been passed or a policy implemented.

The inadequacy of Section 2 post-enactment relief as the principal means to protect against discrimination in voting cannot be overstated, and the ACLU and other civil rights organizations have discussed the need for the restoration of the prophylactic preclearance regime innumerable times. Even if not sufficient on its own, however, Section 2 remains an important and necessary tool to protect voting rights, and its continuing vitality is critical. My written testimony will focus on three issues that have substantially weakened the force of post-enactment relief as a bulwark against discrimination: the standard for obtaining preliminary injunctive relief in voting rights cases, the use of the so-called Purcell principle as an additional barrier to relief, and the Supreme Court's recent decision in Brnovich v. Democratic National Committee.

The Supreme Court's reasoning in Shelby County in dismantling preclearance was premised in part on the idea that plaintiffs could still challenge discriminatory voting laws under Section 2 and win relief, including preliminary relief, before an election occurs with a discriminatory practice in effect. Unfortunately, this premise was deeply mistaken. Section 2 cases are expensive, difficult to bring, and frequently take years to litigate to completion—to say nothing of the meritorious cases that are never brought at all due to these costs. Theoretically, plaintiffs can win preliminary relief while a case is being litigated—freezing the status quo, while the court determines whether an election practice violates federal law—but this too works better in theory. In practice, the standard for winning a preliminary injunction, which includes proving a substantial likelihood of success on the merits, poses a particularly high bar to relief in voting rights cases, due to their complexity and fact-intensive nature. This means that elections proceed under regimes ultimately found to be discriminatory, with no way to compensate voters for that harm, and with the victors of those tainted elections enacting policy and accruing the benefits of incumbency.

Compounding the problem is the metastasization of the so-called Purcell principle. Named after a short, unsigned Supreme Court order from 2006, which reminded courts to consider the potential confusion that may ensue if court orders, especially conflicting ones, issue close to an election, this restatement of common sense has grown into an almost per se bar used to deny relief in voting cases. Over the past decade, federal courts have applied Purcell ever more aggressively, even when the putative concerns of voter confusion or administrative burden on elections officials that originally animated the doctrine are wholly absent, and in a way that tends to work in one direction: against voters and voting rights. Compounding the issue is the frequent lack of explanation of a court's reasoning: applications of Purcell often appear in the form of unsigned orders, leaving the parties and the voting public with little clarity. In short, the expansion of Purcell has made the already difficult task of halting a discriminatory regime before it can taint an election even harder, blocking relief even where voting rights plaintiffs are ultimately successful—and even when they have demonstrated as much early in their case.

Finally, the Supreme Court's recent decision in Brnovich v. Democratic National Committee will make it significantly more difficult for voters to bring successful lawsuits to block discriminatory voting laws under Section 2. Under the guise of interpreting the statute, the Supreme Court articulated five ''guideposts'' that will inevitably make showing a discriminatory burden more difficult for Plaintiffs, while putting a thumb on the scale for government defendants by allowing for the mere specter of voter fraud—without any evidence—to justify discriminatory practices.

Fortunately, for all three of these issues, Congress has the power to act to protect voting rights. It has the clear authority to set standards for the issuance of preliminary relief and injunctions in voting rights cases, and the clear ability to correct the misinterpretation of the VRA contained within Brnovich. Not only does Congress have the power to do so, it also has the responsibility. Under both the Fourteenth and Fifteenth Amendments, which promise equal protection under the law and the right to vote free of racial discrimination, respectively, Congress is expressly authorized—and given the duty—to make these guarantees real. The John Lewis Voting Rights Advancement Act (''JLVRAA''), which passed the House of Representatives in the 116th Congress, with additions to address the explosive growth of Purcell in the 2020 election cycle and repair the damage to Section 2 wrought by the recent Brnovich decision, would fight the serious threats to voting rights that we see today.

I. The Standard for Obtaining Preliminary Injunctive Relief

Following Shelby County, Section 2 of the VRA is the heart of federal protections for the right to vote. Unlike the VRA's preclearance regime, which applies before a law goes into effect, a Section 2 claim can only be brought after a law is already enacted or a policy announced. In the paradigm course of civil litigation, plaintiffs will file a lawsuit, and then after a trial on the merits, a court will impose money damages or issue

an injunction, i.e., an order to take or forebear from taking some action. Commonly in civil rights litigation, these injunctions bar a government actor from enforcing a law found to violate civil rights law or the U.S. Constitution. Thus, under Section 2 plaintiffs must go to court and litigate their claims—a process that costs hundreds of thousands, if not millions, of dollars and often takes years—before a judge will strike down the law or order the practice stopped. In the interim, the law or practice remains in effect. In the context of voting rights litigation, this means multiple elections involving hundreds of elected officials may be irrevocably tainted by taking place under a discriminatory regime.

In some circumstances, however, plaintiffs can move for a preliminary injunction, which is an order that preserves the status quo while the lawsuit plays out. But these are particularly difficult to win in voting rights cases. One prong of the standard for the issuance of a preliminary injunction is a showing of substantial likelihood of success on the merits. This standard makes sense in many contexts: before a court acts, prior to a full hearing of the evidence at trial or a settlement, it should be confident that it has a good basis to do so. But the difficulties in obtaining preliminary relief under this standard in the voting rights context have imperiled the ability to protect voters from being irrevocably harmed by discriminatory electoral regimes.

Voting rights cases are extremely complex and fact intensive, which is reflected in the significant expense in money and time required to litigate these cases successfully. And courts have required voting rights plaintiffs to make a substantial showing of this full panoply of proof in order to meet the likelihood of success on the merits standard before it will grant preliminary relief. This is incredibly difficult to do in a truncated time period, not least because voting rights cases frequently involve extensive statistical analysis of voting patterns and practices and plaintiffs have limited access to the information necessary to meet this showing. As a result, regimes that are ultimately found to be discriminatory can irrevocably taint an election even where plaintiffs do whatever they can to prevent that from happening.

My prior written testimony before this subcommittee identifies 15 Section 2 cases, brought after the Shelby County decision, where plaintiffs sought a preliminary injunction unsuccessfully—only to go on to win at trial or reach a favorable settlement. On average, those cases took 27 months to litigate to the grant of relief (to say nothing of unsuccessful appeals and disputes over attorneys' fees). In the interim, multiple elections took place, millions of voters cast ballots, and hundreds of elected officials took office, under regimes courts ultimately found were discriminatory or that were abandoned. For example, in a case the ACLU and partners brought challenging an omnibus voter suppression bill, North Carolina NAACP v. McCrory, despite plaintiffs moving as quickly as possible and seeking a preliminary injunction, voters in North Carolina chose 188 federal and state elected officials under election rules that would be subsequently struck down.

The deficiencies of litigation, with the difficulty of securing preliminary relief, are particularly acute in the voting rights context because voting is different than other civil rights litigation. In cases of employment or housing discrimination based on membership in a protected class, at least in theory, going through the legal process can restore that person's job or apartment, or make them whole through backpay or money damages. Elections are different: once an election transpires under a discriminatory regime, it is impossible to compensate the victims of voting discrimination. Their voting rights have been compromised irrevocably because the election has already happened and cannot be re-run. While those voters may be able to freely vote in future elections, winners of the elections conducted under unlawful practices gain the benefits of incumbency, making it harder to dislodge them from office. Those elected officials will make policy while in office, and courts cannot (and should not) dislodge those decisions, even if the mechanism under which they took office is later found to be unconstitutional or to violate the VRA.

The JLVRAA appropriately addresses these particular challenges by creating a standard for the issuance of preliminary relief in voting rights cases. First, plaintiffs must ''raise[] a serious question'' as to whether the challenged practice violates the VRA or the U.S. Constitution. This standard appropriately seeks to balance the needed prophylactic measures to protect the right to vote without inviting frivolous litigation. Then, the court must find that the hardship imposed on the defendant (generally a government actor) is less than the hardship imposed on the plaintiff (the voter), giving ''due weight to the fundamental right to cast an effective ballot.'' This further ensures that courts are not compelled to issue injunctions at the drop of the hat: they must keep in mind, in addition to whether the claims are meritorious, whether the relief would be burdensome on the defendant.

Congress has the clear power to act here. The general standard for issuing preliminary injunctions is a judicial creation, which over time has developed from equitable principles into a four-pronged test familiar to lawyers and judges. However, the Supreme Court has made it clear—repeatedly and unequivocally—that Congress has the authority to alter the considerations for granting equitable relief, which includes the issuance of injunctions. The Court has further explicitly recognized that this reasoning covers preliminary relief, and that Congress can even make the issuance of certain injunctions automatic—an extreme measure compared to the much more modest one contained in the JLVRAA. In other words, ''Congress may intervene and guide or control the exercise of the courts' discretion''—as long as it does so clearly. This reasoning has been applied in federal court cases acknowledging—and upholding—the legislatively modified standard for the issuance of preliminary injunctions. These cases interpret federal laws such as the Petroleum Marketing Practices Act, Endangered Species Act, National Labor Relations Act, Federal Trade Commission Act, and the Securities Exchange Acts of 1933 and 1934. All of which is to say: there is a long-running history and unambiguous precedent blessing Congress' ability to specify the conditions under which a preliminary injunction issues.

II. The Purcell Principle

The current standard for obtaining a preliminary injunction makes it difficult enough for plaintiffs to ensure that discriminatory regimes are blocked before they can taint an election. But the problem has worsened due to the expansion of the so-called ''Purcell principle.'' As described in more detail in my prior testimony, the Purcell principle stood at one point for the commonsense idea that courts should be cautious in issuing orders which change election rules in the period right before an election. In recent years, however, the use of Purcell to block relief has skyrocketed and the doctrine has become something much broader, bearing little resemblance to the guidance given in the brief, unsigned order that is its namesake. The Purcell of today displaces the case-specific analysis required for injunctions and operates as an almost per se bar on granting relief in voting rights cases, in some (nebulously defined) period before an election. This has real effects: as outlined in my prior testimony, injunctions are frequently blocked by Purcell, even in cases where plaintiffs ultimately to go on—after the lengthy process of litigation—to win relief. The use of Purcell is only expanding, and left unchecked, it threatens to kneecap voting rights litigation nationwide.

First, Purcell today is invoked even when there is no risk of voter confusion, zero or minimal administrative burden, and where plaintiffs have acted quickly. An illustrative example is Republican National Committee v. Democratic National Committee. As the COVID–19 pandemic spread, Wisconsin saw a last-minute deluge of absentee ballot applications for primary elections held April 7, 2020, and elections officials struggled to process them quickly. Finding that the requirement for a witness signature as applied to a subset of voters and the absentee ballot receipt deadline were likely unconstitutional under the circumstances, the court preliminarily enjoined the witness requirement for those voters and extended the absentee ballot receipt deadline by six days, requiring the state to count ballots so long as they were received by April 13th (even if postmarked after Election Day). Although elections officials did not contest the injunction, private intervenors won partial stays of the injunction at the Seventh Circuit (as to the witness signature) and the Supreme Court (as to the postmark requirement), with both courts relying on Purcell. There was, however, no risk of voter confusion: voters were merely waiting to receive their ballot, and the district court's order would merely allow it to be counted. Nor was there risk of administrative burden: instead, elections officials had a few extra days to process an unprecedented number of absentee ballot applications. Indeed, the two applications of Purcell themselves imposed additional burdens on elections officials—during the first weeks of an unprecedented, deadly pandemic—and created the chaotic, confusing dynamic that Purcell theoretically counsels against. My prior written testimony includes several other examples that, taken together, show how the Purcell principle has been used to block relief frequently in cases where the stated concerns of the Purcell decision itself—the need to avoid confusing voters and imposing burdens on election officials and the election system—are not present.

Second, the use of the Purcell principle appears to apply primarily in one direction only: to bar efforts to expand access to the ballot. Here, the cases in which Purcell does not apply can be just as revealing as the situations in which it does. For example, in Minnesota in the lead-up to the 2020 general election, voting rights plaintiffs and state officials entered into a consent decree in state court that allowed all ballots postmarked on or before Election Day, and received within seven days after, to be counted. In Carson v. Simon, a new set of plaintiffs sued, seeking a preliminary injunction blocking implementation of the consent decree on September 24—almost eight weeks after the decree was entered—which was denied on October 12. On appeal, the Eighth Circuit reversed, enjoining the state court order and therefore moving up the absentee ballot deadline, in an opinion issued five days before the general election. It is hard to imagine a situation where Purcell is more applicable: here, the requested order came at the eleventh hour, risked a great deal of voter confusion, and imposed serious administrative burdens as

state officials subsequently struggled to comply with the new ballot receipt deadline. Nevertheless, the court declined to apply Purcell. Other examples demonstrating this one-directional application are described in my prior written testimony.

Third, in some instances, too, appeals courts invoking Purcell to stay relief granted by a district court (and the increasing regularity of such stays) create the very voter confusion and administrative burdens that the Purcell principle in theory aims to avoid. For example, in Frank v. Walker, the district court issued a preliminary injunction against Wisconsin's voter ID law, and nearly 12,000 absentee ballots were mailed to voters without instructions on providing identification, hundreds of which were cast without the required documents. The Seventh Circuit stayed this order, without any mention of the voters who were merely following instructions given to them by the state; fortunately, the Supreme Court lifted the stay. But as elections have become increasingly litigated, and Purcell has become an increasingly prominent doctrine, these situations will reoccur. Most concerningly, in a 2020 challenge to South Carolina's absentee ballot witness requirement, the Supreme Court stayed an injunction that had been affirmed by the en banc Fourth Circuit, with three members of the Supreme Court expressing the view that any votes that had already been cast in reliance on the injunction should not be counted. It should be beyond debate that voters who merely relied in good faith on instructions from elections officials in casting their ballots should not be disenfranchised due to Purcell.

Finally, all these problems are exacerbated by the fact that in Purcell-based orders, courts have frequently failed to explain their decisions; instead, the parties and the public are made to guess at basic parameters of the doctrine, such as how long the relevant period is, what counts as an election rule, and how to factor in voters' reliance interests. Typically, orders in federal courts follow full briefing, oral argument (as need be), and judicial research and drafting, a process which can often take months. The product of this is a reasoned opinion that assures the parties that their arguments got a fair hearing and provides guidance as to the rules of the road going forward. Purcell departs sharply from this practice, and in fact, the development of the principle occurred almost entirely in a series of four unsigned orders in the 2014 election. These brief orders provide little guidance to voters or litigations—and feed speculation that decisions are based on political concerns. While the exigent nature of election cases may sometimes leave courts with little time to craft a lengthy opinion, courts can always issue an order and follow up with an opinion explaining their reasoning. Instead, the lack of written opinions means there is no way to ensure the Purcell principle is being applied consistently—or even define what the Purcell principle is.

As with the preliminary injunction standard, Congress' ability to act here is clear. The manner under which injunctions issue, the concerns courts should take into consideration (and those they should not), and the way to weigh competing interests are all matters within Congress' power to define. In the context of Purcell, this could look like defining a specific, measurable period in which changes are disfavored, for legitimate reasons—to avoid the Purcell window growing ever larger and even more unmoored from its foundations. Congress could also clearly state the public's interest in ensuring free and fair access to the ballot, and how that interest should be weighed against administrative concerns. It could specify exactly what forms of voter confusion courts should keep in mind and how to best minimize that confusion. Finally, it could provide guidance to courts reflecting the reality that sometimes, unforeseen events—whether an unprecedented pandemic or the actions of elections officials—occur and that this is no reason to abdicate their responsibility to safeguard the constitutional right to vote.

III. Brnovich v. Democratic National Committee and Potential Fixes

On July 1, 2021, the Supreme Court released its decision in Brnovich v. Democratic National Committee, and in doing so, weakened federal protections for voting rights even further. The case concerned two Arizona restrictions that had a disproportionate impact on Native American and other communities of color, and which the plaintiffs challenged as violating Section 2: a ban on the collection of early ballots and a rule mandating that ballots cast in person at the wrong precinct be discarded entirely, rather than counted for the offices for which that voter is eligible to vote. In the decision, reversing an en banc panel of the Ninth Circuit striking down the two requirements under Section 2, the Supreme Court set out five so-called ''guideposts''—untethered to the actual text of the statute—in assessing Section 2 claims. The decision and these guideposts will make it harder to bring successful Section 2 claims.

The Court's decision in Brnovich undermines the purpose of Section 2 to provide a powerful tool to root out discrimination in voting—no matter how blunt or subtle—in numerous ways. But broadly speaking, the Court's decision did two things to make it harder to bring successful Section 2 claims.

First, the Court ratcheted up the bar for plaintiffs to establish a discriminatory burden on the right to vote. Section 2 calls for an inquiry based on ''the totality of the circumstances,'' into whether ''political processes . . . are not equally open'' to people of color—or, in other words, whether a practice imposes a burden on voters of color. Brnovich introduced into this inquiry whether the burden imposed by a challenged practice is, in a court's view, akin to the ''usual burdens of voting,'' finding those to be essentially per se permissible under Section 2. Absent from the analysis is a discussion of whether the so-called ''usual'' burdens of voting are equally burdensome to all voters, particularly to voters of different racial groups. Though the decision refers to ''mere inconvenience,'' the difficulty of, say, driving to a mail box is very different on a remote Native American reservation where residents do not receive postal service at their doors, and are also much less likely to have access to cars than it is for other voters. The Court also found relevant ''the degree to which a voting rule departs from what was standard practice . . . in 1982.'' But this ignores that the reauthorization of the VRA in 1982, just as in 1965, was motivated by a desire to change state election rules and eradicate the racially discriminatory measures that remained—not grandfather them into law. By introducing these irrelevant considerations into the Section 2 analysis, Brnovich will make it more difficult for plaintiffs to prove their cases.

Second, the Court also ratcheted down the bar for jurisdictions to defend restrictions on voting with a disparate impact. In particular, Brnovich imports into this inquiry—without any grounding in text or history—a state's asserted interest in preventing election fraud, even when wholly unsubstantiated with actual evidence, which it gratuitously referred to as ''strong and entirely legitimate,'' before concluding that rules justified with reference to these interests are ''less likely to violate § 2.'' The lower court in Brnovich found the offered justification of voter fraud for the ban on ballot collection—particularly important to Native American communities, who often lack adequate transportation or regular postal service—to be tenuous, due to the utter absence of voter fraud in Arizona. On this point, the Supreme Court again disagreed, and went further: holding that states are under no obligation to provide any evidence of an actual history or risk of fraud within their borders, or to show how a challenged rule actually would prevent election fraud.

Fortunately, Brnovich was a decision based on a statutory interpretation, rather than a constitutional holding. This means Congress can correct the Court's misinterpretation of Section 2 and restore the VRA's full protections against discrimination in voting. We urge Congress to add such a legislative response to the JLVRAA.

At a minimum, any efforts to respond to Brnovich should make clear that any voting practice that interacts with historical and socioeconomic factors to result in discrimination against voters of color runs afoul of Section 2. This is the case whether or not the practice existed or was widespread in 1982, or any other year. Further, whether or not a court finds a burden to be one of the so-called ''usual'' burdens of voting should not factor into the analysis. A voting practice could well be a mere inconvenience for some voters, but a serious burden for others, to the point where they cannot meet it and are thus disenfranchised.

Any statutory language addressing Brnovich should also directly give courts guidance on how to weigh racially discriminatory burdens against state arguments that a measure is necessary to protect election integrity. Congress must establish that jurisdictions must do more than simply articulate unsubstantiated fears to justify discriminatory restrictions on voting. If a law imposes a discriminatory burden on voters of color, jurisdictions should, at a minimum, be required to submit evidence that the restriction actually advances a particular and important governmental interest. But the analysis should not end there: voters should also be allowed to prove how the challenged measure is pretextual or how there are alternative means to get at the same goal—without imposing the same racially discriminatory burden.

There are different ways Congress can do this. Congress could, for example, adopt an approach that codifies the relevant factors (e.g., the practice's interaction with historical and socioeconomic factors), and non-relevant factors (e.g., whether the practice existed in 1982). It could also adopt a burden-shifting approach modeled on the frameworks for addressing employment discrimination in Title VII of the Civil Rights Act of 1965 or housing discrimination in the Fair Housing Act, which could give guidance to courts as to what evidence a state needs to support an asserted interest, and how to weigh that interest against evidence of a discriminatory result. But Congress should act to restore Section 2 to the powerful weapon to combat discrimination that it was intended to be.

CONCLUSION

For each of these three issues—the difficulty winning preliminary relief, the aggressive expansion of Purcell, and the misinterpretation of Section 2 in Brnovich—there is a common thread: Congress has the power to act. Congress has clear authority to set the standards for the issuance of preliminary relief and has repeatedly done so in numerous federal statutes to address different contexts. The JLVRAA would make preliminary injunctions available if plaintiffs raise

''a serious question'' as to the merits, which would act as a prophylactic to safeguard the right to vote, and is appropriate given the impossibility of remedying voting discrimination after the fact. Congress further has the power to define the public interest to include the public's interest in representative government, elected by the broadest swath of eligible voters possible, and to provide guidance to federal courts on the period in which election-related injunctions can be issued. And finally, Congress has the unquestioned authority to clarify its intent and fix erroneous interpretations of its laws, such as the recent Brnovich decision. In fact, the current version of Section 2 was enacted by Congress in 1982 to respond directly to a Supreme Court case that similarly misgauged Congress' meaning. The 1982 amendments to Section 2 thus provides a model for Congress to act again to ensure that voting rights are subject to robust protections consistent with this body's intent.

These amendments to the VRA are not merely within Congress' power—they are its responsibility. The Fourteenth and Fifteenth Amendments, which respectively guarantee the right to due process and equal protection under the law and the right to vote without discrimination based on race, expressly give Congress the power to enforce their guarantees. This is no accident: the Reconstruction Amendments were passed in the wake of a Civil War which was in part precipitated by a Supreme Court decision. The drafters of the amendments were well aware that the responsibility to protect voting rights could not be left entirely with the court system, and therefore purposely gave this duty to Congress. Although this country has made incredible progress since the enactment of those amendments, this obligation is ongoing. When other institutions tasked with protecting constitutional rights, such as courts and state governments, fail to do so, this body has the responsibility to intervene.

I thank you again for the opportunity to testify in front of this subcommittee on these issues.

TESTIMONY OF WENDY WEISER, VICE PRESIDENT FOR DEMOCRACY AT THE BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW

HEARING ON OVERSIGHT OF THE VOTING RIGHTS ACT: POTENTIAL LEGISLATIVE REFORMS BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES IN THE UNITED STATES HOUSE OF REPRESENTATIVES—AUGUST 16, 2021

Thank you for the opportunity to testify in support of strengthening the Voting Rights Act (''VRA''), a law that has played a critical role in safeguarding American democracy against pernicious, persistent threats of discrimination in the election system. The Brennan Center for Justice at NYU School of Law strongly supports this Committee's efforts to restore and revitalize the VRA, through the John Lewis Voting Rights Advancement Act (''VRAA'').

The VRA is widely considered the most successful civil rights legislation in our nation's history. Unfortunately, the Supreme Court has seriously hampered its effectiveness. First, in Shelby County v. Holder, the Court rendered inoperable the law's preclearance provisions, which had stopped many discriminatory voting practices from ever going into effect in selected jurisdictions with a history of discrimination. More recently, in Brnovich v. DNC, the Court sharply limited voters' ability to challenge discriminatory practices under the nationwide protections against voting discrimination in Section 2 of the law. Although these decisions have seriously wounded the VRA, they also make clear that Congress has the power to restore and bolster the law.

The need to strengthen the VRA is especially urgent now, as a decade's worth of efforts to restrict voting rights have reached a fever pitch. As I previously testified, states across the country are rapidly passing new laws rolling back voting access—many of them targeting voters of color. These new laws are being implemented on top of a host of other discriminatory voting practices that have been put in place or attempted in recent years. We are also headed into a redistricting cycle, following last week's release of Census data, that is expected to be characterized by racial discrimination and severe gerrymandering targeting communities of color.

The VRAA is designed to address these current problems and meet current needs, while taking account of the concerns the Supreme Court identified with the 2006 reauthorization of the law. I submit this testimony to supplement the record of persistent race discrimination in voting that creates the need for the VRAA, and to explain how the VRAA is an appropriate, carefully tailored exercise of congressional authority to combat that discrimination.

I. New Evidence that Race Discrimination in Voting, and its Effects, Persist

Despite the progress made in the decades following the VRA's initial enactment, race discrimination in voting is still a very real—and in some places a growing—problem. The record this Committee has amassed in recent months, including evidence submitted by the Brennan Center, shows overwhelming evidence of contemporary voting discrimination. While the evidence shows that race discrimination in voting is widespread, it also shows that it is especially powerful and persistent in certain geographic areas, including in a number of states that were previously covered by Section 5 of the VRA because of their past histories of discrimination in voting.

Our recent and forthcoming research provides even more evidence of the impact and persistence of discrimination in voting, underscoring the acute need for the VRAA.

A. Persistent Racial Turnout Gaps

A recently published analysis by the Brennan Center's Kevin Morris and Coryn Grange demonstrates that turnout among nonwhite voters remains significantly lower than that among white voters. Even with record overall turnout in the 2020 election, there was a significant turnout gap between white and nonwhite voters. Overall, 70.9 percent of eligible white voters cast ballots in the 2020 election, compared to only 58.4 percent of nonwhite voters. In fact, as the graph below—reproduced from the Brennan Center's published analysis—demonstrates, the turnout gap between white and nonwhite voters has gone virtually unchanged since 2014, and it has grown since its modern-era lows in 2008 and 2012. And even when the gap between Black and white voters was closing—a trend that has sadly reversed course in recent years—Latino and Asian American voters lagged far behind their white counterparts in participation. (This is true of Native American voters as well, though their numbers are too small for inclusion in the census data.)

While our research does not examine whether or the extent to which voter suppression efforts caused this gap to persist—and at some points, widen—it does demonstrate that the temporary closure of the Black-white voting gap in 2008 and 2012 was anomalous. This is particularly significant in light of the Shelby County Court's reliance on evidence that this gap had supposedly closed by 2013 to question Congress's justification for preclearance.

B. Larger Turnout Gaps in Previously Covered Jurisdictions

According to more recent census data, described in a forthcoming Brennan Center analysis by Coryn Grange, Peter Miller, and Kevin Morris, the racial turnout gaps are even starker in the states likely to be subject to preclearance under the VRAA. In recent years, white voter turnout has vastly exceeded nonwhite turnout in virtually every state previously subject to preclearance, and in some areas, the progress made in the decades leading up to Shelby County has all but vanished.

Our analysis finds that, after hitting historic lows immediately before Shelby County in 2012, the white-Black turnout gap has significantly grown in almost every state previously covered by the VRA. In South Carolina, for example, the white-Black turnout gap has grown by 21 percentage points since 2012, to 15 percent. In Texas and Virginia, the gap has grown by 13 percentage points, to 11 percent and 13 percent, respectively. In Louisiana, the gap has grown by 11 percentage points, to 7 percent. And in North Carolina, which was not covered in its entirety but had a number of covered political subdivisions, the gap has grown by 17 percentage points, to 3 percent. These are dramatic shifts in only eight years. In most of the states mentioned here, the turnout gap between Black and white voters grew from a slight gap in favor of Black voters to a significant gap in favor of white voters.

The data also indicates that the post-Shelby County racial turnout gaps are more than a Black and white issue. The total white-nonwhite turnout gap has grown since 2012 in five of the eight states likely to be covered under the VRAA. And the racial turnout gap is especially large for Hispanics. In Georgia and Virginia, for example, the non-Hispanic white-Hispanic turnout gap was 26 percentage points in 2020. In Texas, it was 19 percentage points.

C. Discriminatory Voting Barriers in 2020

In addition to a growing turnout gap among white and nonwhite voters, the 2020 election saw a proliferation of discriminatory voting barriers. A forthcoming report by the Brennan Center's Will Wilder catalogs the wide range of barriers, disparate burdens, and discrimination voters of color faced during the 2020 election cycle. These included new restrictive voting laws, racially discriminatory voter roll purges, disparities in mail delivery and in mail ballot processing times that were exacerbated by the Covid–19 pandemic, long lines and closed polling places, racially-targeted voter intimidation, and targeted misinformation campaigns.

Perhaps more than in any other year in recent history, elected officials and political operatives were direct about their intentions to shrink the electorate in 2020, at times with explicit or thinly-veiled references to race. These statements of discriminatory intent are important context for the range of discriminatory results seen in 2020.

As we have previously testified, the push to disenfranchise voters of color continued after the election, as the Trump campaign and others filed frivolous lawsuits aimed at tossing out the votes of Black voters in urban centers and other voters of color. This litigation and the lies used to justify it helped spur on violent attacks on the Capitol. The same lies laid the rhetorical groundwork for a new wave of restrictive voting legislation this year unlike anything we have seen since the VRA's enactment in 1965. Our most up-to-date research shows

that 18 states enacted 30 new laws restricting access to voting between January 1 and July 14, 2021.

D. Discriminatory Plans to Reduce Representation

The Brennan Center's recent report, ''Representation for Some,'' authored by Yurij Rudensky et al., offers additional evidence of the growing risk of race discrimination in voting. This study analyzes the impact of a voting change that is being pushed in a number of states—namely, the exclusion of noncitizens and children under 18 from the population base used to draw electoral districts. Using data from Texas, Georgia, and Missouri, the report finds that adopting an adult citizen redistricting base would have a substantial and disparate effect on communities of color, particular Latino communities.

While to date no state has adopted an adult citizen redistricting base, these findings are relevant to Congress's inquiry because there is an ongoing effort to adopt such a change, including in states that were previously subject to preclearance and would likely be covered under the VRAA. This change is being pursued with the express knowledge that its principal impact would be to disadvantage communities and voters of color. For example, Thomas Hofeller, a prominent conservative redistricting strategist who helped draw maps after the 2010 census in Alabama, Florida, North Carolina, and Texas that were later struck down by courts as discriminatory, indicated in a memo shared with conservative strategists that changing the apportionment base would be ''advantageous to Republicans and non-Hispanic Whites.'' The substantial risk that states and localities will adopt a discriminatory adult citizen redistricting base further underscores the need for robust protections under the Voting Rights Act.

II. The VRAA's Preclearance Provisions Effectively Target the Problem of Voting Discrimination

The VRAA's preclearance provisions are well designed to target the persistent problem of voting discrimination in a manner consistent with constitutional requirements. The bill includes a coverage formula that will effectively remedy and deter illegal discrimination without casting the net so widely that it imposes burdens on jurisdictions where ordinary litigation is sufficient to stop discrimination. It does so by carefully targeting coverage to jurisdictions and conduct where discrimination is most prevalent, reflecting current conditions and recent historical experience, as the original formula did in 1965. It introduces a geographic coverage formula that triggers only in jurisdictions with recent histories of verifiable voting discrimination. It also establishes limited nationwide preclearance for certain practices that have been used frequently to discriminate against voters of color.

A. The VRA's Preclearance Provisions Are Necessary and Warranted

These preclearance provisions are well justified by the extensive record before Congress.

First, the record before Congress makes clear that preclearance is, unfortunately, still necessary to root out persistent discrimination. As we have previously testified (and as the Supreme Court previously recognized), litigation is emphatically not enough to prevent discrimination where it is repeated; preclearance is necessary. Litigation is costly, slow, and often allows discriminatory rules to govern pending a decision. In some cases, like our recently completed lawsuit challenging Texas's strict voter ID law, multiple elections occur under discriminatory practices before a judicial resolution alters or eliminates them. A favorable decision in such a case cannot un-suppress lost votes, reallocate spent resources, or restore confidence in citizens whose efforts to register and vote were wrongfully denied. Preclearance, by comparison, is a fast process that prevents certain discriminatory measures from taking effect in the first place. The pre-Shelby regime showed the effectiveness of cutting off discriminatory laws and practices at the pass rather than leaving citizens to pick up the burden of challenging them. The last eight years have shown the harm that can be done without the specter of preclearance deterring and blocking harmful laws. Indeed, in many jurisdictions, as soon as a discriminatory law or practice was successfully challenged, the legislature or other public officials took steps to put another voting restriction in its place. As voting barriers have proliferated, so have voting rights lawsuits, reaching unprecedented highs in recent years. Without congressional action, this trend shows no signs of abating.

Second, the record before Congress shows the importance of applying preclearance to elections at the federal, state, and local levels. Discriminatory laws and practices do not just plague federal elections. They also exist in school board, county commission, and state house elections, as the extensive testimony compiled by Professor Peyton McCrary shows. These elections have significant consequences; they can determine issues ranging from the educational resources provided to minority voters' children to whether representatives of minority communities are present at the redistricting table. Unless all eligible voters are able to participate in all elections free from discrimination, our society is not achieving the promise of equal justice for all.

Third, as discussed below, the record before Congress supports the application of a geographic coverage formula to target jurisdictions where voting discrimination is most rampant. And while I do not cover this in my testimony, I believe that the record also supports a practice-based trigger to target practices that are frequently applied to discriminate against minority voters. Requiring preclearance for certain voting practices that are known to be inherently discriminatory is an effective way to target the VRAA as efficiently as possible at the worst forms of discrimination.

B. The VRAA's Geographic Coverage Formula Is Well Designed to Target and Root Out Rampant Discrimination

While discrimination in voting is widespread overall, the record before this Committee shows that certain jurisdictions tend to perpetrate voting discrimination much more than others. It is therefore appropriate for Congress to include a geographic-based trigger for preclearance so as to focus remedial attention on the places where discrimination is persistent and pervasive.

The VRAA's geographic coverage formula is effectively designed to target places where discrimination is recent, widespread, and persistent.

i. The formula relies on the best evidence of discrimination. The formula identifies those jurisdictions where the problem of discrimination is the greatest by focusing on the best evidence for determining where there is a problem to remedy: a jurisdiction's recent violations of laws prohibiting race discrimination. Specifically, the VRAA looks to law violations reflected in court orders, DOJ objection letters, or settlements that were either entered by a court or contained an admission of liability and lead to a change in voting practices. The volume of litigation in and of itself is a probative way to identify where persistent discrimination is taking place; where a jurisdiction is repeatedly discriminating against its citizens, one would expect those citizens to file repeated lawsuits.

But the mere filing of a lawsuit is not enough to trigger coverage under the VRAA; there must also be formal findings that a violation occurred. In other words, the bill looks to objective indicia that discrimination actually occurred. Not surprisingly, legal findings of voting discrimination are more common in jurisdictions that were previously covered under the VRA's preclearance regime. As Professors Morgan Kousser and William Kenan testified, more than five out of every six successful voting rights lawsuits between 1957 and 2019 occurred in places that were previously covered, even though for most of that time preclearance prevented the implementation of discriminatory laws in those jurisdictions.

ii. The formula's high numeric threshold for violations over a 25-year review period identifies persistent patterns of discrimination. The VRAA sets numeric thresholds to capture only those states with an established pattern of discriminatory conduct. Specifically, as previously introduced, the bill would capture only those states with 10 violations, at least one of which was statewide, or 15 total violations, over the prior 25 years. These high numeric thresholds mean that the VRAA's geographic coverage for preclearance will apply only to those jurisdictions that continue to exhibit discrimination despite successful litigation. In other words, the preclearance coverage formula is specifically tailored to remedy race discrimination where case-by-case litigation has proven ineffective or inefficient. (While the bill's requirement of 10 separate, independent findings of discrimination is helpful to identify the states where the problem has been most difficult to root out, it also means that some states with quite a bit of discrimination will not be covered unless the discrimination continues over time. In those states, voters will have to rely on the other remedies in the VRA.)

The geographic coverage formula's 25-year review period is necessary to assess which of those jurisdictions with current records of discrimination also exhibit a persistent, longstanding pattern of discrimination justifying preclearance. This time period encompasses two redistricting cycles and a sufficient number of electoral cycles to identify patterns of discrimination. The length of the review period justifies the high numeric threshold for violations, and vice versa.

iii. The formula limits coverage to states with recent discrimination. The geographic coverage formula is also designed to ensure that only those states with a continuing, current problem of discrimination are covered. As discussed further below, the 25-year review period works in tandem with other provisions of the bill to ensure that jurisdictions will only be covered if they have committed violations recently. First, states that meet the coverage threshold are only subject to preclearance for 10 years, after which older violations will no longer be considered. Second, as also discussed below, states that do not have any violations within the past 10 years can easily bail out of preclearance, and Congress can streamline the bail-out process even further.

As a factual matter, the formula will not cover jurisdictions that only committed violations a long time ago, nor will it cover jurisdictions that only committed a small number of violations over a short period of time.

Based on Peyton McCrary's testimony submitted for this hearing, the VRAA will likely cover eight states, all of which were covered under the VRA pre-Shelby County: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. Assuming Congress also authorizes coverage of political subdivisions with at least three of their own violations, the following local jurisdictions would also be covered, only one of which was previously covered (because it was within a covered state): Los Angeles County, California, Cook County, Illinois, Westchester County, New York, Cuyahoga County, Ohio, and Northampton County, Virginia. Each of these states and political subdivisions has large minority populations. (Mr. McCrary's testimony also concludes that California, New York, and Virginia are close to coverage. Were California or New York to have one statewide violation, it would bring either state into coverage. While Virginia only has eight violations by Mr. McCrary's count, two statewide, that number could rise to 10 if Congress drafts the bill to count independent findings of violations within one case or objection letter as independent violations.)

Each of the covered states has at least one violation within the past decade, and most have multiple violations. In addition, each covered state has seen violations spread over a long time period; in no state are the violations concentrated in a time period shorter than 14 years. Each state is treated equally, and each has an equal opportunity to roll out of preclearance if it stops engaging in a pattern of discrimination.

iv. The formula appropriately targets local jurisdictions where discrimination is prevalent. The VRAA's geographic coverage formula is designed to cover states with consistent patterns of discrimination. Some have argued that subjecting political subdivisions within states to preclearance based on violations committed by the state itself and by other subdivisions is not fair. However, as I explain here, doing so is both reasonable on principle and consistent with past practice.

Local jurisdictions do not exist in isolation. They are embedded within larger communities and larger jurisdictions, including states. From a legal standpoint, as I discuss further below, political subdivisions are ''mere creatures of the State''; as one court noted, ''no legal distinction exists between State and local officials'' for the purpose of preclearance. Our electoral system distributes election administration responsibility between local and state election officials. When a person votes, their selections for local, state, and federal offices are often recorded on the same ballot, and they are subject to the same policies and burdens when casting each of these votes. Perhaps more importantly, when a voter casts their ballot, they are participating in and affected by a political culture that does not necessarily stop at their town or county's borders. When this political culture has a demonstrated record of discrimination, it is not unreasonable to presume that all jurisdictions within it should be subject to preclearance. Indeed, state officeholders that engage in discriminatory practices are elected by people within each of the state's political subdivisions.

Past practice under the VRA demonstrates that state coverage is a reasonable way to identify local jurisdictions where discrimination is prevalent. The VRA previously subjected states and all their political subdivisions to preclearance based on statewide turnout figures and the use of tests and devices, regardless of the specific figures and practices within each subdivision. In practice, this successfully identified those jurisdictions where discrimination was most likely to occur. A quick review of the Justice Department's objections to voting policies demonstrates that the vast majority of objections were to local-level policies in covered states. For example, the Department of Justice objected to at least 104 voting changes in Alabama while preclearance was in effect in that state; all but 18 of these objections were to local- and county-level policies spread across a wide variety of political subdivisions.

Peyton McCrary's analysis of the states likely to be covered under the VRAA shows that it is fair to conclude that discrimination pervades the local jurisdictions in those states as well. According to his testimony, every jurisdiction likely to be covered by the VRAA has at least one statewide violation, violations across at least five local jurisdictions in a broad geographic area, and violations distributed across the entire 25-year period. Take Georgia for example. Professor McCrary estimates that Georgia has 25 total violations over the 25-year period. These include four statewide violations and violations involving 19 different cities, counties, and school boards. In other words, the formula captures geographic areas where discrimination is widespread, persistent, and continues to the present day, regardless of the political subdivisions.

v. The VRA's bail-out provisions prevent over-inclusion. The bail-out provisions in Section 4(a) of the VRA ensure that local jurisdictions where discrimination is not prevalent will not be unfairly subject to coverage. Political subdivisions that have not engaged in discriminatory conduct for ten years can petition for relief from the preclearance process even if the state as a whole and its other subdivisions are still covered.

The VRA's bail-out process is easy and efficient. Since 1997, 50 jurisdictions across seven states have successfully bailed out of preclearance, according to the Department of Justice. All but one of these jurisdictions (the Northwest Austin Municipal Water District No. 1) did so via a consent decree with the Department of Justice, without contested litigation. Since the 1982 amendments to the VRA, every jurisdiction that requested bailout succeeded. According to election law expert Gerry Hebert, who represented the majority of jurisdictions that bailed out between the implementation of the 1982 amendments and Shelby County, the bailout process became more efficient over time as more jurisdictions used it.

Congress has an opportunity to make the bailout process even more efficient by creating an administrative bailout process that largely circumvents judicial review. We recommend that Congress create an administrative process for jurisdictions to seek bailout without having to file an action in court. Political subdivisions without recent violations could file requests directly with the Department of Justice. If the Department of Justice agrees that the jurisdiction qualifies for bailout under the VRA's criteria, the Attorney General could publish a Federal Register Notice that the jurisdiction is eligible for administrative bailout. If there are no objections within a specified time period, the jurisdiction could be bailed out automatically via a second Federal Register Notice, without any judicial action. Jurisdictions that are denied or face local opposition to bailout would still be able to use the existing bailout mechanism by filing an action in the District Court for the District of Columbia. Because the objective bailout criteria from the 1982 amendments closely mirror the preclearance criteria in the VRAA, Congress could also automatically ''grandfather in'' all jurisdictions that bailed out under the 1982 amendments pre-Shelby County out of coverage, unless they commit the requisite number of new violations to subject them to future coverage.

III. The VRAA's Geographic Coverage Formula Is a Constitutional Exercise of Congress's Powers

The VRAA's geographic coverage formula, updating Section 4(b) of the VRA, is constitutional under Supreme Court precedent. As an initial matter, the Supreme Court has repeatedly held that the preclearance regime in Section 5 of the VRA is constitutional—and it remains constitutional today. The Court has upheld preclearance under the Fourteenth and Fifteenth amendments, which give Congress significant leeway to craft broad remedial legislation to protect against racial discrimination in voting. These amendments permit Congress to remedy and to deter voting rights violations by prohibiting conduct that is not itself strictly unconstitutional. Although the Court has recognized that preclearance is an extraordinary legislative approach that stretches ordinary principles of federalism, it has also affirmed that such ''strong medicine'' is necessary and constitutionally justified to address pervasive and persistent race discrimination in voting.

As I discuss above and as the record before Congress makes clear, such discrimination remains pervasive today, especially in the jurisdictions that would likely be covered under the VRAA. In expressing doubt about the continued need for preclearance roughly a decade ago, the Supreme Court observed that ''[v]oter turnout and registration rates now approach parity,'' ''[b]latantly discriminatory evasions of federal decrees are rare,'' and ''minority candidates hold office at unprecedented levels.'' Simply put, these observations no longer hold true. Today, the registration and turnout gaps between white voters and voters of color are substantial and persistent, especially in jurisdictions likely to be covered. Indeed, the gaps between Hispanic and Non-Hispanic white voters rivals the registration and turnout gaps between Black and white voters from 1965. It is not rare to see states pile voting restriction after voting restriction, even as earlier restrictions are struck down by the courts in what amounts to judicial whack-a-mole. And while there are more minority candidates than ever before, minorities are still dramatically underrepresented relative to their population in the halls of congress, state legislatures, and state courts, with some states trending toward less, not more, minority representation. In short, the justification for preclearance remains powerful.

The VRAA's primary mode of imposing preclearance—its geographic coverage formula—is likewise constitutional. In Shelby County, the Supreme Court explained that there are constraints on when and how Congress can adopt preclearance. Most significantly, the Court said that any attempt to target states for preclearance coverage ''must be justified by current needs'' and the formula rationally related to the problem it is trying to address. Relying on this principle, the Shelby County Court struck down the prior geographic coverage formula, finding that it was improper for Congress to rely on obsolete practices, such as literacy tests, along with outdated information, such as 1960s- and 1970s-era voter registration rates, rather than current conditions and voting rights violations. The old coverage formula, the Court observed, bore no ''no logical relation to the present day.'' And the record of voting discrimination before Congress, according to the Court, ''played no role in shaping'' the coverage formula. But even as the Court struck down the prior coverage formula, it invited Congress to craft an updated coverage formula responding to these

concerns. Under the Court's recent precedents, therefore, a formula that is justified by current needs and is sufficiently related to the problem it targets should pass constitutional muster.

The VRAA's updated coverage formula clearly meets that test. It is ''rational in both practice and theory,'' as the Shelby County Court explained was required, and its remedies are ''aimed at areas where voting discrimination has been most flagrant.'' The VRAA's preclearance regime draws on recent history of racial discrimination in voting. The updated formula looks to voting discrimination over the past 25 years, and it ensures that only states that have violations in the past 10 years will be covered. This 25-year time period, which covers two redistricting cycles and up to five presidential elections, is tailored to identify those jurisdictions with a persistent record of discrimination—precisely what the Court requires to justify disparate geographic coverage. A shorter period of review would not be long enough to identify a sustained pattern of misconduct and could risk subjecting to preclearance states and jurisdictions with only sporadic violations. Indeed, as discussed above, all the potentially covered jurisdictions have a steady and consistent stream of violations, showing that the formula is in fact well-tailored.

Critical features of the coverage formula, moreover, ensure that the VRAA captures only current violators, not just jurisdictions that had problems 25 years ago. Two particular features of the VRAA make that so. First, the VRAA covers jurisdictions for only ten years at a time. After ten years of coverage, jurisdictions are automatically freed from preclearance, unless their continuing violations merit renewed coverage. So, jurisdictions that improve their recent records of discrimination will systematically drop out of coverage, while jurisdictions that have increased instances of discrimination will enter it. Thus, the VRAA has an implicit sunset provision: when a jurisdiction no longer engages in a pattern of discrimination in voting, it will no longer be subject to coverage. And should the day come when voting discrimination no longer plagues our country, the VRAA will become dead letter, no longer subjecting any states or localities to preclearance. In addition to the ten-year coverage period, the VRAA's bail-out regime ensures that any jurisdiction without violations over the past decade will be able to quickly and efficiently escape preclearance. And the proposed modifications to the bail-out regime that I discuss above would further ensure that the coverage formula is laser-focused on present-day discrimination. This responsive focus on current conditions is exactly what the Court asked for in Shelby County.

The VRAA modernizes the coverage formula and, as the Shelby Court requested, uses a ''narrowed scope'' to reflect both current problems and progress made to date. While the states that are likely to be covered under the VRAA's updated formula were all previously covered, some states that were previously covered—Alaska, for example—will likely not be covered. And it is not surprising that the list of states with a past history of discrimination overlaps substantially with the list of states with current problems of persistent discrimination. On the other hand, the local jurisdictions that will be captured by this formula are largely jurisdictions that were not previously covered. They are all jurisdictions with large and growing minority populations. This shows that Congress has indeed updated the law to be dynamic and responsive to modern conditions. Clearly, the record before this Congress is playing a substantial ''role in shaping the statutory formula'' that will be included in the VRAA.

The VRAA also tracks discrimination more directly than the coverage formula struck down in Shelby County. The VRAA's coverage formula ''limit[s] its attention to the geographic areas where immediate action seem[s] necessary''—specifically, areas where there is actual ''evidence of actual voting discrimination,'' that are ''characterized by voting discrimination 'on a pervasive scale.' '' To that end, the VRAA's touchstone is not registration and turnout numbers—it is actual, proven acts of discrimination. Such acts are self-evidently ''relevant to voting discrimination.'' By linking coverage to objective findings of discrimination, the VRAA targets only those places where proven discrimination against voters of color persists. In this regard, the VRAA's coverage formula is similar to the uncontroversial bail-in provision found in Section 4 of the VRA: covering those states and localities where there are, in the words of the 1965 House Report, ''pockets of discrimination.''

Concerns regarding the coverage formula's potential overbreadth are misplaced. As noted above, the coverage formula effectively targets geographic areas where discrimination is prevalent, and the bail-out regime would enable any political subdivision without discrimination to escape preclearance. The prior geographic coverage formula that the Supreme Court repeatedly upheld subjected all political subdivisions to preclearance based on a statewide inquiry. In any event, the Supreme Court has made clear time and again that the benefits of state sovereignty do not extend to its political subdivisions. This is because ''the law ordinarily treats municipalities as creatures of the State.'' On this basis, one district court held it reasonable to bring all subdivisions and a state itself into preclearance based on a pattern of violations by some of its subdivisions. In reviewing a request to bail the state of Arkansas and all its subdivisions into coverage for certain electoral processes, that court found that because ''[c]ities, counties, and other local subdivisions are mere creatures of the State'' that the State may ''create or abolish . . . at will,'' ''no legal distinction exists between State and local officials'' for the purpose of preclearance. The court also found that because the use of the relevant voting practice was clearly a ''pattern'' and a ''systematic and deliberate attempt to reduce black political opportunity,'' it was reasonable to hold all other jurisdictions in the state to the preclearance requirement. The Supreme Court has never questioned this approach to sub-state preclearance.

Although not the focus of my testimony, there are two other points relevant to the VRAA's constitutionality. First, in addition to the geographic coverage formula, the VRAA also features a practice-based preclearance regime with nationwide application. This practice-based preclearance regime singles out often discriminatory practices—such as changes in methods of election, annexations, polling place relocations, and interference with language assistance—for federal oversight. Because it has no specific geographic scope and does not impose continuing coverage, it does not implicate, much less offend, the principle of equal sovereignty articulated in the Shelby County opinion.

Second, separate and apart from the Fourteenth and Fifteenth Amendments, Congress has extremely strong powers under the Elections Clause to set the ''times, places and manner'' of federal elections—powers the Supreme Court has said include ''authority to provide a complete code for congressional elections.'' Congress has invoked those powers to enact voting legislation like the National Voter Registration Act, which the Supreme Court has determined permissibly overlays a ''superstructure of federal regulation atop state voter-registration systems.'' And just a few years ago, the Supreme Court approvingly discussed how Congress has used the Elections Clause to ''enact[] a series of laws to protect the right to vote through measures such as the suspension of literacy tests and the prohibition of English-only elections.'' The Elections Clause, therefore, independently justifies the VRAA to the extent that it regulates federal elections. The Supreme Court's concerns in Shelby County—which were based on Court's interpretation of the Fourteenth and Fifteenth Amendments—have no bearing on the constitutionality of the VRAA as it pertains to federal elections.

IV. Congress Should Restore and Strengthen Section 2 of the VRA in the Wake of the Supreme Court's Recent Brnovich Decision

As my colleague Sean Morales-Doyle recently testified at length, we also strongly urge Congress to use this opportunity to restore Section 2 of the Voting Rights Act in the wake of the Supreme Court's recent decision in Brnovich v. Democratic National Committee. Section 2 is critical for fighting voting discrimination in jurisdictions not subject to preclearance (and for fighting certain forms of voting discrimination in covered jurisdictions as well). The Brnovich decision seriously diminished Section 2's strength, making it much less effective a tool for rooting out modern discriminatory voting laws and practices. In doing so, it undermined Congress's clear intent in 1982 to create a powerful remedy to attack electoral laws and practices that interact with the ongoing effects of discrimination to produce discriminatory results in the voting process.

There are a number of approaches to restoring Section 2 to its full strength, but they all share two basic features. First, they would codify the so-called ''Senate Factors'' that courts have long used to assess whether a voting law or practice results in unlawful discrimination under Section 2, and make clear that courts should consider those factors in both vote dilution (redistricting) and vote denial (vote suppression) cases. Second, they would disclaim the artificial limitations the Brnovich opinion placed on courts considering Section 2 claims—such as the suggestion that voting practices that were in place in 1982 should be treated as presumptively valid under Section 2, and the suggestion that unequal access to one method of voting can be excused if other methods of voting are freely available. These two fixes would ensure that Section 2 comports with both Congress's original intent in amending Section 2 in 1982 and with prior practice in federal courts. The Supreme Court was clear in Brnovich that its ruling was based in statutory interpretation. Congress can therefore easily correct the Court's misinterpretation and restore Section 2 to its intended strength.

While the Brnovich decision applies only to ''vote denial'' claims, it is important that any statutory fix address ''vote dilution'' or redistricting claims as well. Section 2 has long been a vital tool for ensuring fair electoral maps. According to a recent Brennan Center analysis, Section 2 has played a critical role in addressing discrimination in redistricting, as evidenced by the more than 20 successful redistricting cases since the 2006 reauthorization of the VRA.

The VRAA would work in tandem with another piece of legislation, the For the People Act (H.R. 1). H.R. 1 sets national standards for fair, secure, and accessible elections; the VRAA targets jurisdictions and practices

with a history of discrimination. H.R. 1 would override existing discriminatory state laws and practices and replace them with a fair alternative; the VRAA would establish preclearance for future such laws and practices. Both are vitally needed to strengthen our democracy.

V. Conclusion

As the record before this Committee shows, the scourge of voting discrimination has exploded across the country, and it is especially acute and pervasive in selected jurisdictions. The John Lewis Voting Rights Advancement Act is carefully crafted to target and root out that discrimination where it is most persistent. The VRAA's preclearance provisions are not only eminently reasonable, justified, and consistent with the Constitution; they are also necessary to stem the relentless rise of discriminatory voting changes. Those preclearance provisions, coupled with new provisions to strengthen Section 2 of the VRA, would restore the VRA to its full strength before the Supreme Court dramatically weakened the law in Shelby County and Brnovich. That strength is badly needed now. We strongly urge Congress to enact the VRAA, as well as the For the People Act, into law.

STATEMENT OF JON GREENBAUM, CHIEF COUNSEL, LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

U.S. HOUSE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND CIVIL LIBERTIES

Hearing on ''Oversight of the Voting Rights Act: Potential Legislative Reforms''—August 16, 2021

INTRODUCTION

Chairman Cohen, Ranking Member Johnson, and Members of the Subcommittee on the Constitution, Civil Rights and Civil Liberties of the U.S. House of Representatives Committee on the Judiciary, my name is Jon Greenbaum and I serve as the Chief Counsel for the Lawyers' Committee for Civil Rights Under Law (''Lawyers' Committee''). Thank you for the opportunity to testify today on ways in which Congress can remedy the damage to racial equality in voting caused by the Supreme Court's decisions in Shelby County v. Holder, and Brnovich v. Democratic National Committee.

In 2013, the Shelby County decision effectively immobilized the preclearance provisions of Section 5 of the Voting Rights Act by finding its underlying coverage formula unconstitutional. The more recent Brnovich decision, while not gutting Section 2, makes it unnecessarily more difficult for plaintiffs to bring Section 2 vote denial ''results'' cases, running directly counter to Congress' intent in first enacting the Voting Rights Act in 1965, and then in broadening the scope of Section 2 of the Act in 1982. The weakening of Section 2 protections by the Court in Brnovich is particularly and sadly ironic, as the Court in Shelby County had pointed to the continued existence of Section 2's ''permanent, nation-wide ban on racial discrimination'' when it eviscerated the Section 5 protections.

The harm caused by Shelby County has been well-documented. The effects of Brnovich remain to be seen. However, it is not too late for Congress to act. The full protections of the Voting Rights Act are desperately needed today, particularly given the steps already taken—or about to be taken—by legislatures in states such as Georgia, Florida, and Texas in the aftermath of the 2020 election to raise additional barriers to the vote that will impact voters of color more severely than white voters. Moreover, there is a legitimate concern that some state legislatures will be emboldened by their reading of Brnovich, as they were by the decision in Shelby, and view it as a signal from the Court to take even more suppressive action. Congress should immediately reassert its intention to fully protect the voting rights of voters of color in Sections 2 and 5 of the Voting Rights Act.

I come to this conclusion based on twenty-four years of working on voting rights issues nationally. From 1997 to 2003, I served as a Senior Trial Attorney in the Voting Section at the United States Department of Justice, where I enforced various provisions of the Voting Rights Act, including Section 5, on behalf of the United States. In the eighteen years since, I have continued to work on voting rights issues at the Lawyers' Committee for Civil Rights Under Law as Chief Counsel, where I oversee our Voting Rights Project, and prior to that, when I served as Director of the Voting Rights Project.

The Lawyers' Committee is a national civil rights organization created at the request of President John F. Kennedy in 1963 to pursue racial justice through mobilization of the private bar. Voting rights has been an organizational core area since the inception of the organization. During my time at the Lawyers' Committee, among other things, I was intimately involved in the constitutional defense of Section 5 and its coverage formula in Shelby County and its predecessor case Northwest Austin Municipal Utility District No. 1 v. Holder. I also staffed the National Commission on the Voting Rights Act, which issued a report entitled The National Commission on the Voting Rights Act, Protecting Minority Voters: The Voting Rights Act at Work 1982–2005 (2006). The report and record of the National Commission on the Voting Rights Act, which was submitted to the House Judiciary Committee at the Committee's request, was the largest single piece of the record supporting the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 (''2006 VRA Reauthorization'').

Our recommended responses to the Shelby County and Brnovich decisions stem from the different scope and rationales of the decisions themselves. The complete evisceration of Section 5 wrought by the Shelby County decision necessitates a comprehensive remedy, but one that is instructed by the reasoning of that decision and therefore considers both the unfortunate history of discrimination in voting in particular states and the current need for prophylactic measures to ensure that no state or sub-jurisdiction can implement a change in voting practices that discriminates against voters of color. The more limited impact of the Brnovich decision calls for a correspondingly focused response, one that zeroes in on the specific deviations of the Court from the clear intent of Congress in its 1982 amendments to Section 2.

Thus, our recommended response to the Shelby County decision starts with our support for provisions similar to those in the bill passed by the U.S. House of Representatives in the previous session of Congress: H.R. 4, 116th Congress, the John Lewis Voting Rights Advancement Act, i.e., a replacement coverage formula that would be applied to the preclearance provisions of Section 5 and the federal observer provisions of Section 8, and a transparency provision that requires all jurisdictions—irrespective of any coverage formula—to provide public notice of changes in voting practices. But, we have an additional recommendation, tied to the transparency provision: the creation of a ''retrogression cause of action,'' that allows the Attorney General or private parties an opportunity to stop changes in voting practices anywhere in the country before they diminish the voting rights of voters of color. As I will discuss more fully in my testimony, the retrogression cause of action would meet the current need to stop suppressive laws that discriminate against voters of color, using a tried and true standard, with limited interference with state sovereignty, and without implicating issues relating to differentiation among the states.

Our recommended congressional response to Brnovich is more limited, as Congress does not have to completely rewrite Section 2. It simply has to remove any ambiguity in the statute caused by the Brnovich opinion, which gave short shrift to a substantial legislative record and decades of jurisprudence which run counter to the Brnovich majority's constricted view of this remedial statute. Congress originally enacted and later amended Section 2 to stymie not only blatant, explicit discrimination, but also facially neutral voting laws that, through ingenious, sophisticated methods, had a significant impact on minority citizens' right to vote. Consistent with this purpose, prior to Brnovich, the Supreme Court and several of the Circuit Courts of Appeal had adopted a standard to ensure the effective implementation of those protections. That standard recognized not only that the Act applies broadly to all voting procedures and policies that abridge the right to vote—whether expressly or subtly—but also that a challenged law cannot be viewed in isolation, because a seemingly innocuous voting practice can interact with underlying social conditions to result in pernicious discrimination.

Under that standard, Section 2 has worked for decades as a judicially manageable mechanism to stop voting discrimination. There has been no flood of questionable Section 2 vote denial ''results'' cases, and no widespread invalidation of voting regulations. Indeed, Brnovich marked the first time since the 1982 amendments to the Act that the Supreme Court reviewed a pure vote-denial claim. The reason is clear: The lower courts have taken seriously the Court's guidance, and carefully assessed the effects of challenged voting policies or procedures within each specific jurisdiction, based on the totality of the circumstances.

Brnovich compels an immediate response from this Congress, before some state legislators—intent on creating obstacles that disproportionately result in a negative impact on the rights of voters of color—hear it as a dog whistle to do just that, and before lower courts apply the opinion in ways that elevate unsubstantiated and untrue justifications for new burdensome voting practices over genuine and proved claims of racially discriminatory results.

I. Why and How Congress Must Respond to Shelby County

A. The State of Affairs Prior to the Shelby County decision

Prior to the Shelby County decision, the combination of Section 2 and Section 5 of the Voting Rights Act provided an effective means of preventing and remedying minority voting discrimination. Section 2, which is discussed more fully below, remains as the general provision enabling the Department of Justice and private plaintiffs to challenge voting practices or procedures that have a discriminatory purpose or result. Section 2 is in effect nationwide. Section 5 required jurisdictions with a history of discrimination, based on a formula set forth in Section 4(b), to obtain preclearance of any voting changes from the Department of Justice or the District Court in the District of Columbia before implementing the voting change. From its inception, there was a sunset provision for the formula, and the sunset provision for the 2006 Reauthorization was 25 years.

Section 5 covered jurisdictions had to show federal authorities that the voting change did not have a discriminatory purpose or effect. Discriminatory purpose under Section 5 was the same as the Fourteenth and Fifteenth Amendment prohibitions against intentional discrimination against minority voters. Effect was defined as a change which would have the effect of diminishing the ability of minority voters to vote or to elect their preferred candidates of choice. This was also known as retrogression, and in most instances was easy to measure and administer. For example, if a proposed redistricting plan maintained a majority black district that elected a black preferred candidate at the same black population percentage as the plan in effect, it would be highly unlikely to be found retrogressive. If, however, the proposed plan significantly diminished the black population percentage in the same district, it would invite serious questions that it was retrogressive.

Except in rare circumstances, covered jurisdictions would first submit their voting changes to the Department of Justice. DOJ had sixty days to make a determination on a change, and if DOJ precleared the change or did not act in 60 days, the covered jurisdiction could implement the change. The submission of additional information by the jurisdiction, which often happened because DOJ requested such information orally, would extend the 60 day period once by sending a written request for information to the jurisdiction. This often signaled to the jurisdiction that DOJ had serious concerns that the change violated Section 5. If DOJ objected to a change, it was blocked, but jurisdictions had various options, including requesting reconsideration from DOJ using Section 5 Procedures, seeking preclearance from the federal court and modifying the change and resubmitting it.

In the nearly seven years I worked at DOJ, I witnessed first-hand how effective Section 5 was at preventing voting discrimination and how efficiently DOJ administered the process to minimize the burdens to its own staff of attorneys and analysts, and to the covered jurisdictions. The Section 5 Procedures cited above provided transparency as to DOJ's procedures and gave covered jurisdictions guidance on how to proceed through the Section 5 process. Internal procedures enabled DOJ staff to preclear unobjectionable voting changes with minimal effort and to devote the bulk of their time to those changes that required close scrutiny.

The benefits of Section 5 were numerous and tangible. The 2014 National Commission Report provided the following statistics and information regarding DOJ objections:

''By any measure, Section 5 was responsible for preventing a very large amount of voting discrimination. From 1965 to 2013, DOJ issued approximately 1,000 determination letters denying preclearance for over 3,000 voting changes. This included objections to over 500 redistricting plans and nearly 800 election method changes (such as the adoption of at-large election systems and the addition of majority-vote and numbered-post requirements to existing at-large systems). Much of this activity occurred between 1982 (when Congress enacted the penultimate reauthorization of Section 5) and 2006 (when the last reauthorization occurred); in that time period approximately 700 separate objections were interposed involving over 2,000 voting changes, including objections to approximately 400 redistricting plans and another 400 election method changes.''

''Each objection, by itself, typically benefited thousands of minority voters, and many objections affected tens of thousands, hundreds of thousands, or even (for objections to statewide changes) millions of minority voters. It would have required an immense investment of public and private resources to have accomplished this through the filing of individual lawsuits.''

In addition to the changes that were formally blocked, Section 5's effect on deterring discrimination cannot be understated. Covered jurisdictions knew that their voting changes would be reviewed by an independent body and they had the burden of demonstrating that they were non-discriminatory. By the time I began working at DOJ, Section 5 had been in effect for several decades and most jurisdictions knew better than to enact changes which would raise obvious concerns that they were discriminatory—like moving a polling place in a majority black precinct to a sheriff's office. In the post-Shelby County world, a jurisdiction is likely to get away with implementing a discriminatory change for one election (or more) before a plaintiff receives relief from a court, as the Hancock County, Georgia voter purge and Texas voter identification cases detailed later illustrate.

The Section 5 process also brought notice and transparency to voting changes. Most voting changes are made without public awareness. DOJ would produce a weekly list of voting changes that had been submitted, which individuals and groups could subscribe to in order to receive this weekly list from DOJ. For submissions of particular interest, DOJ would provide public notice of the change if it believed the jurisdiction had not provided adequate notice of the change. But even more important, the Section 5 process incentivized jurisdictions to involve the minority community in voting changes. DOJ's Section 5 Procedures requested that jurisdictions with a significant minority population provide the names of minority community members who could speak to the change, and DOJ's routine practice was to call at least one local minority contact and to ask the individual whether she or he was aware of the voting change and had an opinion on it. Moreover, involved members of the community could affirmatively contact DOJ and provide relevant information and data.

B. The Shelby County Decision

In the Shelby County case, the Supreme Court decided in a 5–4 vote that the Section 4(b) coverage formula was unconstitutional. The majority held that because the Voting Rights Act '' 'impose[d] current burdens,' '' it '' 'must be justified by current needs.' '' The majority went on to rule that because the formula was comprised of data from the 1960s and 1970s, it could not be rationally related to determining what jurisdictions, if any, should be covered under Section 5 decades later. The four dissenting justices found that Congress had demonstrated that regardless of what data was used to determine the formula, voting discrimination had persisted in the covered jurisdictions. The majority made clear that ''[w]e issue no holding on §5 itself, only on the coverage formula. Congress may draft another formula based on current conditions.''

The effect of the Shelby County decision is that Section 5 is effectively immobilized as, for now, preclearance is limited only to those jurisdictions where it is imposed by a court after a court previously made a finding of intentional voting discrimination. This special preclearance coverage is authorized by Section 3(c) of the Act. Courts have rarely ordered Section 3(c) coverage, and when they do, it is typically quite limited. Indeed, the only jurisdictions I am aware of that have been subject to Section 3(c) coverage since the Shelby County decision are Pasadena, Texas and Evergreen, Alabama.

As a result, Section 5 is essentially dead until Congress takes up the Supreme Court's invitation to craft another coverage formula. There are compelling reasons for Congress to do so because voting discrimination has increased in the absence of Section 5, and Section 2 cannot adequately substitute for Section 5.

C. The Effect of the Shelby County Decision

The year after the Shelby County decision was issued, the Executive Summary and Chapter 3 of the 2014 National Commission Report discussed what was lost in the Shelby County decision. We identified the following impacts:

Voting rights discrimination would proliferate, particularly in the areas formerly covered by Section 5;

Section 2 would not serve as an adequate substitute for Section 5 for numerous reasons:

The statutes are not identical but were instead intended to complement one another;

Section 5 prevents a discriminatory voting change from ever going into effect whereas discrimination can affect voters in a Section 2 case prior to a court decision or a settlement;

Section 2 litigation is time-consuming and expensive compared to Section 5 which is efficient and less-resource intensive;

Section 2 is less likely to prevent discrimination than Section 5 because:

Under Section 2 plaintiffs have the burden whereas under Section 5, jurisdictions have the burden of proof;

Section 2 has a complicated multi-factor test that provides numerous defenses for jurisdictions, whereas Section 5 has a simple retrogression test.

The Shelby County decision, and DOJ's interpretation that it also bars use of the coverage formula for sending federal observers, has left voting processes vulnerable to discrimination.

The subsequent years have demonstrated that all of the negative impacts we anticipated have come to pass.

D. Voting Rights Discrimination has Proliferated Since Shelby County, Particularly in the Areas Formerly Covered by Section 5

The Lawyers' Committee's Voting Rights Project has never been busier than in the post-Shelby County years, where we have participated as a counsel to a party or as amici in more than 100 voting rights cases. Because the Lawyers' Committee has a specific racial justice mission, all of the cases we have participated in implicate race in some fashion in our view, even if there are no race claims in the case.

In my 2019 testimony before this Subcommittee, I did a deeper dive into the 41 post-Shelby County voting rights cases the Lawyers' Committee had filed up to that time. My testimony reflected that voting discrimination remains alive and well, particularly in the states formerly covered by Section 5. The findings included the following:

In the thirty-seven cases where we sued state or local governments, twenty-nine (78.3 percent) involved jurisdictions that were covered by Section 5, even though far less than half the country was covered by Section 5. Moreover, we sued seven of the nine states that were covered by Section 5 (Alabama, Arizona, Georgia, Louisiana, Mississippi, Texas, Virginia), as well as the two states that had were not covered but had a substantial percentage of the population covered locally (North Carolina and New York).

We achieved substantial success. Of the thirty-three cases where there had been some result at the time, we achieved a positive result in 26 of 33 (78.8 percent). In most

of the seven cases where we were not successful, we had filed emergent litigation—either on Election Day or shortly before—where achieving success is most difficult.

This data tells us that voting discrimination remains substantial, especially considering that the Lawyers' Committee is but one organization, and particularly in the areas previously covered by Section 5.

In 2019, the Lawyers' Committee did a 25 year look back on the number of times that an official entity made a finding of voter discrimination. This analysis of administrative actions and court proceedings identified 340 instances between 1994 and 2019 where the U.S. Attorney General or a court made a finding of voting discrimination or where a jurisdiction changed its laws or practices based on litigation alleging voting discrimination. We found that the successful court cases occurred in disproportionally greater numbers in jurisdictions that were previously covered under Section 5.

E. Why Section 2 is an inadequate substitute for Section 5

Prior to the Shelby County decision, critics of Section 5 frequently minimized the negative impact its absence would have by pointing out that DOJ and private parties could still stop discriminatory voting changes by bringing affirmative cases under Section 2 of the Voting Rights Act. Indeed, in the same paragraph of Shelby County where the Supreme Court majority states that Congress could adopt a new formula for Section 5, it also notes that its ''decision in no way affects the permanent, nation-wide ban on racial discrimination in voting found in §2.''

During the Shelby County litigation and the reauthorization process preceding it, defenders of Section 5 repeatedly pointed out why Section 2 was an inadequate substitute. Eight years of experience demonstrate this.

This is hardly a surprise given that Section 5 and Section 2 were designed by Congress to complement one another as part of a comprehensive set of tools to combat voting discrimination. Section 5 was designed to prevent a specific problem—to prevent jurisdictions with a history of discrimination from enacting new measures that would undermine the gains minority voters were able to secure through other voting protections, including Section 2. The Section 5 preclearance process was potent, but also efficient and surgical in its limited geographic focus and sunset provisions. It was also relatively easy to evaluate because the retrogressive effect standard—whether minority voters are made worse off by the proposed change—is simple to determine in all but the closest cases. Section 5 is designed to protect against discriminatory changes to the status quo.

Section 2 is quite different. It evaluates whether the status quo is discriminatory and thus must be changed. The test for liability should be, and is, rigorous because it is a court-ordered change. Although Section 2 (results) and Section 5 (retrogression) both have discriminatory impact tests, they are distinct. As discussed above, the Section 5 retrogression test is quite straightforward in determining whether a jurisdictional-generated change should be blocked—will minority voters be worse off because of the change?

In contrast, the Section 2 results inquiry is complex and resource intensive to litigate. As will be discussed in greater detail below in the context of the Brnovich decision, the ''totality of circumstances'' test set forth in the statute is fact-intensive by its own definition. The Senate Report supporting the 1982 amendment to Section 2 lists factors that courts have used as a starting point in applying the totality of circumstances test to include seven such factors (along with two factors plaintiffs have the option to raise). On top of the Senate factors, courts have introduced additional requirements. For example, in vote dilution cases, which typically involve challenges to redistricting plans or to a method of election, the plaintiff must first satisfy the three preconditions set forth by the Supreme Court in Thornburg v. Gingles, before even getting to the Senate factors. These Gingles preconditions require plaintiffs to show that a minority group is compact and numerous enough to constitute a majority of eligible voters in an illustrative redistricting plan and whether there is racially polarized voting (minority voters are cohered in large number to support certain candidates and those candidates are usually defeated because of white bloc voting) and are necessarily proven by expert testimony. In vote denial cases, which involve challenges to practices such as voter identification laws, courts have also added an additional test, with the developing majority view requiring that plaintiffs demonstrate that the challenged law imposes a discriminatory burden on members of a protected class and that this ''burden must be in part caused by or linked to social conditions that have or currently produce discrimination against members of the protected class.

The result is that Section 2 cases are extremely time-consuming and resource-intensive, particularly when defendants mount a vigorous defense. For example, United States v. Charleston County, which I litigated at the Department of Justice, was a successful challenge to the at-large method of electing the Charleston (South Carolina) County Council. The litigation took four years, and it involved more than seventy witness depositions and a four-week trial, even though we had prevailed on the Gingles preconditions on summary judgment, and needed to litigate only the totality of circumstances in the district court.

Four specific examples from the Lawyers' Committee's litigation record illustrate why Section 2 is an inadequate substitute for Section 5. The first and most prominent example is the Texas voter identification law, which illustrates the time and expense of litigating a voting change under Section 2 that both DOJ and the federal district court found violated Section 5 prior to the Shelby County decision. The afternoon that Shelby County was decided, then-Texas Attorney General Greg Abbott announced that the State would immediately implement the ID law. Several civil rights groups, including the Lawyers' Committee, filed suit in Texas federal court, challenging SB 14 under several theories, including Section 2, and DOJ filed its own suit under Section 2, and ultimately all of the cases were consolidated. The parties then embarked on months of discovery, leading to a two-week trial in September 2014, where dozens of witnesses, including 16 experts—half of whom were paid for by the civil rights groups—testified. Prior to the November 2014 election, the District Court ruled that SB 14 violated the ''results'' prong of Section 2 of the Voting Rights Act, because it had a discriminatory result in that Black and Hispanic voters were two to three times less likely to possess the SB 14 IDs and that it would be two to three times more burdensome for them to get the IDs than for white voters. The District Court's injunction against SB 14, however, was stayed pending appeal by the Fifth Circuit, so the law—now deemed to be discriminatory—remained in effect. Subsequently, a three-judge panel and later an en banc panel of the Fifth Circuit Court of Appeals, affirmed the District Court's finding. As a result, elections that took place from June 25, 2013 until the Fifth Circuit en banc opinion on July 20, 2016 took place under the discriminatory voter ID law. Had Section 5 been enforceable, enormous expense and effort would have been spared. The district court awarded private plaintiffs $5,851,388.28 in attorneys' fees and $938,945.03 in expenses, for a total of $6,790,333.31. The fee award is currently on appeal. As of June 2016, Texas had spent $3.5 million in defending the case. Even with no published information from DOJ, more than $10 million in time and expenses were expended in that one case.

Second, in Gallardo v. State, the Arizona legislature passed a law that applied only to the Maricopa County Community College District and added two at-large members to what was previously a five-member single district board. The legislature had submitted the change for Section 5 preclearance. The Department of Justice issued a more information letter based on concerns that the addition of two at-large members, in light of racially polarized voting in Maricopa County, would weaken the electoral power of minority voters on the board. After receiving the more information letter, Arizona officials did not seek to implement the change. Only after the Shelby County decision did they move forward, precipitating the lawsuit brought by the Lawyers' Committee and its partners. We could not challenge the change under Section 2, especially because we would not have been able to meet the first Gingles precondition. Instead we made a claim in state court alleging that the new law violated Arizona's constitutional prohibition against special laws because the board composition of less populous counties was not changed. Reversing the intermediate court of appeal, the Arizona Supreme Court rejected our argument, holding that the special laws provision of the state constitution was not violated. Unsurprisingly, the Latino candidate who ran for the at-large seat in the first election lost and the two at-large members are white.

Third, in 2015, the Board of Elections and Registration, in Hancock County, Georgia, changed its process so as to initiate a series of ''challenge proceedings'' to voters, all but two of whom were African American. This resulted in the removal of 53 voters from the register. Later that year, the Lawyers' Committee, representing the Georgia State Conference of the NAACP and the Georgia Coalition for the Peoples' Agenda and individual voters, challenged this conduct as violating the Voting Rights Act and the National Voter Registration Act, and obtained relief which resulted in the placement of unlawfully-removed voters back on the register. Ultimately, plaintiffs and the Hancock County Board agreed to the terms of a Consent Decree that would remedy the violations, and required the county's policies to be monitored for five years. But after the purge and prior to the court order, Sparta, a predominantly black city in Hancock County, elected its first white mayor in four decades. And before the case was settled, and the wrongly-purged voters placed back on the rolls, at least one of them had died.

The fourth matter is ongoing and reflects the significant present-day impact of the Shelby County decision and the loss of Section 5. It involves a law that Georgia, a previously covered jurisdiction, enacted this year, SB 202, a 53 section, 98-page law that changes many aspects of Georgia elections. It has spawned several federal lawsuits, most of which include voting discrimination claims. The Lawyers' Committee is counsel in the one of these suits.

The litigation will unquestionably be resource intensive even if the various cases are fully or partially consolidated and the Plaintiffs engage in substantial coordination. It

will require numerous experts and extensive fact discovery. There will be elections—and possibly multiple cycles of elections—that will occur before Plaintiffs will have the evidence needed to establish a constitutional or Section 2 violation and the court will set aside the time to hear and decide the claims. If Plaintiffs prevail, Georgia will undoubtedly appeal and even more time will pass.

But for the Shelby County decision, there would be no SB 202, at least not in its current form, because at least some aspects of SB 202 appear to be clearly retrogressive and probably would not have been proposed in the first place. This is perhaps most clearly demonstrated by Georgia introducing several restrictions focused on voting by mail:

The new absentee ballot ID requirements mandate that voters include a Georgia Driver's license number or Georgia State ID number on their absentee ballot application. If they have neither, voters are required to copy another form of acceptable voter ID and attach the copies of ID documents along with other identifying information to both their absentee ballot applications and inside the absentee ballot envelope when returning the voted ballot.

The bill also prohibits public employees and agencies from sending unsolicited absentee ballot applications to voters, yet threatens private individuals and organizations who are not so prohibited with a substantial risk of incurring hefty fines for every application they send to an individual who has not yet registered to vote or who has already requested a ballot or voted absentee.

SB 202 significantly limits the accessibility of absentee ballot drop boxes to voters. While all counties would be required to have at least one, the placement of drop boxes is limited to early voting locations and drop boxes are available only to voters who can enter the early voting location during early voting hours to deposit their ballot inside the box. Thus, drop boxes are essentially useless to voters who can vote early in-person or who cannot access early voting hours at all due to work or other commitments during early voting hours.

The bill also mandates an earlier deadline of 11 days before an election to request an absentee ballot, leaving some voters who become ill or have to travel out of the area in the lurch if they cannot vote during early voting and are unable to meet the earlier deadline to apply for a ballot.

These restrictions were adopted right after the November 2020 election, where voters of color used absentee ballots to an unprecedented degree, and in the cases of Black (29.4 percent) and Asian (40.3 percent) voters, at higher rates than white (25.3 percent) voters. Given this seemingly disproportionate impact on voters of color, I believe that if Georgia were subject to Section 5, these provisions would have been found retrogressive, and never would have been in effect. Instead, these provisions will be contested through time and resource intensive litigation under complex legal standards.

F. The Impact of Shelby County on the Loss of Observer Coverage

A less discussed impact of the Shelby County decision is on the loss of federal observer coverage. Under Section 8 of the Voting Rights Act, the federal government had the authority to send federal observers to monitor any component of the election process in any Section 4(b) jurisdiction provided that the Attorney General determined that the appointment of observers was necessary to enforce the guarantees of the 14th and 15th Amendments. A federal district court can also authorize the use of observers when the court deems it necessary to enforce the guarantees of the 14th or 15th Amendments as part of a proceeding challenging a voting law or practice under any statute to enforce the voting guarantees under the 14th or 15th Amendment.

In the 2014 National Commission report, we determined that the Attorney General had certified 153 jurisdictions in eleven states for observer coverage and that the Department of Justice had sent several thousand observers to observe several hundred elections from 1995 to 2012.

While officially not stating this, the practice of the Department of Justice has been to apply the Supreme Court's finding that the Section 4(b) coverage formula is unconstitutional not just to preclearance, but to observer coverage. The Shelby County decision has reduced observer coverage to a trickle. The Department of Justice has instead employed what it calls ''monitors.''

The difference between federal observers and monitors is dramatic. Under the Voting Rights Act, ''Observers shall be authorized to—(1) enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote; and (2) enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.'' Monitors have no such rights: a jurisdiction does not need to provide any access to the voting process to any monitor.

It is not difficult to see the difference in how this plays out in practice. In a year where legislatures in formerly covered states like Arizona and Texas are conducting audits of election results or considering restricting the ability of election officials to limit the conduct of partisan poll watchers, it becomes vitally important for the federal government to have discretion to send observers to places with a history of voting discrimination for the purpose of ensuring that processes are fair and that voters of color are not disenfranchised.

G. Proposed Congressional Response to Shelby County

In 2019, the House passed H.R. 4, also known as the John Lewis Voting Rights Advancement Act, named after one of the true giants of our lifetimes, a person who literally put his life on the line so that others could vote free of discrimination on the basis of the color of their skin. Now is the time for Congress to honor his memory with passage of a bill that resuscitates Section 5.

H.R. 4 contains many beneficial provisions. It creates a new formula that determines which states would be subject to the preclearance provisions of Section 5, based on clearly defined incidents of voting rights violations; it creates a practice-based preclearance process applicable nationwide, based on clearly defined covered practices that have been shown to be particularly susceptible to use in a discriminatory fashion; it clarifies the authority of the Attorney General to assign observers to enforce constitutional and statutory protections of the right to vote; and it creates a ''transparency'' requirement for all states and political subdivisions to provide public notice of any change in voting practices or procedures.

We respectfully suggest that more is needed, and that the ''transparency'' requirement provides the appropriate vehicle for our recommendation. The ''transparency'' provision in the prior H.R. 4, requires that any State or political subdivision that makes any change in a voting practice or procedure in any election for Federal office that results in a difference with that which has been in place 180 days before the date of the Federal election must provide reasonable and detailed public notice of the change within 48 hours. Additional, specific requirements for notice are provided as for polling place changes for Federal elections and for the changes in the constituency that will participate in any election through redistricting or reapportionment.

We agree that notice by any state or political subdivision of changes in voting practices or procedures and to any prerequisite to voting is essential to any effective response to the Shelby County decision, but we see no reason to limit the notice requirement to changes affecting Federal elections.

Second, while notice is of overarching importance, more is needed. There must be an opportunity for voters, and those statutorily charged with protecting the civil rights of voters, to analyze the proposed change, and, if necessary, seek judicial relief if it appears that the change will be discriminatory. Thus, we propose a relatively modest waiting period of 30 days after notice is given before the change may be implemented. This leads to our third, and most important, recommendation. As is implicit in the creation of a waiting period before a change in voting practices may take effect, there must be the concomitant creation of a cause of action that allows for a determination as to whether the change may be implemented. For that, we recommend consideration of a standard that has been time-tested in the context of the pre-Shelby County Section 5 litigation: the retrogression standard. We recommend that the United States or an aggrieved party be granted the right to bring an action if the voting change would have the effect of diminishing the ability to vote of any citizens of the United States on account of race or color on in contravention of the guarantees set forth in the language minority provisions of the Voting Rights Act. It has long been settled that '' 'the purpose of §5 has always been to insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral [process].' '' However, compared with Section 5, which requires the state to prove a lack of discriminatory purpose or effect, the cause of action we recommend would require the Attorney General or an aggrieved party to prove retrogression.

The ''retrogression cause of action'' provides an additional, reasonable, and necessary weapon in the fight against suppressive and discriminatory voting practices. First, and most important, it responds to current needs, which are not limited to those states and political sub-divisions that may be subject to geographic coverage or which attempt to implement practices known to be susceptible to discriminatory applications. As of July 14, 2021, at least 18 states had enacted laws this year that made it harder to vote. These laws were passed not only in states like Georgia and Arizona, that were previously covered by Section 4 of the Voting Rights Act, but also by states not previously covered, such as Indiana, Idaho, Kansas, Montana, Nevada, Oklahoma, Utah, and Wyoming, and included provisions not captured in the ''known practices'' category, including those that make mail voting and early voting more difficult.

We believe that these amendments, individually and collectively, are constitutional under the current constitutional framework under the Fourteenth and Fifteenth Amendments. These amendments would respond to the current problems of jurisdictions enacting retrogressive voting changes that may be difficult to challenge under other provisions. In comparison to the needs addressed under this proposal, the burdens created under this proposal are relatively modest. The requirement of providing notice of changes provides

almost no burden, as it would take little effort to provide notice. The concept of a stand-still period before a jurisdiction can implement a change is not unknown in our laws, and is required when interests that have less or no constitutional protection as compared with the right to vote, are at stake. Given that most voting changes are not instituted—and should not be instituted—too close to an election, the 30-day stand-still would have limited adverse impact on states and political subdivisions, but would provide the substantial benefit of allowing voters time to assess the potential effect of the change.

Furthermore, the burden of creating a cause of action prohibiting retrogressive voting changes is constitutionally acceptable under the circumstances. The Supreme Court has stated that Congress has the enforcement authority to address voting changes that have a discriminatory effect. In addition, because numerous other civil rights laws allow for discriminatory effect causes of action, including Title VII of the Civil Rights Act of 1964, involving employment discrimination, and the Fair Housing Act of 1968, permitting such a cause of action is hardly unusual.

Finally, creating a cause of action for retrogression nationally does not implicate the concerns about the equal sovereignty of the States, expressed by the majority in the Shelby County decision. The retrogression cause of action should not be a threat to those jurisdictions whose proposed voting practices changes are intended to make it easier for voters to vote, because a party would have to successfully bring suit in order to stop the change, which seems implausible under the circumstances. The burden is placed on the party challenging the change. Proving retrogression is not as complicated as proving discriminatory results under Section 2, but it is a high standard, and history has taught us that it is perfectly suitable to assess the discriminatory effects of proposed changes in voting practices.

Why and How Congress Must Respond to Brnovich

A. Section 2 of the Voting Rights Act

From the ratification of the Fifteenth Amendment in 1870 through the 1960s, the federal government tried—and failed—to defeat the ''insidious and pervasive evil'' of ''racial discrimination in voting,'' which had been ''perpetuated . . . through unremitting and ingenious defiance of the Constitution.'' Although Justice Frankfurter wrote long ago that the Fifteenth Amendment targeted ''contrivances by a state to thwart equality in the enjoyment of the right to vote'' and ''nullifie[d] sophisticated as well as simple-minded modes of discrimination[,]'' prior to the VRA's passage, this language proved largely aspirational.

Responding to the states' tenacious ''ability . . . to stay one step ahead of federal law,'' Congress passed the VRA to provide a ''new weapon[] against discrimination.'' The Act ''reflect[ed] Congress' firm intention to rid the country of racial discrimination in voting.'' The essence of the VRA's protections was exemplified in Section 2, which provided: ''No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.''

Notwithstanding Section 2's broad language, jurisdictions sought to evade its reach by placing ''heavy emphasis on facially neutral techniques.'' These ''techniques'' included everything from ''setting elections at inconvenient times'' to ''causing . . . election day irregularities'' to ''moving polling places or establishing them in inconvenient . . . locations.'' In one Mississippi county, voters were forced to ''travel 100 miles roundtrip to register to vote.'' In one Alabama county, ''the only registration office in the county [was] closed weekends, evenings and lunch hours.'' These regulations ostensibly governed the time, place, and manner of voting in a neutral way, but they ''particularly handicap[ped] minorities.''

Against this backdrop, and responding to this Court's plurality decision in City of Mobile v. Bolden, which had read into Section 2 a ''discriminatory purpose'' element, Congress expressly expanded Section 2, now codified at 52 U.S.C. § 10301. As amended, Section 2 prohibits any ''voting qualification or prerequisite to voting or standard, practice, or procedure . . . which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.''Congress further specified that, under Section 2, a violation is established if, ''based on the totality of [the] circumstances,'' the political processes leading to an election are not ''equally open to participation'' by minority voters so that they have less opportunity than white voters ''to particpate in the political process and to elect representatives of their choice.'' By adopting this ''results test,'' Congress captured the ''complex and subtle'' practices which ''may seem part of the everyday rough-and-tumble of American politics'' but are ''clearly the latest in a direct line of repeated efforts to perpetuate the results of past voting discrimination.''

Section 2 provides relief for both vote dilution—schemes that reduce the weight of minority votes—and vote denial—standards, practices, or procedures that impede minority citizens from casting votes or having their votes counted. Vote-denial cases were the paradigmatic, ''first generation'' cases brought under Section 2. Only later did the Supreme Court ''determine[] that the Act applies to 'vote dilution' as well.''

Thirty-five years ago, in Gingles v. Thornburg, the Court recognized that Congress inserted the words ''results in'' to frame the Section 2 inquiry. Instead of asking whether, in a vacuum, a voting practice facially sounds as if it denies or abridges the rights of minority voters, the question is: in context, does the practice ''interact'' with preexisting social and historical conditions to result in that burden? Answering this question requires courts to examine the challenged practice not as a theoretical postulate, but as a law or regulation that interacts with real-world conditions and must be evaluated through a fact-heavy, ''intensely local appraisal,'' that accounts for the ''totality of [the] circumstances.''

In Gingles, the Court explained the ''essence of a § 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the [voting] opportunities enjoyed by black and white voters.''80 Recognizing Section 2's command that courts consider the ''totality of circumstances,'' the Gingles Court looked to the Senate Report accompanying the 1982 amendments to compile a list of relevant ''circumstances.'' These nine social and historical conditions—the ''Senate Factors''—include considerations such as the history of official discrimination in the jurisdiction (Factor One); the extent of discrimination in the jurisdiction's education, employment, and health systems (Factor Five); and whether the challenged practice has a tenuous justification (Factor Nine).

Since Gingles, four different Circuits addressing vote-denial cases have used the foundation laid in Gingles to analyze these matters. This formulation distills Section 2 liability into a two-part test: (1) there must be a disparate burden on the voting rights of minority voters (''an inequality in the opportunities enjoyed''); and (2) that burden must be caused by the challenged voting practice (''a certain electoral law, practice, or structure . . . cause[s] an inequality'') because the practice ''interacts with social and historical conditions'' of racial discrimination. No other Circuit has put forth an alternative formulation.

B. The Facts of Brnovich

That was the situation until Brnovich. In Brnovich, the Supreme Court reviewed two Arizona voting practices: one mandated that votes cast out of the voter's precinct (''OOP'') not be counted; the other prohibited the collection of mail-in ballots by anyone other than an election official, a mail carrier, or a voter's family member, household member or caregiver. Plaintiffs had claimed that these practices violated Section 2 of the Voting Rights Act.

The United States District Court for the District of Arizona had ruled against the plaintiffs on both claims, but, applying the settled standards described above, the United States Court of Appeals for the Ninth Circuit had reversed, en banc, finding that the out-of-precinct policy violated the ''results'' prong of Section 2 and that the limitations on collections of absentee ballots violated both the ''results'' and ''intent'' prongs of Section 2.

As to the out-of-precinct policy, the Ninth Circuit identified several factors, acknowledged by the district court, leading to a higher rate of OOP voting by voters of color than by white voters: frequent changes in polling locations (polling places of voters of color experienced stability at a rate 30 percent lower than the rate for whites); confusing placement of polling locations (indigenous populations in particular lived farther from their assigned polling places than did white voters,); and high rates of residential mobility. As a result, 1 in every 100 Black voters, 1 in every 100 Latinx voter, and 1 in every 100 indigenous peoples voter cast an OOP ballot, compared to 1 in every 200 white voters.

As to the absentee-ballot collection limitation, the Ninth Circuit relied on the district court's finding that voters of color were more likely than white voters to return their early ballots with the assistance of third parties. The disparity was the result of the special challenges experienced by communities that lack easy access to outgoing mail services, socioeconomically disadvantaged voters who lacked reliable transportation, and voters who had trouble finding time to return mail because they worked multiple jobs or lacked childcare services, all burdens that disproportionately fall on Arizona's minority voters.

Applying the ''totality of circumstances'' test, with primary reliance on the Senate factors that demonstrated a history of discrimination in Arizona that persists to this day, the Ninth Circuit found that both the OOP policy and the absentee-ballot collection law violated the ''results'' prong of Section 2 of the VRA. The court also found that the absentee ballot law had been enacted with discriminatory intent, based on statements of the sponsor and a racist video used to promote passage of the law.

C. The Brnovich Decision: Its Meaning, and Its Consequences

In Brnovich, a 6–3 Court reversed the Ninth Circuit's decision. Had it done so by applying the settled standards, we may not be here today. But, in writing for the Court's majority, Justice Alito provided guidelines for future treatment of Section 2 vote denial ''results'' cases that were not only new, but also

contrary—or at least dilutive of—the decades-long accepted standards.

I emphasize Brnovich does not spell the end of Section 2 cases. Rather, it unnecessarily and unreasonably makes it more difficult for civil rights plaintiffs to win Section 2 actions, when they already were difficult to prevail. And it does so in a way that flies in the face of congressional intent. Further, it raises too many ambiguities in too many important areas to leave it to the courts to fill in the blanks. The greater difficulty and ambiguity threaten to undermine the core purpose of the Voting Rights Act.

1. Brnovich is a solution in search of a problem

First, Brnovich purports to cure a non-existent problem. One of the premises of Brnovich is that ''[i]n recent years, [Section 2 vote denial claims] have proliferated in the lower courts.'' In support of this statement, the Court relies on the amicus curiae briefs of Sen. Ted Cruz, the State of Ohio, and the Liberty Justice Center. However, those briefs describe a total of perhaps 16 cases, dating back over 7 years, and only 3 of them led to a finding of Section 2 liability.

The fact is that since Congress amended Section 2 in 1982 and since the Supreme Court supplied its test for adjudicating Section 2 violations, the Supreme Court has never deemed it necessary to review a single Section 2 vote-denial case. At the same time, there was absolutely no evidence that courts were being overwhelmed by Section 2 vote denial cases. And when such cases are brought, courts have had no trouble applying the standard to separate discriminatory voting practices from benign election regulations. In short, the pre-existing standard had worked well.

2. Brnovich reads a remedial statute narrowly

One of the most important canons of statutory construction—and one that gives the greatest deference to congressional intent—is that remedial statutes are to be broadly construed, and there are few statutes in this Nation's history more remedial than the Voting Rights Act of 1965. Yet, rather than read the Act expansively, the Court created new stringent ''guideposts,'' most prominently suggesting higher standards for both the size of the burden and the size of the disparity, and a lower standard for the State to meet to justify the burdens it is placing on the right to vote.

The purported touchstone of the Brnovich opinion is the Court's construction of the requirement in Section 2(b) that the political process be ''equally open'' as the ''core'' requirement of the law. The concept of equal ''opportunity'' as used in the same statute, the Court acknowledged somewhat grudgingly, ''may stretch that concept to some degree to include consideration of a person's ability to use the means that are equally open.'' In that context, the Court turned to the ''totality of the circumstances'' test, and said that ''any circumstance that has a logical bearing on whether voting is 'equally open' and afford equal 'opportunity' may be considered,'' and proceeded to list five ''important circumstances'' that were relevant.

Some of these ''important circumstances'' seem fairly innocuous on their face: e.g., the size of the burden, the size of the disparity. Others not so much: e.g., the degree of departure of the challenged practice from practices standard when Section 2 was amended in 1982 or which are widespread today, and the opportunities provided by the electoral process as a whole. Another has never been deemed relevant to Section 2 analysis: the strength of the state's justification for the practice—except in connection with assessment of the tenuousness of that justification. Overall, however, the devil is in the details, and in the ambiguities created by the Court's specific choice of language that may pave the way for state legislatures to enact additional discriminatory laws and for lower courts to apply Section 2 parsimoniously in vote denial ''results'' cases.

3. The size of the burden should include factors specific to the affected community resulting from discrimination

The first factor that Justice Alito highlighted was the ''size of the burden,'' emphasizing that voters ''must tolerate the usual burden of voting.'' The application of this ''guidepost'' by legislatures and lower courts might be colored by a footnote at the end of the paragraph on burden, where Justice Alito expounded on what ''openness'' and ''opportunity'' might mean (as, say, with museums or school courses that are open to all) as compared to the ''absence of inconvenience'' (such as lack of adequate transportation or conflicting obligations). The vagueness with which the Court left this issue, and its relegation to a footnote, may limit its precedential impact, but its practical impact may be substantial.

What Justice Alito does not acknowledge is that some of these indicia of what he calls ''inconvenience'' are themselves not simply subjective to an individual, but, are reflective of a group's socio-economic circumstances, that are themselves the product of a history of discrimination. In the Texas Photo ID case, for example, we were able to demonstrate that not only were Black and Latinx voters more likely than white voters not to possess the required photo ID, but that they were more likely than white voters not to be able to get the ID because of, among other reasons, lack of access to transportation.

The same logic might apply to polling place location and closure decisions that might make it just that much more burdensome for voters of color than for white voters to vote. Or, as in the new Georgia statute, SB 202, prohibiting line relief—the provision of food and water to those waiting in line to vote—particularly when voters of color are much more often confronted with long wait-times than are white voters.

Mandating additional voter ID requirements in order to submit an application for an absentee ballot or to return a voted absentee ballot is another new hurdle voters will now face in Georgia under its new omnibus bill. Under this provision, voters requesting an absentee ballot must submit with their application their driver's license number, their personal identification number on a state-issued personal identification card, or a photocopy of other specified forms of identification. For voters who do not have a Georgia's driver license or state ID card number, voting absentee will now require access to photocopy technology. Voters without such access to technology will face a higher burden in complying with these ID requirements. Recent data shows that Black Georgians are 58 percent more likely and Latinx Georgians are 74 percent more likely to lack computer access in their homes as compared to their white counterparts. Thus, we can expect voters of color to face a significantly higher burden than white voters in complying with the ID requirements for requesting and returning absentee ballots.

If Brnovich is construed by state legislatures as permitting them to impose barriers that affect different racial or ethnic groups differently because of their relative wealth—particularly when those differences are themselves the product of historic discriminatory practices—it will have a serious impact on the voting rights of persons of color.

4. 1982 Standards and Widespread Practice Are Not Important

Second, Justice Alito said that other relevant factors included the degree of departure of the challenged practice from the ''standard practice when §2 was amended in 1982,'' a choice which is largely left unexplained, other than in rebuttal to Justice Kagan's dissent, in which he writes, somewhat tautologically, that ''rules that were and are commonplace are useful comparators when considering the totality of the circumstances.'' Although the Court acknowledges that this would not apply to practices that themselves were discriminatory in 1982, the fact is that such benchmarks are neither necessary nor productive. If the history of voter discrimination in this country has taught us anything, it is that those who want to stop voters of color from voting change their methods with the times, and with the change in the ways voters of color are voting.

Again, Georgia is illustrative. In Georgia, state legislators responded to the record-shattering turnout of 2020 by passing omnibus legislation that restricts the right to vote at nearly every step of the process and disproportionately affects voters of color. Among its provisions, the law requires voter identification in order to request an absentee ballot and vote absentee; severely limits access to absentee ballot drop boxes; and significantly shortens the period in which voters can apply for and cast absentee ballots. These restrictions were adopted right after the November 2020 election where voters of color used absentee ballots to an unprecedented degree, and in the cases of Black (29.4 percent) and Asian (40.3 percent) voters, at higher rates than white (25.3 percent percent) voters. But, Justice Alito's reasoning may be construed as supporting the proposition that, if in 1982, Georgia did not make absentee ballots universally available, that could be a ''highly important'' consideration, even if voters of color are more heavily impacted than white voters by these changes. State legislatures should not be led to believe that they can get away with erecting new barriers to vote based on what they did 40 years ago.

Further, Justice Alito also observed that the ''widespread'' present day acceptance of the voting practice could justify its use. But it was precisely because certain discriminatory practices were ''widespread'' that the Voting Rights Act was necessary. It seems incongruous, if not irrational, to justify discrimination by the majority population against minority populations on the basis of ''widespread'' acceptance.

5. So-called ''small differences'' can be important

Third, in explaining the importance of the size of the disparities, Justice Alito indicates that ''small differences should not be artificially magnified,'' again dealing obliquely with the consequences of the differences being caused by differences in wealth—which may themselves be the result of historic racial discrimination. Specifically, the Court criticized the Ninth Circuit for finding disproportionate impact based on a relative comparison of the percentage of voters whose votes were rejected because they were cast out of precinct. In the case of Indigenous, Black, and Latinx voters, the percentage was 1% for each group; in the case of white voters, the percentage was .05.

The Court neglected to note that the discriminatory out of precinct practice meant that almost 4,000 votes cast by voters of color had been rejected—and that if their circumstances were equivalent to those of white voters, 2,000 of their votes would have counted.

The Texas Photo ID case is illustrative. There, the court found that, even though over 90 percent of all groups had the required ID, Black voters were twice as likely as white voters not to have the ID, and Latinx voters were about three times as likely. In fact, the court found that 608,470 Texas voters lacked the ID. Obviously, the Texas numbers are meaningful no matter how viewed. But the point is that smaller numbers may be too. Legislatures and lower courts should not be led to believe that they can chip away at electoral margins by reducing the likelihood of voters of color being able to cast their votes, no matter how small the effect. We need not dwell on the closeness of the 2020 presidential election in Arizona, Georgia, and Wisconsin to underscore the importance of even small differentials in impact.

6. Other opportunities to vote do not necessarily ameliorate discrimination in particular methods of voting

Fourth, Justice Alito explained that the opportunities provided by the entire electoral system should be factored into the equation, implying that, for example, access to absentee ballots may be curtailed, as long as the voter can still vote in person. But, if an advantageous means of voting is curtailed as to one group more than it is to another, what difference does it make that there may be other methods of voting? If all methods of voting made voting equally accessible, there would have to be only one method. Obviously, expanding methods of voting makes it more likely that people will vote. And, equally obviously, contracting them makes it less likely that people will vote. Contracting them in a way that affects some racial or ethnic groups more than others is inconsistent with the language and Congressional intent of Section 2. States should not be led to believe that they have carte blanche to target specific voting practices, when the effect is discriminatory, and try to justify it by the availability of other means of voting.

7. Justification for discriminatory practices must be based on reality

And, fifth, in explaining the state justification factor, the Court seemed to open the door to a state's justifying virtually any discriminatory action simply by parroting the words ''fraud prevention.'' Again, while the Court did not say so explicitly, the fear is that lower courts—and, worse, state legislatures—may so interpret the Court's opinion.

The incongruity of the Court's approach is seen in comparing the hundreds of thousands of voters who were potentially deprived from voting under Texas's prior Photo ID law, with the infinitesimally small number of persons even accused of fraudulently voting. A state's choice to prevent non-existent fraud at the expense of thousands of votes, disproportionately of person of color, is not legitimate. Again, permitting such choice, is inconsistent with the language of Section 2 and Congressional intent.

8. The Senate Factors are relevant

The Brnovich majority went on to raise questions as to whether the Senate Factors are relevant to a Section 2 vote denial case, implying they are not, but leaving ambiguous precisely what the Court means as to how the few Factors the Court deems potentially relevant fit in, other than superficially.

Although Gingles involved vote dilution, the decision addressed Section 2 writ large, recognizing that ''Section 2 prohibits all forms of voting discrimination, not just vote dilution.'' Further, Gingles recognized the applicability of the various Senate Factors would naturally turn on the type of Section 2 claim at issue. The Gingles Court's statement that the Senate Factors will ''often be pertinent to certain types of § 2 violations,'' such as dilution, cannot be reconciled with a conclusion that the Factors ''only'' inform one specific type of Section 2 claim.

D. The Growing Present Need

As with the need for the resuscitation of Section 5, recent events reflect the significant present-day need for an immediate response to Brnovich. As detailed throughout this testimony, for example, the recently enacted Georgia voter suppression law, SB 202 increases the burdens for virtually every aspect of voting from voting by mail through voting in person. At least some aspects of SB 202 appear to be clearly retrogressive and probably would not have been proposed in the first place were it not for the decision in Shelby County. The effect of the Brnovich decision on the challenge to SB 202 remains to be seen, but already defendants have moved to dismiss the complaints on the basis of Brnovich. Although, we strongly believe that the complaints as drafted fully and adequately plead a ''results'' claim under Section 2 even post-Brnovich, the very making of these arguments demonstrates how those who support the erection of barriers to vote intend on using that opinion.

Georgia, of course, is not the only state that is considering or has passed laws with new barriers to voting that disproportionately affect voters of color. Florida did so with SB 90, a law that—similar to Georgia's—imposes new and unnecessary restrictions on absentee ballots, the use of dropboxes, and line-warming. And Texas appears poised at this writing to pass an omnibus voting bill that would, among other things, empower partisan poll watchers with virtually unfettered access in polling places, while at the same time tying the hands of election officials to stop the poll watchers from engaging in intimidating conduct. Texas has a well-documented history of voter intimidation by poll watchers that has disproportionately affected voters of color. The courts have acknowledged this pattern before—in 2014, a federal district court described this very issue: ''Minorities continue to have to overcome fear and intimidation when they vote. . . . [T]here are still Anglos at the polls who demand that minority voters identify themselves, telling them that if they have ever gone to jail, they will go to prison if they vote. Additionally, there are poll watchers who dress in law enforcement-style clothing for an intimidating effect to which voters of color are often the target.''

As with Georgia's SB 202, some of these provisions might have been stopped by an effective Section 5 and challenges to some of them may be hampered by the effect of the Brnovich decision. The bottom line, however, is that recent events have only underscored the need for a robust Voting Rights Act.

E. The Appropriate Congressional Response

The impact of Brnovich has yet to be measured, but common sense and history instruct us that those who wish to target voters of color will undoubtedly feel emboldened by a decision that can be read as making it more difficult for plaintiffs to prove a Section 2 violation, giving state legislatures a ''Get Out of Jail'' card to pass voter suppressive legislation and justify it simply by claiming ''voter fraud.'' Although we firmly believe that the courts should not apply Brnovich in such a manner, the threat is there. Continued commitment to the core purpose of the Voting Rights Act should not be left in the uncertainty created by the ambiguous and problematic language of Brnovich. We identify here a number of issues for consideration and would be pleased to work with the Committee on legislative text.:

Clarify that the ''totality of the circumstances'' to support a Section 2 violation entails an intensely local appraisal.

Clarify that ''totality of the circumstances'' may include any or all of the factors deemed relevant by Gingles, including the Senate Factors, and that no factors are exclusively pertinent to ''results'' claims or ''dilution'' claims. These include Factors 1 and 5, which are important, not for the back-of-the-hand reading given them by Justice Alito, but because they go to the core issue of the interaction between historic socio-economic discrimination and the voting practice in question.

Clarify that, in determining the extent to which a challenged voting rule burdens minority voters, the absolute number or the percent of voters affected or the presence of non-minority voters in the affected area will not be dispositive.

Clarify that in determining whether the policy underlying the use of a voting rule is tenuous—one of the Senate factors—the court should consider whether the voting rule in question was actually designed to advance and in fact materially advances a valid and substantiated state interest. That preventing voter fraud may be a valid state interest should not lead to a determination that any voting practice alleged to have been enacted to protect fraud is valid, particularly if the instances of voter fraud are rare, if not virtually non-existent, and the means chosen to combat the alleged fraud scarcely further that aim, and, further, do so at the expense of preventing eligible voters from voting.

Clarify that a discriminatory law cannot be justified on the basis that it was a standard practice at a particular date, such as 1982, or is widespread today, but must be judged solely on the totality of the circumstances in the particular jurisdiction, as viewed at the time the action under Section 2 is brought.

Clarify that the availability of other methods of voting not impacted by the voting rule at issue cannot weigh against finding a violation.

Put an end to any doubt, as raised by the concurring opinion of Justices Gorsuch and Thomas in Brnovich, that there is a private cause of action for a Section 2 violation, as every Circuit Court of Appeals has held.

I am not in favor of employing a burden-shifting approach because I believe that Section 2 vote denial claims should be restored to their pre-Brnovich state and burden-shifting has not been part of the Section 2 inquiry. In addition, burden-shifting places the state's interest at the center of the inquiry in the second and third prongs in the three-prong analysis, whereas the focus should be on the impact on voters.

III. Conclusion

The eight years since the Supreme Court's decision in Shelby County v. Holder have left voters of color the most vulnerable to voting discrimination they have been in decades. The record since the Shelby County decision demonstrates what voting rights advocates feared—that without Section 5, voting discrimination would increase substantially. The Brnovich decision—by creating new hurdles for Section 2 claimants to overcome—raises the stakes appreciably. Congress must act.

TESTIMONY OF PROFESSOR BERNARD L. FRAGA, EMORY UNIVERSITY, ATLANTA, GA, BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES OF THE U.S. HOUSE COMMITTEE ON THE JUDICIARY

THE NEED TO ENHANCE THE VOTING RIGHTS ACT: PRACTICE—BASED COVERAGE JULY 27, 2021

Chair Cohen, Ranking Member Johnson, and distinguished members of the committee, it is an honor to testify before you today. My name is Bernard L. Fraga, and I am an associate professor of political science, with tenure, at Emory University in Atlanta, Georgia. My research focuses on the quantitative analysis of elections in the United States, with particular attention to the causes and consequences of disparities in voter turnout. I received my B.A. in Political Science and Linguistics from Stanford University and my Ph.D. in Government and Social Policy from Harvard University.

The right to vote is the cornerstone of representative democracy. In the majority opinion for Reynolds v. Sims, Chief Justice Earl Warren noted that as ''the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.'' The same year Reynolds v. Sims was argued, however, John Lewis was arrested for carrying a ''One Man, One Vote'' sign in Selma, Alabama and Fannie Lou Hamer was beaten nearly to death by state troopers in Montgomery County, Mississippi for her voting rights activism. Less than a week after Chief Justice Warren read the Reynolds v. Sims decision, Freedom Summer activists James Chaney, Andrew Goodman, and Michael Schwerner were murdered while trying to organize a voter registration drive. Thus, at the same time voting can be recognized as central to our system of government, the vote can be denied in places where resistance to changing the existing power structure is entrenched and unyielding.

It took federal action through the Voting Rights Act of 1965 to change this pattern. However, a powerful tool of the act for combatting efforts to restrict the right to vote was rendered inactive after Shelby County v. Holder. In that decision, the preclearance provisions of the Voting Rights Act, which mandated federal oversight for election law changes in a set of states and counties, were ruled inoperable as the coverage formula was deemed unconstitutional. Noting that while ''voting discrimination still exists; no one doubts that,'' Chief Justice Roberts called on Congress to ''draft another formula based on current conditions.''

In the attached report, I outline a flexible, forward-looking formula for practice-based preclearance that can secure our rights far into the future. Drawing on a database of over 3,500 legal cases or proceedings related to minority voting rights, along with historical, theoretical, and empirical evidence regarding where voting rights violations are likely to occur, I show a strong relationship between the racial/ethnic composition of a state or county and the likelihood that that the jurisdiction will see a violation. This pattern appears across racial/ethnic minority groups and over time. Specifically, I find the following:

1. Historical evidence indicates a clear relationship between attempts to restrict the franchise and the size of the racial/ethnic minority population in the jurisdiction. In states and counties with a larger minority population, efforts to limit the participation of racial/ethnic minority citizens are substantial and persist absent federal intervention to protect the right to vote. (Pgs. 2–7 of the report)

2. In recent years, voting rights-related litigation is vastly more common in states and counties with sizeable racial/ethnic minority populations. This pattern persists even when isolating the analysis to litigation resulting in successful prosecution of a voting rights case. (Pgs. 8–19 of the report)

3. Combined with a practice-based approach to preclearance, a population-limited trigger for preclearance coverage can ensure an appropriate balance between protecting voting rights and creating additional requirements for election officials. The threshold that best balances this tradeoff is 20%, such that practice-based preclearance would be required for states or counties where at least two racial/ethnic groups each make up at least 20% of the jurisdiction's population. (Pgs. 19–23 of the report)

I invite members of the committee to read the attached report and the conclusions therein, and ask that the report be officially entered into the record. In closing, I urge the committee to reinvigorate the Voting Rights Act and renew the promise of voting rights for all Americans. Indeed, no single action taken by the members of this Congress may be more consequential. It is up to you, and the other members of the House and Senate, to heed the call.

A POPULATION-LIMITED TRIGGER FOR PRACTICE-BASED PRECLEARANCE UNDER THE VOTING RIGHTS ACT

(By Bernard L. Fraga, Ph.D., Associate Professor of Political Science, Emory University, Atlanta, GA)

I. INTRODUCTION

In 2013, the Shelby v. Holder decision invalidated the key formula used to determine which jurisdictions would be subject to the Section 5 ''preclearance'' provisions of the Voting Rights Act. Writing for the 5–4 majority, Chief Justice Roberts stated ''a statute's current burdens must be justified by current needs, and any disparate geographic coverage must be sufficiently related to the problem that it targets. The coverage formula met that test in 1965, but no longer does so.'' Instead, the Court indicates ''Congress may draft another formula based on current conditions . . . Our country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.''

In this report, I outline the rationale for a current population-limited trigger for additional scrutiny of election practices that could be used to violate the voting rights of Black, Hispanic, Asian American, Pacific Islander, and American Indian/Alaska Native (AIAN) populations. I first demonstrate that there is strong historical, theoretical, and empirical evidence for a relationship between the share of the electorate that is minority and potential violations of minority voting rights. Using a detailed database of recent voting rights act-related litigation, I then show that in counties and states where two racial/ethnic groups separately compose at least 20% of the voting-age population, ''current conditions'' justify additional scrutiny of covered election practices via the Voting Rights Act.

By constructing a formula for coverage of specific election practices based on contemporary demographics, I provide a flexible trigger that both meets current needs and can adapt to the changing conditions of the future. Combined with a cogent analysis of which election practices should be subject to additional scrutiny, and any further triggers based on established, recent discriminatory practices, this formula could be one part of a strengthened Voting Rights Act that protects the voting rights of all Americans.

II. HISTORICAL AND THEORETICAL BASIS FOR A POPULATION-LIMITED TRIGGER

In this section, I discuss why a population-limited trigger is justifiable based on the extant record of where minority voting rights violations have occurred. I first begin by outlining the history of federal oversight to protect racial/ethnic minority voting rights. Then, drawing on theoretical understandings of elections and extant empirical evidence, I discuss the circumstances where federal oversight may be most necessary to safeguard voting rights.

a. Reconstruction, Jim Crow, and the Role of Federal Oversight in Ensuring Minority Voting Rights

For most of U.S. history, the voting rights of racial/ethnic minority groups were curtailed by statutes and laws restricting access to the franchise. At the start of the Civil War, de jure exclusion of the African-American population was nearly complete, as a handful of northern states permitted African Americans to vote by law, but whether enslaved or free, the much larger Black population of the South was excluded from the franchise. Native Americans on Indian lands and Asian Americans were de jure barred from voting as they were ineligible for citizenship or naturalization. Latinos held tenuous, but at times electorally relevant voting rights, especially in the former Mexican territories where nearly all Latinos resided prior to 1900.

After the Civil War, the historical record of minority voting rights indicates periods of expansion, contraction, and then expansion that directly coincides with federal action to prevent states from de jure or de facto racial/ethnic discrimination in voting. The first notable expansion of voting rights to African-Americans occurred with the Reconstruction Acts of 1867 and 1868, which granted the vote to formerly enslaved Black men and placed voter registration under the control of Union (Northern) military commanders. Over 700,000 African Americans registered to vote, outnumbering White registrants in multiple Southern states and ensuring election of a Congress and state legislatures conducive to the 14th and 15th Amendments. However, the 14th Amendment's de facto application to African-Americans alone meant that most Native Americans, Latinos, and Asian Americans remained barred from voting.

White resistance to enfranchisement of Black men was immediate, severe, and concentrated in the South where the relatively high proportion of Black voters relative to white voters meant that Black men could exert significant influence on election outcomes. The ''Redeemer'' movement, as it was called, viewed ending Black suffrage as the proximate goal to regain political power for former Confederates and sympathizers, resorting first to violence and then de facto disenfranchising policies implemented by local election officials. These policies, including poll taxes, literacy tests, and residency requirements, were administered in a racially discriminatory manner but were ruled as beyond federal oversight by the Supreme Court in U.S. v. Reese. The removal of remaining federal troops from the South in 1877, and Congress's failure to pass legislation designed to counter U.S. v. Reese, directly resulted in heavily-Black Southern states passing new constitutions between 1890 and 1910 with the specific, intentional goal of disenfranchising African Americans.

The second period of expansion again indicates the important role of federal oversight in places where racial/ethnic minorities are a significant share of the population. Through Supreme Court rulings outlawing Grandfather Clauses (1915) and the final iteration of the White Primary (1944), heavily-Black

and heavily-Latino (in particular, Texas) states of the South were no longer able to de jure prevent African-Americans and Latinos from voting statewide. However, the poll tax and literacy test were still administered in a discriminatory fashion by local officials in heavily-Black and Latino counties, just as resistance to ending the White Primary was strongest in heavily-Black parts of Southern states. Indeed, by the 1950s, Black voter registration rates were relatively high in Northern cities and rapidly increasing Southern counties with smaller Black concentrations. In ending the ban on naturalization for remaining Asian and Latin American origin groups, the 1952 McCarran-Walter Act opened the door to naturalization (and voting rights) for any legal resident of the United States. Thus, by the mid-1950s federal action had eliminated the explicit racially discriminatory barriers to voting outside of heavily-minority counties.

Stronger federal action was necessary to ensure voting rights in places with a large share of racial/ethnic minority citizens. The Civil Rights Acts of 1957, 1960, and 1964 sought to eliminate discriminatory voter registration practices in the South by targeting the methods used by local election officials to curb Black voter registration. Yet resistance continued, culminating in the violent, ''Bloody Sunday'' attacks by local officials in heavily-Black Selma, Alabama. This spurred passage of the Voting Rights Act of 1965, mandating two key forms of federal oversight for jurisdictions with a recent history of discriminatory election practices: federal voting registrars and a requirement that election law changes are ''precleared'' by federal officials prior to implementation. While not explicitly defining states and counties subject to federal supervision on the basis of population size, each of the 7 states covered in whole or in part by the coverage formula outlined in Section 4 were at least 20% African-American and were the top 7 states in Black population percentage as of the 1970 Census.

The Voting Rights Act of 1965 was amended and expanded to include American Indian/Alaska Native, Hispanic, and Asian American/Pacific Islander populations through amendments in 1970 and 1975. Mirroring the situation for African-Americans in the Deep South, discrimination was most severe in states and localities with relatively large numbers of Latino and Native American voters. For instance, testimony in favor of the 1975 VRA Amendments by Latino witnesses focused on voting rights violations in counties in Texas and California with large shares of Latino citizens. Disenfranchisement of Native American voters appeared in states and counties with tribal lands and reservations concentrating potential Native American voting strength.

b. Minority Population Size is Associated with Attempts to Restrict Voting Rights

The history of minority voting rights briefly outlined above indicates a generalizable relationship between minority population size and attempts to restrict voting rights. While at various times limitations on the franchise were quite widespread (and impeded participation for non racial/ethnic minority groups as well), the pockets of most determined efforts to restrict minority voting rights were areas of the country where racial/ethnic groups made up a larger than average share of the population. Attempts to counter continued disenfranchisement through federal intervention thus also focused on these areas, during both the Reconstruction Era and Civil Rights Era. The creation, preservation, and reinstatement of minority voting rights across the United States thus hinges on the actions of the federal government.

This historical evidence aligns with theoretical expectations about where incentives to disenfranchise should be most acute. In an often-quoted section of the canonical text Southern Politics in State and Nation (1949), political scientist V.O. Key noted that ''in grand outline the politics of the South revolves around the position of the Negro,'' and due to the substantial size of the Black population in the historic ''black belt'' region, ''the whites of the black belt have the most pressing and most intimate concern with the maintenance of the established pattern of racial and economic relations.'' By the 1960s, disenfranchisement came with significant costs to Southern states and counties, including threat of sustained protests and federal action; in theory, this cost should be borne only when white dominance on election day would be threatened with Black enfranchisement. Indeed, empirical evidence indicates that the immediate impact of the Voting Rights Act of 1965 on Black enfranchisement was greatest in the heavily-Black counties of the Deep South, precisely where electoral incentives to disenfranchise were strongest. Thus, while the legacy of slavery and Jim Crow may be associated with efforts to disenfranchise, the key differentiator within the South was minority population size. Where minority groups could influence politics, even if only as significant members of coalitions with White voters, efforts to restrict voting rights followed.

These incentives remain most powerful in states and counties with significant racial/ethnic minority populations today. Just as in the past, where a racial/ethnic group is a larger share of the population, they will be more likely to have substantial influence on election outcomes. Different from past trends, and speaking to the success of the Voting Rights Act in eliminating the most egregious forms of disenfranchisement, campaigns, candidates, and voters themselves now seek to leverage the power that large and/or growing racial/ethnic minority populations have when given the opportunity to vote. Indeed, voter turnout for racial/ethnic minority groups is now significantly higher in states and counties where minority citizens make up a larger than average share of the population. Officeseeking by candidates from minority groups is also far more common in heavily-minority states and legislative districts, as are opposing efforts to dilute minority voting strength via manipulation of electoral systems and district boundaries.

Further discussion of recent trends in potential voting rights violations is provided in Section III of this report, but in short, the relationship between a state or county's minority population size and efforts to disenfranchise minority voters has a solid historical, theoretical, and empirical basis. Thus, there is a clear need for federal oversight to protect minority voting rights in jurisdictions with large shares of minority voters today, and to provide a flexible coverage formula that can account for growing racial/ethnic minority populations in the future. This need is most acute in the protection of Latino and Asian American/Pacific Islander voting rights, whose population growth often occurs in areas that did not have a history of repressing African-American voting rights.

III. DETERMINING AN APPROPRIATE POPULATION–LIMITED TRIGGER

If a population size-based trigger is to be used to determine which jurisdictions warrant additional scrutiny in the application of certain election practices, what population threshold or thresholds should trigger coverage? Again we must turn to the patterns of past voting rights violations, but be cognizant of the need to ''draft another formula based on current conditions.'' In this section, I demonstrate that the pattern of potential and actual VRA violations from 1982 to the present indicates that a racial/ethnic group population size threshold of 20% is justifiable, that such a formula would provide flexibility to address both current and future needs as racial/ethnic group populations change over time, and that specifying two racial/ethnic groups must each meet the threshold appropriately considers where policies could reasonably impede the voting rights of racial/ethnic minority groups.

a. Tracking Potential Violations of Minority Voting Rights

To track previous potential violations of minority voting rights, I rely on a database constructed by Dr. J. Morgan Kousser. Dr. Kousser is professor emeritus of history and social science at the California Institute of Technology, and a leading expert on voting rights. Dr. Kousser's research, and specifically a previous version of the database I use, were discussed by Dr. Kousser in testimony to the Subcommittee on the Constitution, Civil Rights and Civil Liberties of the U.S. House Committee on the Judiciary in October 2019. In that testimony, Dr. Kousser remarked that his effort to ''create a database of all voting rights actions under any federal or state statutes or constitutional provisions'' was designed to allow ''evaluations of the adequacy of past and potential coverage schemes if Congress wishes to replace Section 4 of the VRA.'' It is in this capacity that I use his database.

Dr. Kousser's database has approximately 3,540 legal cases or proceedings related to minority voting rights from 1965 to 2018. Of these cases, 2,510 focus on potential violations of Black voting rights, 801 with potential violations of Hispanic/Latino voting rights, 32 with potential violations of Asian American voting rights, and 135 with American Indian or Alaska Native voting rights. Table 1 shows the number of cases by group and by decade from 1965 to 2018, the most recent year with comprehensive data in Dr. Kousser's database. In Table 1 we see that the total number of cases per decade peaked in the 1980s and 1990s. Cases where Black and Native American voters were the primary groups of interest peaked in the 1980s, while cases where Hispanic or Asian American citizens were principal groups peaked in the 1990s.

Table 1 also provides separate statistics for cases involving counties or towns subject to the Voting Rights Act Section 5 preclearance provisions from 1965 to 2013. A similar pattern of cases by decade and by race appears for these jurisdictions in isolation, as prior to the invalidation of Section 5 coverage in Shelby v. Holder the vast majority of cases were in preclearance-covered jurisdictions. Of course, the nature of Section 5 coverage pre-Shelby meant that the strongest predictor of a lawsuit or other action being taken on behalf of minority plaintiffs was whether or not the county was subject to preclearance. However, in every decade after the 1970s at least 100 cases were filed outside of Section 5 preclearance jurisdictions.

In the more detailed analyses below, I focus on the period from 1982 forward, as the 1982 amendments to the Voting Rights Act and Gingles decision clarified the intent of the VRA of 1965 with an eye to policies with discriminatory effect, not just discriminatory intent. The post–1982 period is also when the vast majority of ''successful'' voting rights actions occurred, and the bulk of potential violations of minority voting rights overall, constituting 74% of cases in all jurisdictions and 70% of cases in jurisdictions covered by Section 5 from 1965–2013. Finally,

I examine all cases of potential minority voting rights violations, not just cases that resulted in an outcome favorable to minority plaintiffs. Given the different legal standards used to make judgements about vote dilution versus vote denial, Section 5 versus Section 2 claims, and voting rights violations more broadly over time, the more complete picture of where plaintiffs indicated a voting rights violation may have occurred is one appropriate metric for determining where, e.g., U.S Department of Justice resources would need to be deployed.

Finally, this report focuses on counties and states as units of analysis, as Dr. Kousser's database is organized at the state and county level. American Indian lands are also important political units from the perspective of American Indian voting rights, and a key part of both the Voting Rights Act Section 203 language assistance formula and the proposed coverage formula. However, violations of voting rights occurring in or for those with residence in Indian reservations are generally directed to the state or county whose territory overlaps with those reservations.

b. Geographic Pattern of Potential Voting Rights Violations

Compiling Dr. Kousser's data, we see wide dispersion in potential voting rights violations when examining state-level suits and legal actions. Figure 1 shows states with a statewide potential voting rights violation during the period from 1982–2018. Color indicates which racial/ethnic group's voting rights were most clearly impacted in the first alleged statewide violation. Broadly speaking, the distribution of first cases by race/ethnicity often coincides with which groups make up the largest share of the racial/ethnic minority population in each state. In the Deep South, African-American plaintiffs were the first to allege a statewide violation. In most of the Southwest, Latino plaintiffs were first. In Alaska and Arizona, both of which came under Section 5 preclearance as a result of historical discrimination against Alaska Native and American Indian populations, respectively, these groups were first to allege a statewide violation of their voting rights.

Figure 2 documents which counties that have ever had a violation or potential violation via litigation. Again, this does not include the DOJ's More Information Request process, which may mask additional potential violations that were averted in Section 5 covered counties. As with the statewide map in Figure 1, Figure 2 shows only counties with potential voting rights violations occurring between 1982 and 2018. Shading indicates the first group to bring a suit at the county level, and counties in white did not have a county-level suit. Again, we see a pattern broadly consistent with the known distribution of racial/ethnic groups in the United States, though the map makes it more clear that potential voting rights violations are concentrated in the Deep South, heavily-minority urban counties of the North and Midwest, and some heavily—Latino and Native American areas of the Southwest and West.

c. Data on Racial/Ethnic Group Population Size

Figures 1 and 2 are suggestive of a pattern of recent potential voting rights violations similar to the historical record I discuss in Section II of this report. To provide more firm evidence on this dimension, I rely on data from the U.S. Census Bureau that is contemporaneous to each potential violation in Dr. Kousser's database. Specifically, I rely on yearly Intercensal estimates of the voting-age population by race/ethnicity from 1982 to the present at both the state and county level. Yearly intercensal estimates for racial groups other than Whites and African-Americans are not available at the county level until 1990. Thus, for years from 1982–1990, I interpolated the 1980 to 1990 state or county-level change in the voting-age population by race and ethnicity, providing trends in the non-Hispanic White, Black, Hispanic, and Asian American/Pacific islander voting-age populations. For years from 2010–2018, I rely on data from the U.S. Census Bureau's Population Estimates Program (PEP), which is broadly similar to the Intercensal estimates.

As the above indicates, one advantage of a coverage trigger based on racial/ethnic population size is the fact that all data necessary to enact the formula is already collected, compiled, and analyzed by the U.S. Census Bureau. A determinations file, similar to that provided every five years for establishing coverage under the population-based formula for language assistance in Section 203 of the Voting Rights Act, could be constructed by the Census Bureau and provided to the Department of Justice for publication in the Federal Register.

d. Correlating Potential Violations with Population Size

A descriptive analysis of the relationship between racial/ethnic minority group population share and potential voting rights violations confirms the patterns suggested by Figures 1 and 2, and validates the historical and theoretical foundations for a population-limited trigger for coverage as outlined in Section II of this report.

Dr. Kousser's database indicates that a majority of states have had at least one potential minority voting rights violation since 1982. In the 12 states that have not, no single racial/ethnic group was 10% or more of the state's voting-age population at any point in time between 1982 and 2018. However, in every state where a single racial/ethnic group has been at least 10% of the state's voting-age population, at least one suit or action has been brought at the statewide level. On average, the first statewide potential violation in a state occurred when the group in question was 12% of the voting-age population. For states that have never had a statewide violation, the average size of the single largest racial/ethnic minority group is only 5.2%.

A county-level analysis provides additional insights. As with states, counties that have had a violation or potential violation of minority voting rights since 1982 had larger minority populations at the time of their first potential violation, on average. Since 1982, at least 804 counties have had at least one potential violation of minority voting rights occur in their jurisdiction. 61% of counties with violations had their first violations happen when a single racial/ethnic minority group was 20% or more of the jurisdiction voting-age population. Furthermore, only 321 counties where a single racial/ethnic minority group makes up more than 20% of the population have not had a voting rights-related lawsuit, approximately one-third of the counties with a minority population reaching this threshold.

Table 2 also indicates that the likelihood of a violation increases sharply as the county population shifts from having a single racial/ethnic group making up less than 10% of the county's voting-age population, to 10–20%, to 20–30%. Beyond the 20–30% category, increases in the percentage of counties with a violation are significantly smaller. Indeed, once a single non-white racial/ethnic group makes up a majority of the county (the final row in Table 2), the likelihood of a voting rights violation decreases relative to jurisdictions where a single racial/ethnic group is nearly a majority of the voting-age population, dropping to roughly the rate we see in the 20–30% category.

Another way of visualizing this pattern is presented in Figure 3. Figure 3 plots the share of counties with a potential violation as a function of the size of the racial/ethnic group at the time the violation occurred (or the size of the largest racial/ethnic group in the county today, if no potential violation occurred between 1982 and 2018). The blue line is the moving average of the share of counties with a potential violation (left side of chart) given the racial/ethnic group size specified (bottom of the chart). The red line in the middle of the chart denotes the point where a county has even (50% yes, 50% no) odds of a potential violation.

Figure 3 again shows a very strong relationship between the size of the racial/ethnic minority population and the likelihood of a potential voting rights violation. We see a roughly linear increase in the likelihood of a violation as the population approaches roughly 20%, with diminishing returns to further increases in single minority group population size before the probability begins to decrease after 50% minority. Furthermore, the point of equal likelihood of having a potential violation versus not occurs when the racial/ethnic group whose rights may have been violated is approximately 20% of the overall voting-age population in the jurisdiction. Beyond 20%, counties have better-than-even chances of having had a potential violation, until roughly 75% when the likelihood of a violation drops below 50–50 once again.

A similar pattern is present for counties with successful cases, where courts determined (or appeared set to determine according to defendants, as they were settled out of court) that a violation of a group's voting rights had occurred. Figure 4 shows these patterns at the county level. In Figure 4, we see almost exactly the same rate of successful cases as a function of minority group population share as we do for the number of cases overall (successful or not). The chance of a successful voting rights case is better than 50–50 when a minority group is about 25% of the voting-age population in a county. Of course, not all voting rights-related actions result in an outcome in favor of plaintiffs. However, Figure 4's close match with Figure 3 indicates that the relationship between voting rights suits and minority group size is not attributable to an increased number of unsuccessful cases brought by minority plaintiffs in heavily-minority counties.

e. Ensuring equal treatment of counties based on probability of a violation

The analyses above demonstrate that once a racial/ethnic minority group grows large enough to make up 20% of a county's voting-age population, the probability of at least one potential voting rights-related legal action reaches 50%. Given the nature of the election practices that would be subject to preclearance, in that these are commonly used practices that are often tarnished by those seeking to discriminate against minority voters, this threshold may be an appropriate benchmark for determining where additional scrutiny is warranted. However, it is important to consider how various population thresholds balance the need to protect voting rights with the potential to add an additional layer of review of state and county election practices.

In any process where some jurisdictions are going to be subject to additional scrutiny, while others are subject to conventional review, there will be instances where after the fact we see that the additional scrutiny did not result in finding a violation or the conventional review revealed a violation on its own. Therefore while the goal is

to minimize such instances, it is not realistic to eliminate them entirely. With this in mind, Table 3 examines the suitability of various single-group relative population size thresholds in terms of the recent history of potential voting rights violations in counties nationwide. Under the population thresholds listed in the first column of Table 3, a county would gain practice-based preclearance if it had a single non-white racial/ethnic group's population making up the indicated percentage of the voting-age population in the county. The ''False Negative Rate'', also called Type I error, indicates the percent of counties that would not be covered via the indicated population threshold formula, but did have a potential violation. The false negative rates in Table 3 indicate that with all population thresholds higher than 20%, more than half of counties having potential violations would not have triggered practice-based preclearance based on the population at the time of their first potential violation.

The ''False Positive Rate,'' also called Type II error, indicates the percent of counties that are covered via the listed population threshold-based trigger, but have never had a potential violation in Dr. Kousser's database. While generally lower than the false negative rate, we do see that at both the high end of the potential thresholds and low end of potential thresholds, a larger share of jurisdictions would be subject to preclearance despite never having a voting rights suit filed against the jurisdiction.

The final column of Table 3, titled ''Overall Error Rate'' aggregates Type I and Type II error and shows the percent of counties nationwide that are either incorrectly excluded (not covered despite having had a violation) or incorrectly included (covered despite never having a violation). While differences between coverage thresholds are relatively small, we do see that the 20% threshold for coverage minimizes the overall number of counties with violations that are missed and covered counties that have not had suits filed against them in the past.

At the highest racial/ethnic minority population percentages, Figure 3 shows that the rate of potential violations decreases drastically. Table 3 also indicates that the number of false positives begins to increase with thresholds beyond 30%, as in recent decades heavily-minority counties have not had potential voting rights violations despite many of these counties being subject to preclearance under Section 5 of the Voting Rights Act. From a theoretical perspective, this is logical: in such places contemporary methods used to violate minority voting rights are unlikely to change the underlying dynamic of which racial/ethnic group holds power, so attempts to disenfranchise are rare. Therefore, in places where a single minority group is more than 80% of the population, and therefore (numerical) minority racial/ethnic group is less than 20%, disenfranchisement is similarly unlikely. Crafting a two-group formula as such also accords with the reality that 15th Amendment protections apply to all Americans, not just members of specific racial/ethnic minority groups.

Table 4 documents the effect of using a two-group threshold on false negative, false positive, and overall error rates. Error rates are little changed from Table 3, as today, few counties have a single racial/ethnic minority group at or exceeding 80% of the county's population. However, the small number of counties that do have such a high minority population have no recent history of voting rights violations, and with future demographic shifts more counties will likely fall into this category in the future. Requiring that two racial/ethnic groups are at least 20% of the voting-age population in a jurisdiction thus both recognizes the ''current conditions'' cited by C.J. Roberts in the Shelby decision, and acknowledges how our country will ''change'' in the future.

The 20% threshold proposed above also serves to allocate legal resources as efficiently as possible. Due to the nature of the election procedures that would be subject to preclearance, where policies may be facially race-neutral but used to discriminate under certain circumstances, it may be useful to concentrate additional effort on places where discriminatory effect is more likely to occur. Counties unlikely to have a violation may not need extra scrutiny for these commonplace practices. Of course, jurisdictions under the threshold could still be subject to litigation under Section 2 of the Voting Rights Act, as they are today. These jurisdictions may also fall into coverage as their racial/ethnic minority population grows.

IV. CONCLUSION

For over 150 years, the federal government has played a key role in preserving the voting rights of racial/ethnic minorities. After the Civil War, the erosion of minority voting rights was most severe in states of the former Confederacy with large African-American populations; the Voting Rights Act of 1965 targeted these states and counties and secured the right to vote for all Americans. In the words of C.J. Roberts, ''there is no denying that, due to the Voting Rights Act, our Nation has made great strides,'' but the changing demographic and political profile of the country persuaded the Court to call for a formula based on ''current conditions'' of racial discrimination in voting that ''no one doubts'' still exist.

In this report, I provided the rationale for one such formula. Tracking thousands of voting rights-related judicial actions in recent decades, and buttressed by historical, theoretical, and empirical evidence regarding where voting rights violations are likely to occur, I show a strong relationship between the racial/ethnic composition of a state or jurisdiction and the likelihood that the jurisdiction will see a violation of racial/ethnic minority voting rights. Evaluating tradeoffs between various population size-based thresholds, I also demonstrate that one threshold in particular, 20%, ensures fairness in which jurisdictions are subject to the added scrutiny of a tailored preclearance provision.

The Voting Rights Act of 1965's special provisions were a key tool in the federal government's arsenal to ensure all Americans could participate in the electoral process. A flexible, forward-looking formula will ensure that the Act can continue to secure our rights far into the future. No other action of the current Congress may be more consequential than the reinvigoration of this commitment to the American people.

AUGUST 23, 2021.

Please Support H.R. 4, John Lewis Voting Rights Advancement Act

DEAR REPRESENTATIVE: On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, and the 96 undersigned organizations, we write in strong support of H.R. 4, the John Lewis Voting Rights Advancement Act.

In 1965, Congress passed the Voting Rights Act to outlaw racial discrimination in voting, and it became our nation's most successful and consequential civil rights law. Previously, many states barred Black voters from participating in the political system through literacy tests, poll taxes, voter intimidation, and violence. By outlawing the tests and devices that prevented people of color from voting, the Voting Rights Act and its prophylactic preclearance formula put teeth into the 15th Amendment's guarantee that no citizen can be denied the right to vote because of the color of their skin.

Only 15 years ago, Congress reauthorized the Voting Rights Act for the fourth time with sweeping bipartisan support. The House of Representatives reauthorized the legislation by a 390–33 vote and the Senate passed it unanimously, 98–0. Given the importance of the Voting Rights Act, Congress undertook that reauthorization with care and deliberation—holding 21 hearings, hearing from more than 90 witnesses, and compiling a record of more than 15,000 pages of evidence of continuing racial discrimination in voting.

SHELBY COUNTY V. HOLDER

In 2013, the U.S. Supreme Court's ruling in Shelby County v. Holder eviscerated the most powerful provision of the Voting Rights Act: the Section 5 preclearance system. This provision applied to nine states and localities in another six states. These jurisdictions were required to obtain preclearance from the Justice Department or the U.S. District Court for the District of Columbia before implementing any change in a voting practice or procedure.

Section 5 was immensely successful in blocking proposed voting restrictions in states and localities with histories of racial discrimination. It also ensured that changes to voting rules were public, transparent, and evaluated to protect voters against discrimination based on race and language. But, in Shelby County, Chief Justice John Roberts on behalf of the majority, declared that ''Our country has changed.'' The Court held that the formula identifying jurisdictions subject to preclearance was decades-old and outdated, functionally halting the preclearance requirement. However, the Court invited Congress to assess ''current conditions'' to update the formula for deciding which jurisdictions should be covered by preclearance.

Despite the best efforts of The Leadership Conference and its many member organizations to protect voting rights and promote civic participation, the impact of eight years of overt and covert anti-voter tactics has had a lasting impact. The Supreme Court's invalidation of the preclearance formula released an immediate and sustained flood of new voting restrictions in formerly covered states. Without the Voting Rights Act's tools to fight the most blatant forms of discrimination, people of color continue to face barriers to exercising their most important civil right, including voter intimidation, felon disenfranchisement laws built on top of a system of mass incarceration, burdensome and costly voter ID requirements, and purges from the voter rolls. States have also cut back early voting opportunities, eliminated same-day voter registration, and shuttered polling places.

The Leadership Conference commissioned several state reports that were prepared by our partner civil rights organizations and allies to document the breadth and depth of recent voting discrimination in ten states across the country. These reports powerfully demonstrate that Congress has an urgent imperative to restore the Voting Rights Act. Individually and collectively, they reveal that voting discrimination after Shelby County is pervasive, persistent, and adaptive, sometimes taking new forms but no less pernicious. The reports document voter restrictions passed this year and cite the recent history of voting discrimination in these states. This is the ''current discrimination'' on which Congress must update the preclearance formula and make several additional amendments to the Voting Rights Act

so voters of color everywhere can fully participate in the political process. All of the state reports have or will be introduced into the congressional record of the August 16, 2021, House Judiciary hearing on Oversight of the Voting Rights Act: Potential Legislative Reforms.

BRNOVICH V. DEMOCRATIC NATIONAL COMMITTEE

Furthermore, just last month, the Supreme Court ruled in Brnovich v. Democratic National Committee that two discriminatory Arizona voting laws did not violate Section 2 of the Voting Rights Act. In its opinion in Brnovich, the Court disregards the congressional purpose of Section 2, which is to provide a powerful means to combat race discrimination in voting and representation. The majority departs from decades of precedent enforcing Section 2 according to Congress' intent, and it creates new ''guideposts'' that will ineffectively identify and eradicate discriminatory policies and practices. The decision relies on a limited interpretation of the Voting Rights Act that will make it more difficult to challenge discriminatory voting laws. This decision reiterates the need for Congress to pass the John Lewis Voting Rights Advancement Act to restore the legislative purpose of Section 2.

EVIDENCE OF THE NEED FOR THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT

Discriminatory voting practices are not merely the province of those states with a long history of discrimination. Pernicious practices such as voter purging and restrictive identification requirements—which disproportionately affect voters of color—occur in states throughout the nation. As we commemorated the 56th anniversary of the Voting Rights Act earlier this month, it is important to note that between January 1 and July 14, 2021, at least 18 states enacted 30 new laws that restrict our freedom to vote, and more than 400 bills with restrictive provisions have been introduced in 49 states in the 2021 legislative sessions.

During the 117th Congress, the Senate Committee on the Judiciary, House Committee on the Judiciary, and the Committee on House Administration have held a total of 14 hearings and found significant evidence that barriers to voter participation remain for people of color and language-minority voters.

The Senate Committee on the Judiciary has held three hearings on voting rights:

Restoring the Voting Rights Act after Brnovich and Shelby County (July 14, 2021); Supreme Court Fact-Finding and the Distortion of American Democracy (April 27, 2021); Jim Crow 2021: The Latest Assault on the Right to Vote (April 20, 2021).

The House Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Civil Liberties has held six hearings on voting rights:

Oversight of the Voting Rights Act: Potential Legislative Reforms (August 16, 2021); The Need to Enhance the Voting Rights Act: Practice-Based Coverage (July 27, 2021); The Implications of Brnovich v. Democratic National Committee and Potential Legislative Responses (July 16, 2021); The Need to Enhance the Voting Rights Act: Preliminary Injunctions, Bail-in Coverage, Election Observers, and Notice (June 29, 2021); Oversight of the Voting Rights Act: A Continuing Record of Discrimination (May 27, 2021); Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination (April 22, 2021).

The House Administration's Subcommittee on Elections has held five investigatory hearings with 35 witnesses, collected numerous reports and documents, and released a comprehensive report.

Voting In America: A National Perspective On The Right To Vote, Methods Of Election, Jurisdictional Boundaries, And Redistricting (June 24, 2021); Voting In America: The Potential For Polling Place Quality And Restrictions On Opportunities To Vote To Interfere With Free And Fair Access To The Ballot (June 11, 2021); Voting In America: The Potential For Voter ID Laws, Proof-Of-Citizenship Laws, And Lack Of Multi-Lingual Support To Interfere With Free And Fair Access To The Ballot (May 24, 2021); Voting In America: The Potential For Voter List Purges To Interfere With Free And Fair Access To The Ballot (May 6, 2021); Voting In America: Ensuring Free And Fair Access To The Ballot (April 1, 2021).

THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT RESTORES AND MODERNIZES THE VOTING RIGHTS ACT

The Voting Rights Act of 1965 was passed with leadership from both the Republican and Democratic parties, and the reauthorizations of its enforcement provisions were signed into law each time by Republican presidents: President Nixon in 1970, President Ford in 1975, President Reagan in 1982, and President Bush in 2006. For more than half a century, protecting citizens from racial discrimination in voting has been bipartisan work.

The John Lewis Voting Rights Advancement Act fills a distinct and critical role in protecting the freedom to vote and ensuring elections are safe and accessible. When it comes to our elections, we all want an open and transparent process we can trust, where Americans have equal freedom to vote, whether we live in a small town or big city, or the coasts or the Midwest. Passage of the John Lewis Voting Rights Advancement Act will fulfill part of that promise of a democracy that works for—and includes—us all.

The John Lewis Voting Rights Advancement Act would restore the VRA in the following ways:

The Act would update criteria under the ''geographic trigger'' for identifying states and localities required to obtain federal review of voting changes before they are implemented.

Under the ''practice-based'' trigger, every state and locality nationwide that is sufficiently diverse would be required to obtain federal review before enacting specific types of voting changes that are known to be discriminatory in their use to silence the growing political power of voters of color.

The Act would require all states and localities to provide public notice to all voters of certain voting changes.

The Act would address the Brnovich decision by clarifying factors that voters of color can use to prove a vote dilution or vote denial claim under Section 2 of the VRA and restoring voters' full ability to challenge racial discrimination in voting in court.

The Act would allow the Department of Justice and voters of color to challenge changes in a voting rule that would make voters of color worse off in terms of their voting rights than the status quo.

The Act would expand authority for courts to ''bail-in'' jurisdictions to the preclearance process and would update the ability of jurisdictions to ''bail-out'' of the preclearance process once they demonstrate a record of not harming voters of color.

The Act would grant the Department of Justice authority to compel the production of documents relevant to investigations of potential voting rights violations prior to filing an enforcement action.

The U.S. Attorney General would have authority to request federal observers anywhere there is a serious threat of racial discrimination in voting.

The Act would provide voters with additional protection by easing the standard for when courts can temporarily block certain types of voting changes while the change is under review in court. This is important because once a voter is discriminated against in an election, it cannot be undone.

CONCLUSION

When President Lyndon Johnson signed the Voting Rights Act of 1965, he declared the law a triumph and said, ''Today we strike away the last major shackle of . . . fierce and ancient bonds.'' But 56 years later, the shackles of white supremacy still restrict the full exercise of our rights and freedom to vote.

For democracy to work for all of us, it must include us all. When certain communities cannot access the ballot and when they are not represented in the ranks of power, our democracy is in peril. The coordinated, anti-democratic campaign to restrict the vote targets the heart of the nation's promise: that every voice and every eligible vote count. Congress must meet the urgency of this moment and pass the John Lewis Voting Rights Advancement Act. This bill will restore the essential provision of the Voting Rights Act that blocks discriminatory voting practices before they go into effect, putting a transparent process in place for protecting the right to vote. It will also restore other provisions to help bring down the barriers erected to silence Black, Brown, Native, young, and new Americans and ensure everyone has a voice in the decisions impacting our lives.

On March 7, 1965, just a few months before President Johnson would sign the Voting Rights Act into law, then 25-year-old John Lewis led more than 600 people across the Edmund Pettus Bridge to demand equal voting rights. State troopers unleashed brutal violence against the marchers. Lewis himself was beaten and bloodied. But he never gave up the fight. For decades, the congressman implored his colleagues in Congress to realize the promise of equal opportunity for all in our democratic process. Before his death, he wrote: ''Time is of the essence to preserve the integrity and promises of our democracy.'' Members of this body must now heed his call with all the force they can muster and support the John Lewis Voting Rights Advancement Act.

Sincerely,

The Leadership Conference on Civil and Human Rights, A. Philip Randolph Institute, ADL (Anti-Defamation League) Advancement Project, National Office, African American Ministers In Action, Alliance for Youth Action, American Association of University Women (AAUW), American Civil Liberties Union, American Federation of State, County and Municipal Employees, American Federation of Teachers, American Humanist Association, American-Arab Anti-Discrimination Committee (ADC), Americans for Democratic Action (ADA), Arab American Institute (AAI), Asian Americans Advancing Justice—AAJC, Association of University Centers on Disabilities (AUCD), Bend the Arc: Jewish Action, Blue Wave Postcard Movement, Brennan Center for Justice, Center for Living & Working, Inc.

Center for the Study of Hate & Extremism—California State University, San Bernardino, CIAC, Citizens for Responsibility and Ethics in Washington (CREW), Clean Elections Texas, Colorado Latino Leadership Advocacy and Research Organization, Common Cause, Communications Workers of America (CWA), Community Catalyst, Declaration for American Democracy, Defending Rights & Dissent, Delta Sigma Theta Sorority, Inc., DemCast USA, Democracy 21, Demos, Empowering Pacific Islander Communities (EPIC), End Citizens United/Let America Vote Action Fund, Equal Citizens, Evangelical Lutheran Church in America, Fair Fight Action, FairVote, Feminist

Majority, Fix Democracy First, Florida Rising, Franciscan Action Network, Freedom From Religion Foundation.

Government Accountability Project, Human Rights Campaign, Impact Fund, Indivisible, Japanese American Citizens League, Jewish Council for Public Affairs, Justice in Aging, Labor Council for Latin American Advancement, Lambda Legal, LatinoJustice PRLDEF, Leadership Conference of Women Religious, League of Conservation Voters, League of Women Voters of the United States, Louisiana Advocates for Immigrants in Detention, Matthew Shepard Foundation, Mi Familia Vota, Mid-Ohio Valley Climate Action, Movement Advancement Project, National Action Network, National Association of Human Rights Workers, National Black Justice Coalition, National Council of Churches of Christ in the USA.

National Council of Jewish Women, National Council of Jewish Women, Pennsylvania National Council on Independent Living, National Urban League, National Wildlife Federation, Native American Rights Fund, NETWORK Lobby for Catholic Social Justice, New Era Colorado, North Carolina Asian Americans Together, OCA-Asian Pacific American Advocates, OCA-Asian Pacific Islander American Advocates Utah, OCA Greater Chicago, OCA-Asian Pacific American Advocates Greater Cleveland Chapter, OCA-Great Phoenix Chapter, OCA-Greater Houston, Our Vote Texas, People For the American Way, People's Parity Project, Planned Parenthood Action Fund, Public Citizen, Sierra Club, St. Louis Chapter of JACL, The Andrew Goodman Foundation, The National Vote, The New Pennsylvania Project, The Workers Circle, Union for Reform Judaism, Union of Concerned Scientists, Urban League of Union County, Inc., Voices For Progress.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4—JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021—REP. SEWELL, D–AL, AND 218 COSPONSORS

The Administration strongly supports House passage of H.R. 4, the John R. Lewis Voting Rights Advancement Act of 2021 (VRAA).

The right to vote freely, the right to vote fairly, the right to have your vote counted is fundamental. In the last election, all told, more than 150 million Americans of every age, of every race, of every background exercised their right to vote.

This historic level of participation in the face of a once-in-a-century pandemic should have been celebrated by everyone. Instead, some have sought to delegitimize the election and make it harder to vote, in many cases by targeting the methods of voting that made it possible for many voters to participate. These efforts violate the most basic ideals of America.

Yet another massive wave of discriminatory action may be imminent as we enter a new legislative redistricting cycle. Unfortunately, incumbents too often cling to power by drawing district lines to favor their own prospects at the expense of minority communities, choosing their voters instead of the other way around.

While anti-voter action undermines democracy for all Americans, we know that communities of color often suffer the worst effects of these measures—and all too often, that is not by accident.

The sacred right to vote is under attack across the country.

The VRAA will strengthen vital legal protections to ensure that all Americans have a fair opportunity to participate in our democracy. Among other things, it would create a new framework for allowing DOJ to review voting changes in jurisdictions with a history of discrimination to ensure that they do not discriminate based on race. It would also clarify the scope of legal tools designed to challenge discriminatory voting laws in court, ensuring that the Voting Rights Act offers protection against modern forms of voter suppression.

In an essay published shortly after he died, Congressman John Lewis wrote, ''Democracy is not a state. It is an act[.]'' This bill not only bears his name, it heeds his call. The Administration looks forward to working with Congress as the VRAA proceeds through the legislative process to ensure that the bill achieves lasting reform consistent with Congress' broad constitutional authority to protect voting rights and to strengthen our democracy.

[From the Brennan Center for Justice, Aug. 20, 2021]

VOTER SUPPRESSION IN 2020

(By William Wilder)

I. INTRODUCTION

In key respects, the 2020 elections demonstrated the strength and resilience of America's electoral system. Voter turnout smashed records in almost every state, and despite unprecedented challenges from the pandemic, we did not suffer an election administration catastrophe. Opponents of voting rights suggest that these successes mean that voting barriers are no longer a significant concern and that our country has moved past the era of voter suppression. However, a closer look into turnout numbers reveals persistent and troubling racial disparities that are due in part to racial discrimination in the voting process. And in the 2020 election cycle, voter suppression was alive and well.

Overall, 70.9 percent of eligible white voters cast ballots in the 2020 elections, compared with only 58.4 percent of non-white voters. Despite significant gains in overall voter participation, the turnout gap between white and non-white voters has gone virtually unchanged since 2014 and has in fact grown since its modern-era lows in 2008 and 2012, according to a recent Brennan Center analysis.

During the same period, racially discriminatory voter suppression entered a new age. After the 2010 elections, for the first time since the peak of the Jim Crow era, states across the country began to enact laws making it more difficult to vote. This wave of voter suppression was intertwined with race and the nation's changing racial demographics and was, at least in part, a backlash against rising turnout among communities of color contributing to the election of the nation's first Black president. Efforts to suppress the votes of communities of color accelerated in 2013, when the Supreme Court gutted a key part of the Voting Rights Act in Shelby County v. Holder. In the eight years since, and especially in 2020, these trends continued.

Racial discrimination in voting takes many forms, ranging from blatant and open attempts to restrict access to voting among communities of color to more subtle policies that place heavier burdens on certain communities. In 2020, voters of color faced the full spectrum of racial voter suppression. This report provides an overview of the various forms of racially discriminatory voter suppression that took place in the 2020 elections and their aftermath.

The purpose of this report is to catalog instances of discriminatory voting changes and practices occurring in and since 2020 and provide context for the broader political movement behind many of these changes. In terms of voter suppression, 2020 was a banner year, and not just because of the volume of racially discriminatory changes and incidents. Increasingly, the public officials and political operatives behind these voting changes are acknowledging that the intent of their new laws and policies is to exclude certain people from the electorate and bring about particular outcomes.

For example, as Arizona legislators were debating new restrictive voting bills, State Rep. John Kavanagh stated that Arizona Republicans ''don't mind putting security measures in that won't let everybody vote'' and that he was more concerned with the ''quality of votes'' than with overall voter turnout. When defending two of Arizona's restrictive voting laws before the Supreme Court in March 2021, the attorney for the Republican National Committee admitted that the party's interest in the laws was to avoid being at ''a competitive disadvantage relative to Democrats.'' And when discussing proposals to expand access to mail voting, President Trump stated that an expansion of early and mail voting would lead to ''levels of voting that if you agreed to it, you'd never have a Republican elected in this country again.''

These statements do not represent judicial findings of intentional discrimination. But when viewed alongside the long list of instances of discrimination and racial disparities in the 2020 election cycle, these statements offer a window into discriminatory intent playing out in real time. This public rhetoric provides important context for understanding the full spectrum of discriminatory effects discussed in this report.

Examples of discriminatory voting practices—including new restrictive legislation, discriminatory voter roll purges, long lines and closed polling places, voter intimidation and misinformation, and efforts to overthrow elections through litigation or by invalidating ballots cast by mail—must all be viewed in the context of these obvious statements of intent. All of these instances are evidence of the same underlying problem: the persistence and evolution of unconstitutional racial discrimination in our election system.

[From the Brennan Center for Justice, July 29, 2021]

REPRESENTATION FOR SOME

THE DISCRIMINATORY NATURE OF LIMITING REPRESENTATION TO ADULT CITIZENS

(By Yurij Rudensky, Ethan Herenstein, Peter Miller, Gabriella Limón, and Annie Lo)

INTRODUCTION

Every 10 years, political districts at all levels of government are redrawn to make sure they are equal in population as required by the U.S. Constitution. Currently every state apportions representatives and draws congressional and state legislative districts on the basis of a state's total population. That is, when districts are drawn, all people living in the state, including children and noncitizens, are counted for the purposes of representation.

However, some Republican political operatives and elected officials aim to unsettle this long-standing practice by excluding children and noncitizens from the population figures used to draw state legislative districts. Rather than count everyone, states would draw districts based only on the adult citizen population. This approach is rooted in an explicitly discriminatory plan to disadvantage growing Latino (and, to a lesser extent, Asian American and Black) communities. It would enable states to pack children and noncitizens, who are disproportionately Latino, Asian American, and Black,

into sprawling, supersized legislative districts. Residents of these districts would receive less representation than they do under the total population approach that states currently use, and this could have tremendous consequences for the funding of crucial public goods—including schools and transportation—that are used by everyone in a community regardless of age or citizenship status.

Making such a break with current practice and precedent would be of dubious legality and would leave states vulnerable to a host of legal challenges. It also would have major practical implications for redistricting. This study looks at what such a change would mean for representation and the allocation of political power in the United States by focusing on its impact three demographically distinct states: Texas, Georgia, and Missouri.

Our findings include the following:

Citizen children, not noncitizens, would account for the overwhelming majority of those excluded in adult citizen–based districts. Citizen children make up more than 70 percent of those who would be excluded in Texas, 80 percent in Georgia, and 90 percent in Missouri.

Large portions of the population in all three states would no longer be counted in adult citizen–based districts. Nearly 36 percent of the total population in Texas, 30 percent in Georgia, and 25 percent in Missouri would be excluded from the apportionment of legislative seats.

Communities of color would be disproportionately impacted. Latino and Asian American communities in particular would suffer substantially greater exclusion than their white counterparts. While only about 20 percent of the white population across the three states would be left uncounted, nearly 30 percent of the Black population and more than 50 percent of the Latino and Asian American populations would be excluded from legislative districts. The situation in Georgia would be particularly stark, with nearly 70 percent of Latino residents, most of whom are children, excluded.

Diverse metropolitan areas that support majority-minority districts would cede representation to whiter, more rural regions. The Houston, Dallas, and Rio Grande Valley regions of Texas would see sharp reductions in representation. In Georgia, the apportionment shift would hit metro Atlanta. And in Missouri, the representational losses would flow from areas around Kansas City and St. Louis. In all three states, many of the current districts that provide Latino and Black communities an opportunity to secure representatives of their choice would no longer be viable or would need to be significantly reconfigured.

Many of the areas that would be most impacted by an apportionment shift face deep inequities and new challenges, underscoring their urgent need for full representation. In Missouri, losses in representation would be borne primarily by Black neighborhoods in Kansas City and St. Louis that were formally segregated during the Jim Crow era and that continue to suffer from disinvestment. In Texas, under-populated districts, which would need to expand to bring in additional adult citizens, include much of historically Black Houston as well as overwhelmingly Latino areas, including colonias near the U.S.–Mexico border that increasingly face infrastructural and climate-related environmental dangers. In Georgia, representational losses would be concentrated in the rapidly diversifying suburbs of Atlanta, where communities of color are taking on historically white political establishments to address urgent political needs around education and policing.

[From the Brennan Center for Justice, Aug. 20, 2021]

RACIAL TURNOUT GAP GREW IN JURISDICTIONS PREVIOUSLY COVERED BY THE VOTING RIGHTS ACT

(By Kevin Morris, Peter Miller, and Coryn Grange)

In 2013, when Chief Justice John Roberts delivered the Supreme Court's majority opinion in Shelby County v. Holder, he argued that the Voting Rights Act of 1965's preclearance requirement under Section 5 was no longer needed because ''African-American voter turnout has come to exceed white voter turnout in five of the six States [Alabama, Georgia, Louisiana, Mississippi, and South Carolina] originally covered by §5 with a gap in the sixth State of less than one half of one percent [Virginia].'' Although this was true in 2012—and only 2012—the white-Black turnout gap in these states reopened in subsequent years, and by 2020, white turnout exceeded Black turnout in five of the six states.

REPLICATING THE SHELBY COUNTY OPINION METHODS

Using the same source of census data that was used in the Shelby County opinion, we show that the racial turnout gap has increased in most jurisdictions that were previously covered by preclearance. Racial turnout rates are calculated by dividing the number of ballots cast by the estimated citizen population above the age of 18. This analysis was compiled from the past 24 years of general-election voter data from eight states. The states used are based on the eight states the Voting Rights Advancement Act (VRAA), as introduced in 2019, will likely cover, according to recent congressional testimony by George Washington University law professor Peyton McCrary. Those states are Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas—all of which were covered in whole or in part by the preclearance provisions of the Voting Rights Act before Shelby County.

Broad conclusions made about the turnout of eligible Latino and Asian voters in states where they are underrepresented can be imprecise due to the small sample size provided by census data. We controlled for this deficiency in data by only analyzing states' Latino and Asian American turnout for years that had at least 30 Latino and Asian American eligible voters accounted for. Overall, we found that the larger the Latino and Asian American population of states, the closer the size the white-nonwhite turnout gap mirrored the results of the Brennan Center's examination of the same gap at a nationwide level, due to the greater representation of these undercounted groups. When this wasn't the case, the white-nonwhite gap more closely mirrored the white-Black gap.

We also believe the white-nonwhite gap may be underestimated, as the census data we use for analysis fails to provide information on Native American voter turnout, a group that is significantly impacted by discriminatory voting laws. However, we do know from the National Congress of American Indians that registered voters in this group have a lower turnout rate than other racial groups, which provides the basis for our assumption.

RACIAL TURNOUT GAPS IN JURISDICTIONS TO BE COVERED BY THE VOTING RIGHTS ADVANCEMENT ACT

While in 2012, just before the Shelby County decision, the white-Black turnout gap was shrinking in the states we analyzed, and in many instances even briefly closed, this trend has reversed in the years since. In 2012, seven out of the eight states had Black voter turnout higher than that of white voters. In 2020, the reverse is true—in only one of the eight states was Black turnout higher than white turnout.

In a few states, this reversal is especially alarming. Louisiana, South Carolina, and Texas had higher turnout gaps in 2020 than at any point in the past 24 years. South Carolina's white-Black turnout gap widened the most, expanding by a staggering 20.9 percentage points within the eight years since Shelby County. While Black turnout exceeded white turnout in 2012, white turnout was more than 15 percentage points higher than Black turnout in 2020.

A similar trend can be seen in the gap between white voters and all nonwhite voters. The total white-nonwhite turnout gap has grown since 2012 in all of the eight states likely to be covered under the VRAA. There is sufficient data to conclude that the gap has increased for Blacks, Hispanics, and Asians in Florida, Georgia, North Carolina, South Carolina, and Texas. In Alabama, Louisiana, and Mississippi, the sample sizes in the available 2020 census data are too small for Hispanic and Asian voters to make much of a difference in an overall white-nonwhite turnout gap estimation that is distinct from the white-Black turnout gap in those states. Notably, North Carolina went from having a larger share of nonwhite voters represented in 2012 with a white-nonwhite gap of −9.3 percentage points to having a gap of 5.4 percentage points, a jump of 14.7 percentage points, far greater than the national average of 4.6 percentage points.

Overall, we see that the growth in the racial turnout gaps between 2012 and 2020 were even starker in the states likely to be subject to preclearance under the VRAA than those seen nationwide. Seven out of the eight states had white-nonwhite turnout gaps that grew more than the national rate of 4.6 percentage points between 2012 and 2020. And in four out of the eight states to be subject to preclearance under the VRAA, the white-Black turnout gap grew more than the national rate of 10.3 percentage points from 2012 to 2020.

Expanding the analysis to other nonwhite groups also reveals that, even in 2012, progress on closing racial turnout gaps was not as significant as the Shelby County decision suggested. The Court only examined the white-Black turnout gap, which did temporarily close in many states in 2012, likely due to Barack Obama being on the ballot and Black voter turnout subsequently surging. But with the exception of Latino voter turnout briefly surpassing white turnout in Florida in 2012 and Louisiana in 2012 and 2016, Latino voter turnout has lagged behind white voter turnout for the last 24 years in every state where those rates are measurable.

SHELBY COUNTY'S AFTERMATH

In 2013, the Supreme Court suggested that the closing of the racial turnout gap supported the conclusion that the need for preclearance was over. As this analysis shows, in the years following the Shelby County decision, these racial turnout gaps widened once again. The reopening of the racial turnout gap likely has many causes, and it is possible that the ending of the preclearance condition has played a role. What is clear, however, is that the trends identified by the Supreme Court have reversed themselves with alarming speed.

[From the Brennan Center for Justice, Aug. 6, 2021]

LARGE RACIAL TURNOUT GAP PERSISTED IN 2020 ELECTION

(By Kevin Morris and Coryn Grange)

In the 2020 election, voter turnout surged as more Americans cast ballots than in any

presidential election in a century, despite a global pandemic. This was true for the entire electorate as well as for each racial group—more Black Americans voted in 2020 than any presidential election since 2012, and Latino Americans and Asian Americans also surpassed their previous turnout records. (Unfortunately, we don't have comparable figures for Native Americans.)

These successes have been and should be celebrated. However, they must not be mistaken for signs that racial discrimination in voting is no longer an enormous problem, one that continues to advantage white voters to a degree that must be remedied.

The 2020 election must also be remembered for another turnout statistic: 70.9 percent of white voters cast ballots while only 58.4 percent of nonwhite voters did. As the graph below shows, 62.6 percent of Black American voters, 53.7 percent of Latino American voters, and 59.7 percent of Asian American voters cast ballots in 2020.

There is ample evidence that the sorts of barriers being introduced this year disproportionately reduce turnout for voters of color. The gaps between white and nonwhite voters are bound to get worse. That's why it's necessary to reverse these new voting restrictions.

NARROWING THE GAP, BUT ONLY TEMPORARILY

The difference between white and nonwhite voter turnout has remained relatively unchanged over the last six presidential elections, with a few notable fluctuations. In 2008 and 2012, Barack Obama was on the ballot, and turnout among Black voters in those elections was higher than at any point since 1996. And in 2012, the gap between white and nonwhite voter turnout narrowed to 8 percentage points, the lowest since 1996.

The graph below shows that after reaching that record low in 2012, the turnout gap expanded once again between white voters and nonwhite voters, reaching 12.6 percentage points in the 2016 presidential election and 12.5 in 2020.

The graph also shows a decrease in nonwhite voter turnout between the 2008 and 2012 elections. After the record turnout in 2008, many state legislatures reacted by quickly passing a spate of new restrictive voting laws that made it disproportionately difficult for voters of color to cast ballots.

In 2013, the Supreme Court used the narrowing of the turnout gap between white and Black voters in 2008 and 2012, as seen in the following graph, to justify gutting key protections against racial discrimination in the Voting Rights Act of 1965. That ruling in Shelby County v. Holder made it easier for states to enact restrictive policies.

THE GAPS BETWEEN WHITE VOTERS AND INDIVIDUAL RACIAL GROUPS

2021 looks like 2009 in that high nonwhite voter turnout in the presidential election has been followed by restrictive voting laws, but there's a crucial difference. As the graph above indicates, the racial turnout gap narrowed between 2004 and 2008, but not between 2016 and 2020. The 2021 backlash is coming at a point when the disparities in turnout between racial groups are significantly larger than they were in 2008 and 2012.

While the gap between nonwhite voters and white voters has stayed about the same in the 2016 and 2020 elections, the gaps between white voters and voters of specific racial groups have varied. As the graph below demonstrates, the white-Asian gap narrowed significantly, from 16.3 percentage points in 2016 to 11.3 points last year, even as the white-Black turnout gap widened relative to 2016, going from 5.9 percentage points to 8.3 points. This is not to say that the white-Asian gap closed. As the graph makes clear, the white-Asian gap had previously been very large, and although the white-Asian turnout gap reached its lowest level in at least two decades in 2020, white voter turnout was still more than 10 percentage points higher than that of Asian Americans.

This narrowing of the white-Asian gap was offset by an increase in the white-Black turnout gap from 2016 to 2020. As the graph shows, the white-Black gap has consistently grown since 2012. In 2020, it reached the highest point in a presidential election since at least 1996.

The white-Latino turnout gap has previously been very large, and the same was true in 2020. At 17.2 percentage points, the 2020 white-Latino turnout gap was larger than the gaps between white voters and other racial groups, and it remained virtually unchanged from 2016.

As noted earlier, the Census Bureau data we draw on for this analysis fails to give us insight into the relative turnout of another group regularly impacted by discriminatory voting laws: Native Americans. However, we do know from the National Congress of American Indians that registered voters in this group have a lower turnout rate than other racial groups and face unique difficulties accessing the ballot box along with the ones faced by other nonwhite Americans.

2008 BACKLASH VERSUS TODAY

Like the backlash after high turnout in 2008, we are now experiencing another wave of restrictive voting laws, along with Brnovich v. Democratic National Committee, another Supreme Court ruling that weakens the Voting Rights Act and will make challenging racially discriminatory voting laws even harder. This backlash, however, does not come on the heels of the narrowest racial turnout gap in a generation. This time, it follows a racial turnout gap that remained steady and even grew for Black Americans.

Across the United States, political organizers successfully mobilized communities of color in 2020. But the record-breaking overall turnout was not enough to close the racial turnout gap. And in the aftermath of the Supreme Court's Brnovich decision in, the Voting Rights Act's protections for racial minorities are weaker than ever. It is imperative to stop the new restrictive voting laws and provide tools to fight race discrimination in voting.

[From the Committee on House Administration, Chairperson Zoe Lofgren (D–Calif.), Subcommittee on Elections, 117th Congress, July, 2021]

REPORT ON VOTING IN AMERICA: ENSURING FREE AND FAIR ACCESS TO THE BALLOT

(Prepared by Chair G. K. Butterfield, D–N.C.)

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Executive Summary

Since our founding, Americans have not enjoyed equal access to the ballot. Indeed, only a small fraction of the population cast ballots in the election elevating George Washington as our first president. Throughout our history, the country has made strides forward, but that progress was neither linear nor uncontested, and access to the ballot remains unequal. Following nearly 100 years of suppression and discrimination in the post-Civil War United States, and a decades-long fight for equality and access to the vote, on August 6, 1965, President Lyndon B. Johnson signed the Voting Rights Act of 1965 into law. The purpose of the Voting Rights Act was to, ''banish the blight of racial discrimination in voting.'' And for nearly 50 years it served this purpose.

However, in 2013, the Supreme Court undercut a key provision of the Voting Rights Act in Shelby County v. Holder. In finding the Section 4(b) coverage formula unconstitutional, the Section 5 preclearance provisions were rendered essentially inoperable. States that were once covered by the Voting Rights Act (''VRA''), and therefore required to preclear their voting changes with the U.S. Department of Justice to ensure they did not have a discriminatory impact on minority voters, were now free to enact changes without oversight, and with only the threat of reactive litigation under Section 2 of the Voting Rights Act or the Constitution standing in their way. Since the Court's decision in Shelby, states across the country have enacted new, suppressive voting and

election administration laws that disproportionately and discriminatorily impact minority voters.

On July 1, 2021, the Supreme Court undermined the Voting Rights Act yet again in Brnovich v. DNC. Writing for the majority, Justice Samuel Alito weakened the protections Congress explicitly wrote into the statute in 1982 and reauthorized in 2006, and instead set forth a new set of guideposts that will arguably make it harder to combat discriminatory restrictions on voting. In her dissent, Justice Elena Kagan wrote, ''the majority writes its own set of rules, limiting Section 2 from multiple directions. Wherever it can, the majority gives a cramped reading to broad language.''

Time and again, in courtrooms across the country, it has been proven that racially polarized voting has existed at the ballot box since 1870, when the Fifteenth Amendment was ratified, and it persists today. Millions of Black, Latino, Asian American, Native American, and other minority voters have again become the targets of voter suppression.

COMMITTEE ON HOUSE ADMINISTRATION AND SUBCOMMITTEE ON ELECTIONS

The Committee on House Administration was established in 1947. Oversight of federal elections became one of the Committee's chief tasks at its inception. After more than 70 years, the Committee's principal functions still include oversight of federal elections. Under Rule X of the Rules of the House, the Committee on House Administration has jurisdiction over ''Election of the President, Vice President, Members, Senators, Delegates, or the Resident Commissioner; . . . and federal elections generally.'' Since its creation, the Committee on House Administration has had a hand in shaping legislation that touches on any and all aspects of federal elections.

In exercising those powers, throughout the 116th and 117th Congresses, the Subcommittee on Elections of the Committee on House Administration has reviewed the state of voting in America, collecting thousands of pages of testimony and evidence—and the conclusion is clear: minority voters in America face ongoing discrimination in voting and barriers to the ballot box.

In writing for the majority in Shelby County, Chief Justice John Roberts wrote that ''[t]he Fifteenth Amendment is not designed to punish for the past; its purpose is to ensure a better future.'' Moreover, the Chief Justice wrote that Congress must craft a remedy that, ''makes sense in light of current conditions.'' The Subcommittee endeavored to learn and gather the most contemporaneous evidence available and to identify the voting and election administration practices that cause discriminatory harm to voters—that evidence is summarized in the report that follows.

To collect this evidence, the Subcommittee on Elections held eight hearings and a listening session in the 116th Congress, calling more than 60 witnesses, gathering several thousand pages of written testimony, documents, and transcripts, and hearing hours of oral testimony. To begin the process, the Subcommittee cast a broad reach, examining all manner of voting rights and election administration barriers. That process resulted in a report detailing a wide range of issues in voting and election administration laws implemented by states in the years following the Shelby County decision.

Building upon the record gathered during the prior Congress and continuing the collection of contemporaneous evidence to establish the state of ''current conditions,'' during the 117th Congress the Subcommittee embarked on a series of five investigatory hearings. Under the Chairmanship of Congressman G. K. Butterfield (D–N.C.), the Subcommittee identified those voting and election administration practices that the Subcommittee observed previously, including those which exhibited the most significant evidence of discriminatory impact, and investigated further. In doing so, the Subcommittee determined that a number of specific practices warranted a more in-depth examination, specifically: (1) voter list maintenance and discriminatory voter purges; (2) voter identification (''voter ID'') and documentary proof of citizenship requirements; (3) lack of access to multi-lingual voting materials and language assistance; (4) polling place closures, consolidations, reductions, and long wait times; (5) restrictions on additional opportunities to vote; and (6) changes to methods of election, jurisdictional boundaries, and redistricting.

The Subcommittee heard hours of testimony from more than 35 witnesses and collected numerous reports and documents. The testimony and data show definitively that the voting and election administration practices examined can and do have a discriminatory impact on minority voters and can impede access to the vote.

Key findings of the Subcommittee include:

(1) Purging voters from voter rolls can disproportionately flag for removal, mark as inactive, or ultimately remove otherwise eligible minority voters from the rolls. Although voter list maintenance, when conducted correctly, is appropriate and necessary, misconceived, overzealous list maintenance efforts have erroneously sought to remove hundreds of thousands of properly registered voters and, in doing so, disproportionately burden minority voters. In the years following the Shelby decision, millions of voters have been removed from the voting rolls—and states once subject to the Voting Rights Act saw purges at a 40 percent higher rate than the rest of the country. As Sophia Lin Lakin of the ACLU testified before the Subcommittee:

''Some of these troubling purge practices are based on unreliable data and/or procedures or dubious proxies that disproportionately sweep in, and ultimately disenfranchise, voters of color. Oftentimes, such purges have occurred too close to an election to permit corrective action, with voters arriving at the polls only to discover they have been removed from the rolls and unable to cast a ballot that will count.''

For example, mailers initiating a Wisconsin voter purge effort were disproportionately sent to counties with disproportionately large Black and Latino populations—over one-third of mailers were sent to areas that are home to the largest Black voting populations, while the Black voting population comprises only 5.7 percent of the total electorate. Additionally, Dr. Marc Meredith of the University of Pennsylvania testified that research, ''demonstrates that minority registrants are more likely than White registrants to be incorrectly identified as no longer eligible to vote at their address of registration.''

(2) Voter identification and documentary proof-of-citizenship requirements disproportionately burden minority voters. Discriminatory strict voter ID laws were some of the first voting laws implemented in the wake of Shelby County—in 2013, at least six states implemented or began to enforce strict voter ID laws, some of which had been previously blocked by the Department of Justice under Section 5 of the Voting Rights Act. Studies have consistently demonstrated that minority voters are disproportionately likely to lack the forms of ID required by voter ID laws and are disproportionately burdened by the time and expense of acquiring the underlying documents and IDs. The consequence is a negative impact on turnout amongst minority voters. A recent study found that Latinos, for example, are 10 percent less likely to turnout in general elections in states with strict ID laws than in states without such laws. Even when states offer ''free'' IDs, the actual cost of obtaining a qualifying photo ID ranged from $75 to $368 due to indirect costs associated with travel time, waiting time, and obtaining necessary supporting documentation. The documents required to establish proof-of-citizenship are also particularly expensive to obtain for naturalized and derivative citizens, sometimes costing in excess of $1,000.

The burden of these requirements disproportionately fall on Black, Latino, Asian American, and Native American voters, and newly naturalized citizens. Recent studies have demonstrated that Black and Latino voters are less likely to have access to birth certificates and passports—documents often required to establish proof of citizenship—than White voters. For example, Asian Americans will face greater barriers to registration than White voters under proof-of-citizenship laws. As Terry Ao Minnis, Senior Director of Census and Voting Programs for Asian Americans Advancing Justice, testified, ''76.7 [percent] of Asian American adults are foreign-born and 39.5 [percent] of Asian American adults have naturalized nationwide, compared to 4.6 [percent] of White adults who are foreign-born and 3.8 [percent] who have naturalized.'' Numerous studies also have demonstrated that strict voter ID laws disproportionately decrease registration and turnout of minority voters relative to White voters. Dr. Nazita Lajevardi of the University of Michigan testified that, ''strict voter identification laws are racially discriminatory and have real consequences for impacting the racial makeup of the voting population.''

(3) Access to multi-lingual voting materials and assistance is critical to ensuring equal access to the ballot—failure to do so can negatively impact millions of potential voters, a disproportionate number of whom are minority voters. The demographics of America are shifting, with millions of new Latino and Asian American voters, for example, joining the rolls every election. The number of eligible Asian Americans grew by almost 150 percent from almost 5 million in 2000 to over 11.5 million in 2020—this compared to a growth rate of 24 percent for the total population over the same period. Furthermore, American Community Survey (ACS) data estimate show that Latinos accounted for just over half the nation's population growth between 2010 and 2019, and ACS data estimate shows that Latinos made up over 44 percent of the entire nation's growth in citizen, voting-age population, between 2009 and 2019.

According to 2017 data, more than 85 percent of the voters who likely require language assistance in voting were voters of color. As of 2019, approximately 4.82 percent of the citizen voting-age population needs to cast a ballot in a language other than English. For example, over a quarter of all single-race American Indian and Alaska Natives speak a language other than English at home, almost three out of every four Asian Americans speak a language other than English at home, and almost one in three Asian Americans has limited English proficiency. When limited-English proficient (LEP) voters are provided with voting materials in their native language the likelihood they will participate in the political process increases. Dr. Matt Barreto of the UCLA Latino Policy and Politics Initiative testified that studies have found, ''between a 7 and 11 point increase in voter turnout given

access to Spanish materials.'' Conversely, failure to provide the proper non-English voting materials has, ''a tremendously negative impact on those communities' ability to understand and participate in our elections.''

(4) Polling place closures, consolidations, reductions, and long wait times at the polls all disproportionately burden minority voters and can be implemented in a discriminatory manner. Issues related to polling place locations, quality, accessibility, and the ensuing long wait times to vote are pervasive. Over the past decade, it has been well documented that racial minorities wait longer to vote on election day than White voters. Additionally, disparities in polling place accessibility and wait times are compounded by the disparate impact of other discriminatory practices such as voter ID laws, voter purges, and cuts to alternative opportunities to vote. A lack of available polling place locations necessitates traveling long distances to vote, which also disproportionately burdens minority voters, in particular Native American voters. A 2019 report by The Leadership Education Fund found that between 2012 and 2018 a total of 1,688 polling places had been closed in the previously covered jurisdictions examined, almost double the rate identified in 2016. Polling place closures and long wait times have been shown to reduce the likelihood a voter will vote in a subsequent election, decreasing turnout. Minority voters not only wait longer on average, but they are also more likely to experience wait times exceeding 60 minutes, a wait time largely recognized as unacceptable. Dr. Stephen Pettigrew of the University of Pennsylvania testified that, ''[a] voter's race is one of the strongest predictors of how long they wait in line to vote: non-white voters are three times more likely than White voters to wait longer than 30 minutes and six times as likely to wait more than 60 minutes.'' Additionally, long lines negatively impact voters' confidence in the electoral system. Dr. Pettigrew testified that, ''[v]oters who wait in a long line are less likely to believe that their vote choices would be kept a secret, and less likely to be confident that their vote was counted correctly'' and that, ''[b]ecause voters' experiences at the polling place have downstream consequences on their future turnout behavior and their confidence in the electoral system, policies that widen the wait time gap between White and non-white voters have the potential to put a thumb on the electoral scale by reshaping the electorate.''

(5) Restricting access to opportunities to vote outside of traditional Election Day voting has a disproportionate and disenfranchising impact on minority voters. Early voting, and especially weekend early voting, is a critical tool to ensuring access to the ballot and reducing wait times at the polls. Specifically, Dr. Michael Herron of Dartmouth College testified that, ''changes to early voting hours that reduce pre-Election Day, Sunday voting opportunities should be expected to disproportionately affect Black voters'' and that, if a state were to eliminate Sunday early voting, ''the cost of voting for Black voters would disproportionately increase compared to White voters given the relatively heavy use of Sunday early voting by Black voters.'' However, permitting early voting opportunities without providing meaningful access to them amounts to essentially no access. In discussing access for Native American voters, Professor Patty Ferguson-Bohnee, Director of the Indian Legal Clinic at the Sandra Day O'Connor College of Law testified that, ''[e]arly voting opportunities located hours away effectively amount to no access to in-person early voting in light of the practical effects of requiring voters to travel such distances.'' Opportunities to vote such as in-person early voting, mail-in voting, curbside and drive-thru voting, or the ability to return a voted mail-in ballot at a drop box have all been used with increasing frequency by minority voters, making them a target for suppressive cutbacks and restrictions by state legislatures that will disproportionately burden those same minority voters.

(6) Changes to methods of election, jurisdictional boundaries, and redistricting impact whether voters can elect candidates that reflect their voices and communities. Discriminatory redistricting, vote dilution, changing of jurisdictional boundaries, and changes to methods of election have all been utilized throughout American elections—from local school board contests to Congressional races—to dilute growing voting power in minority communities. The country is entering the first redistricting cycle without the protections of the Voting Rights Act in more than a half century. According to a 2018 U.S. Commission on Civil Rights report on minority voting rights access, ''overall data show that there have been over 3,000 changes submitted due to redistricting in every 10-year cycle since the 1965 VRA was enacted.'' Without VRA protections, it can take years of expensive, time consuming litigation to rectify these discriminatory practices, all while elections are conducted under district maps and voting structures that are later found to be unlawful. Evidence and testimony presented to the Subcommittee clearly illustrated that these practices are enacted with discriminatory effect and intent.

Each of the chapters that follows details the evidence gathered by the Subcommittee on each of these practices—clearly demonstrating the findings of the Subcommittee that each warrants a heightened level of scrutiny and attention from Congress to ensure every American has equal, equitable access to the ballot.

The increase in voter turnout in both the 2018 and 2020 elections has not been met with celebration in statehouses across the country but has instead been met with backlash and false claims of fraud—claims that are being used to justify voter suppression and the passage of laws that will disenfranchise minority voters. Investigations have repeatedly found no evidence of widespread fraud in American elections. Fraud in American elections is vanishingly rare. A person is more likely to be struck by lightning than to commit voter-impersonation fraud. Other analyses found just 31 credible instances of impersonation fraud from 2000 to 2014, out of more than one billion ballots cast.

In 2021, our democracy is under attack. According to the Brennan Center for Justice, as of July 14, 2021, lawmakers had introduced more than 400 bills in 49 states to restrict the vote—at least four times the number of restrictive bills introduced just two years prior. To date, at least 18 states have enacted new laws containing provisions that restrict access to voting.

June 2021 marked the eighth anniversary of the Shelby County decision. That decision unleashed a torrent of voter suppression bills, many in previously covered jurisdictions, which continues today. Congress has the power—a power the U.S. Supreme Court has called ''paramount'' for 142 years—and duty to act. As detailed in this report, there is much work to be done.

CHAPTER ONE—INTRODUCTION AND THE HISTORY OF DISCRIMINATION IN VOTING

AMERICA'S LONG HISTORY OF DISCRIMINATING IN VOTING

Since the Founding, Americans have not enjoyed equal access to the ballot. At her opening, the Declaration of Independence said ''all men are created equal''—yet enslaved persons, indentured servants, Native Americans, and women were all denied the right to vote.

The Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-third, Twenty-fourth, and Twenty-sixth Amendments all expanded access to the franchise not previously experienced by millions of Americans despite the promise of equality. This expansion did not come without bitter divides and opposition. The Thirteenth, Fourteenth, and Fifteenth Amendments—known collectively as the Reconstruction Amendments—expanded access to the ballot for millions of Black Americans in the post-Civil War era, and gave Congress the power to enforce the rights granted in these Amendments through appropriate legislation.

Yet, while the immediate post-Civil War era brought about greater political representation for Black Americans, following the electoral crisis of 1876, former Confederates and their sympathizers seized control of southern state governments by brutally suppressing Black voters and eliminating the power of the Reconstruction Republican Party. By the 1890s, suppression tactics led to most African Americans having either been barred from or abandoned electoral politics as violence and economic reprisals became a constant threat to political participation and segregation was legalized. Southern legislators passed laws such as poll taxes, grandfather clauses, literacy tests, and felon disenfranchisement, with the explicit intent of removing Black voters from the rolls.

Indeed, the same barriers existed for Native Americans. In 1884, the Supreme Court held in Elk v. Wilkins that the Fourteenth Amendment did not provide citizenship to Native Americans. Not until passage of the Indian Citizenship Act in 1924 did most Native Americans gain full citizenship and voting rights without undermining or negating their right to remain a member of their tribe. Despite passage of the Act and subsequent passage of the Nationality Act of 1940, many states continued to deny Native Americans equal access to the ballot, claiming they were ineligible to vote because they were not residents of that state. Not until 1957 and 1958 did Utah and North Dakota, respectively, become the last states to afford on-reservation Native Americans the right to vote.

The Nineteenth Amendment granted women the right to vote when it was ratified in 1920. The Twenty-third Amendment allowed residents of the District of Columbia to vote for President and Vice President (1961). The Twenty-fourth Amendment outlawed poll taxes or any other tax to vote (1964), and the Twenty-sixth Amendment lowered the voting age to 18 and banned the denial or abridgement of the vote based on age (1971).

The U.S. government also systematically denied citizenship and voting rights to Asian Americans. Not until the repeal of the Chinese Exclusion Act in 1943 and the passage of the McCarran-Walter Act in 1952 were all Asian Americans granted the right to become citizens and therefore eligible to vote.

A CONSTITUTIONAL RIGHT TO VOTE

To this day, scholars argue that the Constitution does not guarantee the right to vote as a positive right—that the amendments do not provide an affirmative grant but disallow the government from restricting the franchise based on protected criteria—race, sex, paying a poll tax, and age. However, while the text of the Constitution does not explicitly provide for and protect the vote as a fundamental right, the Supreme Court has long recognized that voting is a fundamental right.

Voting and equal, equitable access to the ballot are cornerstones of creating a true democracy. Justice Hugo Black, in Wesberry v. Sanders, stated that:

''No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.''

Professor Guy-Uriel Charles of Duke Law School noted in his testimony before the Committee that, ''since at least 1886, in Yick Wo v. Hopkins, the Supreme Court has recognized that voting is a fundamental right of citizens and that its availability is critical to sustaining representative government.'' In 1964, Chief Justice Earl Warren wrote, ''[t]he right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of the representative government.'' More recently, Chief Justice John Roberts noted, ''[t]here is no right more basic in our democracy than the right to participate in electing our political leaders.''

THE VOTING RIGHTS ACT, PRECEDENT, AND SHELBY COUNTY V. HOLDER

Despite the protections from racial discrimination in voting afforded in theory under the Reconstruction Amendments, for nearly 100 years after their passage, Black Americans were ''systematically disenfranchised by poll taxes, literacy tests, property requirements, threats, and lynching.'' To address the systemic discrimination and barriers in voting, on August 6, 1965, President Lyndon B. Johnson signed the Voting Rights Act of 1965 into law.

One of the pillars of the Civil Rights laws of the 1960s, the Voting Rights Act of 1965 (''VRA'') was enacted to address election laws and practices that discriminated on the basis of race and ethnicity. In the decades following its enactment, the VRA went a long way to addressing the widespread racial discrimination in voting. The VRA was designed to fight, ''an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution.'' Prior to the passage of the VRA, when the U.S. Department of Justice obtained favorable decisions striking down suppressive, discriminatory voting practices, states would merely enact new schemes to restrict access to the ballot for Black voters.

The VRA placed a nationwide prohibition on states, or political subdivisions, from implementing voting qualifications or prerequisites, standards, practices, or procedures to, ''deny or abridge the right of any citizen to vote on the basis of race or color.'' Originally set to expire five years after enactment, the VRA was subsequently amended and extended by Congress on a bipartisan basis several times. Congress continued to support the underlying policy of the Voting Rights Act while voting to amend, expand, and extend the law five times: in 1970, 1975, 1982, 1992, and 2006.

Each time, the law was reauthorized with overwhelming, bipartisan support. Moreover, all of the multiple reauthorizations were signed into law by Republican Presidents. The 2006 reauthorization, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 passed the House of Representatives overwhelmingly following introduction by Representative James Sensenbrenner, Jr. (R–Wisc.), passed the Senate unanimously, and was signed into law by President George W. Bush.

Since the VRA's initial passage, and through the subsequent amendments and reauthorizations, the Supreme Court repeatedly affirmed Congress's authority to enact statutes that prohibit states and localities from imposing voting laws that intentionally discriminate on the basis of race or ethnicity. In South Carolina v. Katzenbach, the Court held that the Voting Rights Act was, ''a valid means for carrying out the commands of the Fifteenth Amendment.'' The Court would later uphold the Voting Rights Act again in cases such as City of Rome v. United States (1980) and Lopez v. Monterey County (1999). Furthermore, the Court has long upheld Congress's broad authority under the Constitution to pass laws and regulations governing federal elections.

The Supreme Court has long affirmed the breadth of Congress's power to enact laws regulating elections. As Professor Guy-Uriel Charles noted in his testimony before the Committee, as early as 1880, the Supreme Court noted in Ex parte Siebold that Congress's Elections Clause power to regulate Congressional elections, ''may be exercised as and when Congress sees fit to exercise it,'' and, ''necessarily supersedes,'' conflicting state regulations. Professor Charles further testified that, ''[t]hus, although the Supreme Court has at times interpreted federalism as a constraint on Congressional power derived from the Fourteenth and Fifteenth Amendments, Congress' power to regulate federal elections is uniquely unencumbered by federalism constraints.''

Professor Franita Tolson of the University of Southern California Gould School of Law testified before the Committee that, despite the view by some that exercises of federal authority under the Elections Clause as a somewhat unwelcome intrusion on the states' authority to legislate with respect to federal elections, ''Congress can disregard state sovereignty in enacting and enforcing legislation passed pursuant to the Elections Clause.'' Additionally, Professor Daniel P. Tokaji of the University of Wisconsin Law School testified that the Court's, ''most recent—and arguably most important—explications,'' of Congress's power came in Arizona v. ITCA, in which the Court noted that, ''the usual presumption against federal preemption of state law does not apply to legislation enacted under the Elections Clause . . . While states historically enjoyed broad police powers over other matters, their regulation of congressional elections has always been subject to congressional revision or reversal.''

The Supreme Court has also long held that Congress's power to enforce the Fourteenth and Fifteenth Amendments extends beyond intentional discrimination. In City of Rome v. United States, the Court considered a municipality's challenge to the constitutionality of Section 5 of the VRA, to the extent that it authorized invalidation of a state or local election law based solely on evidence that the law had a discriminatory effect. The Court rejected the municipality's constitutional challenge, holding that Congress's power to enforce the Reconstruction Amendments extended beyond prohibiting intentionally discriminatory voting laws. The Court reasoned that Congress's authority to enforce the Reconstruction Amendments is coextensive with its authority under the Necessary and Proper Clause, which empowers Congress to enact any law that is, ''appropriate,'' ''adapted to carry out the objects,'' of the Fourteenth or Fifteenth Amendment, and not prohibited by another provision in the Constitution.

Applying that test, City of Rome made clear that, ''under the Fifteenth Amendment, Congress may prohibit voting practices that have only a discriminatory effect.'' In particular, ''under § 2 of the Fifteenth Amendment Congress may prohibit practices that in and of themselves do not violate § 1 of the Amendment [in that they are intentionally discriminatory], so long as the prohibitions attacking racial discrimination are 'appropriate,' as that term is defined in McCulloch v. Maryland and Ex parte Virginia.''

Despite decades of precedent that uphold Congressional power and the VRA, in 2013, the Supreme Court struck down portions of the 2006 VRA reauthorization in Shelby County v. Holder (''Shelby County'' or ''Shelby''), leaving American voters vulnerable to tactics of suppression and discrimination. In its ruling, the Court struck down Section 4(b) as outdated and not ''grounded in current conditions.'' The Supreme Court ruled that Section 4(b)'s coverage formula violated implicit equal sovereignty principles in the Constitution because it treated states differently—requiring certain states and localities, but not others, to obtain preclearance—but relied on sometimes decades old data to justify that differential treatment.

The Court found the data upon which Congress relied in reauthorizing the VRA—evidence dating to the 1960s and 1970s of differential registration rates between White and Black voters and the use of literacy tests to depress minority voting, for example—to be insufficient to meet that standard, particularly in light of documented improvements in minority voter registration rates and turnout. By invalidating the coverage formula, Shelby County essentially rendered Section 5 inoperable, allowing previously covered states and localities to make changes to their voting laws without seeking preclearance from the Department of Justice.

At the same time the Court upended the VRA, Chief Justice Roberts conceded that discrimination in voting still exists, writing, ''[a]t the same time, voting discrimination still exists; no one doubts that.'' Despite this, Chief Justice Roberts' majority opinion declared that the data before the Court undergirding the reauthorization of the VRA was outdated:

''The question is whether the Act's extraordinary measures, including its disparate treatment of the States, continue to satisfy constitutional requirements. As we put it a short time ago, ''the Act imposes current burdens and must be justified by current needs.''

The Chief Justice did, however, expressly suggest that Congress may remedy this and restore the effect of the preclearance regime by updating the coverage formula, providing a roadmap for Congressional action:

''Striking down an Act of Congress 'is the gravest and most delicate duty that this Court is called on to perform.' Blodgett v. Holden, 275 U. S. 142, 148 (1927) (Holmes, J., concurring). We do not do so lightly. That is why, in 2009, we took care to avoid ruling on the constitutionality of the Voting Rights Act when asked to do so, and instead resolved the case then before us on statutory grounds. But in issuing that decision, we expressed our broader concerns about the constitutionality of the Act. Congress could have updated the coverage formula at that time, but did not do so. Its failure to act leaves us today with no choice but to declare §4(b) unconstitutional. The formula in that section can no longer be used as a basis for subjecting jurisdictions to preclearance.''

''Our decision in no way affects the permanent, nationwide ban on racial discrimination in voting found in §2. We issue no holding on §5 itself, only on the coverage formula. Congress may draft another formula based on current conditions. Such a formula is an initial prerequisite to a determination that exceptional conditions still exist justifying such an 'extraordinary departure from the traditional course of relations between the States and the Federal Government.' Presley, 502 U.S., at 500–501. Our country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.''

Without the full protections of the VRA, states are free to implement discriminatory

voting laws without preemptive Justice Department oversight. While Section 2 of the VRA remains an avenue for combatting discriminatory voting laws in the courts, Section 2 lawsuits are reactive, filed only after laws have been enacted, often take years and extensive resources to litigate, and all while elections may be conducted under restrictions later found to be unlawful. Prior to the Supreme Court's decision in Shelby County, nine states were covered by statewide preclearance requirements under the VRA's coverage formula in Section 4(b) and the preclearance regime of Section 5. Preclearance required the states and localities captured under the coverage formula to seek and receive administrative approval from the U.S. Department of Justice (''DOJ'' or ''Justice Department'') or judicial review by the U.S. District Court for the District of Columbia prior to making changes to their voting laws. At the time Shelby County was decided, Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia were the states covered as a whole. Additionally, counties in California, Florida, New York, North Carolina, South Dakota, and townships in Michigan, were previously covered under Section 5 though each state itself was not covered as a whole. Throughout the history of the VRA, counties have also ''bailed out'' of coverage—meaning they were once subject to the preclearance regime of Section 5, but successfully obtained a declaratory judgment under Section 4 and thus were no longer subject to preclearance.

Hours after Shelby County was decided, states moved to enact restrictive voting laws. Texas revived a previously blocked voter ID law. Within days, Alabama announced it would move to enforce a photo ID law it had previously refused to submit to the DOJ for preclearance. Within months, New York broke from past practices and declined to hold special elections to fill 12 legislative vacancies, denying representation to 800,000 voters of color.

Less than two months after the Supreme Court struck down the preclearance provisions, North Carolina state legislators wasted no time passing an omnibus ''monster law.'' State Senator Tom Apodaca (then-Chairman of the North Carolina Senate Rules Committee) said the State did not want the ''legal headaches'' of having to go through preclearance if it was not necessary to determine which portions of the proposal would be subject to federal scrutiny, ''so, now we can go with the full bill,'' he added. He predicted at the time that an omnibus voting bill would surface in the Senate the next week that could go beyond voter ID to include issues such as reducing early voting, eliminating Sunday voting, and barring same-day voter registration.

This pattern continued, and in 2016, 14 states had enacted new voting restrictions for the first time in a presidential election, including previously covered states such as Alabama, Arizona, Mississippi, South Carolina, Texas, and Virginia. In 2017, two additional states, Arkansas and North Dakota, enacted voter ID laws. In 2018, Arkansas, Indiana, Montana, New Hampshire, North Carolina, and Wisconsin enacted new restrictions on voting, ranging from restrictions on who can collect absentee ballots, to cuts to early voting, restrictions on college students, and enshrining voter ID requirements in a state constitution. In 2019, Arizona, Florida, Indiana, Tennessee, and Texas enacted new restrictions. As of the end of 2019, the Brennan Center for Justice (''Brennan Center'') reported that, since 2010, 25 states had enacted new voting restrictions, including strict photo ID requirements, early voting cutbacks, and registration restrictions. A new wave of voter suppression bills has emerged in the wake of the 2020 general election, with restrictive voting bills being signed into law in at least 18 states at the time of this writing.

Despite the Court's decision, several key provisions of the VRA remain in place. For example, the language access requirements contained in Sections 4(e), 4(f)(4), 203, and 208 remain intact. Section 2 is also a key enforcement mechanism for the DOJ and outside litigators to protect voting rights nationwide. Section 2 of the VRA applies a nationwide prohibition against the denial or abridgment of the right to vote on the basis of race or color and was later amended to include language minorities.

Since the Shelby County decision invalidated the coverage formula for preclearance, voting rights groups, litigators, and the Department of Justice are left to file lawsuits arguing that voting changes would discriminatorily reduce minority citizens' ability to cast a ballot or elect candidates of their choice—a remedy that is in many ways inadequate to fully protect the right to vote. Voters and advocates are forced to reactively fight to protect the right to vote, rather than states and localities having to prove prior to implementation that their laws will not discriminate against protected classes of voters.

On July 1, 2021, the Supreme Court held in Brnovich v. DNC that Arizona's laws restricting third-party ballot return and out-of-precinct voting were lawful and did not violate Section 2's ban on discriminatory effect in voting, nor were they enacted with discriminatory purpose. In doing so, Justice Samuel Alito, writing for the majority, articulated an entirely new standard for reviewing Section 2 vote denial claims, weakening one of the last pillars of the VRA and fail-safes against discriminatory voting laws. Justice Alito held that, ''the mere fact that there is some disparity in impact,'' is now no longer dispositive, but rather, ''the size of the disparity matters.'' Further, Justice Alito provided that, ''courts must consider the opportunities provided by a State's entire system of voting when assessing the burden imposed by a challenged provision''—rather than evaluating the provision on its individual merits. Finally, Justice Alito went a step further, stating that, ''prevention of fraud'' is a ''strong and entirely legitimate state interest,'' even if there is no evidence of fraud having ever occurred, and that rules that are supported by strong state interests are, ''less likely to violate'' Section 2.

In writing for the dissent in Brnovich, Justice Elena Kagan admonished the majority for weakening a seminal statute and creating its own standard and set of guideposts where one did not exist in the statute. Justice Kagan stated:

''Today, the Court undermines Section 2 and the right it provides. The majority fears that the statute Congress wrote is too ''radical''—that it will invalidate too many state voting laws. So the majority writes its own set of rules, limiting Section 2 from multiple directions. Wherever it can, the majority gives a cramped reading to broad language. And then it uses that reading to uphold two election laws from Arizona that discriminate against minority voters . . . What is tragic here is that the Court has (yet again) rewritten—in order to weaken—a statute that stands as a monument to America's greatness, and protects against its basest impulses.''

Justice Kagan argued that the majority had strayed far from the text of Section 2 in its ruling, its analysis permitting, ''exactly the kind of vote suppression that Section 2, by its terms, rules out of bounds.''

THE SUBCOMMITTEE ON ELECTIONS INVESTIGATION OF CURRENT DISCRIMINATION IN VOTING

In exercising Congress's authority and jurisdiction over federal elections, the Committee on House Administration (''Committee'') has broad jurisdiction under Rule X of the Rules of the House to oversee the administration of federal elections. In exercising that jurisdiction, Speaker of the House Nancy Pelosi (D–Calif.) and Committee Chair Zoe Lofgren (D–Calif.) reconstituted the Committee on House Administration's Subcommittee on Elections (''Subcommittee'') at the outset of the 116th Congress.

Subsequently, spanning the leadership of then-Subcommittee Chair Marcia L. Fudge (D–Ohio) and current Chair G. K. Butterfield (D–N.C.), the Subcommittee embarked during the 116th and 117th Congresses to hold more than a dozen hearings to collect the contemporaneous evidence and data called for by Chief Justice Roberts and the Court's majority in Shelby.

In building upon investigatory hearings conducted in the 116th Congress, in the 117th Congress the Subcommittee identified the practices with what appeared to be the most abundant evidence of discriminatory impact on minority voters and endeavored to examine those practices in greater detail.

Across the Subcommittee's five hearings, the Subcommittee received testimony from more than 35 witnesses, gathering and examining evidence of ongoing discrimination in the election practices of: (1) voter list maintenance and voter purges; (2) voter identification and documentary proof-of-citizenship laws; (3) lack of access to multi-lingual voting materials and assistance; (4) polling place closures, consolidations, relocations, and long wait times; (5) restrictions on opportunities to vote; and (6) changes to method of elections, jurisdictional boundaries, and redistricting. Furthermore, the Subcommittee examined the state of voting rights enforcement and protection in the post-Shelby County era.

The practices examined are perennial barriers faced by voters. According to testimony from Marcia Johnson-Blanco of the Lawyers' Committee for Civil Rights Under Law (''Lawyers'' Committee''), during the 2020 General Election cycle, the top issues raised through the organization's nationwide, nonpartisan voter protection program included, ''questions and concerns about mail-in and absentee ballots, as well as voter ID and registration . . . Election Day also brought calls of polling place accessibility issues, and concerning calls complaining of voter intimidation and electioneering.'' The Subcommittee's lengthy proceedings and examination revealed that each of the practices identified impose significant, discriminatory burdens on minority voters.

The evidence before the Subcommittee includes locality-and state-specific, as well as nationwide, studies demonstrating that the election practices examined impose a variety of discriminatory burdens, ranging from disproportionately decreased registration and turnout among minority voters, disproportionately high costs to register and cast a ballot, disproportionately increased risk that a ballot will be thrown out, and a disproportionate dilution of voting power. The record also includes extensive testimony from litigators and voting rights practitioners who confront these discriminatory voting laws and practices on a regular and increasingly frequent basis in courtrooms, governmental proceedings, and on voting days.

As Debo Adegbile, Partner at Wilmer Hale, LLC and Member of the U.S. Commission on Civil Rights, noted in his testimony before

the Subcommittee, the expansion of the franchise has routinely been met with resistance:

''We currently stand at an inflection point, but it is not unprecedented. The Fifteenth Amendment's expansion of the right to vote was met with the creation of poll taxes and literacy tests. The rise of minority voting power after the Voting Rights Act was met with the expansion of at-large elections. The National Voter Registration Act (i.e., the Motor Voter Law) and the narrow margin of the 2000 presidential election were answered by a wave of spurious voter ID laws. Now, record voter turnout, despite a pandemic, is almost predictably sparking renewed efforts to make it even harder to vote.''

While states have been enacting discriminatory, restrictive voting laws in the years since Shelby County, that effort has significantly increased in response to the largest voter turnout in 120 years experienced in the 2020 General Election.

According to the Brennan Center, as of July 14, 2021, lawmakers had introduced more than 400 bills in 49 states to restrict the vote. This is at least four times the number of restrictive bills introduced just two years prior, with at least 18 states having enacted new laws containing provisions that restrict access to voting. A Brennan Center report from May 2021 states that, ''[t]he United States is on track to far exceed its most recent period of significant voter suppression—2011. By October of that year, 19 restrictive laws were enacted in 14 states. This year, the country has already reached that level, and it's only May.''

Michael Waldman, President of the Brennan Center for Justice, noted in his testimony before the Subcommittee that these bills were introduced with the intention of rolling back voting rights, observing that, ''[c]rucially, these are not backbenchers tossing a bill in the hopper in the hope of getting a good day on Twitter.'' Indeed, as of June 21, 2021, 17 states have enacted 28 new laws that restrict access to the vote. Moreover, Mr. Waldman testified that ''[a]s in previous eras, these laws and proposals purport to be racially neutral,'' yet, ''[i]n fact, often they precisely target voters of color.''

Congress has a long history of exercising its legislative authority and constitutional powers to legislate to protect access to the franchise. In the eight years since Shelby County was decided, Congress has failed to act on what has historically been a bipartisan endeavor—ensuring every American has an equal and equitable opportunity to cast a ballot and participate in democracy. As Justice Kagan notes in her dissent in Brnovich, ''[i]ndeed, the problem of voting discrimination has become worse since that time—in part because of what this Court did in Shelby County. Weaken the Voting Rights Act, and predictable consequences follow: yet a further generation of voter suppression laws.''

This report and the record compiled by the Subcommittee illustrate the urgent need for action.

CHAPTER TWO—DISCRIMINATORY PRACTICES IN VOTING: AN OVERVIEW

OVERVIEW

Since the Supreme Court decided Shelby County v. Holder in 2013, states across the country have enacted voting laws and election administration policies that restrict access to the ballot in a discriminatory and suppressive manner, one that disproportionately impacts minority voters.

Over the last two Congresses, the Subcommittee on Elections of the Committee on House Administration undertook an extensive fact-finding series of hearings to study and understand the extent to which all voters across the United States have access to, or face barriers to, the ability to cast their ballot freely and fairly. Tellingly, with respect to the voting and election administration practices examined by the Subcommittee, the variety of sources examined, and testimony gathered all point to the same conclusion—the record demonstrates that the election administration laws and practices at issue disproportionately burden minority voters, denying many the free and equal access to the vote guaranteed by Federal law and the Constitution.

During the 116th Congress, the Subcommittee cast a wide evidentiary net, examining all manner of election administration and voting laws to identify which, if any, practices discriminate against minority voters. In doing so, the Subcommittee held eight hearings and a listening session, called more than 60 witnesses, gathered several thousand pages of testimony, documents, and transcripts, and received hours of oral testimony. Throughout those hearings, the Subcommittee found extensive evidence of numerous practices that do, or have the potential to, discriminate and suppress access to the ballot, culminating in a report released in November 2019 entitled Voting Rights and Election Administration in the United States of America.

The barriers to voting faced by millions of Americans did not subside in the 2020 election— in many instances they were, in fact, exacerbated. During the first six months of the 117th Congress, building upon the record built in the 116th Congress, the Subcommittee on Elections, under the leadership of Chairman G. K. Butterfield (D–N.C.) identified a key subset of issues explored in the prior Congress that exhibited the most substantial evidence of disproportionate and discriminatory impact on voters, particularly minority voters, for further, in-depth examination.

Over the course of five hearings, the Subcommittee conducted a substantive examination of the issues of: (1) discriminatory voter list maintenance practices and voter purges; (2) the discriminatory impact of voter ID and documentary proof-of-citizenship requirements; (3) the ongoing lack of access to multi-lingual voting materials and assistance; (4) the disparate impact of polling place closures, consolidations, relocations, and wait times at the polls; (5) restrictions on additional opportunities to vote; and (6) changes to methods of election, jurisdictional boundaries, and redistricting. In concluding the evidence gathering process, the Subcommittee examined the national landscape of voting rights in America in the eight years since the Supreme Court struck down one of the key pillars of the VRA.

Importantly, the evidence detailed in this report is ''current,'' as called for by Chief Justice Roberts and the Court's majority in Shelby. This report examines a substantial body of evidence, the vast majority of which derives from elections and legislative sessions conducted in the last 10 years, with much of the evidence relating to elections occurring within the years post-Shelby County.

Over the course of testimony received from more than 35 witnesses and numerous hours of hearings, not only did the Subcommittee find substantial evidence that the election administration and voting practices examined throughout the hearings and in this report have a discriminatory effect on minority voters, but Members also found substantial evidence that there is a significant risk these discriminatory effects are the product of a discriminatory purpose. The extensive evidence recounted throughout this report, that the burdens of the election administration laws and practices, ''bears more heavily on one race than another,'' is illustrative of the laws' and practices' discriminatory purpose. Additionally, as is noted in the discussion of some voting laws and practices later in this report, courts have looked at whether voting is ''racially polarized,'' which provides a controlling party disfavored by minority voters with, ''an incentive for intentional discrimination in the regulation of elections'' in determining when a practice is discriminatory and have found some of the practice examined by to Subcommittee to fit this set of circumstances.

However, consistent with the Court's admonition that Congressional factfinders must consider a variety of facts and circumstances in determining whether a law had its genesis in its discriminatory purpose, the Subcommittee looked beyond evidence of solely discriminatory effect in finding that there is a high risk these laws and practices are attributable to a discriminatory purpose. The background and context of many of the laws were suggestive of a discriminatory purpose. Many were enacted in the immediate or near aftermath of the Shelby County decision on party-line votes in previously covered jurisdictions with a well-documented history of racially polarized voting—others had already been rejected by the Department of Justice under the Section 5 preclearance regime.

Further, public officials and election administrators made troubling statements regarding some of the laws and practices at issue that bear the hallmarks of discriminatory purpose. The Subcommittee also found evidence that some states and localities knew the laws would have discriminatory effects, but enacted them nevertheless, without including safeguards to protect the interests and rights of minority voters, as is illustrated in some of the examples discussed throughout this report. Additionally, states and localities provided unsupported or pretextual race-neutral justifications for many of the laws and practices. Several of the laws and practices were enacted just as minority groups disproportionately burdened by the voting laws or practices were gaining political influence.

The Subcommittee is not alone in finding that there is a significant risk that the laws and practices discussed in this report pose a high risk of being enacted for a discriminatory purpose. Based on some of the evidence described above and throughout this report, courts have found several of these laws were enacted with discriminatory intent or otherwise violated Federal law or the Constitution.

Section 2 of the Voting Rights Act has proved a powerful, but inadequate tool for protecting the right to vote and access to the ballot in the post-Shelby era. Section 2 authorizes private actors and the Department of Justice to challenge discriminatory voting practices in the federal courts. As Janai Nelson, Associate Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (''NAACP Legal Defense Fund'' or ''LDF'') stated in testimony before the Subcommittee:

''Section 2 applies nationwide and places the burden on voters harmed by voting discrimination to bring litigation to challenge a law that has discriminatory results and/or discriminatory purpose. Section 2's 'permanent, nationwide ban' on racially discriminatory dilution or denial of the right to vote is now the principal tool under the VRA to block and remedy these new discriminatory measures.''

Ms. Nelson testified that, ''there have been at least nine federal court decisions finding that states or localities enacted racially discriminatory voting laws or practices intentionally, for the purpose of discriminating

against Black voters, Latino voters, or other voters of color.'' Ms. Nelson testified further that, ''litigation is slow and costly—and court victories may come only after a voting law or practice has been in place for several election cycles.'' The parties engaged in litigation often spend millions of dollars litigating these cases, they take up significant judicial resources, and the average length of Section 2 cases is two to five years.

While court cases are ongoing, numerous elections for the Presidency, Congress, state, and local government seats may have come and gone. Thomas Saenz, President and General Counsel of the Mexican American Legal Defense and Educational Fund (''MALDEF'') stated in his testimony that, ''[t]here is simply no way that non-profit voting rights litigators, even supplemented by the work of a reinvigorated Department of Justice Civil Rights Division, could possibly prevent the implementation of all of the undue ballot-access restrictions and redistricting violations that are likely to arise in the next two years.''

The evidence is clear: lawsuits filed under Section 2 and other provisions of law and the Constitution cannot and do not substitute for proactive protections of voting rights and cannot serve as the sole vanguard against discriminatory voting and election administration practices. Additionally, the Supreme Court's recent decision in Brnovich v. DNC likely makes it harder for voting rights litigators and the Department of Justice to protect the right to vote through Section 2 litigation.

The November 2020 general election saw record-setting voter turnout, with over 158 million ballots cast and the highest turnout as a percent of the voting eligible population in 120 years. While some may cite recent voter registration and voter turnout numbers as alleged examples and evidence that the effects of Shelby have been minimal, those numbers alone do not tell the whole story. For example, Dr. Matt Barreto of the UCLA Latino Policy and Politics Initiative stated in testimony before the Subcommittee that, ''[s]ingular focus on turnout without centralizing the real impact of such burdens on access to the franchise is one-dimensional, operating within the subtext of racial power to reproduce the inequalities that demand the attention of political scientists in the first place.'' As the evidence before the Subcommittee clearly demonstrates, record turnout, and voter turnout generally, does not discredit or discount the existence of barriers to accessing the franchise.

Additionally, state legislatures across the country have responded to the increase in voter participation not with more or sustained access to the ballot, but with false claims of fraud, election irregularities, and perpetuation of the ''Big Lie'' that the 2020 election was somehow rigged and stolen. The ongoing epidemic of misinformation and disinformation in our elections does not only polarize the electorate and fuel attempts to legislate voter suppression, but it also targets and suppresses minority votes. As Spencer Overton, President of the Joint Center for Political and Economic Studies testified before the Subcommittee in 2020, the disinformation targeted at Black voters, for example, on social media platforms in the 2016 election cycle continued in the 2020 cycle. Mr. Overton testified that both foreign and domestic actors, ''used online disinformation to target and suppress Black votes.'' Additionally, a report from NPR in the final days of the 2020 election found that Black and Latino voters were flooded with disinformation in the final days of the 2020 election with an unmistakable intent to depress turnout among minority voters.

The spread of mis- and disinformation only continued with false claims of unlawful ballots being cast and widespread fraud—much of which was alleged to be in areas where large numbers of ballots were cast by minority voters. These claims have all been repeatedly disproven, yet states are using them as false pretenses to push forward an onslaught of new voting laws designed to make it harder for voters to participate in future elections, laws that will disproportionately and discriminatorily impact the ability of minority voters to cast a ballot.

As Wade Henderson, Interim President and CEO of the Leadership Conference on Civil and Human Rights (''The Leadership Conference'') testified:

''The assault on our freedom to vote has only grown more dire. After historic turnout, politicians peddled lies, tried to discount the votes of communities of color, and attempted to override the will of the people. . . . Now they have doubled down on attempts to reshape the electorate for their own gain. . . . These restrictions disproportionately burden voters of color. They resemble the very strategies that led Congress to adopt the Voting Rights Act in the first place.''

The evidence before the Subcommittee is conclusive—the practices discussed below, and the manner in which they are implemented, are wielded with both discriminatory intent and effect, unlawfully erecting barriers to the ballot for minority voters across the country. The voting discrimination acknowledged by Chief Justice Roberts in Shelby does still exist. It is the conclusion of the Subcommittee's hearings and this report that these practices warrant stricter protections to ensure every voter has unfettered access to the ballot promised to them under the Constitution and Federal law.

Chapter Three—Voter List Maintenance Practices and the Purging of Eligible Voters

Background

Voter purging is often performed under the guise of routine voter list maintenance. Some argue that opponents of voter purges are preventing state and local election officials from preforming necessary, mandated list maintenance. Proponents of voter purging often raise the specter of deceased persons or voters who have moved remaining on the rolls, of ''bloated'' voter rolls, or insidious claims of non-citizens being on the rolls, leading to voter fraud. However, there is no credible evidence of widespread voter fraud in American elections. For example, a comprehensive analysis published by the Washington Post found only 31 credible instances of voter fraud between 2000 and 2014—out of one billion ballots cast.

List maintenance is the law of the land and the process by which state and local governments remove ineligible voters from their voting rolls. The National Voter Registration Act (''NVRA''), or ''motor voter'' law, is the principal federal statute governing state maintenance of voter registration rolls. The NVRA was signed into law on May 20, 1993, by President Bill Clinton, following decades of efforts to establish a national voter registration system to address low voter turnout and increase voter registration opportunities that began soon after passage of the VRA in 1965. Enacted pursuant to Congress's authority under the Elections Clause, the NVRA governs voter registration procedures for federal elections. Nevertheless, nearly all states use the NVRA-prescribed process for maintaining their voter rolls for both state and federal elections.

In addition to establishing voter registration procedures, the NVRA provides that ''each State shall . . . conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—(A) the death of the registrant; or (B) a change in the residence of the registrant. . . .'' The NVRA provides that any, ''program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter roll for elections for Federal office'' must meet two requirements. First, the program or activity must be, ''uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.'' Second, the program or activity must ''not result in the removal of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote,'' unless certain conditions are satisfied.

The NVRA describes one form of ''voter removal program[]'' that states may use to remove voters (referred to in the statute as ''registrants'') who have moved to an address outside of a jurisdiction. In particular, states can use, ''change-of-address information supplied by the Postal Service . . . to identify registrants whose addresses might have changed.'' A state may not remove a registrant from its voter rolls on grounds that the registrant has changed residence unless the registrant does one of two things: (1) confirms in writing that the registrant has changed residence to a place outside the jurisdiction or (2) it ''appears'' from information provided by the Postal Service that the registrant has moved to a different address in a different jurisdiction and a ''notice'' procedure is used to ''confirm'' that the registrant has, in fact, changed address to a new jurisdiction. Under the notice procedure, a state must send a postage pre-paid and pre-addressed return card notifying the registrant of certain rights and obligations, and allowing a registrant to provide the state with the registrant's current address. If a registrant fails to respond to the notice, the state may, but is not required to, remove the registrant only if the registrant fails to vote in two federal elections after the date of the notice.

A second federal law governing state voter registration lists—the Help America Vote Act of 2002 (''HAVA''), passed in the wake of the 2000 Presidential election—mandates the creation of statewide voter registration databases for all elections to federal office that include the ''name and registration information of every legally registered voter in the State.'' HAVA requires that the database be created and maintained in a ''uniform and nondiscriminatory manner.'' HAVA requires that state or local officials perform ''list maintenance'' on a ''regular basis'' in accordance with the provisions in the NVRA. For the purposes of identifying felons and deceased individuals subject to removal, HAVA requires that the state coordinate with state agencies maintaining records on felony status and death.

HAVA further requires that states implement, consistent with NVRA, systems ''of file maintenance that make[] a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters,'' under which ''registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.''

When done improperly, voter list maintenance and voter purges disenfranchise otherwise eligible voters, use unreliable practices and data that disproportionately sweep in, and ultimately disenfranchise minority voters, often occurring too close to an election

for a voter to correct the error if registration deadlines have passed. Practices of voter purging have raised serious concerns in recent years.

THE DISPROPORTIONATE AND DISCRIMINATORY BURDEN AND IMPACT OF LIST MAINTENANCE PRACTICES ON MINORITY VOTERS

Evidence received by the Subcommittee demonstrates that misconceived voter list maintenance efforts have erroneously sought to remove hundreds of thousands of properly registered voters and, in doing so, disproportionately burdened minority voters.

Following the Shelby County decision, several states, including those previously covered by Section 5 preclearance, have removed millions of registered voters from their voter rolls. As Michael Waldman, President of the Brennan Center for Justice, stated in his testimony before the Subcommittee, ''abusive purges can remove duly registered citizens, often without their knowledge.'' Mr. Waldman further testified that, ''purges have surged in states once subject to federal oversight under the VRA . . . states once covered by Section 5 saw purges at a 40 percent higher rate than the rest of the country.''

The Brennan Center reports that more than 17 million voters were removed from the rolls nationwide between 2016 and 2018. In testimony during the 116th Congress, Mr. Waldman noted that the purge rate outpaced growth in voter registration (18 percent) or population (6 percent) and that the Brennan Center had calculated that two million fewer voters would have been purged between 2012 and 2016 if jurisdictions previously covered by Section 5 of the Voting Rights Act had purged their voter rolls at the same rate as other non-covered jurisdictions. Kevin Morris, Researcher with the Brennan Center, stated in his testimony before the Subcommittee that:

''Put differently, this means that the end of the preclearance condition did not result in a one-time 'catch-up' of voter list maintenance, but rather ushered in a new era in which the voter list maintenance practices of formerly covered jurisdictions were substantially more aggressive than other demographically-similar jurisdictions that were not covered under the VRA. . . . Simply put, Shelby County allowed and effected increased voter purges in counties with demonstrated histories of racially discriminatory voting rules.''

In several recent cases, states were found to have improperly sought to remove properly registered voters. For example, after the State of Wisconsin identified 341,855 registrants as potentially subject to removal on the basis of having moved, thousands of individuals showed up to vote in the following election at their address of registration, indicating that Wisconsin had improperly flagged such registrants as likely movers. Joshua Kaul, Attorney General for the State of Wisconsin testified that, of the voters initially listed on the ''movers report,'' over 6,000 voters responded to the postcards sent out to the potential ''movers'' and therefore kept their registration active, however, many more were erroneously deactivated and left off the poll book even though they had not moved. Attorney General Kaul further testified that, during the 2018 Spring Primary, Wisconsin Elections Commission staff reported that, ''while available data from the DMV implied many had moved, some of the voters, in fact, had not moved,'' and that ''[o]verall, 12,133 [voters] were proactively reactivated by staff or were stopped from being deactivated due to these data discrepancies.'' A study of Wisconsin's process found that at least four percent of the registrants who were identified as potential movers and who did not respond to a subsequent postcard cast a ballot at their address of registration, with minority registrants twice as likely as white registrants to do so.

The State of Arkansas moved to purge nearly 8,000 voters from the rolls on grounds that they were ineligible to vote due to a felony conviction—in Arkansas, those who have been convicted of a felony lose their right to vote until their sentence is completed or they are pardoned. In actuality, however, the list included a high percentage of voters who were indeed eligible and, in fact, some had never been convicted of a felony or had had their voting rights restored.

Thomas Saenz of MALDEF noted in his testimony before the Subcommittee that, ''MALDEF and others also had to challenge an attempt to purge thousands of naturalized Texans, who were targeted through Motor Vehicles data that the state knew were outdated and would not reflect recent naturalizations.'' Texas erroneously tried to remove tens of thousands of voters on grounds that they were non-citizens. Evidence subsequently showed that virtually all the registrants targeted by the effort were, in fact, citizens eligible to vote.

Additionally, an analysis conducted by a non-partisan group found that, of the more than 300,000 registrants Georgia purged in 2019 for having changed residence, 63.3 percent still lived at the residence identified on the voter registration. The analysis found the Georgia erroneously purged nearly 200,000 voters from its rolls.

In many cases, the percentage of voters from racial or language minority groups subject to removal under these recent, large-scale, and often errant, voter roll purge efforts exceeded such groups' representation in the overall population. For example, in 2012 the State of Florida created a list of 182,000 registrants potentially subject to purge on the grounds that the registrants were non-citizens. The percentage of registrants included in the list that were Hispanic (61 percent) substantially exceeded the percentage of Hispanics in Florida's overall population (16 percent). Litigation in the case of Mi Familia Vota Education Fund v. Detzner showed that this change should have been submitted for preclearance as a statewide change impacting formerly covered counties in Florida under Section 5. NAACP LDF's Democracy Diminished report noted that a 2018 report found that since 2016, Florida has purged more than seven percent of voters.

Likewise, mailers initiating the Wisconsin voter purge effort were disproportionately sent to counties with disproportionately large Black and Latino populations. According to Demos, while the Black voting population comprises only 5.7 percent of Wisconsin's total electorate, ''the highest concentrations of 2019 ERIC mailers were sent to areas that are home to the largest Black voting population in Wisconsin.'' Demos reported that over one-third of the mailers sent to voters on the 2019 ERIC list went to the two counties where the vast majority of Wisconsin's Black voters reside—Milwaukee and Dane—two counties that are home to three quarters of Wisconsin's Black voters.

A 2016 analysis of an Ohio removal effort found that the effort disproportionately removed voters in in-town African American neighborhoods relative to predominantly white suburbs—''in predominantly African American neighborhoods around Cincinnati, 10 percent of registered voters had been removed due to inactivity in 2012, compared to just 4 percent in the suburban Indian Hill.'' And a purge of registrants in Brooklyn, New York, removed 14 percent of voters in Hispanic-majority districts compared to 9 percent of voters in other districts.

Several approaches states have taken to culling voter rolls have been shown to disproportionately remove properly registered minority voters. To begin, a number of states, including Florida, Georgia, Iowa, Minnesota, Tennessee, and Texas, have sought to remove registrants on the basis that they were non-citizens, often using state and federal databases that can contain inaccurate information. To identify non-citizen registrants, for example, Florida used its Department of Motor Vehicles (''DMV'') and the federal Systematic Alien Verification for Entitlements (''SAVE'') databases and sought to match citizenship information in those databases with its voting rolls.

As explained in the Subcommittee's prior report, the SAVE database is used at times to verify immigration status when an individual interacts with a state—however, SAVE does not include a comprehensive and definitive listing of U.S. citizens and states have been cautioned against using it to check eligibility. Drivers' license databases have also proven to be inaccurate for verifying voter registration lists.

According to the U.S. Commission on Civil Rights' (''USCCR'') 2018 report, the list of 182,000 registrants was created by comparing the voting rolls to drivers' license databases, ''which is an extremely faulty method as drivers' license databases do not reflect citizenship,'' and was then cut back to approximately 2,600. Because, among other reasons, DMV records and SAVE databases are not generally updated to remove subsequently naturalized individuals, Florida's reliance on those databases to identify voters subject to being purged erroneously identified numerous registrants as non-citizens, the vast majority of whom were Latino, Hispanic, or Black. For example, of the 1,572 individuals that were notified by Miami-Dade County that they were potentially subject to purge as identified non-citizens, 98 percent of the respondents (549 out of 562) provided evidence that they were citizens and eligible to vote.

Similarly, Texas used DMV records to try to identify non-citizens to remove from its voting rolls. Texas officials initially claimed that the DMV matching effort identified 95,000 non-citizens as registered to vote (58,000 of whom had voted in the previous election). However, because the DMV data did not account for subsequently naturalized citizens, the effort erroneously flagged thousands of individuals who were lawfully registered to vote. In Harris County, Texas, alone, approximately 60 percent of the voters flagged for removal produced evidence confirming their citizenship and entitlement to vote.

An audit of a sample of the remaining registrants identified by the DMV database matching effort as ''non-citizens'' yielded no non-citizens. Because over 87 percent of Texas' naturalized citizens are Black, Latino, or Asian, these falsely identified non-citizens were overwhelmingly minority voters. Sonja Diaz, Founding Executive Director of the Latino Policy and Politics Initiative at the University of California, Los Angeles (''UCLA LPPI'') notes in her testimony that, ''[t]he disingenuous targeting of naturalized voters was not unique to Texas, but also found in 16 states where inaccurate immigration data identified and purged rightfully registered Latino voters.''

The NAACP Legal Defense Fund's report Democracy Diminished noted an additional example of attempts to wrongfully or inaccurately purge voters from the voting rolls, such as in Alabama when, in 2012, parties entered into a partial consent agreement to resolve issues under Section 5 of the VRA and blocked the City of Evergreen from continuing to implement an un-precleared discriminatory voter purge based on utility

records that omitted eligible voters from a voter registration list, ''including nearly half of the Conecuh County registered voters who reside in districts heavily populated by Black people.''

Additionally, several states have relied, or tried to rely, on multi-state databases—Interstate Voter Registration Crosscheck (''Crosscheck'') and Electronic Registration Information Center (''ERIC'')—to identify registrants who allegedly moved to a different state, and therefore were allegedly subject to removal.

Crosscheck, a joint venture of as many as 29 states, was created by former Kansas Secretary of State Kris Kobach to identify voters registered in more than one state. The Crosscheck program sought to do so by comparing voter registration lists from participating states and flagging all records that have the same first and last name, and date of birth.

Quantitative studies have shown that Crosscheck is an unreliable basis for identifying voters registered in multiple jurisdictions because of the small number of data points it uses to identify ''duplicate'' registrations—many people share the same first and last name and the same birthday. In other words, ''a substantial share of the pairings returned to states by Crosscheck [as duplicate registrations] represented cases in which two different registrants shared the same first name, last name, and date of birth instead of the same person being registered in to vote in two different states.''

The states which used Crosscheck to identify duplicate registrants should have known this—Crosscheck's, ''user manual specifically states that 'a significant number of apparent double votes are false positives and not double votes.' '' The accuracy of Crosscheck was also undermined by its use of unreliable registration dates and other data entry errors. Sophia Lin Lakin, Deputy Director of the Voting Rights Project at the American Civil Liberties Union (''ACLU'') notes in her testimony that:

''A study by a team of researchers at Stanford, Harvard, the University of Pennsylvania, and Microsoft found that using Crosscheck to purge the voter rolls in one state, ''could impede approximately 300 legitimate votes for each double vote prevented.'' In other words, the system incorrectly flags people as potential double voters (''matches'') more than 99% of the time because of false positives resulting from poor matching protocols.''

Crosscheck's high error rate and heavy reliance on first and last names to identify duplicate registrants increases the likelihood that properly registered minority voters are subject to removal proceedings at a higher rate than properly registered white voters. As Ms. Lakin explained to the Subcommittee:

''Among some minority populations, first-name naming conventions are more commonly used, and many individuals born around the same historical periods are given the same name. Many often share the same or similar last names. Latinx voters, for example, are more likely than white voters to have one of the most common 100 surnames in the country. Indeed, existing studies show that incorrect matches using such a methodology are disproportionately concentrated among minority voters. Crosscheck flagged one in six Latinx Americans, one in seven Asian Americans, and one in nine African Americans as potential double registrants.''

Several states have aggressively sought to purge voters using data they knew or should have known would errantly lead to the removal of properly registered voters. For example, an election official in Kansas—the State that created and managed Crosscheck—contemporaneously admitted that most of the ''duplicate'' registrations identified by Crosscheck were not the result of fraud, but instead reflected data entry errors, writing in an email disclosed in litigation that, ''[i]n the majority of cases of apparent double votes, in the end they do not turn out to be real double votes due to poll worker errors, mis-assignment of voter history, voters signing the wrong lines in poll books, etc.''

Other states participating in Crosscheck were also aware of its high error rate. A 2013 report by the Virginia State Board of Elections, for example, found that, after conducting ''quality control for verifying . . . data matches . . . only 57,000 of the 308,579'' registrations identified by Crosscheck as ''duplicates'' in fact warranted initiation of cancellation efforts, meaning that Virginia independently determined that Crosscheck's error rate likely exceeded 75 percent.

Likewise, Indiana twice used database records to purge ''duplicate'' registrants from its voting rolls, and in doing so failed to comply with the NVRA. Indiana's first voter purge effort used data from Crosscheck—which, as explained above, is known to include numerous errors and disproportionately identify minority voters as having moved—to purge voters without providing affected registrants notice of the removal efforts. Empirical evidence presented to the district court revealed that ''Indiana's use of Crosscheck data likely triggered list-maintenance against thousands of eligible registrants who continued to reside at their address of registration, but who had the misfortune of sharing the same first name, last name, and date of birth of a registrant in another Crosscheck member state.''

The U.S. Court of Appeals for the Seventh Circuit held that Indiana's voter purge program violated the NVRA by removing voters who were suspected of changing residence without adhering to the NVRA's notice requirements. Notwithstanding that its previous purge effort had been found to be unlawful, Indiana embarked on a second voter purge effort using a proprietary database that a federal court found was, ''functionally identical to Crosscheck.'' The district court again concluded that the renewed voter roll purge effort violated the NVRA for the same reason—Indiana was seeking to purge voters using database information without adhering to the NVRA's notice-and-waiting procedure.

Crosscheck is no longer a widely used system amongst states because of its abuses and inaccuracies. Ms. Lakin testified that the system has been on hold since a 2019 settlement in a case brought by the ACLU of Kansas, ''on behalf of 945 voters whose partial Social Security numbers were exposed by Florida officials through a public records request'' and it has not been used since, ''a Homeland Security audit discovered security vulnerabilities in 2017.'' The failures and abuses of Crosscheck demonstrate how list maintenance processes and databases can be abused and lead to erroneous and disproportionate purging of minority voters from the voting rolls.

ERIC is another voter list maintenance tool which is used by 30 states and the District of Columbia to maintain their voter rolls. Whereas Crosscheck used just two datapoints to identify ''duplicate'' registrations, ERIC uses more information to identify duplicates, including DMV information and Postal Service change of address data. The 31 jurisdictions participating in ERIC have agreed to send postcards to registrants flagged by ERIC as duplicates to confirm their registrations, the first step in removing such registrants from voting rolls.

Though ERIC is generally viewed as more reliable than Crosscheck, it too has room for improvement and can disproportionately impact minority voters. As first noted above, a 2021 study of Wisconsin registrants flagged by ERIC as potentially subject to removal based on a change of address found that approximately four percent of the voters flagged as having moved subsequently voted at their address of registration, meaning that for every 29 registrations ERIC identified as having moved, at least ''one registrant continued to reside at their address of registration and used that address to cast a ballot'' in the next election.

Notably, the study found that registrants who were Black and Hispanic were significantly more likely to be falsely identified by ERIC as having moved than White registrants, meaning that, ''the lower bound on the false mover error rate is more than 100% larger for minorities than for whites.'' In other words, the study found that ERIC erroneously identified Black and Hispanic voters as subject to removal at twice the rate at which it erroneously identified White voters as subject to removal. The authors identified minority registrants' disproportionate likelihood of living in a multi-unit or larger household dwellings (and, therefore, a likely relatively more frequent rate of change of residence within a single jurisdiction) as likely causes for their erroneous identification as subject to purge.

Summarizing the literature on the use of databases to identify duplicate registrants, Dr. Marc Meredith of the University of Pennsylvania—who has published papers analyzing both Crosscheck and ERIC—testified that research ''demonstrates that minority registrants are more likely than White registrants to be incorrectly identified as no longer eligible to vote at their address of registration.'' Given that the majority of states use databases like Crosscheck and ERIC to identify voters for removal, the discriminatory burdens imposed by use of the databases extend throughout much of the United States.

Ms. Lakin also provided testimony to the Subcommittee on the dangers of ''mass voter challenges.'' According to her testimony, state ''challenger laws''—laws that allow private citizens to challenge the eligibility of prospective voters on or before Election Day—have also been used to remove voters from the rolls en masse. These laws have been used to target voters along race, class, and disability lines. As Ms. Lakin explains, ''[m]ass challenges are tantamount to a systemic purge, but can be exploited to avoid federal rules governing purge programs, such as the prohibition of systemic removals of voter registrations within 90 days of a federal general election'' and can deprive or attempt to deprive thousands of their voting rights.

Furthermore, a 2020 report published by the Native American Rights Fund (''NARF''), Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters, highlighted the impact voter purges have on Native American voters. The NARF report details how the non-traditional addresses many Native voters have, or failure to accept a P.O. Box and an applicant's drawing on the voter registration form, can result in them being purged from the voter rolls. Under the NVRA, election officials cannot deny a voter's registration or purge an existing application because the applicant uses a non-traditional address or must be identified by landmarks or geographic features.

Additionally, failing to provide language assistance and information about voter purges in the covered Native language, as provided for under Section 203 of the VRA, can negatively impact Native language speaking voters. Wrongful purges can impact

Native voters for many subsequent elections. According to NARF's report:

''Once purged, many Native voters will not vote again in non-Tribal elections. Effectively, a voter purge can result in permanent disenfranchisement. Far too often, that is precisely what election officials intend to accomplish in Indian Country.''

The various processes by which voters are removed from the rolls can be and is abused, resulting in numerous cases in which otherwise eligible voters were erroneously removed from the voting rolls. The data gather by the Subcommittee illustrates the disproportionate and discriminatory impact borne by minority voters.

This record also demonstrates minority voters face a significant risk of being disproportionately burdened through voter roll purges which are attributable to discriminatory intent. The facts and circumstances surrounding several state and local voter list maintenance efforts and voter purges demonstrate that there is a high risk that the demonstrated, disproportionate burdens on minority voters of such efforts are a product of discriminatory intent.

First, the ''historical background'' of many of these widespread voter purge efforts raises concerns about intentional discrimination. Several analyses have found that jurisdictions previously covered by Section 5 of the VRA—states that had a history of engaging in intentional discrimination against minority voters—removed voters from their rolls at a faster rate than jurisdictions that had not been previously covered by Section 5. As noted in the discussion above, the Brennan Center found that jurisdictions previously covered by Section 5 would have removed two million fewer voters during the 2012 to 2016 period had they removed registrants at the same rate as jurisdictions not previously subject to preclearance; they removed voters at a significantly higher rate than previously non-covered jurisdictions.

Similarly, a 2020 nationwide study by two researchers at Columbia University's Barnard College found post-Shelby County increases in purge rates of between 1.5 and 4.5 points in jurisdictions formerly covered by Section 5 compared to jurisdictions that had never been covered. In several of these previously covered states, the rate at which voters cast provisional ballots increased after the voter purges, suggesting that voters were improperly purged.

The Subcommittee further found that several state efforts to remove alleged ''noncitizens'' from their voting rolls involved statements made by elected officials revealing of discriminatory intent. When Texas errantly used DMV records to identify ''noncitizen'' registrants, the Attorney General of Texas sent the following tweet:

''VOTER FRAUD ALERT: The @Txsecofstate discovered approximately 95,000 individuals identified by DPS as non-U.S. citizens have a matching voting registration record in TX, appr 58,000 of whom have voted in TX elections. Any illegal vote deprives Americans of their voice.''

The Texas Governor then issued a statement supporting ''prosecution where appropriate'' of ''this illegal vote [sic] registration.'' As noted above, these inflammatory allegations proved to be entirely false. Kristen Clarke, then-Executive Director of the Lawyers' Committee, testified before the Subcommittee in 2019 that, ''the list was based on DMV data that the state knew was flawed and would necessarily sweep in thousands of citizens who completed the naturalization process after lawfully applying for a Texas drivers' license.'' Ms. Diaz testified that litigation work ''led Texas officials to admit to knowing the discriminatory impact of their citizenship review on naturalized citizens.'' A federal court described the state officials' communications regarding the noncitizen purge effort as ''threatening'' and ''exemplif[ying] the power of government to strike fear and anxiety and to intimidate the least powerful among us.''

Florida's misconceived use of the SAVE database to identify ''non-citizen'' registrants involved similarly troubling evidence of discriminatory intent. The U.S. Department of Homeland Security expressly advised Florida officials that the SAVE database was not a reliable tool to verify citizenship. The State was similarly warned in a letter from the Justice Department. Despite these warnings, Florida nevertheless moved forward with its effort to remove alleged non-citizens using SAVE data—an effort that, as explained above, disproportionately targeted minority voters. The State was ultimately ordered to discontinue its purge based on the use of SAVE data following litigation.

Additionally, many of these voter purges—such as the errant and unlawful purges in Florida, Georgia, and Texas—occurred in states that were previously covered jurisdictions under the VRA and had longstanding histories of racially polarized voting, which courts recognize provides Republican-controlled state legislatures with an incentive to engage in election administration practices that disproportionately burden minority voters likely to support non-Republican candidates. For example, between 2016 and 2018, Georgia purged more than 10 percent of its voters.

In the context of mass voter challenges, a 2016 case in North Carolina is illustrative of the way in which voter purges based off challenges can be used to discriminate against and suppress minority voters. As detailed in Ms. Lakin's testimony, in the months and weeks before the November 2016 elections, boards of election in three North Carolina counties canceled thousands of voter registrations, ''based solely on challengers' evidence that mail sent to those addresses had been returned as undeliverable.'' Voters were not provided notice, and in one of the counties, ''voters who were purged were disproportionately African American.''

In a court hearing on the case, the federal district judge stated that she was ''horrified'' by the ''insane'' process by which voters could be removed from the rolls without their knowledge, and went on to say that the mass challenges at issue, ''sound[ed] like something that was put together in 1901.'' As noted previously, the federal court recognized that these challenges are essentially systematic voter purges and thus require the same protections, and ultimately barred the state from removing voters based on these challenges unless the voters is given notice and a waiting period and unless the removals comply with the NVRA's mandate of 90 days before federal elections.

As also noted above, the voter purge efforts in Florida and Texas were intended to combat registration and voting by non-citizens, yet each state's alleged evidence of non-citizen registration and voting proved wholly unsupported when subjected to even minimal scrutiny. The Texas actions, which largely targeted Latino voters, followed an election year wherein Latino voters doubled their turnout.

Since the 2020 election, several states have enacted new laws, along partisan lines, designed to purge voters more aggressively from their rolls. These new laws are justified by no more than unsupported claims of fraud or irregularities in the 2020 election. Iowa enacted a new ''use-it-or-lose-it'' voting list maintenance law requiring that the Iowa Secretary of State move all registrants who did not vote in the most recent general election to ''inactive'' status—the first step toward removing the registrant from the state's rolls. Among those moved to ''inactive'' status were hundreds of 17-year-olds who were eligible to register but not yet eligible to vote in the 2020 general election.

Arizona and Florida enacted laws making it easier to remove voters from the states' vote-by-mail registration lists. And Georgia's new voting law, which imposes a variety of restrictions on voting, authorizes any individual Georgia citizen to file an unlimited number of challenges to the eligibility of particular voters.

CONCLUSION

The evidence before the Subcommittee leads to a clear conclusion—voter list maintenance and voter purge processes can be, and are, wielded in a discriminatory manner and have a disproportionate impact on minority voters. Additionally, as will be discussed later in this report, erroneously removing voters from the rolls does not affect only the individual voter, but can have rippling consequences at the polling place, increasing wait times that also disproportionately impact minority voters.

As Ms. Lakin of the ACLU stated in her testimony, ''the integrity of our voter rolls—and thus our democratic process itself—are threatened by overly aggressive practices that wrongfully purge legitimate voters from the rolls—often disproportionately voters of color, voters with disabilities, and other historically disenfranchised voters.'' Also, tellingly, because the claimed justifications for the purge efforts have often been found to be unsupported or pretextual, the evidence illustrates that this disproportionate impact can be the product of discriminatory intent. As such, the methods by which states maintain their voter rolls and remove voters from active voter lists deserves a heightened level of scrutiny and protection for voters.

CHAPTER FOUR—VOTER IDENTIFICATION AND DOCUMENTARY PROOF-OF-CITIZENSHIP REQUIREMENTS

BACKGROUND

A variety of state laws require voters to provide identification or attempt to require documentary proof-of-citizenship to vote or register to vote. In recent years, voter identification (''voter ID'') has been pushed forward by many as a simple requirement necessary to combat alleged voter fraud. This, again, is a false narrative.

As Catherine Lhamon, then-Chair of the U.S. Commission on Civil Rights, testified before the Subcommittee in 2019, ''[N]ot only was there no evidence given to the Commission about widespread voter fraud, the data and the research that is bipartisan reflect that voter fraud is vanishingly rare in this country . . . [A]nd so, it is duplicative and also harmful to initiate strict voter ID, among other kinds of requirements, in the name of combating voter fraud.''

Michael Waldman of the Brennan Center testified that, ''[v]oter fraud in the United States is vanishingly rare. You are more likely to be struck by lightning than to commit in-person voter impersonation, for example.'' Furthermore, AAJC, MALDEF, and NALEO, note in their November 2019 report that, ''[n]o proponent of strict ID requirements has ever produced credible evidence of widespread impersonation fraud in the registration or voting process that identification cards would allegedly prevent.''

Despite a continuous lack of credible evidence that in-person voter fraud—the only form of fraud voter IDs would prevent—exists, these laws and polices continue to be pushed for and implemented across the country. Voter ID and documentary proof-of-citizenship laws can and do disproportionately

impact minority voters and create discriminatory barriers to the ballot box.

Across both this Congress and the last, the Subcommittee heard substantial testimony about the financial burden of voter IDs—effectively creating a new poll tax—and the disproportionate impact this has on minority and low-income voters. Even when states proport to offer ''free'' IDs, they are not free. This was also borne out in the U.S. Commission on Civil Rights' 2018 statutory report, An Assessment of Minority Voting Rights Access in the United States. For instance, the USCCR report observed that ''expenses for documentation (*e.g.*, birth certificate), travel, and wait times are significant—especially for low-income voters (who are often voters of color)—and they typically range anywhere from $75 to $175.'' According to Professor Richard Sobel's report on the high cost of 'free' photo voter ID cards:

''When legal fees are added to these numbers, the costs range as high as $1,500. Even when adjusted for inflation, these figures represent substantially greater costs than the $1.50 poll tax outlawed by the 24th Amendment in 1964.''

In evaluating these costs, Professor Sobel's report identified seven types of costs for individual voters in obtaining a ''free'' voter ID: (1) direct costs (out of pocket expenses); (2) time costs for correspondence and waiting to receive documents; (3) postage, delivery, and special handling expenses for documents; (4) travel costs to and from various agencies in order to obtain documents and apply for the ID; (5) travel time costs for making trips to government offices; (6) navigating costs for having to maneuver complex bureaucracies; and (7) waiting time costs at government offices. Professor Sobel notes that there are other possible expenses for some individuals—such as those without driver's licenses and without access to public transportation, and some may have to pay legal fees and court costs to obtain required documents.

Voter ID laws were some of the first voting laws implemented in previously covered states following the Supreme Court's decision in Shelby. As Mr. Waldman stated in his testimony, ''[i]n 2013, at least six states—Alabama, Mississippi, North Carolina, North Dakota, Virginia, and Texas—implemented or began to enforce strict photo ID laws, most of which had previously been blocked by the Department of Justice due to their discriminatory impact.''

Hours after Shelby County was decided, Texas revived a previously blocked voter ID law— one of the strictest in the country at the time. Passed and signed into law in 2011, the law did not go into immediate effect as Texas was subject to preclearance. In 2012, the law was denied preclearance on the grounds that it discriminated against Black and Latino voters. Yet, despite the denial of preclearance because of discriminatory effects, within two hours of the Shelby decision Texas' Attorney General announced the law would immediately go into effect.

Also, within days of Shelby, Alabama announced it would move to enforce a photo ID law it had previously refused to submit to the Department of Justice for preclearance. In 2011, before the Shelby decision, the Alabama state legislature passed House Bill (HB) 19, a law requiring voters to present a form of government-issued photo ID to vote. HB 19 also included a provision that would allow a potential voter without the required ID to vote if that person could be ''positively identified'' by two poll workers, a provision Ms. Nelson of the NAACP Legal Defense Fund characterized as one that, ''harkened back to pre-1965 vouch-to-vote systems.'' Despite the bill being passed and sent to the Governor's desk in 2011, it was not implemented until after the Shelby decision was handed down—after the state was no longer required to submit its voting changes to the DOJ for preclearance review under the VRA.

Less than two months after the Supreme Court struck down the preclearance provisions, North Carolina state legislators wasted no time passing an omnibus ''monster law.'' The bill included voter ID provisions (among others) and would later be struck down as racially discriminatory. Records in the case showed that the data the State Legislature consulted, ''showed that African Americans disproportionately lacked the most common kind of photo ID'' and that after Shelby, ''with race data in hand, the legislature amended the bill to exclude many of the alternative photo IDs used by African Americans. As amended, the bill retained only the kinds of IDs that white North Carolinians were more likely to possess.''

State laws governing the provision of identification at the time of voting can take several forms. Certain states require that a voter present a photo ID to vote (often referred to as ''strict photo ID laws''). Other states require that a voter present an ID to vote, but do not require that the ID include a photograph (often referred to as ''strict non-photo ID laws''). Others do not require that voters present an ID to vote, but nevertheless permit poll workers to request that voters present either a photo ID (so-called ''Non-Strict Photo ID Laws'') or a non-photo ID (so-called ''Non-Strict ID Laws''). Presently, 35 states have laws that request or require voters show some form of ID at the polls.

Furthermore, proof-of-citizenship laws require registrants to provide documentary proof that they are United States citizens to register to vote. States that have required documentary proof-of-citizenship as a condition to register to vote have required a variety of forms of citizenship documents such as birth certificates, passports, certificates of naturalization, or driver's licenses that specifically identify the individual as a citizen.

Because they involve conditions for applying to register to vote, proof-of-citizenship laws implicate the NVRA. The NVRA provides that driver's license applications and renewal applications ''shall serve as an application for voter registration with respect to elections for Federal office.'' Under the NVRA, the federal voter registration form and state voter registration forms included with a driver's license application and renewal form must require that the applicant attest that they are eligible to vote (including on the basis of citizenship).

States such as Alabama, Arizona, Kansas, and Georgia attempted to enact laws requiring documentary proof of citizenship when registering to vote. Additionally, former Election Assistance Commission (''EAC'') Executive Director Brian Newby attempted to unilaterally allow Alabama, Georgia, and Kansas to require stringent proof-of-citizenship instructions when registering using the federal voter registration form—a move that was blocked by a federal court.

Evidence presented before the Subcommittee and discussed below shows that voter ID and documentary proof-of-citizenship requirements can and do have disproportionate, discriminatory, and suppressive impact on minority voters.

THE DISPROPORTIONATE AND DISCRIMINATORY BURDEN AND IMPACT ON MINORITY VOTERS OF VOTER ID AND DOCUMENTARY PROOF-OF-CITIZENSHIP LAWS

Voter ID Laws

Scholars and stakeholders have highlighted a number of ways in which voter ID and documentary proof-of-citizenship laws can and do discriminate against minority voters. As Ms. Diaz of the UCLA Latino Policy and Politics Initiative testified:

''Racial/ethnic minorities are among those most sensitive to changes in voting. As such, reforms that enact voter identification laws to participate in an election have a disparate impact on minority voters voting. . . . Recent studies show that these effects are even more disastrous for youth of color, who have even less access to valid forms of identification.''

Additionally, a February 2020 report published by the UCLA School of Law Williams Institute estimates that voters who are transgender, particularly transgender voters of color, may face additional barriers when required to show ID to vote, especially if they have no ID documents that reflect their correct name and/or gender.

Obtaining the required form of identification or supporting documents is costly, which can disproportionately deter minority voters who are, on average, less wealthy than White voters and who disproportionately lack access to qualifying IDs or documentation. A 2013 study by Harvard Law School's Charles Hamilton Houston Institute for Race & Justice found that, even in states that provide ''free'' ID cards, the actual cost of obtaining a qualifying photo ID ranged from $75 to $368 due to indirect costs associated with travel time, waiting time, and obtaining necessary supporting documentation.

The documents required to establish proof-of-citizenship are particularly expensive to obtain for naturalized and derivative citizens, sometimes costing in excess of $1,000. Naturalized voters often must bear these costs in states that require voter ID as well because documents necessary to establish citizenship also are often necessary to obtain a qualifying form of identification. For example, Terry Ao Minnis, Senior Director of Census and Voting Programs for Asian Americans Advancing Justice AAJC, testified before the Subcommittee that:

''If naturalized and derivative citizens need a replacement certificate of citizenship or naturalization to register to vote, they face a major hurdle: certificates of citizenship presently cost upwards of $1,170 and replacement certificates of naturalization cost upwards of $555. In addition, to obtain a replacement, the average wait is between 8.5 to 11 months for the Department of Homeland Security to process and to obtain a certificate of citizenship the average wait is 6.5 to 14.5 months.''

These burdens will disproportionately burden a growing percentage of the U.S. population. Ms. Minnis testified that Census data show that 62.8 percent of eligible Asian American; 31.0 percent of eligible Latino voters; 23.9 percent Native Hawaiian and Pacific Islander voters; and 10.3 percent of eligible Black voters were naturalized citizens as of 2019, compared to just 3.8 percent of non-Hispanic white voters.

The substantial cost of obtaining qualifying IDs or supporting documentation is particularly high when, as is the case in certain states, DMVs, or other government offices where a voter can obtain a qualifying ID or other form of documentation, are less accessible for minority voters. Voter ID and proof-of-citizenship laws have become, in effect, modern-day poll taxes for many voters.

For example, the implementation of Alabama's voter ID law soon after the Shelby decision, ''was accompanied by the closure of nearly half of the state's DMV locations, with most of the closures in disproportionately poor and Black counties.'' The day after the Shelby decision, Alabama announced it would implement its 2011 photo ID law—a law it had delayed implementing for two years—for the 2014 election. As a result of the DMV closures, Black voters had

to spend more time and money to travel to obtain qualifying IDs. As noted in the Subcommittee's previous report, the U.S. Department of Transportation (''DOT'') launched an investigation into the DMV closures, which eventually resulted in DOT and the State of Alabama entering into a settlement agreement.

Similarly, DMV offices are not present on reservation lands, meaning that Native American voters often must drive at least an hour to obtain an ID. Indeed, Native American voters in North Dakota had to travel, on average, twice as far as non-Native American voters to visit a driver's license office, with the average Standing Rock Sioux member having to travel over an hour and a half to reach the nearest site to obtain identification. As Matthew Campbell, Staff Attorney with NARF, testified:

''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.''

Various studies have also demonstrated a variety of ways in which voter ID laws disproportionately burden minority voters. To begin, studies have consistently demonstrated that minority voters are disproportionately likely to lack forms of identification required by voter ID laws, meaning that minority voters are more likely to have to take the time and bear the costs of obtaining a qualifying ID.

For example, one analysis found that in four states that had adopted voter ID laws—Wisconsin, Indiana, Pennsylvania, and Texas—White voters were statistically more likely to possess a valid form of ID than Latino and Black voters. Numerous other state-specific and nationwide studies have reached the same conclusion—minority voters disproportionately lack qualifying IDs.

A meta-analysis using both state-level and national survey data revealed ''that the magnitude of the negative impact of race on the likelihood of having a valid ID is substantial, outstripping other relevant variables like age, gender, and having been born outside the United States.'' This differential effect persisted even when the authors controlled for other explanatory factors like education level, home ownership, and income.

The Subcommittee also received evidence and testimony that the discriminatory burdens associated with obtaining voter ID and documentary proof-of-citizenship laws are particularly pronounced for Native American voters. For example, a North Dakota voter ID law required that qualifying IDs include the voter's physical address. However, Native American voters who live on reservations often lack a physical address, instead using a post office box. Mr. Campbell testified that ''obtaining a state issued ID is unreasonably difficult for many Native voters.''

The cost of obtaining a qualifying ID is also disproportionately burdensome for Native Americans, many of whom live below the poverty line and far from offices where they can obtain a qualifying ID. Mr. Campbell, who himself served as one of the litigators on the North Dakota voter ID case, testified that due to these and other issues, ''voter identification laws can lead to the disenfranchisement of American Indians and Alaska Natives.'' Mr. Campbell further testified that ''[f] or impoverished Native Americans, the cost of identification is often prohibitively expensive. Even nominal fees can present a barrier.'' Likewise, Alysia LaCounte, General Counsel for the Turtle Mountain Band of Chippewa Indians, testified before the Subcommittee during the 116th Congress that the unemployment rate on the Turtle Mountain Reservation hovers near 70 percent: ''[u]nderstand that the fee of $15 is not exorbitantly high, but $15 is milk and bread for a week for a poor family.'' Drivers' licenses are also often not required for everyday life on the reservation.

Tribal IDs are also not automatically accepted for registration and voting purposes, despite the barriers for tribal members to get a state ID. Often, even when states do accept a tribal ID, the state may require the ID contain certain information to be sufficient that tribal IDs do not contain—updating tribal IDs to contain specialized information or security features can be expensive for impoverished tribes. Additionally, housing insecurity is pervasive among Native communities, as is a lack of regular postal service, leading many Native individuals to use P.O. Boxes instead of a residential address or omit an address altogether. All of these factors lead to voter ID laws having a disproportionate impact on Native American voters.

The Subcommittee also received substantial testimony in the 116th Congress from leaders of the Standing Rock Sioux Tribe, the Turtle Mountain Band of Chippewa Indians, the Spirit Lake Tribe, and the Mandan Hidatsa and Arikara Nation about the significant and disproportionate burden North Dakota's voter ID law had upon their tribal governments and members. Tribal leaders testified as to the substantial resource burden their tribes took on in order to provide their members with new IDs that would qualify for voting under the new law—resources their tribes did not necessarily have. Additional testimony was gathered in the 116th Congress at a field hearing conducted in Phoenix, Arizona, and the February 11, 2020, hearing on Native American voting rights further detailing how voter ID issues disproportionately impact Native voters.

Other studies have demonstrated that local officials administer voter ID laws in a discriminatory manner. Dr. Lonna Rae Atkeson of the University of New Mexico testified that several studies of poll workers and voters suggest that implementation practices can result in unequal application of voter identification laws. A study of New Mexico's non-strict voter ID law, for example, found that poll officials were more likely to request that Hispanic voters show an ID than non-Hispanic voters. Dr. Atkeson further testified that the effects of voter ID laws may also be to affect voter confidence and satisfaction in the election process, which may have long-term consequences on voter turnout or lead to increases in provisional voting. Additionally, Dr. Atkeson testified that subsequent studies haves sometimes shown various degrees of differences in implementation of voter ID laws between Whites and Hispanics in New Mexico.

Similar studies in Michigan and Boston reached the same result—poll workers are significantly more likely to request that minority voters present ID than White voters. Relatedly, a separate multi-state study found that (1) state and local election officials were less likely to answer email questions regarding voter ID requirements when the individual posing the question had a Latino last name and that (2) election officials provided less accurate information regarding voter ID requirements to requesters with Latino last names. This research demonstrates that even non-strict voter ID laws impose discriminatory burdens on minority voters.

Numerous studies also have demonstrated that strict voter ID laws disproportionately decrease registration and turnout of minority voters relative to White voters. One study focusing on Texas' strict voter ID law found that ''registrants voting without ID in 2016 were 14 percentage points less likely to vote in the 2014 election, when a strict ID mandate was in place, and significantly more likely to be Black and Latinx than the population voting with ID in 2016.'' Additionally, a 2014 report prepared by the Government Accountability Office found that strict voter ID laws in Kansas and Tennessee reduced turnout by larger amounts among African American registrants than among White, Asian American, and Hispanic registrants.

Nationwide and multi-state studies conducted by Dr. Nazita Lajevardi of Michigan State University and her colleagues compared political participation of minority voters in states with strict voter ID laws and states without such laws. In one set of studies, Dr. Lajevardi and her colleagues found that strict voter ID laws ''have a differentially negative impact on the turnout of racial and ethnic minorities in primaries and general elections,'' estimating that Latinos, for example, are 10 percent less likely to turnout in general elections in states with strict voter ID laws than in states without such laws.

Dr. Lajevardi and her colleagues further found that, in primary elections, strict voter ID laws ''depress Latino turnout by 9.3 percentage points, Black turnout by 8.6 points, and Asian American turnout by 12.5 points.'' These turnout declines were associated with increases—in many cases several-fold increases—in the gap in participation rates between white and non-white voters. In another study published several years later, Dr. Lajevardi and her co-authors found a similar result using a different multi-state dataset and methodology. The study found that ''turnout declined significantly more in racially diverse counties relative to less diverse counties in states that enacted strict identification laws . . . than it did in other states.''

Summarizing these and other studies analyzing the impact of voter ID laws on the political participation of minority voters, Dr. Lajevardi testified that ''strict voter identification laws are racially discriminatory and have real consequences for impacting the racial makeup of the voting population.'' Dr. Lajevardi also testified that, ''[b]y raising the cost of voting for some individuals more than others, they affect who votes and who does not, and in doing so, they substantially shape whose voices are represented in our democracy.''

Dr. Matthew Barreto of the UCLA Latino Policy and Politics Initiative agreed:

''The best evidence available suggests that voter ID laws have a negative, racially disparate impact on turnout across the states . . . [and] that racial disparities in access to identification appropriate for voting persist even after accounting for important covariates like education and income.''

Documentary Proof-of-Citizenship Requirements

While all states require proof of citizenship to register to vote, an attestation of citizenship under penalty of perjury has generally met the requirement. Similar to voter ID laws, documentary proof-of-citizenship requirements have purported to combat non-citizen voting—a claim that is false.

Documentary proof-of-citizenship laws have also been shown to have similar discriminatory effects on political participation by minority voters as voter ID laws. For example, evidence developed in the course of an investigation by the Kansas State Advisory Committee to the USCCR found that a

disproportionate number of Kansas voters who had incomplete voting applications or were placed on the suspense voters list were located in Census tracts with a disproportionately high percentage of Black residents, younger voters, and low-income voters, for whom the high cost of obtaining proof-of-citizenship was disproportionately burdensome. After Arizona's adoption of a documentary proof-of-citizenship law, for example, ''the percent share of Latino voter registration in the state fell.''

Recent studies have demonstrated that African American and Latino voters are less likely to have access to birth certificates and passports—documents often required to establish proof of citizenship—than White voters. And Puerto Rican-born voters face particularly significant difficulty obtaining documents necessary to prove their citizenship as a result of a 2009 change in birth certificate standards that invalidated all birth certificates issued by Puerto Rico prior to 2010—a change that potentially impacts approximately 1.8 million Puerto Rican-born adults now living on the mainland. Since the new standards were adopted, Puerto Rican-born voters who seek to register to vote in a state with a proof-of-citizenship requirement must either have a U.S. passport, or go through additional procedures and pay fees for a new birth certificate after July 2010.

Kira Romero-Craft, Director, Southeast Region for LatinoJustice PRLDEF, testified that in July 2019, for example, LatinoJustice and the Southern Center for Human Rights filed suit in the U.S. District Court for the Northern District of Georgia on behalf of their client for discrimination based on the Georgia Department of Driver Services' (''DDS'') practice of ''confiscating original identity documents from Puerto Rican-born applicants for Georgia drivers' licenses and denying equal protection of the laws and privileges due to Puerto Rican-born U.S. citizens.'' LatinoJustice's investigations found that the practice of turning away U.S. citizens presenting Puerto Rican identity documents, confiscating Puerto Rico birth certifications and original Social Security cards for ''fraud'' investigations, or denying them the opportunity to exchange their driver licenses for a Georgia license had been going on as far back as the 1990s and undoubtedly harmed U.S. citizens who were otherwise eligible to vote.

As Ms. Diaz of the UCLA Latino Policy and Politics Initiative testified, proof-of-citizenship laws ''give rise to a presumption that the growing and diverse Latino population is under attack; this was especially true of Arizona, where a proof of citizenship law was overturned by the Ninth Circuit.'' Andrea Senteno, Regional Counsel for MALDEF, testified that there is a growing body of evidence that:

''[S]hows that proof of citizenship requirements in fact prevent significant numbers of U.S. citizens from registering to vote, and that ''[s]urveys show that millions of American citizens—between five and seven percent—don't have the most common types of documents used to prove citizenship: a passport or birth certificate.''

Additionally, Terry Ao Minnis of AAJC testified that documentary proof-of-citizenship, as well as voter ID requirements, disproportionately impact Asian Americans due to high rates of immigration and naturalization in the community. Ms. Minnis testified that Asian Americans will ''face greater barriers to registration than white voters under these laws as 76.6 percent of Asian American adults are foreign-born and 39.5 percent of Asian American adults have naturalized nationwide, compared to 4.6 percent of white adults who are foreign-born and 3.8 percent who have naturalized.''

ADDITIONAL EVIDENCE OF DISCRIMINATORY PURPOSE

The Subcommittee was also confronted with evidence that the discriminatory impact of voter ID and documentary proof-of-citizenship laws are the product of state legislatures enacting them with a discriminatory purpose. As noted above, following the Supreme Court's decision in Shelby County, several states enacted or implemented particularly strict voter ID laws, several of which were later struck down by courts as intentionally discriminatory, and violative of the Constitution and the Voting Rights Act. These restrictions are examples of discrimination in voting that warrant preemptive federal protections.

For example, as first discussed above, within days of the Shelby County decision, Texas implemented a photo ID law that had previously been denied preclearance by the Department of Justice. As Janai Nelson of the NAACP Legal Defense Fund testified, the law was widely described as the most restrictive voter ID law in the country as it permitted concealed handgun license owners to vote with that ID—a form disproportionately held by white Texans—but prohibited the use of student IDs, and employee or trial state or federal government-issued IDs in voting.

The Texas voter ID case took years to make its way through the courts. A federal court found that the voter ID law was unconstitutionally intended to discriminate against minority voters, relying on evidence that the law selectively excluded forms of IDs that were disproportionately likely to be used by minority voters, that the legislature knew the law was likely to disproportionately burden minority voters, and that circumstantial evidence indicated that the legislature's race-neutral justification for the law—preventing voter fraud—was ''pretextual.'' Ms. Nelson testified further that, while LDF was ultimately successful in the Texas voter ID litigation, ''in the years after the trial and while the case made its way twice to the 5th Circuit Court of Appeals and back to the trial court, Texas elected numerous candidates to state and federal office . . .''

A federal appellate court also struck down North Carolina's voter ID law as intentionally discriminatory, a law which was also was put forth within days of the Shelby County decision. Evidence in the North Carolina voter ID case revealed that legislators tailored the list of acceptable IDs to exclude forms of identification disproportionately relied on by minority voters. To support its finding of discriminatory intent—that the state legislature drafted the law to ''target African Americans with almost surgical precision''—the court emphasized that North Carolina had a long history of racially polarized voting, that the law required forms of IDs that African Americans disproportionately lacked, that legislators knew the law would disproportionately burden minority voters but nevertheless enacted it, and that the circumstances surrounding the passage of the law—that the law was amended to become far more strict the day after Shelby County was decided—indicated that the legislature acted with discriminatory intent.

While the court ultimately struck down the North Carolina law, litigation alone is a costly, time consuming, and insufficient remedy. As Allison Riggs, Co-Executive Director and Chief Counsel for Voting Rights at the Southern Coalition for Social Justice (''SCSJ''), testified:

''[I]t took us three years and millions of dollars to finally secure a ruling from the Fourth Circuit Court of Appeals that the law was intentionally racially discriminatory, designed with almost ''surgical precision'' to change election rules in a way that would disadvantage Black voters the most. More than the time and cost, there were elections conducted with the photo ID requirement . . . Thousands of voters, disproportionately Black, were denied the franchise while we litigated that case, and those are real injuries to those voters' fundamental right to vote that can never be made whole.''

As the Texas and North Carolina cases illustrate, the risk that voter ID and documentary proof-of-citizenship laws can and will be enacted with discriminatory intent is particularly significant because legislatures can tailor the forms of acceptable IDs and documentation to disproportionately burden minority voters.

For example, Dr. Barreto, who has conducted extensive research into the discriminatory effects of voter ID laws, explained in his testimony that ''[i]n Texas, hunting and gun permits, which Whites are statistically more likely to possess, are legitimate forms of ID but social service cards, more often held by Blacks and Latinos, are not.'' Consistent with that empirical evidence, a Texas legislator testified ''that all of the legislators knew that [the voter ID law], through its intentional choices of which IDs to allow, was going to affect minorities most.''

Regarding discriminatory intent, Dr. Barreto further explained that research shows that voter ID laws have been adopted by partisan legislatures, often in states with a history of racially polarized voting, to burden voters likely to vote against the party with legislative control. ''Existing research demonstrates that voter ID laws are purposeful tools, designed with the marginalized fringe of the electorate in mind, to shape who votes primarily in favor of state Republican legislatures facing competitive elections,'' Dr. Barreto explained.

Consistent with Dr. Barreto's summary of the literature, Matthew Campbell testified that North Dakota's Republican legislature—which had previously rejected voter ID laws—enacted the state's strict voter ID law after Native American voters were instrumental to the election of a Democratic candidate to the United States Senate.

Using an atypical procedural process known as a ''hoghouse amendment'' that ''expedited the bill's passage and stifled debate,'' the legislature enacted the law knowing that Native Americans, who often have P.O. Boxes rather than the physical address required by the statute, would have a disproportionately difficult time obtaining a qualifying ID. A federal court subsequently struck down the law on grounds that it imposed an unconstitutional burden on Native American voters, relying on evidence that Native American voters were disproportionately likely to lack a qualifying ID and ruling that North Dakota could not enforce the laws without providing a safety net for voters who ''cannot obtain a qualifying ID with reasonable effort.''

Despite a lack of fraud and knowledge of the significant impact on Native American voters, North Dakota adopted a strict voter ID law again in 2017. Mr. Campbell testified that, in considering the new voter ID law, ''the legislature failed to study, in any way, the impact the law would have on Native Americans. It did not consult any tribal governments about whether its tribal members were negatively impacted by the bill or whether they supported or opposed the bill.''

Following enactment, additional litigation ensued, and the parties eventually settled the matter in a way that ensured Native voters would have equal access to the ballot, but not before the District Court found that the new law required voters have one of the same forms of a qualifying ID that, ''was previously found to impose a discriminatory

and burdensome impact on Native Americans.''

Similarly, in finding that the Texas voter ID law was intentionally discriminatory, the court emphasized that the voter ID law was passed ''in the wake of a seismic demographic shift, as minority populations rapidly increased in Texas, such that . . . the party currently in power [wa]s facing a declining voter base and c[ould] gain partisan advantage through a strict voter ID law.''

The Texas and North Carolina examples illustrate another reason why there is a substantial risk that the discriminatory effects of voter ID and proof-of-citizenship laws are attributable to a discriminatory purpose: States' proffered justification for the laws have been shown to be pretextual or unsupported.

For instance, in the Texas voter ID case, the court found evidence ''support[ing] a finding that the Legislature's race-neutral reason of ballot integrity offered by the State is pretextual.'' Among other evidence, the record showed that ''the evidence before the Legislature was that in-person voting, the only concern addressed by [the voter ID law], yielded only two convictions for in-person voter impersonation fraud out of 20 million votes cases in the decade leading up to [the law's] passage.''

A case successfully challenging a Kansas documentary proof-of-citizenship statute similarly turned on evidence that the alleged justification for the law—preventing voter fraud—lacked meaningful factual support. In finding that the law violated the Equal Protection Clause, the U.S. Court of Appeals for the Tenth Circuit held that law's significant burden on the right to vote (it prevented more than 31,000 qualified applicants from obtaining registration) far outweighed the evidence supporting the state's claimed need to prevent voter fraud by non-citizens (the state identified only 30 non-citizens who registered to vote in the 10 years leading up to adoption of the documentary proof-of-citizenship law).

The record in a case successfully challenging an Arizona proof-of-citizenship law similarly included a conspicuous absence of evidence supporting the legislature's claimed purpose of combatting voter fraud by non-citizens. Ms. Senteno of MALDEF testified that, Arizona's Proposition 200 was enacted with the purpose of combatting undocumented immigration and the provisions related to proof of citizenship were in part an effort to ''combat voter fraud''—but the State ''failed to identify a single instance in which an undocumented immigrant registered or voted in Arizona.'' Ms. Senteno testified that:

''Proof-of-citizenship requirements have yet to prove effective in making our elections more secure or to be more effective than the safeguards against improper registration and voting that already exist. Meanwhile, such requirements have shown to significantly impede the political participation of voters of color.''

Additionally, since the 2020 election, several states have adopted bills expanding voter ID requirements, appealing to unsupported claims that fraud occurred in the 2020 election as justification. For example, the omnibus Georgia voting bill requires voters requesting an absentee ballot provide an ID. Under previous law, voters only had to sign the application attesting to their eligibility to vote. Similarly, Florida's omnibus voting law added a new requirement that voters provide a form of ID to obtain a mail-in ballot. Arkansas, Montana, and Wyoming also made their voter ID laws more restrictive.

CONCLUSION

The evidence before the Subcommittee is overwhelming—voter ID laws and requirements for documentary proof-of-citizenship can and do have a disproportionate, discriminatory impact on minority voters. The evidence presented shows that minority voters are less likely than White voters to have the required ID and are more likely to lack the documents required to obtain these IDs. Voter ID and documentary proof-of-citizenship requirements amount to modern-day poll taxes—as the evidence shows, even when states claim to provide free IDs, the cost to voters is not free.

The burden of voter ID and proof-of-citizenship laws is borne disproportionately by Black, Latino, Asian American, and Native American voters, and as the evidence shows, states can and have enacted laws governing ID requirements to cast a ballot that not only have a discriminatory impact but do so with discriminatory intent. The discriminatory and suppressive effects of voter ID and proof-of-citizenship requirements warrant a heightened level of scrutiny and protection to ensure every voter has equal and equitable access to their right to vote.

CHAPTER FIVE—ACCESS TO MULTI-LINGUAL VOTING MATERIALS AND ASSISTANCE

BACKGROUND

As it was amended over the years, the VRA was expanded to afford additional protections to language minority or limited-English proficiency (''LEP'') voters. The language access provisions were added after Congress recognized that certain minority citizens experienced historical discrimination and disenfranchisement due to limited English proficiency and speaking ability. The 1975 amendments adding Section 203 of the VRA came after ''Congressional findings of discrimination and intimidation of voters with limited-English proficiency, which had led to ongoing socioeconomic disparities and low literacy rates.''

Sections 4(e), 4(f), 203, and 208 are considered the ''language minority provisions'' of the VRA. These sections were not overturned by the Shelby decision, and remain key protections for LEP voters. However, significant gaps in enforcement and implementation remain, and the Court's decision in Shelby and subsequent removal of preclearance hindered a key enforcement and monitoring mechanism, limiting access for millions of LEP voters—a disproportionate number of whom are minority voters.

Section 4(e) protects U.S. citizens educated ''in American flag schools'' in a language other than English by barring states and local governments from conditioning such citizens' right to vote on their ability to read, write, understand, or interpret English. In practice, this means that every state and local government is required to provide language assistance to such voters and it provides specific protections to citizens educated in Puerto Rico in Spanish.

These protections extend to all 50 states, whether the voter lives in a jurisdiction covered by the population thresholds of Section 203's coverage formula or not.

Section 203 of the VRA, originally adopted as part of the second reauthorization in 1975 and later amended and expanded, requires jurisdictions where the number of U.S. citizens of voting age in a single, covered language minority group that is more than 10,000 or exceeds five percent of the jurisdiction's total population, and their illiteracy rate is higher than the national rate, to provide voting materials in the language of the language minority. The definition of permanently prohibited ''test[s] and device[s]'' was expanded to include:

''[A]ny practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority.''

The 1992 VRA amendments expanded the coverage formula for language access to include not only the previously covered formula of five percent of eligible voters who were LEP voters and members of a language minority group, but also those jurisdictions that did not have the high five percent threshold, but had at least 10,000 LEP citizens who are members of a single language minority group. This expansion meant coverage would also reach Latino and Asian American voters in some large cities. These amendments also expanded the coverage formulas and access for Native Americans living on Indian Reservations to include any Indian reservation where the LEP population exceeded five percent of all reservation residents. Under the VRA 2006 reauthorization, the sunset date for language minority assistance required under Section 203 was extended to August 5, 2032.

Which jurisdictions are covered under Section 203 is determined by the Census Bureau based on the formula set out in the VRA—the language minority groups covered are those that speak Asian, American Indian, Alaska Native, and Spanish languages. The most recent determinations for Section 203 coverage were made on December 5, 2016. In the 2016 evaluation, the Census Bureau found that 263 jurisdictions met the threshold for coverage.

Between 2011 and 2016, 15 additional counties were added to the list of localities required to provide language assistance materials as well as four new states. Political subdivisions within Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, Texas, Utah, Virginia, Washington, and Wisconsin currently fall under Section 203 coverage and are required to provide bilingual voting materials. California, Florida, and Texas currently fall under statewide coverage for Spanish language materials.

Added in the 1982 VRA reauthorization, Section 208 requires that voters who require assistance to vote be provided the assistance of their choice. Voters have the right to assistance by a person of their choosing—other than their employer, an agent of their employer, or an officer or agent of the voter's union—whether they need assistance because of blindness, disability, or inability to read or write. According to the USCCR's 2018 Minority Voting Rights Access Report, Section 208 litigation by the Justice Department typically relates to the failure to provide language assistance or a failure to allow a disabled person to choose their assistance.

Prior to the Shelby County decision, covered jurisdictions were required to obtain preclearance of any changes in laws related to the provision of language access under Sections 4(f)(4) and Section 5. Following the Shelby decision, the Justice Department stated that it believed it could no longer require preclearance of changes in access to language materials and support in the previously covered jurisdictions.

When properly implemented, the language access provisions increase engagement in the democratic process and access to the ballot for millions of LEP voters. For example, John Yang, President and Executive Director of AAJC, testified before the Subcommittee in 2019 that ''Section 203 has been

one of the most critical provisions in ensuring Asian Americans are able to cast their ballot.'' Jerry Vattamala, Director of the Democracy Program at the Asian American Legal Defense and Education Fund (''AALDEF'') testified that:

''Section 203 has proven to be a clear and effective measure to ensure access to LEP voters through language assistance. . . . However, the Supreme Court's Shelby County decision dismantling the coverage formula has left a large gap in protections for Asian American voters that requires Congressional action and renewed DOJ enforcement of remaining VRA provisions.''

Failure to provide multi-lingual voting materials or assistance can negatively impact millions of potential voters. According to the 2018 Census data, more than 37 million American adults speak a language other than English and more than 11.4 million of them are not yet fully fluent in English. The 2015–2019 American Community Survey (ACS) 5-year Narrative Profile from the Census Bureau found that, among people at least five years old living in the U.S. from 2015–2019, 21.6 percent spoke a language other than English at home. Additionally, navigating the electoral process is complex and can be overwhelming. Some LEP voters will have immigrated from a country with a vastly different electoral and voting process.

Evidence collected by the Subcommittee during the 116th and 117th Congresses, along with historical data, illustrates a long history of jurisdictions' failure to comply with the language access provisions, a failure to provide adequate language assistance and translated materials, and the discriminatory impact this failure has on minority voters' access to the ballot.

Arturo Vargas, Chief Executive Officer of the National Association of Latino Elected and Appointed Officials Educational Fund (''NALEO'') testified in 2019 that, ''Americans who depend upon language assistance are becoming more diverse and more geographically dispersed, and these factors heighten the importance of effective language assistance.''

THE DISPROPORTIONATE AND DISCRIMINATORY BURDEN AND IMPACT OF LACK OF ACCESS TO MULTI–LINGUAL VOTING MATERIALS AND SUPPORT

The failure to provide multi-lingual voting materials disproportionately burdens minority voters. Sonja Diaz of UCLA's Latino Policy and Politics Initiative testified that, as of 2019, approximately 4.82 percent of the citizen voting-age population needs to cast a ballot in a language other than English. Data trends show that populations such as Asian American and Latino voters will only continue to grow. While the full 2020 Census data has yet to be released, Ms. Minnis testified that, among Asian Americans ''[t]his growth will continue, with Asian American and Pacific Islander (AAPI) voters making up five percent of the national electorate by 2025 and 10 percent of the national electorate by 2044.''

According to 2017 data, more than 85 percent of the voters who likely require language assistance in voting were voters of color. For example, Ms. Diaz stated that an estimated six million eligible Latino voters nationwide are not fully fluent in English and require some form of language assistance in order to vote. Additionally, Juan Cartagena, President and General Counsel of LatinoJustice PRLDEF, testified before the Subcommittee in 2019 that the population on the island of Puerto Rico is roughly 65 percent Spanish-language dominant. Furthermore, in Puerto Rico all government proceedings happen in Spanish, making the language access protections afforded Puerto Ricans educated on the island under Section 4(e) critical to their ability to participate fully in elections within the 50 states.

According to data collected by the Native American Rights Fund, ''[o]ver a quarter of all single-race American Indian and Alaska Natives speak a language other than English at home,'' rendering multi-lingual voting materials particularly important for Native American voters.

Ms. Minnis of AAJC testified that, because of historical discrimination that denied Asian Americans the rights held by U.S. citizens for most of the country's existence, and because immigration from Asia was not reopened until 1965, today ''almost three out of every four Asian Americans speaks a language other than English at home and almost one in three Asian Americans is limited English proficient (LEP)—that is, has some difficulty with the English language.''

The provision of language access materials, or lack thereof, extends to all facets of the voting process. Ms. Minnis testified that, even basic information such as election notices and voter registration forms or the information requested on those forms ''is inaccessible to millions of eligible American voters unless they have access to multilingual translators, preventing the eligible voter from even starting the process.'' Ms. Minnis further testified that, even if the voter is able to get past the registration phase, without language assistance they may have issues navigating the voting process, with many voters forced to use election websites that are English-only, or a jurisdiction may attempt to use Google Translate or a similar tool, which may produce incomplete or inaccurate translations, the equivalent of providing no translation at all.

Matthew Campbell of NARF testified to the disproportionate impact the lack of language access and assistance has on Native voters as well. According to his testimony, ''[t]wo-thirds of all speakers of American Indian or Alaska Native languages reside on a reservation or in a Native village, including many who are linguistically isolated, have limited English skills, or a high rate of illiteracy,'' and that a lack of assistance or complete and accurate translations of materials for LEP American Indian and Alaska Native voters ''can be a substantial barrier.'' Thirty-five political subdivisions in nine states are required to provide bilingual written materials and oral language assistance for LEP American Indian and Alaska Native voters under Section 203. Mr. Campbell noted that, jurisdictions have often failed to provide any language assistance at all, forcing Native voters to file costly lawsuits.

Scholars and stakeholders have demonstrated that providing LEP voters with voting materials in their native language increases the likelihood they will participate in the political process. Studies have shown, for example, that language fluency correlates with political participation, meaning that lowering language barriers should lead to increases in turnout among LEP voters. Summarizing the scholarly literature examining the impact of access to multi-lingual voting materials on LEP voters, Dr. Barreto explained that ''[r]esearch in political science has documented with clear evidence that access to Spanish, Asian, and Native/indigenous language voting materials increases voter participation rates among impacted minority voters.''

Scholars and stakeholders have also analyzed the registration and turnout effects associated with living in a jurisdiction that provides language access materials, finding that access to native language voting materials increases political participation. For example, after San Diego County, California, began providing language assistance to Latinos and Filipinos, voter registration among those two groups increased by more than 20 percent. Regarding turnout, one multi-jurisdiction study found that turnout of voters who speak only Spanish increased between seven and 11 percentage points in counties that were required to provide language access support relative to counties with similarly large Latino populations not required to provide bilingual voting support.

Another multi-state study found that, in the 2012 election, coverage under the VRA's language access provisions was associated with a significant increase in Latino voter registration and a significant increase in Asian American turnout. Earlier studies reached the same conclusion: ''Section 203 language access resulted in higher voting rates for Latinos, Asian Americans and other immigrant communities.'' Surveying several of these studies, Ms. Minnis of AAJC explained that ''[i]f the access to multilingual support helps to eradicate language barriers, the withdrawal or denial of multilingual support exacerbates language barriers, interferes with free and fair access to the ballot through the voting process, and leads to less voters participating in American democracy.''

Empirical research also found evidence that coverage under the VRA increases minority political participation. One study found that coverage under the Voting Rights Act language access provisions is associated with significantly higher Latino representation on school boards relative to non-covered jurisdictions. That empirical finding is consistent with evidence presented to the Subcommittee. For example, Orange County, California, and Harris County, Texas, saw the election of Vietnamese American elected officials after they began providing language assistance to Vietnamese American voters.

Dr. Barreto testified that, ''similar to voter identification laws, the research has demonstrated an inconsistent application with many covered jurisdictions not aware or not providing the proper non-English voting materials. This has a tremendously negative impact on those communities' ability to understand and participate in our elections.''

Illustrative of the broad protections courts have read into language protections such as Section 4(e), Kira Romero-Craft, Southeast Region Director for LatinoJustice, testified that courts have declined to read any numerical requirements into Section 4(e)'s plain language and have ordered counties with as few as two dozen Puerto Rican voters to offer some bilingual assistance because, ''it is a 'basic truth that even one disenfranchised voter—let alone several thousand—is too many.'''

Limits on language assistance also disproportionately impacts minority voters. Ms. Senteno testified that, for example, MALDEF is involved in a pending case in Arkansas challenging a section of the state's election code that limits the number of voters an individual may assist with casting a ballot to six total, arguably restricting the number of voters who may be able to receive language assistance from the person of their choice.

The manner in which voting materials and ballots are written can also negatively impact LEP voters. Ms. Minnis testified that, even if an LEP voter is able to obtain a ballot, it is often written in advanced English, which is not accessible for LEP voters. In her testimony, Ms. Minnis notes that an analysis of statewide ballot measures voters voted on in 2018 found that the average grade level was between 19 and 20, meaning it would require a graduate-level degree to understand them. The use of complex English on ballots and other voter materials makes it difficult for LEP voters to understand and

respond, which can also be compounded by higher levels of illiteracy rates, whether in English or the voter's native language.

Dr. Barreto testified that, where Section 203 and 208 have been implemented fairly and fully,

''[W]e have seen a higher voter participation rate, both first-time voters as well as [] of returning voters, where the most difficult things can be for a voter which has language challenges to navigate the system, and if they don't feel that they can do that, if they don't feel welcome, if the language materials are not available [] they may just leave and not come back. They may feel excluded from the system. Where Section 203 is implemented, there have been very robust increases in Spanish-speaking Latino voter participation.''

Dr. Barreto noted that, where voters have a negative experience at the polls and are challenged or are not able to navigate the polling place, ''that leads to a rejection and withdrawal.''

Several legal actions have successfully sought to compel local election officials to provide language access materials, often requiring years of litigation for plaintiffs to obtain relief and involving troubling evidence of discriminatory animus.

A district court found that Berks County, Pennsylvania, for example, failed to adhere to language access provisions in the VRA by failing to offer Spanish-language materials for voters educated in Puerto Rico and failing to make available bilingual poll workers. The court further found that local election officials engaged in ''hostile and unequal treatment'' of Hispanic and LEP voters, which ''intimidated'' such voters.

Additionally, Ms. Romero-Craft testified that the State of Florida has been a covered jurisdiction for the Spanish language under Section 203 since 2011 and that there are also 13 counties in the state which are subject to minority language requirements for Spanish under the law. Yet, despite the direct protections of the law:

''Florida's language minority voters have continued to face discrimination at the polls and frequently do not receive adequate language assistance they critically need to be able to cast a ballot for their preferred candidate of choice or to make informed decisions when deciding how to cast their votes on ballot initiatives.''

A district court recently entered an order barring dozens of Florida counties from continuing to violate the VRA by failing to provide bilingual voting assistance to voters of Puerto Rican descent. The plaintiffs were repeatedly forced to pursue further relief after a number of election officials refused to comply with the order and make multi-lingual assistance available, asserting, for example, that ''the small number of voters requesting Spanish-language ballots did not justify the cost.'' Florida was previously sued in 2000 by the Department of Justice for failure to provide language materials and in 2009 by LatinoJustice for failure to provide assistance to voters from Puerto Rico as required. District Judge Mark Walker noted in his order that, ''[i]t is remarkable that it takes a coalition of voting rights organizations and individuals to sue in federal court to seek minimal compliance with the plain language of a venerable 53-year-old law.''

The Subcommittee also received widespread reports of non-compliance with the VRA's language access requirements, in numerous states and localities, and often involving troubling evidence or inference of discriminatory intent. Ms. Romero-Craft provided testimony of examples in Florida and Georgia, such as Liberty County, Georgia's failure to provide Spanish-language voting materials and services despite citizens of Puerto Rican descent comprising nearly five percent of the county's total population. In testimony provided in the 116th Congress, Sean Young of the ACLU of Georgia testified that Hall County, Georgia was required to provide Spanish language materials under Section 4(e), as all counties are, but the board refused. One study found that only 68.5 percent of jurisdictions fully complied with the Voting Rights Act's language access requirements with respect to the provision of Spanish language materials.

Jerry Vattamala of AALDEF testified to several examples of jurisdictions' failure to provide language access materials to Asian American voters. For example, AALDEF filed a federal complaint on June 3, 2021, against the City of Hamtramck, Michigan, for its failure to comply with the requirements as a covered jurisdiction under Section 203 for Hamtramck to provide translations of all voting information and materials, including election websites, and oral language assistance for Bangladeshi voters in Bengali.

In another example, Mr. Vattamala highlighted jurisdictions' failure to ensure equal access to interpreters or through hostile treatment or discrimination by poll workers such as AALDEF discovered when monitoring the primary election in Malden, Massachusetts, in March 2020, a jurisdiction covered under Section 203 for Chinese language assistance. Ms. Minnis testified that, during the 2012 election, voters reported to the Election Protection Coalition that ''they had been unlawfully prevented from obtaining language assistance at polling places from Suffolk County, New York, to New Orleans, Louisiana, and including an incident ''in Kansas City, Missouri, where a poll worker asked a voter's interpreter to leave the polling place and threatened her with arrest.'' Marcia Johnson-Blanco of the Lawyers' Committee testified that, in the 2020 election, voters reported lack of or insufficient language assistance in Berks and York counties in Pennsylvania. Ms. Johnson-Blanco testified that:

''The most egregious instance occurred in York County, where election officials rather than provide needed language assistance (1) spoke slowly and used hand gestures and mimicry as a prerequisite to allowing voters to utilize an interpreter, (2) impeded interpreters' conversations with voters by hovering over conversations and interrupting interactions telling voters that they could not use the interpreter and (3) prevented voters from using their assistance of choice with casting their ballot.''

Repeated failure to provide bilingual voting materials is also, troublingly, particularly common in Native American communities, and has led to litigation. Section 203 covers 357,409 American Indians and Alaska Natives who reside in a jurisdiction where assistance must be provided in a covered Native language. However, as Matthew Campbell of NARF testified, jurisdictions have often failed to provide the required translations or have failed to provide any language assistance at all, forcing costly lawsuits. Mr. Campbell testified that this is exactly what happened in Alaska, which led to Toyukak v. Treadwell, ''the first Section 203 case fully tried through a decision in thirty-four years.''

Even after plaintiffs in Alaska obtained a consent agreement requiring Alaskan officials to provide adequate language assistance to Yu'pik-speaking voters, the attorneys had to repeatedly return to court to provide fulsome relief. Documents produced in litigation showed that Alaskan officials made a ''policy decision'' not to comply with Section 203 in several jurisdictions, consciously choosing not to provide required language assistance. In 2013, a group of tribal councils and Alaska Native voters charged Alaska state officials with continuing violation of the VRA and the Constitution for their refusal to provide information in Yu'pik that was available in English—in its ruling for the plaintiffs, the court confirmed that ''officials'' negligence had produced egregious results—Yu'pik voters were deprived of any and all critical pre-election information.''

In Toyukak, Alaska election officials denied Native voters language assistance despite a previous court finding in Nick v. Bethel that all voting information provided in English must be provided orally even if written translations are not required. The court held in Toyukak that Section 203 should be interpreted as ''merely changing the means by which voting information and materials is communicated to LEP American Indians and Alaska Natives, and Section 203 does not permit election officials to diminish the content and extent of information that must be provided.'' Mr. Campbell testified that the parties ''worked together to produce a joint stipulation that aimed to remedy Alaska's Section 203 violations and included strong relief such as federal observers to document compliance efforts.'' Mr. Campbell testified further that:

''Reports filed by federal observers in 2016 suggest that Alaska's efforts fell short of fully remedying the Section 203 violations and complying with the Toyukak Order. . . During the 2016 primary, federal observers documented there were no voting materials available in the covered Alaska Native language in six villages, and the ''I voted'' sticker was the only material in a Native language in two other villages. Alaska has made some improvements since Toyukak such as having bilingual poll workers available, but almost forty years of Section 203 violations cannot be remedied overnight and continued investment in language assistance for American Indian and Alaska Natives is crucial to ensuring Native voters have equal access to the election process.''

Alaska is not the only jurisdiction to have failed to comply with requirements to provide Native voters with language access. As Mr. Campbell's testimony notes, San Juan County, Utah, is a covered county for the Navajo language, but the County has failed voters by refusing to comply with Section 203. Additionally, in 2014 the County removed all language assistance by switching to a vote-by-mail system and providing no translated ballot information to LEP Navajo voters, many of whom received an English ballot they could not read and so they simply did not vote. A settlement reached between the County and litigators restored the closed polling places and mandates the County provide the required language assistance. Failure to provide access to Native language services has also impacted Native American voters in Arizona. Professor Patty Ferguson-Bohnee, Director of the Indian Legal Clinic at the Sandra Day O'Connor College of Law, testified before the Subcommittee in 2019 that in Arizona, in 2016, only one of nine jurisdictions covered under Section 203 for Native languages provided translated voter registration information in the covered language.

CONCLUSION

Congress has, at multiple junctures in history and in legislating, moved to protect the right to vote through increased access to language assistance. Congress recognized that access to multi-lingual voting materials and assistance is critical to ensuring fair and equal access to the ballot. While the language access provisions of the Voting Rights Act remain intact following the Court's decision in Shelby County, the evidence before

the Subcommittee in both this Congress and the last is clear—significant gaps remain in adherence to the law and the provision of fair access to multi-lingual voting materials and assistance.

The failure to provide the required assistance is pervasive and creates significant barriers to accessing the ballot, barriers that fall disproportionately on LEP voters, who are more likely to be minority voters. Additionally, as Jerry Vattamala of AALDEF testified, protecting access to language materials and assistance on a case-by-case basis is unsustainable and insufficient:

''Individual affirmative cases require a large amount of human and financial resources which limit the reach and scope of work that organizations like AALDEF can do. For example, in the OCA v. Texas case that AALDEF brought against the state of Texas for violating Section 208 of the Voting Rights Act, it took more than three years to litigate from client intake to final decision, and required hundreds of hours of attorney time.''

The evidence presented before the Subcommittee demonstrates that ensuring access to multi- lingual materials and assistance warrants increased protections.

CHAPTER SIX—POLLING PLACE CLOSURES, CONSOLIDATIONS, RELOCATIONS, AND LONG WAIT TIMES AT THE POLLS

BACKGROUND

Prior to the Supreme Court's decision in Shelby County, states and localities in covered jurisdictions were required to notify voters well in advance of polling location closures, to prove those changes would not have a disparate impact on minority voters, and to provide data to the DOJ about the impact on voters. In the years since Shelby County was decided, states that were previously covered by the VRA have closed hundreds of polling locations.

Issues related to polling place locations, quality, accessibility, and ensuing long wait times to vote are, unfortunately, well-documented and pervasive. For example, at the Subcommittee's 2019 listening session in Brownsville, Texas, Mimi Marziani, President of the Texas Civil Rights Project (''TCRP'') testified that, ''long lines and late openings are, unfortunately, such a common feature of Texas elections that they are deemed 'typical' by election officials.''

Marcia Johnson-Blanco of the Lawyers' Committee reported in testimony before the Subcommittee that, in Pennsylvania, two of the top three issues reported to Election Protection on Election Day 2020 were long lines, particularly in communities of color, and late polling place openings. Ms. Johnson-Blanco also noted issues of long lines being reported in Georgia, Texas, California, and Wisconsin throughout the 2020 primaries and general election.

Polling location closures and movements can and do disproportionately burden minority voters, whether by intent or effect. Poor polling place locations, lack of availability, and a lack of resources leads to minority voters facing longer lines than White voters at the polls. Polling place closures are harmful to voter turnout, especially the turnout of minority voters—waiting in a long line to vote can make a voter less likely to turn out in future elections. Disparities in Election Day experiences between minority voters and White voters are a persistent problem. Kevin Morris of the Brennan Center noted in testimony before the Subcommittee that ''[o]ver the past decade, scholars have consistently noted that racial minorities wait longer to cast their ballots on election day than White voters.''

The disparity in polling place accessibility and wait times is then compounded by the disparate impact of other practices discussed in this report such as voter ID accessibility, proper access to multi-lingual materials and assistance, voter purges, and restrictions on alternative opportunities to vote. As Ms. Marziani testified before the Subcommittee this Congress, ''fewer polling places is one driver of long lines, a symptom of polling place inefficiencies that is compounded by other devices that make voting more onerous and time-consuming, such as Texas' strict photo identification law (the same one originally struck down under Section 5).''

While there may be legitimate reasons for closing, consolidating, or moving polling locations, without the disparate impact data, community consultation, and evaluation to support these changes, there is no preemptive way to ensure these closures do not discriminate against minority voters. Polling place closures, consolidations, relocations, and under-resourcing can and do lead to longer or extreme wait times or can require voters to drive for miles to reach a polling place.

In Georgia, for example, Gilda Daniels of the Advancement Project testified at the 2019 field hearing that at the Pittman Park voting sites in 2018 they received calls that lines were ''reportedly 300 people deep with a wait time of 3.5 hours.'' The 2020 primary election in Georgia saw extremely long wait times yet again—voters waited in hours-long lines, some late into the night and the early hours of the next day. Counties are regularly sued to extend the hours of polling locations to ensure all voters can cast a ballot. Voters in Georgia waited in lines so long they brought chairs to wait for the opportunity to cast their ballot. Volunteers provided food and water to people who had to wait in line for hours.

Polling place locations that necessitate traveling long distances are particularly burdensome, and unfortunately an all-too-common occurrence, for Native American voters. Movement toward mail-in voting, closure of polling locations, lack of polling places located on tribal lands, and moves toward consolidated vote centers can disproportionately impact and possibly disenfranchise Native voters who face barriers such as lack of access to transportation, lack of traditional residential mailing addresses, lack of access to reliable mail service and distance. When fighting to ensure their communities have equal opportunities to vote, many tribal communities are at the mercy or discretion of county officials who choose where to place the polling locations and the level of ballot access.

Evidence presented before the Subcommittee at hearings spanning this Congress and the last, and discussed below, shows that pervasive polling place location issues, long wait times, and under-resourcing have a disproportionate, discriminatory, and suppressive effect on the ability of minority voters to freely and fairly exercise their right to vote.

THE DISPROPORTIONATE AND DISCRIMINATORY BURDEN AND IMPACT OF POLLING PLACE CLOSURES, CONSOLIDATIONS, AND RELOCATIONS, WAIT TIMES, AND LACK OF RESOURCES ON MINORITY VOTERS

Polling Place Availability and Accessibility

No matter the reason, polling place closures, consolidations, or relocations, or a lack of adequate resourcing can lead to long lines and extreme wait times or can require voters to drive for miles to reach a polling place. This burden often falls disproportionately on minority voters. Without the disparate impact data and analysis previously required under the Voting Rights Act preclearance process, community consultation, and evaluation to support these changes, there is no longer a preemptive mechanism to ensure these closures do not discriminate against minority voters.

As Jesselyn McCurdy, Managing Director of Government Affairs for the Leadership Conference testified, ''[v]oting discrimination and disenfranchisement takes many forms, but one tangible way to quash Americans' voices is to physically remove the very locations where ballots are cast and counted. While they do not garner the attention that voter purges and ID laws do, polling place closures can be just as disenfranchising.''

One of the starkest examples of this occurred recently during the 2020 primary election, when voters in Milwaukee, Wisconsin, were forced to stand in line for hours at one of only five polling places open across the city to cast their ballot on Election Day, after failing to receive absentee ballots in the mail and just weeks after officials shut down 175 sites. The make-up of Milwaukee is disproportionately Black—Madison, a much less populous town with a whiter population, boasted 66 polling sites to Milwaukee's 5.

According to an analysis by Demos and All Voting is Local, Milwaukee is home to 60.32 percent of Wisconsin's Black voters and 29.69 percent of the state's Hispanic voters. These polling place closures had a measurable disenfranchising effect. A peer-reviewed, journal article by the Brennan Center's Kevin Morris and Peter Miller found that the closures in Milwaukee depressed turnout by more than 8 percentage points overall—and by about 10 percentage points among Black voters.

The disenfranchising effects of polling place closures or movements have been documented by studies as well. Studies have shown that the closure or relocation of a polling location reduces turnout by one to two percentage points, meaning that the closure of relocation of polling locations that disproportionately serve minority voters also serves to disproportionately reduce turnout of minority voters.

These burdens are attributable to the fact that the closures or relocations force voters to travel farther to vote, which can be particularly burdensome on Latino, Native American, Asian/Pacific Islander, and Black voters who disproportionately lack access to a private vehicle. Distances to polling locations can be particularly burdensome for Native American voters living on rural, tribal lands, with some voters being forced to travel tens of miles to reach their polling location. Accessible polling locations are also necessary for LEP voters to access the franchise, as some voters who need language access materials or assistance may need a physical polling place to best exercise their right to vote.

The closures of polling locations ticked up dramatically in states previously covered by the VRA following the Supreme Court's decision in Shelby County. Ms. McCurdy testified that, without a fully functioning VRA and consistent oversight by the DOJ in reviewing proposed changes, election officials ''have unfettered discretion to shut them down without providing any valid reason.'' A September 2019 report prepared by The Leadership Conference Education Fund found that states and localities that were previously covered by Section 5 of the VRA closed 1,688 polling places between 2012 and 2018, almost double the rate identified in 2016. The Leadership Conference found that, in 2018 alone, there were 1,173 fewer polling places than there were in the previous 2014 midterm election. Another study found that by 2020 approximately 21,000 polling places that served voters on Election Day have been eliminated nationwide.

Through public records requests and data provided by the Center for Public Integrity,

the Campaign Legal Center (''CLC'') has continued to document polling place closures in Louisiana, Mississippi, and Alabama. For example, Danielle Lang, Director of Voting Rights at the Campaign Legal Center testified that:

''Since Shelby County, Louisiana has seen a steady decline in polling place access, especially for urban communities. For example, Jefferson Parish, Louisiana's largest parish, has seen an 8.7 percent increase in the number of Black registered voters between 2012 and 2020 but a 15 percent decrease in the number of polling places.''

CLC also found that counties in Mississippi and Alabama displayed a similar pattern. For example:

''Lauderdale County, Mississippi—which is 44 percent Black—closed 20 percent of its polling places between 2012 and 2020, even though the county's citizen voting age population increased by 3 percent. And Shelby County, Alabama—namesake of the Supreme Court decision—closed roughly 10 percent of its polling places between 2012 and 2020, despite an increase of almost 13 percent in the county's citizen voting age population.''

Ms. McCurdy, of the Leadership Conference testified before the Subcommittee that ''[p]olling place closures did not seem to vary to meet the different demands of each type of election; indeed, 69 percent of closures (1,173) occurred after the 2014 midterm election in anticipation of the presidential election, which would necessarily bring higher turnout in communities of color.'' One would have reasonably expected the number of available polling places to increase to correspond to the anticipated higher turnout. Ms. McCurdy further testified, however, that ''[t]his appears to be no accident: as pollsters predicted greater turnout for the 2018 midterm, counties with a history of discrimination began shutting down access to voting booths at an alarming rate.''

As noted previously, under Section 5, covered jurisdictions were previously required to demonstrate that closures would not have a discriminatory impact on voters, and to notify voters of the closures when they were permitted to occur. Now, post-Shelby, jurisdictions no longer need to notify voters of the change, nor is the DOJ required to analyze the impact of the proposed changes on minority voters. Ms. McCurdy testified that:

''All told, Shelby County paved the way for several previously covered states to each shut down hundreds of polling places: Texas shut down 750; Arizona shut down 320; and Georgia shut down 214. Quieter efforts to reduce the number of polling places without clear notice or justification spread throughout Louisiana (126), Mississippi (96), Alabama (72), North Carolina (29), and Alaska (6).''

Over both the 116th and 117th Congresses, the Subcommittee heard testimony about how polling place closures can directly target locations predominantly used by minority voters.

For example, in Irwin County, Georgia, the Board of Elections attempted to close the only polling place in the county's sole Black neighborhood, contrary to non-partisan recommendations, while keeping open a polling place in a 99 percent white neighborhood. In 2019, the City Council of Jonesboro, Georgia, voted to move the city's only polling location to its police department without providing the public notice required and without taking into consideration the possible deterrent effect on minority voters. Ms. Romero-Craft of Latino Justice testified that Hall County, Georgia's, decision to only reopen half of its early voting sites for the 2020 run-off election caused ''substantial reductions and disproportionately burdened Latino voters.''

Mimi Marziani of the Texas Civil Rights Project testified that, the best available evidence strongly suggests that many of the polling place closures that have taken place across Texas since Shelby County have disparately and negatively impacted communities of color. Ms. Marziani testified that, ''[i]n short, history and current data confirm that voters of Texas are not evenly affected by the State's detrimental changes to polling place locations, operations and hours. Instead, Black and Latinx Texans will suffer a heavier burden, as they have time and again.'' Texas, a state with a population that is 39 percent Latino, 12 percent African American, and 1.4 percent Asian American, has closed 750 polling places since Shelby.

The Texas example is particularly egregious. Ms. Marziani provided data that hundreds of polling places were closed before the 2016 presidential election, ''significantly more in both raw number and percentage than any other state.'' In Galveston, Texas, 16 percent of its polling locations were closed in 2016, according to a plan that had initially been rejected by the DOJ because it discriminated against Black and Latino voters. Three Texas counties closed between 75 and 80 percent of their total polling sites, ranking among the 10 counties with the highest percentage of poll closures in the country.

Texas is not the only example. Ms. McCurdy testified that Arizona, a state where 30 percent of the population is Latino, 4 percent is Native American, and 4 percent is African American, has the most widespread reduction (−320) in polling places—''almost every county (13 of 15 counties) closed polling places after Shelby County—some on a staggering scale.'' Ms. McCurdy's testimony noted that these closures occurred despite national news coverage of ''the adverse impact of polling place reductions in Maricopa County in the 2016 presidential preference election, which forced voters to stand in line for five hours to cast a ballot.''

Georgia—a state that is 31 percent African American, 9 percent Latino, and 4 percent Asian American—had 214 fewer polling places for the 2018 election than it did before Shelby. Ms. McCurdy stated that Georgia counties have closed higher percentages of voting locations than any other state the Leadership Conference reviewed for their Democracy Diverted report.

Gilda Daniels, the Director of Litigation at the Advancement Project, testified that her organization had collected data that, since 2012, Ohio had closed more than 300 polling locations across the state, a disproportionate number in urban areas. Furthermore, Ms. Daniels testimony notes that, between 2016 and 2018, Cuyahoga County (Ohio's second largest county) eliminated 41 polling locations and nearly 16 percent of all precincts changed location, harming a majority of Black communities.

While some states are closing polling locations in the shift to the vote center model, the lack of preclearance requirements means these shifts are happening without the requisite analysis to ensure they do not discriminate against minority voters. Additionally, the shift to a vote center model does not necessarily explain all polling place closures.

For example, in Texas, Somervell, Loving, Stonewall, and Fisher counties all closed between 60 and 80 percent of their polling places without converting to a vote center model. According to Ms. Marziani's testimony, each of these counties has a large Latinx population. Following the November 2018 General Election, TCRP conducted a comprehensive review of county compliance with provisions of the state Election Code and the Voting Rights Act—they found that many counties, regardless of size or polling place model, were out of compliance with elections laws. Texas was unlawfully short as many as 270 polling places in a total of 33 counties that contained four million registered voters collectively in 2018.

Additionally, Kevin Morris of the Brennan Center, testified that although more than half of all states have statutes detailing minimum standards for the number of polling places, many states simply do not comply with their own laws. Mr. Morris stated that, for example, his team uncovered evidence that ''more than 40 percent of precincts in Illinois had more registered voters assigned to than allowed under state law, as did nearly a quarter of precincts in Michigan.''

Standards for polling place locations can also be crafted in a way that is discriminatory toward minority voters. For example, Ms. Marziani testified that an earlier version Texas' State Bill (SB) 7, which moved through the State House but has not been signed into law, included a provision that would have created a formula to distribute polling places that would pull polling places away from communities of color. Ms. Marziani testified that the Texas Tribune found that, of the 13 State House districts in Harris County that would lose polling sites under this formula, all but one has a majority non-white voting-age population.

At the time of this report, the Texas state legislature has returned for a special session, during which the Republican-led legislature is attempting to once again take up restrictive voting legislation. The bills moving through the State House and Senate contain numerous provisions that restrict access to the ballot and voting opportunities, including, for example, putting limitations on polling places so as to ban drive-thru voting options. Texas Democrats have departed the state to deny a quorum at the legislature in order to block the voting restrictions bill.

For Native American voters, the location of polling places, consolidations, and the distance to polling locations is a significant issue. In their 2020 Report, NARF wrote that ''Native voters generally must travel greater distances to get to their polling places than non-Native voters living in the same counties.'' NARF goes on to report that often, polling places are located in non-Native county seats or non-Native communities, and in many cases the more populous Native communities are denied in-person voting on tribal lands, requiring them to travel off the reservation to vote.

According to testimony from Professor Ferguson-Bohnee, Director of the Indian Legal Clinic at the Sandra Day O'Connor College of Law, in a 2018 survey conducted by the Native American Voting Rights Coalition found 10 percent of respondents in New Mexico, 15 percent in Arizona, 27 percent in Nevada, and 29 percent in South Dakota identified distance from polling locations as one of the many problems associated with in-person voting. When polling locations or voting opportunities are located hours away it effectively amounts to no access for Native American voters. Professor Ferguson-Bohnee notes that the federal district court in Nevada acknowledged this reality when it found that a polling location 16 miles away from the Pyramid Lake Paiute Reservation constituted an undue burden on voters.

Nevada is not the only state where Native American voters face a disproportionate burden when it comes to polling place access—in 2016, Native American voters in Nevada and Utah had to travel over 100 miles to their nearest polling locations. In Mohave County, Arizona, most residents in the County lived near one of the 3 locations established for in-person early voting, however, for the Kaibab-Paiute Tribe the closest of the three locations was 285 miles away and required on-reservation voters to travel for over 5 hours if they wanted to vote early in person.

In October 2020, NARF and the ACLU of Montana filed suit against Pondera County election officials on behalf of Blackfeet Nation for failing to provide a satellite voting location on the reservation, depriving Tribal members of the same access to voting as White voters. According to the ACLU of Montana, the County offered in person voting between 60 to 80 miles away for Blackfeet Nation residents in the county seat—the suit resulted in a settlement agreement three days after filing in which Pondera County agreed to establish a satellite election office in Heart Butte.

At the Subcommittee's 2019 hearing in the Dakotas, Roger White Owl, Chief Executive Officer of the Mandan Hidatsa and Arikara Nation, testified that MHA Nation does not have enough polling places, ''[w]ith only a couple of polling places, many Tribal members had to drive 80 to 100 miles round trip to cast their vote. This is unacceptable.''

Long Wait Times and Inadequate Resourcing at the Polls

When minority voters do cast their ballot at a polling place, they are also more likely to face longer lines and wait times to do so. Dr. Stephen Pettigrew of the University of Pennsylvania testified before the Subcommittee that:

''The most basic impact of waiting in a line is the time burden placed upon the voter—what has been referred to as a 'time tax.' Compared to those who live in areas with consistently short lines, voters who live in areas with chronically long lines must sacrifice more of their time to exercise their right to vote. This can be a particular burden for people who have less flexibility in their schedule, whether because they have constraints in their work schedule or because they have childcare or eldercare responsibilities.''

Furthermore, Kevin Morris of the Brennan Center testified that, ''[o]ver the past decade, scholars have consistently noted that racial minorities wait longer to cast their ballots on election day than White voters.''

Not only do minority voters face, on average, longer wait times, they also are more likely to experience wait times exceeding 60 minutes, a wait widely recognized as unacceptable, with one analysis finding that a voter living in a non-white neighborhood is more than 6 times more likely to wait 60 minutes or more to vote than a voter living in a predominantly White neighborhood.

In testimony before the Subcommittee, Dr. Pettigrew stated that, ''[a] voter's race is one of the strongest predictors of how long they wait in line to vote: non-white voters are three times more likely than White voters to wait longer than 30 minutes and six times as likely to wait more than 60 minutes.'' Dr. Pettigrew's testimony and research also find that line length is a persistent and systemic problem—the same places with long lines in one election are more likely to have long lines in subsequent elections.

Furthermore, Dr. Pettigrew's research finds that the wait times gap between White and non- White voters bridges the simple explanation of a rural-urban divide, though that divide also exists. Dr. Pettigrew testified that, even within a given urban, suburban, or rural county, lines tend to be longer in neighborhoods and precincts with higher concentrations of non-White voters.

A report by the Brennan Center shows similar outcomes. Mr. Morris testified that the gaps cannot be explained solely by differences in income, age, or education, and that the gaps are large, stating, ''our report showed that in 2018, Black and Latino voters were more than one- and-a-half times as likely to wait 30 or more minutes as White voters.'' According to the Brennan Center, in the 2018 election, for example, 6.6 percent of Latino voters and 7 percent of Black voters reported waiting 30 or more minutes or longer to vote on Election Day, whereas only 4.1 percent of White voters reported waiting 30 minutes or more.

Additionally, in a recent report on equity in our democracy, the Brennan Center further reported:

''A 2020 analysis by the Brennan Center reported that Latino and Black voters were more likely to find themselves in the longest lines on Election Day than their White counterparts: ''Latino voters waited on average 46 percent longer than White voters, and Black voters waited on average 45 percent longer than White voters.'' Stanford University political science professor Jonathan Rodden analyzed data collected by Georgia Public Broadcasting/ProPublica and found that the average wait time after 7:00 p.m. across Georgia was 51 minutes in polling places that were 90 percent or more nonwhite, but only six minutes in polling places that were 90 percent White.''

Ms. Marziani further highlighted this in her testimony, stating that, in Texas for example:

''Press reports indicated wait times as high as seven hours, 'particularly in communities of color and on college campuses.' . . . Nationally, communities of color regularly wait nearly twice as long to vote as White voters, and in Texas, too, long lines disparately impact Black and Latinx Texans.''

Additionally, Keith Chen of the University of California, Los Angeles, found voters in Black neighborhoods waited longer to cast a ballot than voters in White neighborhoods, and were approximately 74 percent more likely to wait longer than half an hour. Using data from the 2008 and 2012 elections, multi-state internet surveys of tens of thousands of voters revealed that both African American and Hispanic voters faced substantially longer wait times at the polls than White voters. Other state-specific studies have shown that minority voters face disproportionately long lines relative to White voters.

According to a report in the New York Times, this disparity continued in the 2020 election— ''casting a vote typically took longer in poorer, less white neighborhoods than it did in whiter and more affluent ones.''

Ms. McCurdy of the Leadership Conference also testified to this point. Ms. McCurdy stated that:

''In previously covered jurisdictions, moreover, mass closures similarly resulted in long lines: In 2020, voters stood in line for hours in Phoenix, Arizona, and Atlanta, Georgia; Texas' shuttering of 334 polling places—more than any other state—in majority- Latino neighborhoods forced voters to drive farther than White people from other areas. Indeed, across the country Black and Latino voters consistently reported longer wait-times than White voters.''

Scholars and stakeholders have demonstrated that the disproportionately long wait times faced by minority voters are often attributable to the differentially lower quality of the polling locations that serve a disproportionately large number of minority voters. For example, Dr. Pettigrew's testimony states that ''one of the reasons why non-White voters wait longer to vote is that fewer resources, such as poll workers and voting machines, are allocated to precincts with more non-white registrants.'' Studies have shown that election officials provide more poll workers and voting machines to disproportionately White precincts, relative to precincts that serve minority voters. A study by the Brennan Center showed that counties that saw a declining population of White voters also saw declines in polling location resources, with counties where the population became whiter having 63 voters per poll worker, whereas counties that were becoming less White had 80 voters per poll worker.

Equal distribution of resources alone, however, is not enough to address the disparate experience of minority voters. Mr. Morris testified that

''Equalizing the distribution of polling place resources, in other words, is insufficient to equalize voters' experience on Election Day. To ensure equitable Election Day experiences and end the excessive lines and wait times faced by minority voters, administrators need to distribute relatively more and higher-quality resources to neighborhoods of color.''

Mr. Morris further stated that, ''although voters of color already face the longest lines, on average, they make up a growing share of the jurisdictions with the fewest electoral resources'' and that ''resource allocation patterns are on track to exacerbate, not mitigate, the racial wait gap in coming years.

Additionally, as noted elsewhere in this report, long wait times can be compounded by the disparate impact of the other practices discussed in this report. Mr. Morris testified for example, that the dynamic of inadequate resources ''plays out especially clearly when it comes to language access.'' Mr. Morris testified that research at the Brennan Center ''indicates that counties that have significant and growing populations of voters whose first language is not English, but have not met the threshold to provide language assistance under Section 203 of the VRA, usually provide little-to-no language assistance, leaving some communities underresourced.'' Voter purges that remove eligible voters from the rolls may cause delays at the polling place as poll workers take time trying to locate the voter's record, and purged voters are often required to cast provisional ballots—Mr. Morris testified that voters who cast a provisional ballot can take twice as long to cast their ballot as a traditional ballot.

In addition to imposing direct burdens on minority voters, longer wait times also impact the likelihood that a voter will vote in later elections, thereby disproportionately impacting and suppressing participation among minority voters. Voters who face long lines in one election are disproportionately likely not to vote in a subsequent election because of their adverse experience with the voting process. This means that when minority voters face disproportionately long wait times in one election, then these same voters are disproportionately likely not to turnout in subsequent elections.

Dr. Pettigrew testified that, ''[b]ecause voters' experiences at the polling place have downstream consequences on their future turnout behavior and their confidence in the electoral system, policies that widen the wait time gap between White and non-white voters have the potential to put a thumb on the electoral scale by reshaping the electorate.''

For example, one study estimated that whereas African American voters comprise 9.7 percent of the electorate, they accounted for 22 percent of the voters who voted in 2012 but did not turnout in the 2014 election because of their adverse experience with long wait times.

Dr. Pettigrew testified that, ''[v]oters who waited between 30 and 45 minutes to vote were 1 percentage point less likely to turn out to vote in the next election, compared to voters who waited less than 15 minutes. When considering voters who waited more

than 60 minutes, this impact increases to about 1.6 percentage points.'' Dr. Pettigrew notes that, ''[w]hile these percentages may seem small, it is important to remember that in many elections million or tens-of-millions of voters experience long lines, meaning that future decreases in turnout can be in the hundreds-of-thousands.''

CONCLUSION

The evidence before the Subcommittee clearly illustrates the disproportionate, discriminatory effect polling place closures, consolidations, and relocations and under resourcing has on access to the ballot for minority voters. The 2013 bipartisan Presidential Commission on Election Administration set out a key recommendation that ''as a general rule, no voter should have to wait more than half an hour in order to have an opportunity to vote''—the evidence presented to the Subcommittee clearly shows that states and localities are falling far short of this, with minority voters disproportionately bearing the burden.

As Danielle Lang, Director of Voting Rights at the Campaign Legal Center stated, ''[t]he quality of polling places—their number, location, accessibility, and resources—affects voter participation and confidence, thereby affecting the health and representative nature of American democracy.'' The Supreme Court recognized as much, as Ms. Lang testified, confirming that ''the location and accessibility of polling places can have a direct impact on a voter's ability to exercise their fundamental right to vote. Litigation is simply an inadequate remedy to combat the scale of polling place closures and to combat the significant harm borne disproportionately by minority voters. The data shows these issues are pervasive and have a significant suppressive effect on voters, demanding heightened scrutiny and protections to ensure every voter has access to the franchise.

CHAPTER SEVEN—RESTRICTING OPPORTUNITIES TO VOTE

BACKGROUND

The 2020 general election was yet another proof point in what we knew to be true about administering elections in America—when voters are given a variety of options for when and how to cast their ballot outside of traditional in-person Election Day voting, they take advantage of those options. These options include casting a ballot by utilizing early in-person voting, curbside or drive-thru voting options, mail-in voting, or placing a completed ballot in a drop box. Undeniably, voting in-person on one Tuesday in November is impractical or impossible for millions of Americans.

Each of these alternative options are also secure. Election administrators across the country proved during the 2020 and prior elections that they can be administered in ways that reinforces the integrity of our elections even when utilized at record levels. Cybersecurity and election security officials, in fact, stated that the 2020 election was ''the most secure in American history.''

Early voting, and especially weekend early voting, is a critical tool to ensuring access to the ballot and reducing wait times at the polls. Absentee or no-excuse/mail-in voting is also crucial to providing voters with options for casting a ballot. In testimony submitted before the Subcommittee, Gilda Daniels of the Advancement Project stated, ''[i]t has been proved that expanding early voting, vote by mail ballots, and drop box return options decrease the cost of voting'' and making these options widely available can assist with turnout and smooth election administration.

Studies have shown that restrictions on a variety of alternatives to voting in-person on Election Day have the potential to disproportionately burden minority voters. Moreover, restricting alternative opportunities to vote burdens Latino and Black voters, who disproportionately lack the ability to shift their working hours, and therefore are less able to vote on Election Day. Restricting voting options can also burden Native American voters, who have non-traditional mailing addresses, long distances to travel to polling locations, often lack transportation, and can have inconsistent access to mail services. Failure to provide adequate language assistance also impedes the ability of LEP voters to fully understand and take advantage of voting options such as absentee voting or assessing what early voting options are available.

While a variety of options for casting a ballot outside of the traditional Election Day are being utilized with increasing frequency by all voters, including minority voters, that increased use has also made these opportunities to vote the subject of targeted, suppressive voting laws in the post-Shelby era.

Michael Waldman of the Brennan Center testified that multiple states have reduced early voting days or sites used disproportionately by minority voters, such as in Ohio and Florida, where legislatures eliminated early voting on the Sundays leading up to Election Day after Black and Latino voters conducted successful ''Souls to the Polls'' turnout drives on those days. Federal courts struck down early voting cutbacks in North Carolina, Florida, and Wisconsin because they were intentionally discriminatory. Similar efforts are underway today, cutting or restricting early voting, mail-in voting, and ballot return methods, which will disproportionately impact and burden minority voters.

Under the false flag of ''election integrity'' and combating fraud, as of July 14, 2021, more than 400 bills have been introduced by lawmakers in 49 states to curb access to the vote. As of the writing of this report, at least 18 states have enacted new laws containing provisions that will restrict access to voting and opportunities to vote.

The Brennan Center reports that at least 16 mail-in voting restrictions in 12 states will make it more difficult for voters to cast mail ballots that count and at least eight states have enacted 11 laws that make in-person voting more difficult. These laws come on the heels of an election in which reports show that the share of voters casting mail-in ballots far exceeded any other recent national elections, and the share of voters who reported going to a polling place on Election Day dropped to its lowest point in at least 30 years. According to a report by the Brennan Center:

''Compared to 2016, Latino voters in 2020 quadrupled their participation in early and absentee balloting—a 224 percent increase, compared to a 165 percent increase for early and absentee ballots cast by voters overall. In the 13 most contested battleground states in the 2020 election, Asian American and Pacific Islander voters saw their early and absentee voting rise nearly 300 percent from 2016 levels.''

Laws enacted in Arkansas, Florida, Georgia, Iowa, and Montana restricting access to the ballot are already being challenged in court.

Evidence presented before the Subcommittee across numerous hearings clearly illustrates that the cuts made to opportunities to vote have a disproportionate and discriminatory impact on minority voters and, in some cases, are pursued with a provable discriminatory intent.

CUTBACKS AND RESTRICTIONS ON OPPORTUNITIES TO VOTE AND THE DISCRIMINATORY AND DISPROPORTIONATE BURDEN AND IMPACT ON MINORITY VOTERS

More than three-quarters of states offer some in-person early voting, but the number of days of availability varies across the nation. Despite the widespread, successful, secure use of early in-person voting in states across the country, early voting options have become the target of suppressive restrictions in the post-Shelby era.

Cutbacks and restrictions on opportunities to vote outside of what is considered traditional Election Day voting places a disproportionate burden on minority voters. Options such as early voting, mail-in voting, curbside voting, and drop boxes for ballot return all increase voter participation and were used at increasing rates by minority voters during the 2020 primary and general election.

Danielle Lang, Director of the Voting Rights Program at the Campaign Legal Center testified that, in 2020, polls showed that Black voters were the most likely to cast an early ballot and in 2016, Latino voters were the most likely to cast an early ballot. Yet, without the requirement of preclearance to study and analyze changes in opportunities to vote for disparate impact, each of these voting options have become the target of suppressive and discriminatory cutbacks by state legislatures across the country.

Dr. Pettigrew testified before the Subcommittee that the number of options and opportunities voters have to cast their ballots is also a major contributor to the length of lines at the polls, a burden that the previous section of this report clearly demonstrated falls disproportionately upon minority voters. Increasing hours of operation at polling places, increasing the number of days of early voting, and providing broader access to mail-in voting all decrease line length and provide voters with opportunities to participate in democracy that meet them where they are in their daily lives.

Early In-Person Voting

Dr. Michael Herron of Dartmouth College testified before the Subcommittee that options such as early in-person voting are a form of ''convenience voting,'' the implementation of which decreases the cost of voting for the voter. Dr. Herron explains that ''cost'' in this sense ''refers not necessarily to a monetary cost of participating in an election that would be borne by an individual but rather to the time, effort, and tasks that a voter must perform in order to vote.'' As he explained further, ''[t]he higher the cost of voting in a state, the lower the turnout tends to be, all things equal.''

Dr. Herron testified that early voting has expanded across the United States over the past several decades and, in this same time period, has been heavily used by minority voters. Dr. Herron testified that, ''[c]ertain types of voters tend to use different days of early voting,'' and for this reason, ''changes to election administration procedures that affect precisely when early voting is offered—i.e., on weekdays only as opposed to on both weekdays and weekends—will affect different racial groups differently.'' He testified further that, ''changes to early voting hours that reduce pre-Election Day, Sunday voting opportunities should be expected to disproportionately affect Black voters'' and that, if a state were to eliminate Sunday early voting, ''the cost of voting for Black voters would disproportionately increase compared to White voters given the relatively heavy use of Sunday early voting by Black voters.''

One of the most striking examples of how changes and cutbacks to opportunities to

vote can be wielded to disenfranchise minority voters comes again from North Carolina's 2013 omnibus voting bill, dubbed the ''monster law.'' A study co-authored by Dr. Herron examining the discriminatory impact of the state's 2013 voting law, which, among other restrictions, cut 10 days of early voting, eliminated same-day voter registration, and eliminated out-of-precinct voting and was enacted within days of the Supreme Court's decision in Shelby County, found that in virtually every election between 2009 and 2012, Black voters disproportionately relied on early voting relative to White voters. Accordingly, the law's restrictions on early voting disproportionately burdened Black voters.

The North Carolina law specifically targeted one of two ''Souls to the Polls'' Sundays, early voting events traditionally held the Sunday before Election Day and heavily utilized by Black faith communities to get voters to the polls. The omnibus law was found by the courts to have targeted African American voters with ''almost surgical precision.'' As Ms. Lang noted in her testimony, the Fourth Circuit Court of Appeals labeled the restriction on Sunday voting ''as close to a smoking gun as we are likely to see in modern times.''

Allison Riggs of the Southern Coalition for Social Justice testified that North Carolina's attacks on early voting access did not end with the 2013 law. In 2018, North Carolina's legislature enacted a separate law requiring all 100 counties within the state to offer uniform voting hours. While sounding innocuous in theory, in practice it:

''[H]ad a terrible effect on the ability of voters, particularly those of color, to get to a polling place. After the enactment of the ''uniform hours requirement,'' 43 of North Carolina's 100 counties eliminated at least one early voting site, almost half reduced the number of weekend days when early voting was offered, and about two-thirds reduced the number of weekend hours, compared to 2014.''

Tomas Lopez of Democracy North Carolina testified before the Subcommittee in 2019 that, ''this has produced several consequences in practice . . . [o]f the eight counties where a majority of voters are Black, four reduced sites, seven reduced weekend days, and all eight reduced the number of weekend hours during early voting. None saw increases in sites or weekend options.''

Like North Carolina, Florida has engaged in a lengthy effort to restrict voting options predominately used by minority voters. A study co-authored by Dr. Herron, analyzing differential use of early voting in Florida, found that Black voters disproportionately voted early relative to White voters. Ms. Lang testified that, in 2011, Florida's legislature passed a bill eliminating Sunday voting on the Sunday immediately preceding Election Day—the bill coming after data from the 2008 Presidential election showed that:

''Across all early voting days, the two days that featured the lowest white participation rates . . . both were Sundays, but on the first Sunday of early voting, the racial and ethnic group with the highest relative participation rate was African-American voters. And on the last Sunday, the group with the highest relative participation rate was Hispanic voters, followed by African-American voters.''

Because of Black voters' disproportionate reliance on early voting, scholars found that Florida's restriction on access to early voting in 2012 meant that ''racial and ethnic minorities . . . were far disproportionately less likely to vote early in 2012 than in 2008.'' That was particularly true because African American voters were disproportionately likely to vote on the final Sunday before Election Day, which was among the early voting days eliminated by the law, as part of ''Souls to the Polls'' get-out-the-vote efforts.

Also in Florida, in July 2018, a federal court struck down a state ban on early voting at public colleges. Hannah Fried, National Campaign Director of All Voting is Local, testified before the Subcommittee in October 2019 that a post-election analysis published by the Andrew Goodman Foundation found that ''nearly 60,000 voters cast early in-person ballots at campus sites that advocates, including [All Voting is Local], helped secure'' in the aftermath of the court's decision, however, Florida's only public historically Black university was the only major public campus without an early voting site.

An examination of on-campus early voting in the 2018 election performed by Professor Daniel Smith of the University of Florida found high rates of campus early voting among Hispanic and Black voters. Moreover, Professor Smith found high rates of campus early voting among historically disenfranchised groups, including:

''[A]lmost 30 percent of campus early vote ballots were cast by Hispanic voters, compared to just under 13 percent of early ballots cast at non-campus locations, and that more than 22 percent of campus early vote ballots were cast by Black voters, compared to 18 percent of early ballots cast at non-campus locations.''

Ms. Lang testified that, in 2014, data from Georgia and North Carolina similarly showed that 53 percent of 25,000 early votes cast on the second Sunday before Election Day were from Black voters, compared with 27 percent of the votes cast by all early voters in the 2014 midterm elections.

In Texas, just before the 2018 election, the NAACP Legal Defense Fund filed a motion for a temporary restraining order on behalf of Black students at the historically Black university Prairie View A&M University (''PVAMU'') in Waller County, Texas. In 2018, the students sought to stop cuts to early voting hours, which would have left Prairie View without any early voting opportunities on weekends, evenings, or during the first week of early voting.

Janai Nelson, Associate Director-Counsel of LDF, testified to the Subcommittee that county officials refused the student requests to provide adequate early voting sites or hours and that County officials have ''long discriminated against Black voters at PVAMU and in the majority—Black City of Prairie View, dating back to at least the early 1970s.'' In response to LDF's ongoing case, however, county officials agreed in 2018 to add several hours of early voting in Prairie View. LDF continues to litigate this case under its Section 2, Fourteenth, Fifteenth, and Twenty-sixth Amendment claims on behalf of PVAMU students who were still denied equal and adequate voting opportunities in the election under the modified plan and parties are awaiting the trial court's decision.

In yet another example, in Dodge City, Kansas, voting was limited in 2018 to one polling location, which was outside of town and inaccessible via public transportation—Dodge City's population is ''60 percent Hispanic, and the voter turnout among Latinx voters is lower than the national average.'' Alejandro Rangel-Lopez, a high school student from Dodge City, testified before the Committee in 2019 that:

''Dodge City only had one polling place for nearly 13,000 voters and while that's bad enough to make it one of the most burdened polling places in our state, it was at the very least, centrally located, which can't be said about the location chosen for the 2018 midterm election. That new location was south of town, outside the city limits. Worse, the county clerk sent out the wrong location address to new voters. [T]his new site wasn't accessible by public transportation before we raised concerns. We believed these factors would negatively impact minority and low-income voters . . . We rely on our elected officials to make the right choices and for a county clerk, that job was to make voting as easy as possible in the county she represents. Unfortunately, that's not what happened. The clerk spent nearly $100,000 of taxpayer money for legal fees fighting our efforts to make polling places more accessible.''

In Ohio, in addition to other cuts to voting opportunities, the state allows each county only one early, in-person voting site, regardless of population size—meaning Franklin and Cuyahoga Counties, home to Columbus and Cleveland, with populations of more than 1.2 million people each and significant populations of Black voters, are allotted the same, single early voting site as the smallest counties in the state, some of which are home to less than 15,000 people. Inajo Davis Chappell, a Member of the Cuyahoga County Board of Elections, testified before the Subcommittee in 2019 that, ''[b]ecause of the limit to this one location, voting lines are long, especially during the presidential election cycle. During periods of heavy voting, long lines can be seen wrapped around the building and down the street for several blocks.''

LDF's report, Democracy Diminished, notes an example of a Georgia state legislator making the intent behind his opposition to certain early voting in minority communities clear—when an early voting site was opening near a popular mall in Dekalb County in 2014, a state senator responded that ''this location is dominated by African American shoppers and it is near several large African American mega churches,'' and that he would ''prefer more educated voters than a greater increase in the number of voters.''

Cuts to early voting locations and opportunities to vote also negatively impact the ability of Native American voters to access the ballot. In NARF's 2020 report on obstacles faced by Native American voters, they state that early voting can be a positive force for Native voters, if it accounts for the barriers that they face in participating in non-tribal elections—when officials coordinate with tribal governments and schools to provide information about voting locations and schedule, it can improve turnout.

Professor Ferguson-Bohnee testified that, while some election administrations are willing to work with tribes to increase access, others are not. The Pascua Yaqui Tribe in Arizona, for example, filed a lawsuit to restore the in-person early voting location on the reservation—and ''[w]hile Pima County noted that the voting location would have cost $5,000 to operate, and the Secretary of State was willing to cover the cost, the County denied the Tribe an early voting location.'' Professor Ferguson-Bohnee stated that, without the early voting location, ''on-reservation voters who lacked a vehicle were required to take a two-hour roundtrip bus ride to cast an early ballot.''

In South Dakota, a federal district court found that Pine Ridge Reservation residents ''must travel, on average, twice as far as White residents to take advantage of the voter registration and in-person absentee voting services.'' In another example, NARF reported that, in Oklahoma, there is often only one early voting location per county—in the county seat—which is often not accessible for Native voters living in outlying areas, and ''in the poorest areas of Nevada, where several reservations are located, no

early voting or satellite voting locations were established.''

Furthermore, in the 2016 general election in Arizona, there were a total of 89 early voting locations, only 23 of which were on reservations. While off-reservation locations were open for multiple days, in contrast, early voting locations on the White Mountain Apache and San Carlos Apache reservations had only one day to vote early in-person, and only four hours on that one day.

Professor Ferguson-Bohnee's testimony stated that, in Mohave County, Arizona, the county established three in-person early voting sites, and while most residents of the County lived near one of the locations, for the Kaibab-Paiute Tribe, the closet of the three locations was ''located 285 miles away and required on-reservation voters to travel for over five hours if they wanted to vote early in-person.'' In Navajo County, off-reservation voters had access to more than 100 hours of in-person early voting—while members of the Hopi Tribe living on-reservation in the County had access to only six hours of in-person early voting. That represents only six percent of the amount of in-person voting opportunities on-reservation voters could access compared with off-reservation voters.

Increasing the options for how voters can vote early in-person can also increase voter participation and participation of minority voters. For example, Isabel Longoria, Elections Administrator for Harris County, Texas—home to Houston and the third largest county in the country—testified that the historic turnout of 1.68 million voters Harris County experienced in the November 2020 election was driven by innovative voting opportunities such as drive-thru voting (128,000 votes), 24-hour voting (16,000 votes), and a robust mail ballot program (179,000 votes), and that these methods of voting ''helped promote voting in minority communities, which helped create a more accurate representation of communities in the county.''

Ms. Longoria testified that during the July 2020 and November 2020 elections, Harris County also kept its polls open until 10:00 p.m. on two evenings and open the entire night one evening. Ms. Longoria testified that, of the Harris County voters who used expanded hours, 45 percent came from State House districts that are majority or plurality Black, Hispanic, or mixed-race districts.

Harris County also opened multiple drive-thru voting sites that provided voting on the same machines and in the same manner as voting at all other in-person locations. Of the voters who used in-person drive-thru voting, 60 percent came from the majority or plurality Black, Hispanic, or mixed-race State House districts. Though only 38 percent of early voters in the 2020 Presidential election were Black, Latino, or Asian, 53 percent of those communities used drive-thru voting. However, instead of promoting and celebrating these opportunities to vote, state legislators in Texas are also pursuing a suppressive voting bill that would undermine many of these alternative methods of voting.

Gilda Daniels, Director of Litigation at the Advancement Project, testified that voting statistics show that, in the November 2020 general election, Black voters in Georgia also used early voting on weekends at a higher rate than White voters in 43 of 50 of the state's largest counties. That is 86 percent of the largest counties. The state also recently passed a restrictive bill that, among numerous troubling provisions, takes aim at access to early voting.

Mail-in Voting and Ballot Return

Whether cast via the mail, returned via a ballot drop box, or returned at a polling place, mail-in voting is another opportunity to vote that gives voters control over when and how to cast their ballot that increases access to the franchise. Equitable mail-in voting practices increase voter participation; however, both restrictions on mail-in voting and mail-in voting implementation can be executed in a manner that is discriminatory toward minority voters or disproportionately burdens minority voters. Ms. Lang testified that ''[a]bsentee voting is one of the most accessible, equitable, and secure methods of voting that states can implement.'' However, access to mail-in voting options is highly uneven—from 5 states that conduct vote-by-mail elections, to many who offer no-excuse absentee voting, to the 16 states that continue to limit access to mail-in voting options, locking many voters out of this option.

Use of mail-in voting increased significantly during the November 2020 election—approximately 43 percent of voters cast mail-in ballots, roughly twice the percentage of voters who cast mail-in ballots in the 2016 general election.

Dr. Herron testified that this increase was not uniform across racial groups. For example, Dr. Herron noted that the shift in the mail-in voting rate in Florida for Black voters increased from almost 21 percent to around 39 percent, an 89 percent increase, while the rate for White voters went from 31 percent to 44 percent, a 43 percent increase. Dr. Herron testified that, while it remains to be seen whether mail-in voting usage will return to pre-pandemic levels, ''[c]hanges to [vote-by-mail] voting procedures should not [be] expected to be racially neutral any more than changes to early voting procedures.''

The inequitable access to mail-in voting options and different eligibility rules were put in stark relief during the 2020 election, a presidential primary and general election conducted during a once-in-a-century pandemic. For example, Ms. Lang testified that Texas's restrictions on eligibility for requesting and casting an absentee ballot ''den[ies] the majority of Texans the ability to vote by mail—particularly Latino and younger voters.'' Ms. Lang testified that ''Latino voters in Texas are significantly younger than the average Texas voting population, which means they are disproportionately unable to avail themselves of the over-65 exception to the absentee eligibility criteria.'' In May 2020, in Texas, CLC moved to intervene on behalf of the League of United Latin American Citizens (LULAC) in a lawsuit filed by the Texas Democratic Party challenging Texas's vote-by-mail eligibility restrictions—the case remains pending in federal court.

Some states have also erected unduly burdensome requirements for casting absentee ballots that make the option illusory for many voters. For example, Alabama requires voters to send an application for an absentee ballot for every election to a special absentee election manager for the county, including a photocopy of their voter ID, and then return the ballot with a notary signature or the signature of two witnesses. In Mississippi, the application to vote by mail-in ballot must be notarized.

In another example, Ms. Lang testified that ''[f]rom start to finish, Tennessee makes vote by mail unduly difficult and inaccessible.'' CLC has several lawsuits pending in Tennessee, two of them, Ms. Lang notes, particularly relevant to minority voters' opportunities to vote. CLC is challenging Tennessee's strict limitations on who can vote by mail and the state's failure to allow voters to fix issues with their absentee ballots after they are rejected due to a perceived signature mismatch.

Additionally, Tennessee law does not allow most first-time voters to vote by mail even if they otherwise qualify under the state's strict eligibility criteria. Ms. Lang testified that, ''[t]hus, new voters—who are disproportionately young and of color—are locked out of absentee voting even when they have no way to present themselves to vote in person.'' Allison Riggs of the Southern Coalition for Social Justice testified that ''[t]he five states that did not allow unfettered access to vote-by-mail in 2020—Tennessee, Texas, Mississippi, Indiana, and Louisiana—were in the bottom 10 in turnout countrywide.''

Additionally, when a voter does vote by mail-in ballot, often there is no guarantee the ballot will be counted, as election officials often have the discretion to reject a ballot if they perceive discrepancies in the voter's signature. Ms. Lang testified that ''signature matching'' has been shown to ''disproportionately discount the ballots of voters with disabilities, older voters, and voters who are non-native English speakers or racial minorities.'' Ms. Diaz of the UCLA Latino Policy and Politics Initiative also testified that, ''signature matching requirements for mail ballots create a potential to disenfranchise Latino voters'' and ''[u]ltimately, mandatory signature matching is likely to have a disproportionate effect on the young, elderly, disabled, racial/ethnic minorities, and limited English proficient voters.''

If not implemented in conjunction with in-person voting options and in consultation with tribal governments, mail-in voting can replicate many of the same barriers and distance issues faced by Native voters. A lack of traditional addresses, inconsistent access to postal services, and distance all create barriers to fully accessing mail-in voting for many Native American voters.

The use of drop boxes or allowing a third-party to return a voter's mail-in ballot have also been the target of restrictions in recent years. Ms. Lang testified that last year, approximately 41 percent of voters who voted absentee used ballot drop boxes, just 3 percent less than the percentage of voters who returned their ballot using the Postal Service. Yet, despite widespread, secure usage of drop boxes, states such as Texas moved to restrict the ability of voters to return their ballots via drop box—during the election the Governor of Texas issued an order restricting counties to one drop box per county and forcing counties that had deployed more than one to remove them.

Ms. Lang testified that ''[t]his eleventh-hour decision to limit access to safe ballot drop-off locations so close to the election sowed mass confusion. Moreover, it disproportionately affected Black and Latino voters living in major metro areas and voters who were entitled to vote by mail because they were older or had disabilities.'' The Governor's order forced highly populous, majority-minority counties like Harris County, which has 4.7 million residents (more than 26 states) to cut their drop off locations from the 12 they had set up over roughly 1,700 square miles to one. These restrictions harmed minority voters in both populous counties and rural counties like majority-minority Brewster County on the Texas-Mexico border.

A lack of convenient access to drop boxes to return mail-in ballots was a consistent barrier for Native voters, as noted in NARF's 2020 report. All too often, drop boxes are located off tribal lands, in some cases great distances from Native American communities. Bans on ballot returnalso disproportionately harm Native American voters. Many Native Americans rely on P.O. boxes that are often far from their homes. As detailed by NARF, families commonly ''pool'' their mail, meaning ''one person who is

going to town would collect it for everyone else to drop off at the post office.''

Also, some people who cannot afford a P.O. box will have their mail sent to someone else who does have one, meaning if the mail contains an early ballot, depending on the law, that neighbor could be implicated in a banned ballot collection practice. NARF, along with the ACLU and the ACLU of Montana is currently challenging two new Montana laws that hinder Native American participation in voting, including one that attempts to block organized ballot collection on rural reservations. In September 2020, a Montana court permanently struck down a different state law, the so-called Montana Ballot Interference Prevention Act (BIPA), which imposed severe restrictions on ballot collection efforts critical to Native Americans living on rural reservations. In its order, the court held that the costs borne by Native American communities associated with BIPA were ''simply too high and too burdensome to remain the law of the State of Montana.''

Recent Attacks on Opportunities to Vote

Despite the record-setting voter turnout experienced in 2020 and the secure nature in which the election was conducted, attacks on opportunities to vote are well underway in many states. According to the Brennan Center for Justice, at least 16 mail voting restrictions in 12 states will make it more difficult to cast mail ballots that are counted and at least 8 states have enacted 11 laws that make in-person voting more difficult. According to the Brennan Center's state law roundup:

''Three states have limited the availability of polling places: Montana permitted more locations to qualify for reduced polling place hours; Iowa reduced its Election Day hours, shortened the early voting period, and limited election officials' discretion to offer additional early voting locations; and Georgia reduced early voting in many counties by standardizing early voting days and hours.''

In Florida, Governor Ron DeSantis signed into law a bill that makes it more difficult to vote by mail-in ballot and makes it harder for voters to access secure drop boxes. On May 6, 2021, the NAACP LDF filed a lawsuit on behalf of the Florida State Conference of the NAACP, Disability Rights Florida, and Common Cause, challenging many of the provisions in SB 90 (2021), including new ID requirements for requesting mail-in ballots, new requirements for standing mail-in applications, limitations on the use of drop boxes, and others—this litigation is pending.

As noted earlier in this section, Republicans in the Texas state legislature are pushing a bill that would put limitations on early voting hours (including Sunday early voting), increase restrictions on vote-by-mail, and curb voting options such as drive-thru voting. This proposed law comes after an election cycle in which, despite the ongoing pandemic, the Governor limited the number of drop-off locations for mail-in ballots to one site per county via proclamation, forcing Harris County, for example, to cut their drop-off locations from 12 to 1, Republicans attempted to preemptively throw out more than 125,000 early voting ballots from drive-thru polling sites in Harris County (the state's most populous county) via court challenge; and refused to expand eligibility for no-excuse absentee voting.

According to the Texas Tribune, Senate Bill (SB) 7 takes aim at opportunities to vote used by minority voters, ''[p]ortions of the bill were specifically written to target voting initiatives Harris County used in the last election—such as a day of 24-hour early voting, drive-thru voting, and an effort to proactively distribute applications to vote by mail—that were heavily used by voters of color. But under SB 7, those options will be banned across the state.'' Ms. Longoria testified that SB 7 would have prohibited the Elections Administrator from opening the polls before 6:00 a.m. or after 9:00 p.m. on weekdays or Saturday—a prohibition that would ''disproportionately hurt voters of color, particularly those who are Black and Hispanic.''

Despite failing to pass SB 7 in the regular legislative session, the Texas Legislature began a special session on July 8, 2021, in which both the House and Senate revived separate proposals (Senate Bill 1 and House Bill 3) that would enact restrictions on opportunities to vote such as outlawing the drive-thru voting option utilized by Harris County, regulating early voting hours to preempt expanded early voting opportunities such as 24-hour voting, and prohibiting local election officials from sending unsolicited mail-in ballot applications, among others.

Ms. Riggs testified that, once again, under the guise of ''election integrity,'' the North Carolina legislature is responding to the 2020 election by introducing bills that would restrict access to voting options. Ms. Riggs testified that one troubling bill moving through the legislature is Senate Bill (SB) 326, which would ''[w]ith no justification'' require voters to submit an absentee ballot request form earlier than was required in 2020, and would require all civilian absentee ballots to be received no later than 5:00 p.m. on Election Day to be counted— currently ballots postmarked by Election Day and received no later than three days after Election Day are counted. In analyzing data from the 2020 election, Ms. Riggs testified that, ''SCSJ internal data show that in the first few days after Election Day in 2020, Black voters' ballots represented a significant percentage of those ballots received when compared to White voters' ballots (where race was designated)'' and ''[t]o be clear, all these voters who relied on the United States Postal Service would be disenfranchised under the new law. But the harm to Black voters, whose participation rate has dropped below the rate seen in 2008 and 2012, is very troubling.''

In March 2021, on the heels of record voter turnout in the November 2020 general election and January 2021 run-off election, the State of Georgia also enacted a suppressive voting law that makes cuts to voting opportunities, which will disproportionately impact minority voters.

Ms. Nelson of LDF testified that LDF, along with several partners, filed suit in the U.S. District Court for the Northern District of Georgia challenging Georgia's SB 202 for intentional racial discrimination and discriminatory results under Section 2 of the VRA, intentional racial discrimination under the Fourteenth and Fifteenth Amendments, as an unconstitutional burden on the right to vote under the First and Fourteenth Amendments, and as an unconstitutional burden on the right to freedom of speech and expression under the First Amendment.

The Justice Department has also filed suit against the State of Georgia, the Georgia Secretary of State, and the Georgia State Elections Board over the newly enacted law, challenging provisions of the law under Section 2 of the VRA. The Justice Department's complaint argues that several provisions of SB 202 were ''adopted with the purpose of denying or abridging the right to vote on account of race.'' The suit further alleges that ''the cumulative and discriminatory effect of these laws—particularly on Black voters—was known to lawmakers and that lawmakers adopted the law despite this.''

CONCLUSION

Americans no longer vote solely on a single Tuesday. For millions of Americans, Election Day-only voting is impractical or inaccessible. Increasing access to opportunities to vote benefits all voters and increases participation in our democratic process—but targeted restrictions on these opportunities disproportionately and discriminatorily burden minority voters. As Ms. Lang testified, ''[t]he early in-person voting options are wildly uneven nationwide. While some Americans enjoy a broad range of voting opportunities, others face increasing constraints on their voting options.''

Cuts to early in-person voting, especially Sunday voting, and a lack of adequate early voting sites serves to disenfranchise minority voters and, in some cases, has been shown to be enacted with discriminatory intent. Additionally, mail-in voting is a safe, secure, and critical option for many voters, but if enacted with unreasonable and discriminatory barriers, can remain out of reach for many minority voters. Finally, attacks on alternative opportunities for returning a ballot have a discriminatory impact of many minority voters.

The evidence before the Subcommittee is clear—cuts to early voting, limiting the availability of early voting options, undue restrictions on mail-in ballots, and unfounded restrictions on ballot return options erect discriminatory barriers to voting.

CHAPTER EIGHT—CHANGES TO METHODS OF ELECTION, JURISDICTIONAL BOUNDARIES, AND REDISTRICTING

BACKGROUND

Discriminatory practices in, and changes to, methods of election, jurisdictional boundaries, and redistricting impact whether voters can elect representatives that reflect their voices and communities. Discriminatory redistricting, vote dilution, annexations, deannexations, drawing of jurisdictional boundaries, and changes to the method of election all affect elections and representation ranging from local-level school boards to state courts and Congressional seats.

Shelby County v. Holder itself began as a change to jurisdictional boundaries and the method of election for a local city council seat. There, the city attempted to change the district lines for the Calera City Council in Calera, Shelby County, Alabama. In redrawing the district lines, the voting population for Voting District 2 changed dramatically, bringing in hundreds of White voters, cutting the proportion of Black voters from more than two-thirds to one-third.

At the time, Alabama was subject to statewide preclearance under Section 5 of the VRA and the new district map was subject to review and approval by the Justice Department. The DOJ was not persuaded that the new map would not discriminate against Black voters and voided the new map. The day after the DOJ struck down the map, Calera held a previously scheduled city council election under the now-voided map in which Ernest Montgomery, the District 2 representative and the only African American on the five-member city council, was voted out of office. The DOJ blocked certification of the election results pending a new vote.

After a year of negotiation, Calera got rid of its district map, moving instead to a six-seat ''at-large'' council and in a new election, Ernest Montgomery won one of the seats. These circumstances served as the predicate for lawyers to bring suit challenging the constitutionality of the coverage formula and preclearance regime of the VRA.

The Voting Rights Act of 1965 prohibits not only discrimination in the denial of access to the ballot, but also in dilution of voters, such as the way district lines are drawn to dilute the ability of voters of color to elect

their preferred candidate. Voting changes that were once covered by Section 5 included, among others:

''(d) Any change in the boundaries of voting precincts or in the location of polling places. (e) Any change in the constituency of an official or the boundaries of a voting unit (e.g., through redistricting, annexation, deannexation, incorporation, dissolution, merger, reapportionment, changing to at-large elections from district elections, or changing to district elections from at-large elections). (f) Any change in the method of determining the outcome of an election (e.g., by requiring a majority vote for election or the use of a designated post or place system).''

Additionally, the redistricting process can and has been used to deny political power and equal representation to minority populations. As discussed below, without proactive protections against discriminatory redistricting, it can take years to litigate a redistricting case. While a case winds its way through the courts, numerous elections can take place under a map that is later found to be discriminatory and invalid.

States are entering the first federal decennial redistricting cycle without the full protections of the Voting Rights Act since its enactment in 1965. Without proactive protections to ensure district lines are not drawn in a discriminatory manner, voters could be forced to go to the polls under maps that years later, through lengthy and costly litigation, are found to be discriminatory and invalid.

The evidence presented to the Subcommittee demonstrates conclusively that changes to methods of election, alterations to jurisdictional boundaries, and redistricting can and do disproportionately and discriminatorily impact minority voters and can be, in some cases, wielded with discriminatory intent.

THE DISPROPORTIONATE AND DISCRIMINATORY BURDEN AND IMPACT ON MINORITY VOTERS OF CHANGES TO METHODS OF ELECTION, JURISDICTIONAL BOUNDARIES, AND REDISTRICTING

There is a long, documented history of methods of election, altering jurisdiction boundaries, and redistricting processes being used to discriminate against, dilute the voting power of, and effectively disenfranchise minority voters. Since Reconstruction and the rise of Jim Crow, as Black, Latino, Indigenous, and Asian American communities gained access to the franchise, overcame barriers to voting, and gained political power and voting strength, they have been met with suppressive tactics meant to dilute their votes and ensure voting power for the shrinking majority.

A November 2019 report on discriminatory voting practices produced by AAJC, MALDEF, and NALEO noted that, for example, since 1957, ''there have been at least 1,753 legal and advocacy actions that successfully overturned a discriminatory change in method of election because of its discriminatory intent or effects.'' The report also cites that at least 219 annexations or deannexations have been challenged and invalidated by a court or the DOJ, or amended or withdrawn. Additionally, according to the report, since 1957, 982 redistricting plans were challenged and invalidated by a court or the DOJ or amended or withdrawn because of their discriminatory intent or effects.

Professor Patty Ferguson-Bohnee testified that, before Shelby County, the Department of Justice issued nine Section 5 objections to redistricting plans involving Native voters in Alaska, Arizona, and South Dakota—five of those were in Arizona. Additionally, since 1966, 22 federal cases challenging at-large election systems, redistricting lines, or malapportionment have been filed on behalf of Native voters, including state legislative districts, school boards, counties, sanitation districts, and city councils. Of these 22 cases, 6 were brought by the Department of Justice.

Thomas Saenz of MALDEF testified before the Subcommittee that Latino voters have also seen attempts to limit the growth of their voting power, including ''the perpetuation or re-introduction of at-large voting or the failure to acknowledge and incorporate the growth of the Latino community in the decennial redistricting process.'' Asian Americans have also seen the district drawing process used in attempts to dilute their voting power.

Black voters have long-experienced attacks on their voting power through vote dilution, annexations, redrawing jurisdictional boundaries, and discriminatory redistricting maps. As Justice Kagan noted in her Brnovich dissent, following the passage of the VRA:

''The crudest attempts to block voting access, like literacy tests and poll taxes, disappeared. Legislatures often replaced those vote denial schemes with new measures—mostly to do with districting—designed to dilute the impact of minority votes. But the Voting Rights Act, operating for decades at full strength, stopped many of those measures too.''

In the immediate aftermath of Shelby County, states and localities redistricted, drawing new lines, or changing the method of election from neighborhood seats to at-large districts, in ways ''guaranteed to reduce minority representation.''

CHANGES TO METHOD OF ELECTION AND JURISDICTIONAL BOUNDARIES

Altering methods of election and jurisdictional boundaries has long been used to discriminate against minority voters and dilute voting power. In definitional terms, ''method of election'' refers to ''the system for electing members of a body and may include features affecting the size and composition of the electorate that votes for a given seat, the timing of election for certain seats, and the number or percentage of votes required to win an election.''

At-large elections occur when representatives are elected from one large district simultaneously, rather than at the community level through local, single-member districts. Janai Nelson of the NAACP Legal Defense Fund testified that ''[a]t-large elections can allow 51 percent of voters to control 100 percent of the seats on an elected body, which, in the presence of racially polarized voting and other structures, can dilute a racial minority group's voice in the electoral system.'' Multi-member elections occur when a jurisdiction is divided up into districts and, in each, voters all vote for each of the multiple seats. Shifts to these two methods can be used to dilute the voting power of minority communities and prevent them from electing representatives of their choosing.

In addition to altering the method of election, tactics such as annexations, deannexations, or shifting jurisdictional boundaries dilute the political power of minority voters by selectively altering the racial and ethnic makeup of the electorate.

In one of the first lawsuits challenging a change made after the VRA's preclearance protections were undermined in Shelby involved a change to the method of election for the Pasadena, Texas City Council. MALDEF challenged the conversion of the Pasadena, Texas City Council from eight districted seats to six districted seats and two at-large seats. Mr. Saenz of MALDEF testified that this change was ''plainly undertaken to prevent the growing Latino voting population from electing a majority of the city council; participation differentials virtually ensured that the white population would elect its choices for the at-large seats in elections characterized by a racially polarized vote.''

Following a bench trial, the district court judge held that not only would the change have the effect of unlawfully diluting the Latino vote, but it was made intentionally to do so. Chief Judge Rosenthal of the U.S. District Court for the Southern District of Texas stated, ''[t]he intent was to delay the day when Latinos would make up enough of Pasadena's voters to have an equal opportunity to elect Latino-preferred candidates to a majority of City Council seats.'' Mr. Saenz testified that, following a long and costly trial preparation and trial process, this resulted in the first contested ''bail-in'' order, requiring Pasadena to pre-clear future electoral changes.

Sonja Diaz of the UCLA Latino Policy and Politics Initiative noted that, in California, because of the 1990 federal court decision in Garza v. Los Angeles County Board of Supervisors, Los Angeles County was forced to create the first Latino-majority seat—30 years later, the Board of Supervisors still has only one Latino-majority district, despite the Latino citizen population increasing 77 percent over the last 20 years.

Mr. Saenz testified that, 10 years ago, MALDEF identified 8 counties in California that should have drawn an additional Latino-majority district on their 5-member county board of supervisors but failed to do so. Mr. Saenz testified that, ''[e]ven with unlimited resources, challenging eight jurisdictions through litigation under section 2 of the VRA . . . would be daunting, if not impossible.'' While MALDEF successfully challenged Kern County in ''the first section 2 litigation to go to trial in California in well over a decade, seven other counties were able to leave their VRA-violative district maps in place throughout the decade.''

Examples of changes to methods of election, and related tactics can be found around the country. In 2014, a federal court ordered Yakima, Washington, to create new, single-member City Council districts to remedy an at-large districting scheme that routinely suffocated the vote of Latino voters. Ms. Diaz testified that, in the first election with the new districts, three Latinas were elected to the City Council, though this was met with forms of retaliation. In response, ''the city clerk, along with some ousted white city council members, resigned an entire month early'' and White council members ''sought to leverage an at-large ballot referendum to reduce the electoral voice of Latinos by creating a strong mayor system.'' Ms. Diaz testified that:

''In response, the non-Hispanic white members of the Yakima city council attempted a retaliatory change to the charter as a way to reduce the power of the city council to ensure that Latinos could not have a majority of the representation on the seven person council, in violation of Section 2 of the Voting Rights Act. [Voting Rights Project] successfully intervened on behalf of Latino plaintiffs to stop the proposed districting change to a mayor-council system, which if adopted, would revert the single-district council to an at-large election that dilutes the Latino vote.''

Ms. Nelson of the NAACP LDF testified that, in 2015, the County Commission in Fayette County, Georgia tried to revert to an at-large voting system in a special election to replace a Black Commissioner who had died unexpectedly. LDF won a Section 2 case that stopped this change and required the election to use single-member districts, which allow Black voters to again elect their preferred candidate.

In another example, in 2016, the largely white City of Gardendale, Alabama attempted to secede from the more diverse Jefferson County School Board, a move that would have effectively transferred Black voters in Gardendale from a system in which they had some ability to elect candidates of their choice, to the Gardendale city council's at-large election system in which Black voters have no ability to elect candidates of their choice. Ms. Nelson testified that, in 2018, the Eleventh Circuit Court blocked the secession after LDF successfully proved that Gardendale was motivated by racial discrimination. Since Shelby County, LDF has warned at least four local jurisdictions in Alabama that ''the at-large aspects of their electoral systems may violate Section 2 of the VRA and potentially also the U.S. Constitution.''

Ms. Nelson also testified that, in 2017, LDF ''proved that the Louisiana Legislature intentionally maintained at-large elections for the state courts in Terrebonne Parish to prevent the election of a Black judge.'' A Black candidate has never been elected as a judge on the court in a contested election. A three-judge panel of the Fifth Circuit reversed the favorable decision in June 2020, despite the trial court's finding that plaintiffs clearly established vote dilution and denied LDF's petition for rehearing en banc.

Professor Patty Ferguson-Bohnee testified that at-large districts have also been used to deny Native American voters the opportunity to elect candidates of their choice—states such as Montana, North Dakota, South Dakota, and Wyoming have used this scheme over the last 25 years to deny voting power to Native voters.

In Utah, for example, the Justice Department sued San Juan County in the 1980s arguing that the at-large system violated Section 2 of the VRA—the resulting consent decree resulted in single-member districts. Despite population changes, the district lines did not change over the next 25 years and, despite changes that were made to the other two districts in 2011, the boundaries of the Native American-majority district remained the same. The Navajo Nation challenged the scheme of packing Navajo voters into one, single district out of three. As a result of multi-year litigation, the county's districts were reconfigured, and Native Americans were able to elect two candidates of choice—litigation that took seven years and cost plaintiffs $3.4 million.

There are additional examples of the Justice Department filing suit under Section 2 challenging methods of election schemes in the years post-Shelby. In 2017, the Justice Department filed a complaint under Section 2 challenging the City of Eastpoint, Michigan's, at-large method of electing the city council as diluting the voting strength of Black citizens; and in June 2019, the court entered the parties' consent decree providing for the city to use ranked choice voting to resolve the claims. On May 27, 2020, the Department filed a complaint challenging the at-large method of election for the school board of the Chamberlain School District under Section 2 of the VRA in South Dakota alleging that the Native American population of the School District is sufficiently large and geographically compact to constitute a majority of the voting-age population and that the at-large method of election the Chamberlain School Board dilutes the voting strength of American Indian citizens.

As recently as April 14, 2021, the DOJ filed a complaint and proposed consent decree under Section 2 of the VRA, challenging the at-large method of electing the board of alderman of the City of West Monroe, Louisiana's, city council, arguing that the current method of electing the West Monroe Board of Aldermen dilutes the voting strength of Black citizens, who constitute 28.9 percent of the voting-age population of the City of West Monroe, but no Black candidate has ever been elected to the West Monroe Board of Aldermen, and no Black individual has ever been appointed to the Board.

This is merely a sampling of discriminatory actions executed through changes to methods of election and changes to jurisdictional boundaries. The evidence before the Subcommittee clearly illustrates that these practices are enacted with discriminatory effect and intent, resulting in the dilution of the voting power of minority voters and a severe restriction of their ability to elect candidates of their choosing.

Redistricting

Each decade, following the decennial census and distribution of population data, states undertake to redraw or update district lines—this affects districts up and down the ballot and at all levels of government. Discriminatory redistricting practices have been utilized for decades to dilute and suppress the voting power of minority voters and can impact representation at all levels of government. To put a finer point on it—in 1991, since-deceased Republican consultant Thomas Hofeller said, ''I define redistricting as the only legalized form of vote-stealing left in the United States today.''

In redistricting, officials can also use tactics known as ''cracking'' and ''packing'' to dilute the votes of minority communities. ''Cracking'' occurs when officials divide voters into a number of different districts, such that the minority voters in the districts do not have a majority in any of them—the purpose of which is to maximize the number of wasted votes. ''Packing'' occurs when voters are placed into one or only a few districts, so the remaining districts are easier for non-minority voters to control.

The country is now about to begin the first redistricting cycle without the full protections of the Voting Rights Act in more than a half century. According to the USCCR's 2018 report on minority voting rights access, ''overall data shows that there have been over 3,000 changes submitted due to redistricting in every 10-year cycle since the 1965 VRA was enacted.'' Research performed by AAJC, MALDEF, and NALEO found that, since 1982, ''at least 389 redistricting plans have been challenged by a court of the DOJ, or amended or withdrawn by responsible lawmakers, because of their discriminatory intent or effects.''

The redistricting process can and has been used to deny political power and equal representation to minority populations. While a district is supposed to follow the ''one person, one vote'' doctrine established by the Supreme Court in the 1960s, the drawing of districts is all too often done behind closed doors, without meaningful public input, and in a manner used to dilute the voices of some voters and, in effect, give disproportionate voting power to others.

Former Attorney General Eric H. Holder, Jr., Chairman of the National Democratic Redistricting Committee, testified before the Subcommittee that:

''In the days since that ruling eight years ago, unnecessary and discriminatory voting restrictions went up across the country . . . And we saw newly emboldened state legislatures draw discriminatory maps that unfairly placed Black people and other people of color, young and poor people, into gerrymandered voting districts where their impact would be diluted and their voice ultimately lost.''

Jerry Vattamala of AALDEF testified that ''Asian Americans have been historically disenfranchised in the redrawing of district boundaries and in their right to vote.'' Mr. Vattamala further testified that the percentage of Asian American elected officials is not keeping track with the population growth, in many instances because Asian American communities of interest are divided into numerous districts, ''subverting the growth and thwarting the effects of this growth and the numbers, to deny them the ability to elect a candidate of their choice.'' Mr. Vattamala stated further that ''we only see Asian American electoral representation when we have fair redistricting. Only then are they able to elect a candidate of choice and they usually do.''

Professor Ferguson-Bohnee testified that ''[i]n addition to well-documented access barriers, redistricting has been used as a tool to suppress Native American voting rights and depress Native American political power.'' In Arizona, for example, ''Tribal voters challenged redistricting plans every cycle since the 1960s, except for the last decade following the 2010 Census.'' The last decade was the first time Arizona's maps were precleared on the first attempt—now, the retrogression standard required under Section 5 of the VRA is no longer an option to protect the state's single Native American majority-minority district in the upcoming redistricting cycle.

Litigation alone can take years to remedy the harm of gerrymandering, meaning voters spend years represented by maps that are later found to have violated their rights. Cases challenging discriminatory maps drawn in the 2010 redistricting cycle in North Carolina and Texas, for example, took more than half a decade to litigate, all while voters went to the polls under districting maps later found to be discriminatory and unlawful.

Allison Riggs of the Southern Coalition for Social Justice testified that, ''[i]n the last decade, the North Carolina legislature's repeated violations of the Fourteenth Amendment in redistricting, local and statewide, should give anyone pause, and are strong evidence of the need for federal protections.''

Specifically, in North Carolina, the state drew redistricting maps that packed Black voters into as few districts as possible. Plaintiffs filed a lawsuit, and the federal courts found that the challenged districts violated the Equal Protection Clause. However, as Ms. Riggs testified, when the State General Assembly was given the first chance to remedy the districts, the legislature perpetuated the racial packing. In 2016, after the District Court ruled against the state's maps, state legislators drew new maps, this time admitting the purpose of the maps was partisan.

In 2017, the Supreme Court upheld the lower court's rejection of two North Carolina congressional maps on the grounds that North Carolina's Republican-controlled legislature relied too heavily on race in drawing the maps. The state's maps had been the subject of continuous litigation since the 2011 redistricting—all the while, voters went to the polls to cast ballots under maps that were found, years later, to be unlawfully discriminatory. On October 28, 2019, a North Carolina state court again ruled against the state's congressional district maps, saying the record of partisan intent was so extensive that opponents of the maps were poised to show that the maps were unconstitutionally errymandered to favor Republicans over Democrats and the voters would be irreparably harmed if the 2020 elections were held using those maps.

But the North Carolina legislature is not the only bad actor. In 2019, Sean Young of the ACLU of Georgia testified before the Subcommittee that the ACLU's case in Sumter County, Georgia ''perfectly illustrates

the damage that Shelby County has caused.'' In 2011, 67 percent of Sumter County's Board of Education was African American (six out of nine)—then the General Assembly proposed a redistricting plan that would reduce the percentage of African Americans on the Board to 28 percent (two of seven) and submitted the plan to the DOJ for preclearance. The DOJ did not preclear the plan, but following the Shelby decision the Board was able to immediately implement its discriminatory plan. Soon thereafter, the ACLU of Georgia brought a lawsuit to overturn a discriminatory gerrymandering plan in Sumter County, Georgia—a federal court eventually ruled that the plan was discriminatory and violated the Voting Rights Act, five years after the plan went into effect and after years of expensive, time consuming litigation. In the intervening five years, School Board elections were held under a plan that was discriminatory and illegal.

In September 2013, the U.S. Department of Justice filed a complaint against the State of Texas as a plaintiff-intervenor in Perez v. Perry (W.D. Tex.), seeking a declaration that Texas' 2011 statewide redistricting plans to the State House of Representatives and the Congressional delegation were adopted ''with the purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group in violation of Section 2 of the Voting Rights Act'' and contended that the Texas state legislature's plan diluted the voting power of Asian Americans and other people of color.

Jerry Vattamala, Director of the Democracy Program at AALDEF, testified before the Subcommittee that, at the time of Perez v. Perry, Texas State House District 149 had a combined minority citizen voting-age population of close to 62 percent, and since 2004, the Asian American community in the District had voted as a bloc with Hispanic and African American voters to elect Hubert Vo, a Vietnamese American and the first Vietnamese American state representative in Texas history, as their representative.

In 2011, the state legislature sought to eliminate Vo's seat and redistribute the coalition of minority voters to the surrounding districts. In denying preclearance of the plan in 2012, the three-judge panel in Washington, D.C., found that the congressional and state redistricting plan had ''both a retrogressive effect and a racially discriminatory purpose. The decision later had to be vacated and remanded in light of the Supreme Court's decision in Shelby and its implications for Section 5 preclearance claims. That was not the end of litigation over Texas' redistricting plans, however. The legal battle over Texas' 2011 maps would go on for more than three-quarters of the decade and cost millions of dollars. In the intervening years interim maps were put in place. Eventually, in Abbot v. Perez, the Supreme Court would allow all but one of Texas' political districts to remain in place through the end of the decade. The Court upheld the maps despite a district court describing the process used to create them as ''discriminatory at its heart''—while the Court did not specifically find discriminatory purpose in the adoption of the 2013 maps, ''it did not dispute the determination that the 2011 maps were infected with the discriminatory intent to limit the influence of voters of color.''

The State of Texas has a long history of racial discrimination in redistricting plans. In discussing Texas' long history of discrimination in voting, in Veasy v. Abbott—litigation over Texas' strict voter ID law—a federal court found in 2017 that ''[i]n every redistricting cycle since 1970, Texas has been found to have violated the Voting Rights Act with racially gerrymandered districts.'' Despite being covered by the VRA since 1965, federal judges have ruled at least once every decade since then that Texas violated federal protections for voters in redistricting.

In testimony before the Subcommittee, Thomas Saenz of MALDEF testified that:

''Last decade, the state of Texas gained four congressional seats as a result of its comparatively rapid growth over the course of the aughts. Nearly two-thirds of that Texas population growth came in the Latino community. Still, in adopting a new congressional district map, the Texas legislature drew none of the four new districts within the Latino community, instead engaging in splitting the increased concentrations of Latino population among multiple districts in order to prevent Latino voters from electing candidates of choice. It took nearly a full decade of litigation under the VRA, waged by MALDEF and others, to ensure that an interim map, more respectful of the growing Latino community, would remain in place to protect Latino voters.''

In testimony submitted to the Subcommittee, Professor Ferguson-Bohnee detailed the long history of minimizing Native American political representation through redistricting in the State of Arizona. The 2010 redistricting cycle was the first time Arizona's maps were precleared on the first submission. Tribes have previously participated in redistricting and defended the single majority-minority Native American legislative district—Arizona, like other states, is no longer subject to Section 5 preclearance for the coming redistricting cycle.

In North Dakota, tribal leaders raised concerns before the Subcommittee at the 2019 field hearing that, though there is only one at-large Congressional representative, their reservations are divided in a way at state-level redistricting that no Native American can win a seat representing the tribal lands. State Representative Ruth Buffalo testified in 2019 that, while she was the only Native American serving in the State House at the time of the hearing, she represents District 27—Fargo, North Dakota—a district 370 miles from her homelands of the Fort Berthold Reservation, and that the district representing Fort Berthold encompassed a white population that overwhelms the Native American population.

In another example, Professor Ferguson-Bohnee testified that, in South Dakota, ''discrimination in redistricting led to prolonged litigation followed by consent decrees.'' In 2004, in Kirkie v. Buffalo County, Buffalo County gerrymandered its three districts by packing 75 percent of the Indian population into one district. As Professor Ferguson-Bohnee testified:

''The county, the ''poorest in the country,'' was comprised of approximately 2,100 people, of which 83 percent were Indian. This redistricting had the purpose of diluting the Indian vote, as whites controlled both of the other two districts and thus County government. The case was settled by a consent decree wherein the county admitted its plan was discriminatory and was forced to redraw the district lines. In addition, the county agreed to subject itself to Section 3(c) of the Voting Rights Act, which requires the submission of voting changes for preclearance.''

Professor Ferguson-Bohnee testified that, in 2005, another South Dakota County was forced to redraw district lines ''for similar malapportionment of Indian voters.'' Professor Ferguson-Bohnee testified that ''[p]reclearance may have prevented this type of de facto discrimination, because the changes would have needed preclearance approval prior to enactment.''

Dividing tribal communities and ignoring tribal boundaries in the redistricting process also dilutes the Native American vote. Professor Ferguson-Bohnee testified that, while dividing reservation boundaries may be required to meet equal population requirements and to enhance voter effectiveness, there ''are several examples of redistricting schemes that divide tribal communities to reduce voting strength.'' Professor Ferguson-Bohnee notes that, for example, in recent years redistricting bodies have divided tribal communities into multiple districts in Wisconsin, Washington, Montana, and California—in Washington, the maps split three separate reservations.

Mr. Vattamala testified that, in the past, redistricting plans have also diluted Asian American voting strength by fragmenting communities into multiple districts. Mr. Vattamala highlighted that Section 5 coverage was not only in the South—New York previously had three covered counties as well, which helped protect minority communities. In New York City, for example, Mr. Vattamala testified that congressional district boundaries have divided Asian American communities. In the case Favors v. Cuomo, AALDEF submitted materials superimposing the existing State Assembly and Senate, and Congressional district lines over the Asian American communities of interest, illustrating how divided each of the communities were among multiple districts, essentially denying the community the ability to elect candidates of their choice.

Mr. Vattamala testified that:

''AALDEF was ultimately able to convince the Special Master to draw a fair congressional district in Queens that kept Asian American [Communities of Interest] whole, and together. Several months later that district elected the first Asian American to Congress from New York State, and it was primarily because the community was finally allowed the opportunity to elect a candidate of its choice. This result was likely only possible through federal litigation.''

Mr. Vattamala testified that the Asian American community, working together with the Black community and the Latino community, formed what they call a unity map that ''protected all the communities of color that were protected under the Voting Rights Act,'' and that it was very powerful to have the knowledge that Section 5 existed, that the map drawers started from a position of ensuring they were complying with Section 5 and ''not retrogressing districts.'' Those protections are no longer in place.

Partisan gerrymandering is also a form of vote denial and dilution that can disproportionately impact minority voting power when minority voters heavily favor one party over another. In 2019, however, the Supreme Court in Rucho v. Common Cause declined to weigh in on the question of when partisan gerrymandering has crossed constitutional bounds, holding that partisan gerrymandering claims are nonjusticiable, presenting political questions beyond the reach of the federal court. This decision leaves voters vulnerable to 50 different interpretations of what constitutes an impermissible partisan gerrymander in the upcoming redistricting cycle. In their opinion, the Court did, however, leave space for Congress to formulate a test for determining when a map constitutes a partisan gerrymander.

CONCLUSION

The evidence before the Subcommittee is clear, changes to method of election, redrawing jurisdictional boundaries, and the redistricting process have all been used time and again to dilute the voting power of minority voters, denying them the opportunity to elect candidates of their choice and a real voice in democratic governance. Redistricting cases ''typically require massive amounts of attorney time and millions of

dollars in expert fees,'' leaving many communities vulnerable to discrimination and suppression when voting rights litigators cannot intervene on their behalf and without the proactive protections of a federal preclearance regime. As former Attorney General Holder testified, ''[w]e need to end gerrymandering, so that all people, including people of color, can be represented by public servants of their choice and be able to hold those representatives politically accountable.''

Conclusion

The Voting in America hearings conducted by the Subcommittee show conclusively that discrimination in voting does, in fact, still exist. The evidence gathered by the Subcommittee not only illustrates that discrimination exists, but that is has grown steadily in the wake of the Supreme Court's decision in Shelby County. Furthermore, the evidence demonstrates that the ''extraordinary measures'' once deployed by the Voting Rights Act remain necessary today, and that the removal of those safeguards released a torrent of voter suppression laws the VRA once succeeded in holding back.

As former Attorney General Eric Holder testified:

''Before 2013, Section 5 had helped prevent discriminatory voting laws from taking effect by imposing preclearance protections that required a federal review of changes to voting procedures in covered regions. Basically, areas with a history of discrimination had to get approval from the Department of Justice or from a federal court for significant changes in voting laws or procedures. That section of the Voting Rights Act had helped to stop some of the worst attempts to discriminate against minority voters for decades. But in a five-to-four opinion, the conservative members of the Court wrote that the nation had ''changed dramatically'' since the Voting Rights Act went into effect and that, because of gains made, particularly by Black Americans, these protections were no longer necessary.''

The evidence demonstrates that the nation has not changed as dramatically as the Court's majority may have thought. In the eight years since Shelby County was decided, states have taken significant steps toward suppressing the vote. Across the country, states have purged millions of voters from the voting rolls; enacted a rash of strict voter ID laws; attempted to implement documentary proof of citizenship laws; failed to provide necessary language access and assistance to limited-English proficiency voters; closed, consolidated, or relocated hundreds if not thousands of polling locations, causing voters to wait in long, burdensome lines to vote; attempted to cut back on opportunities to vote outside of Election Day; and employed changes to methods of elections, jurisdictional boundaries, and redistricting as methods to dilute and disenfranchise minority voters.

Litigation under Section 2 of the Voting Rights Act and the Constitution has proven to be a powerful but inadequate tool to combat the wave of voter suppression tactics unleashed in the years since Shelby. Janai Nelson, Associate Director-Counsel for the NAACP Legal Defense Fund, testified that, in the first five years following Shelby ''an unprecedented 61 lawsuits were filed under Section 2 of the Voting Rights Act,'' of which ''[t]wenty-three cases were successful.'' By contrast, ''in the five years before Shelby, only five Section 2 cases were won.'' Litigation alone is not an adequate remedy to protect the right to vote—cases arising under Section 2 of the Voting Rights Act are reactive, costly, and can take years to litigate.

The 2018 and 2020 elections saw record voter turnout. While this is indeed an outcome to be celebrated, it is not, as some argue, an indication that voter suppression and discrimination no longer exists. The evidence gathered by the Subcommittee demonstrates that voters turned out in record numbers despite suppressive voting laws and a once-in-a-century pandemic. And yet, the reaction of Republican-led legislatures around the country to historic voter turnout has been to unleash a new wave of restrictive voting laws in the months following the 2020 election. States with a history of discriminatory voting practices and racially polarized voting continue to enact voting laws without analyzing whether these provisions discriminate against minority voters.

The false specter of fraud has been cited to support these new restrictive provisions. But, as we have heard time and again, numerous investigations have found no credible evidence of fraud in the 2020 election. Indeed, according to cyber and elections security experts, ''the November 3rd [2020] election was the most secure in American history.'' Unfortunately, fueled by the ''Big Lie'' that the election was stolen, insurrectionists attempted to stop the certification of a lawful, valid, democratic presidential election by storming the Capitol on January 6, 2021. In the six months since the attack, efforts to suppress the vote and subvert democracy have continued, as state legislatures have moved quickly to meet the increase in voter turnout with voter suppression.

According to the Brennan Center for Justice, as of May 14, 2021, more than 389 bills in 48 states have been introduced restricting the vote. As of June 21, 2021, 17 states have enacted 28 new laws that restrict access to the vote, with some state legislatures still in session. At least 16 restrictions on mail voting will make it more difficult for voters to cast mail ballots that count in 12 states. At least eight states have enacted 11 laws making in-person voting more difficult. And more bills are still moving through state legislatures.

These new laws only compound the legal and administrative hurdles enacted in the eight years since Shelby. As former Attorney General Holder testified:

''These actions have not made our elections safer or more secure. They have not improved the quality or accessibility of our politics. Instead, they have stripped Americans of fundamental rights and undermined the promise of American democracy. And they have all—every one of them—disproportionately impacted people of color.''

For example, Michael Waldman, President of the Brennan Center for Justice, testified that ''[i]n 2013, at least six states—Alabama, Mississippi, North Carolina, North Dakota, Virginia, and Texas—implemented or began to enforce strict photo ID laws, most of which had previously been blocked by the Department of Justice due to their discriminatory impact.'' Federal courts in at least four states have found strict voter ID laws to be racially discriminatory, including Texas and North Carolina's laws. In previously covered jurisdictions, 1,688 polling places were closed between 2012 and 2018, all with none of the disparate impact analysis previously required by preclearance. Restrictions targeting early voting opportunities can and do have a direct impact on minority voters.

Thomas Saenz, President and General Counsel for MALDEF, testified that, ''[t]here is simply no way that non-profit voting rights litigators, even supplemented by the work of a reinvigorated Department of Justice Civil Rights Division, could possibly prevent the implementation of all of the undue ballot-access restriction and redistricting violations that are likely to arise in the next two years.''

The evidence compiled by the Subcommittee illustrates that the voting and election administration practices of purging voters from the voting rolls; enacting voter ID and proof of citizenship requirements; failing to provide necessary multi-lingual voting materials and assistance; closing, consolidating, or relocating polling places; cutting or restricting access to alternative opportunities to vote; and altering methods of election, jurisdictional boundaries, and redistricting disproportionately impacts Black, Latino, Native American, Asian American, and other minority voters and impedes access to the ballot in a discriminatory manner.

Congress needs to listen to the American people. The Voting Rights Act was not written in the halls of Congress—it was written between Shelby and Montgomery. It was written by Americans who fought for equal access to what was promised to be a democracy. We are again hearing from the people on the need to protect the right to vote.

Defending democracy used to be a bipartisan endeavor. Since the Voting Rights Act first passed in 1965, Congress has acted several times, and in a bipartisan manner, to protect access to the vote. The Voting Rights Act was reauthorized five times with bipartisan votes—and signed into law each time by a Republican President. The 2006 VRA reauthorization was introduced by a Republican congressman. Moreover, Congress has passed additional voting bills, including the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) in 1986, the National Voter Registration Act (NVRA) in 1993, and the Help America Vote Act (HAVA) in 2002 with bipartisan support. Bipartisan commissions such as the Carter-Baker Commission and the Presidential Commission on Election Administration endeavored to create best practices in elections to improve the voting experience.

We are now at an inflection point in protecting our democracy. The time has come for Congress to utilize its constitutional authority to protect the fundamental right to vote for all Americans. As Mr. Henderson stated before the Subcommittee, ''[f]or democracy to work for all of us, it must include all of us.'' ''It is unacceptable that in 2021, 56 years after the VRA's passage,'' Ms. Nelson stated, that ''the right to vote remains so very under-protected. This model is not sustainable nor is it acceptable.''

And as Chief Justice Earl Warren wrote in 1964, the year before the passage of the Voting Rights Act, the ''right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of the representative government.'' After reviewing thousands of pages of evidence collected during this Congress and listening to the testimony of dozens of experts from across the country, as summarized in this report, the evidence demonstrates one clear command: Congressional action is needed.

ENROLLED BILL SIGNED

Gloria J. Lett, Deputy Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3642. An Act to award a Congressional gold medal to the 369th Infantry Regiment, commonly known as the ''Harlem Hellfighters'', in recognition of their bravery and outstanding service during World War I.

BILLS PRESENTED TO THE PRESIDENT

Cheryl L. Johnson, Clerk of the House, reported that on July 30, 2021, she presented to the President of the United States, for his approval, the following bill:

H.R. 3237. Making emergency supplemental appropriations for the fiscal year ending September 30, 2021, and for other purposes.

Cheryl L. Johnson, Clerk of the House, further reported that on August 4, 2021, she presented to the President of the United States, for his approval, the following bills:

H.R. 208. To designate the facility of the United States Postal Service located at 500 West Main Street, Suite 102 in Tupelo, Mississippi, as the ''Colonel Carlyle 'Smitty' Harris Post Office''.

H.R. 264. To designate the facility of the United States Postal Service located at 1101 Charlotte Street in Georgetown, South Carolina, as the ''Joseph Hayne Rainey Memorial Post Office Building''.

H.R. 772. To designate the facility of the United States Postal Service located at 229 Minnetonka Avenue South in Wayzata, Minnesota, as the ''Jim Ramstad Post Office''.

H.R. 1002. To amend the Controlled Substances Act to authorize the debarment of certain registrants, and for other purposes.

H.R. 3325. To award four congressional gold medals to the United States Capitol Police and those who protected the U.S. Capitol on January 6, 2021.

ADJOURNMENT

The SPEAKER pro tempore (Mr. SOTO). Pursuant to section 11(b) of House Resolution 188, the House stands adjourned until 10 a.m. on Friday, August 27, 2021.

Thereupon (at 7 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Friday, August 27, 2021, at 10 a.m.

BUDGETARY EFFECTS OF PAYGO LEGISLATION

Pursuant to the Statutory Pay-As-You-Go Act of 2010 (PAYGO), Mr. YARMUTH hereby submits, prior to the vote on passage, for printing in the CONGRESSIONAL RECORD, that H.R. 978, the Chai Suthammanont Remembrance Act of 2021, as amended, would have no significant effect on the deficit, and therefore, the budgetary effects of such bill are estimated as zero.

Pursuant to the Statutory Pay-As-You-Go Act of 2010 (PAYGO), Mr. YARMUTH hereby submits, prior to the vote on passage, for printing in the CONGRESSIONAL RECORD, that H.R. 2617, the Performance Enhancement Reform Act, as amended, would have no significant effect on the deficit, and therefore, the budgetary effects of such bill are estimated as zero.

Pursuant to the Statutory Pay-As-You-Go Act of 2010 (PAYGO), Mr. YARMUTH hereby submits, prior to the vote on passage, for printing in the CONGRESSIONAL RECORD, that H.R. 3599, the Federal Rotational Cyber Workforce Program Act of 2021, as amended, would have no significant effect on the deficit, and therefore, the budgetary effects of such bill are estimated as zero.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

EC–1998. A letter from the Acting General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Removing Profile Drawing Requirement for Qualifying Conduit Notices of Intent and Revising Filing Requirements for Major Hydroelectric Projects 10 MW or Less [Docket No.: RM20-21-000; Order No.: 877] received July 30, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Energy and Commerce.

EC–1999. A letter from the Acting General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Standards for Business Practices of Interstate Natural Gas Pipelines [Docket No.: RM96-1-042; Order No.: 587-Z] received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Energy and Commerce.

EC–2000. A letter from the Fisheries Regulations Specialist, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Omnibus Deep-Sea Coral Amendment [Docket No.: 210616-0130] (RIN: 0648-BH67) received July 30, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Natural Resources.

EC–2001. A letter from the Fisheries Regulations Specialist, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Regional Fishery Management Council Membership; Financial Disclosure and Recusal [Docket No.: 200-903-0233] (RIN: 0648-BH73) received July 30, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Natural Resources.

EC–2002. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc., Airplanes [Docket No.: FAA-2021-0272; Project Identifier MCAI-2020-01485-T; Amendment 39-21628; AD 2021-14-01] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2003. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company Turbofan Engines [Docket No.: FAA-2021-0102; Project Identifier AD-2020-01270-E; Amendment 39-21621; AD 2021-13-16] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2004. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) [Docket No.: FAA-2021-0175; Project Identifier 2001-SW-33-AD; Amendment 39-21643; AD 2021-14-16] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2005. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes [Docket No.: FAA-2021-0031; Project Identifier MCAI-2020-01420-T; Amendment 39-21625; AD 2021-13-20] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2006. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes [Docket No.: FAA-2021-0339; Project Identifier MCAI-2020-01605-T; Amendment 39-21636; AD 2021-14-09] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2007. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; International Aero Engines AG Turbofan Engines [Docket No.: FAA-2021-0544; Project Identifier AD-2021-00642-E; Amendment 39-21646; AD 2021-14-19] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2008. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes [Docket No.: FAA-2021-0156; Project Identifier AD-2020-01594-T; Amendment 39-21650; AD 2021-15-03] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2009. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Aviation Airplanes [Docket No.: FAA-2021-0029; Project Identifier MCAI-2020-01216-T; Amendment 39-21631; AD 2021-14-04] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2010. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Leonardo S.p.a. Helicopters [Docket No.: FAA-2021-0375; Project Identifier MCAI-2020-01245-R; Amendment 39-21656; AD 2021-15-09] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2011. A letter from the Management and Program Analyst, FAA, Department of

Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company Turbofan Engines [Docket No.: FAA-2020-1179; Project Identifier AD-2020-00818-E; Amendment 39-21638; AD 2021-14-11] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2012. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Textron Canada Limited (Type Certificate Previously Held by Bell Helicopter Textron Canada Limited) [Docket No.: FAA-2010-0865; Project Identifier 2010-SW-061-AD; Amendment 39-21653; AD 2021-15-06] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2013. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Helicopters [Docket No.: FAA-2021-0188; Project Identifier MCAI-2020-00642-R; Amendment 39-21572; AD 2021-11-10] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2014. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Various Restricted Category Helicopters [Docket No.: FAA-2019-0759; Product Identifier 2018-SW-075-AD; Amendment 39-21661; AD 2021-15-14] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2015. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney Turbofan Engines [Docket No.: FAA-2020-0442; Project Identifier AD-2020-00260-E; Amendment 39-21640; AD 2021-14-13] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2016. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Various Restricted Category Helicopters [Docket No.: FAA-2021-0605; Project Identifier AD-2021-00805-R; Amendment 39-21664; AD 2021-15-52] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

EC–2017. A letter from the Management and Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Airplanes [Docket No.: FAA-2020-0333; Product Identifier 2020-NM-015-AD; Amendment 39-21623; AD 2021-13-18] (RIN: 2120-AA64) received August 10, 2021, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows;

Mr. NEGUSE: Committee on Rules. House Resolution 600. Resolution providing for consideration of the bill (H.R. 4) to amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes; providing for consideration of the Senate amendment to the bill (H.R. 3684) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; and providing for the adoption of the concurrent resolution (S. Con. Res. 14) setting forth the congressional budget for the United States Government for fiscal year 2022 and setting forth the appropriate budgetary levels for fiscal years 2023 through 2031; and for other purposes (Rept. 117–116). Referred to the House Calendar.

Mr. NEGUSE: Committee on Rules. House Resolution 601. Resolution providing for consideration of the bill (H.R. 4) to amend the Voting Rights Act of 1965 to revise the criteria for determining which States and political subdivisions are subject to section 4 of the Act, and for other purposes; providing for consideration of the Senate amendment to the bill (H.R. 3684) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; and providing for the adoption of the concurrent resolution (S. Con. Res. 14) setting forth the congressional budget for the United States Government for fiscal year 2022 and setting forth the appropriate budgetary levels for fiscal years 2023 through 2031; and for other purposes (Rept. 117–117). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. NEAL (for himself and Mr. DANNY K. DAVIS of Illinois):

H.R. 5085. A bill to amend section 1113 of the Social Security Act to provide authority for increased payments for temporary assistance to United States citizens returned from foreign countries, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Budget; considered and passed.

By Ms. BONAMICI (for herself, Mr. MOONEY, Ms. KUSTER, Mr. FITZPATRICK, and Ms. WILD):

H.R. 5086. A bill to amend the Comprehensive Addiction and Recovery Act of 2016 to authorize the Attorney General, in coordination with the Administrator of the Drug Enforcement Administration, the Secretary of Health and Human Services, and the Director of the Office of National Drug Control Policy, to award grants to covered entities to establish or maintain disposal sites for unwanted prescription medications, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GOSAR:

H.R. 5087. A bill to direct the Secretary of the Interior to convey certain Federal land located in Mohave County, Arizona, to Mohave County, Arizona, for public purposes of use by the Mohave County Airport Authority; to the Committee on Natural Resources.

By Mr. GOSAR (for himself, Mr. STAUBER, and Mr. WESTERMAN):

H.R. 5088. A bill to prohibit the importation into, or transit through, the United States of any mineral, or product produced with minerals, from Afghanistan, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BUSTOS (for herself, Mr. CLEAVER, Mr. SMITH of Missouri, Mr. COMER, Mr. LAHOOD, and Mrs. AXNE):

H.R. 5089. A bill to promote low-carbon, high-octane fuels, to protect public health, and to improve vehicle efficiency and performance, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FEENSTRA:

H.R. 5090. A bill to amend section 932 of the Energy Policy Act of 2005 to create a biofuel and fuel cell vehicle research, development, and demonstration program, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. GOHMERT (for himself, Mr. WEBER of Texas, and Mrs. MILLER of Illinois):

H.R. 5091. A bill to establish certain requirements with respect to the appointment of the Attending Physician, and for other purposes; to the Committee on House Administration.

By Mr. GOHMERT (for himself, Mr. WEBER of Texas, Mr. DUNCAN, and Mrs. MILLER of Illinois):

H.R. 5092. A bill to prohibit the federal government from requiring any citizen to be vaccinated, including federal agencies from requiring its employees to take any vaccination, without the citizen being fully advised in writing of all known potential risks from the vaccine and consultation with a physician followed by the voluntary informed consent of the citizen, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, and Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERRERA BEUTLER:

H.R. 5093. A bill to direct the Secretary of Agriculture to transfer certain National Forest System land in the State of Washington to Skamania County, Washington; to the Committee on Natural Resources.

By Mr. HORSFORD (for himself, Ms. LEE of California, Mr. BOWMAN, and Mr. COHEN):

H.R. 5094. A bill to amend title XX of the Social Security Act to provide for nursing home worker training grants; to the Committee on Ways and Means.

By Mr. KAHELE (for himself and Mr. KELLY of Mississippi):

H.R. 5095. A bill to amend title 10, United States Code, to improve how members of the reserve components of the Armed Forces performing active duty or full-time National Guard duty are counted towards authorized end strengths; to the Committee on Armed Services.

By Ms. MATSUI (for herself, Mr. CROW, Mr. NADLER, Ms. LOFGREN, Mr. BLUMENAUER, Mr. KEATING, Mr. AUCHINCLOSS, Ms. SCHAKOWSKY, Mr. CORREA, Mr. MCGOVERN, Mr. CONNOLLY, Mr. PAYNE, Ms. NORTON, Mr. MCNERNEY, Mr. LANGEVIN, Mr. ESPAILLAT, Ms. OMAR, Mr. DANNY K. DAVIS of Illinois, Ms. BONAMICI, Mr. GALLEGO, Ms. ROSS, Mr. JONES, Mr.

KAHELE, Mr. RASKIN, Ms. JOHNSON of Texas, Mr. WELCH, and Mr. KHANNA):

H.R. 5096. A bill to require certain actions related to resettlement of certain Afghan and Iraqi special immigrants, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEGUSE:

H.R. 5097. A bill to amend the Internal Revenue Code of 1986 to retroactively and perpetually apply the exclusion of discharged student loan debt for veterans killed or totally and permanently disabled in connection to their service to the United States; to the Committee on Ways and Means.

By Mr. OBERNOLTE:

H.R. 5098. A bill to amend the Bridgeport Indian Colony Land Trust, Health, and Economic Development Act of 2012 to remove the restriction on class II gaming on certain land in California; to the Committee on Natural Resources.

By Mr. SCHNEIDER (for himself and Ms. SCHAKOWSKY):

H.R. 5099. A bill to amend title XVIII of the Social Security Act to move Medicare cost-sharing benefits from Medicaid to Medicare, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOTO (for himself, Mr. BUDD, Mr. KHANNA, and Mr. DAVIDSON):

H.R. 5100. A bill to promote fair and transparent virtual currency markets by examining the potential for price manipulation; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOTO (for himself, Mr. BUDD, Mr. KHANNA, Mr. DAVIDSON, and Mr. EMMER):

H.R. 5101. A bill to promote United States competitiveness in the evolving global virtual currency marketplace; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. TENNEY (for herself, Mr. MAST, and Mr. TIFFANY):

H.R. 5102. A bill to prohibit the United States from soliciting or accepting funds from American citizens or lawful permanent residents of the United States as a condition of their repatriation from Afghanistan during the period of evacuation related to the withdrawal of the Armed Forces from Afghanistan, and for other purposes; to the Committee on Foreign Affairs.

By Ms. WILSON of Florida (for herself, Mrs. BEATTY, Ms. BLUNT ROCHESTER, Mr. BUTTERFIELD, Ms. CLARKE of New York, Mr. DANNY K. DAVIS of Illinois, Mrs. HAYES, Ms. JACKSON LEE, Ms. KELLY of Illinois, Mr. MEEKS, Ms. NORTON, Mr. PAYNE, Ms. PRESSLEY, Mr. TRONE, and Mrs. WATSON COLEMAN):

H.R. 5103. A bill to require the Secretary of Education to initiate a negotiated rulemaking process with respect to when an institution of higher education fails to meet accreditation standards, and for other purposes; to the Committee on Education and Labor.

By Mr. WITTMAN (for himself and Mr. BROWN):

H.R. 5104. A bill to permit the Secretary of Defense to reimburse contractors for paid leave costs incurred by such contractors during periods of work interruption in order to keep the employees and subcontractors of such contractors working or ready to resume work, and for other purposes; to the Committee on Armed Services.

By Mr. HUDSON:

H. Res. 602. A resolution electing a Member to certain standing committees of the House of Representatives; considered and agreed to.

By Ms. ADAMS:

H. Res. 603. A resolution expressing support for the designation of the week of August 25 through August 31, 2021, as ''Black Breastfeeding Week'' to bring national attention to the United States maternal child health crisis in the Black community and the important role that breastfeeding plays in improving maternal and infant health outcomes; to the Committee on Energy and Commerce.

By Mr. CRENSHAW (for himself, Mr. WALTZ, Ms. CHENEY, Mr. MCCAUL, Mr. WENSTRUP, and Mr. ROGERS of Alabama):

H. Res. 604. A resolution expressing the sense of the House of Representatives that Congress disapproves of United States recognition of the Taliban and supports an Afghan Government-in-exile and the efforts to resist the Taliban in the Panjshir Valley; to the Committee on Foreign Affairs.

By Mr. DANNY K. DAVIS of Illinois:

H. Res. 605. A resolution honoring John H. Johnson, a renowned and loved figure not only around the world but in the 7th Congressional District and Chicago, whose astonishing life and contributions have a lasting influence; to the Committee on Oversight and Reform.

By Mrs. MILLER of Illinois (for herself, Mr. GOOD of Virginia, Mrs. BOEBERT, Mr. NORMAN, Mr. BABIN, Mr. ROY, Mrs. GREENE of Georgia, and Mrs. HARSHBARGER):

H. Res. 606. A resolution opposing legislation mandating the registration of women for the Selective Service System; to the Committee on Armed Services.

By Mr. WALTZ (for himself, Mr. MCCARTHY, Mr. SCALISE, Ms. STEFANIK, Mr. MCCAUL, Mr. CARL, Mr. JOHNSON of South Dakota, Mr. CLOUD, Mr. GARCIA of California, Mr. STEUBE, Mr. KELLER, Mr. HAGEDORN, Mr. CRENSHAW, Mr. BUCHANAN, Mr. MCKINLEY, Mr. MAST, Mr. CHABOT, Mr. BUCK, Mr. NEWHOUSE, Mr. HERN, Mr. MCCLINTOCK, Mr. RESCHENTHALER, Mrs. WALORSKI, Mr. GONZALEZ of Ohio, Mr. DIAZ-BALART, Mr. MEUSER, Mr. CAWTHORN, Mrs. WAGNER, Mr. PALAZZO, Ms. SALAZAR, Mr. THOMPSON of Pennsylvania, Mrs. MCCLAIN, Mr. BALDERSON, Mr. KUSTOFF, Mr. WILSON of South Carolina, Mrs. CAMMACK, Mr. BANKS, Mr. WALBERG, Mr. HUDSON, Mr. CALVERT, Mr. MCHENRY, Mr. GIMENEZ, Mr. GUTHRIE, Mrs. FISCHBACH, Mr. JOHNSON of Ohio, Mr. LONG, Mr. ARRINGTON, Mr. MURPHY of North Carolina, Mr. MOORE of Alabama, Mrs. MILLER-MEEKS, Mr. BOST, Mr. MOONEY, Mr. CLYDE, Mr. HICE of Georgia, Mr. LATTA, Ms. LETLOW, Mr. CRAWFORD, Mr. LATURNER, Mr. ISSA, Mr. JACKSON, Mr. ROGERS of Kentucky, Mr. RUTHERFORD, Mr. BABIN, Mr. MANN, Mr. C. SCOTT FRANKLIN of Florida, Mr. ROUZER, Mr. WITTMAN, Mr. JACOBS of New York, Mr. PFLUGER, Mr. VALADAO, Mr. CARTER of Georgia, Mr. HILL, Mr. MOOLENAAR, Ms. FOXX, Mr. PENCE, Mr. GALLAGHER, Mrs. HARSHBARGER, Mrs. HARTZLER, Mr. EMMER, Mr. SMUCKER, Mr. STAUBER, Mr. FLEISCHMANN, Mr. HUIZENGA, Mr. NUNES, Mr. FITZPATRICK, Mr. NORMAN, Mr. SMITH of Missouri, Mr. FERGUSON, Mr. LOUDERMILK, Mr. JOHNSON of Louisiana, Mr. BUDD, Mr. BURCHETT, Mr. DUNCAN, Mr. BILIRAKIS, Mrs. SPARTZ, Mr. ALLEN, Mr. POSEY, Mr. CLINE, Mr. HIGGINS of Louisiana, Mr. KELLY of Pennsylvania, Mr. LAMALFA, Mr. FITZGERALD, Mr. JOYCE of Ohio, Mr. FEENSTRA, Mr. COMER, Mr. BENTZ, Mr. ESTES, Ms. MALLIOTAKIS, Mr. GUEST, Mr. SMITH of Nebraska, Mr. LUCAS, Mr. MEIJER, Mr. STEWART, Ms. MACE, Mr. AMODEI, Ms. VAN DUYNE, Mrs. MILLER of West Virginia, Mr. UPTON, Mrs. BICE of Oklahoma, Mr. MULLIN, Mr. ZELDIN, Mr. WENSTRUP, Mr. RICE of South Carolina, Mrs. LESKO, Mr. RODNEY DAVIS of Illinois, Mr. STEIL, Mr. SMITH of New Jersey, Mr. BACON, Mr. COLE, Mrs. KIM of California, Mr. LUETKEMEYER, Mr. SIMPSON, Mr. BRADY, Mr. GARBARINO, Mr. WILLIAMS of Texas, Mr. BUCSHON, Mr. HOLLINGSWORTH, Mr. ARMSTRONG, Mr. BARR, Mr. PALMER, Mr. LAMBORN, Mr. KATKO, Ms. CHENEY, and Mr. WEBER of Texas):

H. Res. 607. A resolution condemns President Biden's failure to heed the advice of military and intelligence advisors about the speed and nature of the Taliban offensive, leading to a disorganized, chaotic, and abrupt evacuation of United States personnel and Afghan allies; to the Committee on Foreign Affairs.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the Hose Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. NEAL:

H.R. 5085.

Congress has the power to enact this legislation pursuant to the following:

Article 1 Section 8

By Ms. BONAMICI:

H.R. 5086.

Congress has the power to enact this legislation pursuant to the following:

Clause 1 of section 8 of article I of the Constitution.

By Mr. GOSAR:

H.R. 5087.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8,

By Mr. GOSAR:

H.R. 5088.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, ''To regulate Commerce with foreign Nations''

By Mrs. BUSTOS:

H.R. 5089.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 18 of the United States Constitution.

By Mr. FEENSTRA:

H.R. 5090.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the U.S. Constitution

By Mr. GOHMERT:

H.R. 5091.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 18

By Mr. GOHMERT:

H.R. 5092.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 18

By Ms. HERRERA BEUTLER:

H.R. 5093.

Congress has the power to enact this legislation pursuant to the following:

Article IV, Section 3, Clause 2

By Mr. HORSFORD:

H.R. 5094.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 of the Constitution of the United States

By Mr. KAHELE:

H.R. 5095.

Congress has the power to enact this legislation pursuant to the following:

Article One

By Ms. MATSUI:

H.R. 5096.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8 of the U.S. Constitution

By Mr. NEGUSE:

H.R. 5097.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. OBERNOLTE:

H.R. 5098.

Congress has the power to enact this legislation pursuant to the following:

U.S. Constitution, Article I, Section 8, Clause 18:

''The Congress shall have Power . . . To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.''

By Mr. SCHNEIDER:

H.R. 5099.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. SOTO:

H.R. 5100.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, of the U.S. Constitution.

By Mr. SOTO:

H.R. 5101.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, of the U.S. Constitution.

By Ms. TENNEY:

H.R. 5102.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority upon which this bill rests is the power of Congress to make appropriations that place a condition on an expenditure, as enumerated in Article I, Section 8, Clause 18 of the United States Constitution.

By Ms. WILSON of Florida:

H.R. 5103.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. WITTMAN:

H.R. 5104.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 18: The Congress shall have power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department of Officer thereof.

[Page H56]

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 82: Mr. ALLRED.

H.R. 203: Mr. CLOUD.

H.R. 224: Mr. CLOUD.

H.R. 263: Ms. SCANLON.

H.R. 481: Ms. BROWNLEY.

H.R. 605: Mr. MCCLINTOCK.

H.R. 616: Ms. LOFGREN and Mr. LIEU.

H.R. 622: Mrs. FLETCHER.

H.R. 821: Mr. GOTTHEIMER.

H.R. 841: Mr. NEWHOUSE.

H.R. 849: Ms. WATERS.

H.R. 890: Mr. MORELLE.

H.R. 928: Mr. VICENTE GONZALEZ of Texas.

H.R. 955: Mr. NADLER, Ms. DEAN, Mr. RUSH, Mr. BLUMENAUER, Ms. ADAMS, Ms. NORTON, Mr. PAYNE, Ms. KUSTER, Mr. CARSON, Ms. MOORE of Wisconsin, Mr. DANNY K. DAVIS of Illinois, Ms. PRESSLEY, Mr. García of Illinois, Ms. MATSUI, Mr. Cárdenas, Mr. MCNERNEY, Ms. TLAIB, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. CICILLINE, Mr. KRISHNAMOORTHI, and Mr. VEASEY.

H.R. 959: Ms. MATSUI.

H.R. 1057: Mr. PENCE and Mr. PETERS.

H.R. 1283: Mr. KUSTOFF.

H.R. 1297: Mr. DUNN.

H.R. 1320: Mr. AGUILAR.

H.R. 1321: Mr. PRICE of North Carolina, Mr. JOYCE of Ohio, and Mr. VALADAO.

H.R. 1348: Mr. STANTON and Mr. CASTEN.

H.R. 1384: Ms. TLAIB, Ms. CASTOR of Florida, Mr. MRVAN, and Mr. AGUILAR.

H.R. 1514: Ms. KUSTER and Mr. CARTWRIGHT.

H.R. 1577: Mr. DUNN, Ms. SÁNCHEZ, Mr. PERLMUTTER, and Ms. BLUNT ROCHESTER.

H.R. 1607: Mr. BUDD and Mr. C. SCOTT FRANKLIN of Florida.

H.R. 1630: Mr. HUFFMAN.

H.R. 1641: Mr. JOYCE of Ohio.

H.R. 1676: Mr. TONKO.

H.R. 1716: Ms. CLARKE of New York.

H.R. 1745: Mr. ARMSTRONG, Mrs. MCCLAIN, Mrs. CAMMACK, Mr. VICENTE GONZALEZ of Texas, and Mr. LATURNER.

H.R. 1783: Mrs. HAYES.

H.R. 1785: Mr. MCEACHIN.

H.R. 1786: Ms. LEE of California.

H.R. 1813: Mr. AGUILAR and Mr. TRONE.

H.R. 1861: Mr. CLINE.

H.R. 1884: Ms. ADAMS, Ms. OMAR, and Mr. DANNY K. DAVIS of Illinois.

H.R. 1977: Mr. ROGERS of Alabama.

H.R. 2037: Ms. DELBENE, Mrs. HAYES, Mrs. AXNE, and Mr. CARBAJAL.

H.R. 2104: Mr. PERLMUTTER.

H.R. 2125: Mr. GOTTHEIMER and Mr. HUFFMAN.

H.R. 2134: Mr. MOULTON.

H.R. 2139: Ms. GARCIA of Texas.

H.R. 2143: Mr. SHERMAN.

H.R. 2184: Mrs. CAROLYN B. MALONEY of New York.

H.R. 2222: Mr. JEFFRIES.

H.R. 2238: Mr. PASCRELL, Ms. MANNING, Ms. SÁNCHEZ, and Mrs. DINGELL.

H.R. 2249: Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. TORRES of New York, Mr. CARSON, Mr. LEVIN of Michigan, Mr. SEAN PATRICK MALONEY of New York, and Mr. GARCÍA of Illinois.

H.R. 2283: Mr. CRIST.

H.R. 2295: Mr. KILMER and Mr. QUIGLEY.

H.R. 2447: Ms. DAVIDS of Kansas and Ms. SEWELL.

H.R. 2486: Mr. ESTES.

H.R. 2499: Mr. CORREA.

H.R. 2517: Mr. CASTEN, Mr. RASKIN, and Mrs. BUSTOS.

H.R. 2549: Mr. NORCROSS.

H.R. 2568: Ms. JAYAPAL and Mr. COHEN.

H.R. 2654: Mr. FORTENBERRY, Mr. LEVIN of Michigan, and Mr. TRONE.

H.R. 2715: Mr. DESAULNIER.

H.R. 2721: Ms. SCANLON and Mr. SUOZZI.

H.R. 2725: Ms. WATERS, Ms. JAYAPAL, Mr. DOGGETT, Mr. BOWMAN, Ms. JACKSON LEE, Mr. RASKIN, Mr. VARGAS, Mr. GARCÍA of Illinois, Ms. SÁNCHEZ, Mr. VICENTE GONZALEZ of Texas, Ms. VELÁZQUEZ, and Mr. SOTO.

H.R. 2734: Mr. KHANNA.

H.R. 2759: Mr. CÁRDENAS.

H.R. 2773: Mr. PRICE of North Carolina.

H.R. 2820: Mr. MEIJER.

H.R. 2840: Mr. KILDEE, Mr. MALINOWSKI, and Mr. POCAN.

H.R. 2860: Mr. VAN DREW.

H.R. 2886: Mrs. CAROLYN B. MALONEY of New York, Mr. LIEU, and Mr. JEFFRIES.

H.R. 2920: Mr. TRONE.

H.R. 2954: Mr. O'HALLERAN, Mr. RUPPERSBERGER, and Mrs. LURIA.

H.R. 2972: Mr. SCHRADER.

H.R. 3044: Mr. C. SCOTT FRANKLIN of Florida.

H.R. 3047: Mr. BACON.

H.R. 3048: Ms. BUSH.

H.R. 3088: Ms. CASTOR of Florida and Mrs. NAPOLITANO.

H.R. 3108: Mr. LARSON of Connecticut.

H.R. 3109: Ms. BONAMICI, Ms. DEAN, Ms. BROWNLEY, Ms. STEFANIK, Mr. TURNER, and Mr. CURTIS.

H.R. 3134: Mr. HAGEDORN and Mr. JOHNSON of South Dakota.

H.R. 3164: Mr. GRIJALVA and Ms. DAVIDS of Kansas.

H.R. 3173: Mr. WEBER of Texas, Mr. GONZALEZ of Ohio, Mr. GOMEZ, and Mr. HIMES.

H.R. 3193: Mr. RESCHENTHALER.

H.R. 3207: Mr. GARBARINO.

H.R. 3235: Mr. CLINE.

H.R. 3256: Mr. EMMER.

H.R. 3320: Mrs. NAPOLITANO, Mr. EVANS, and Mr. DOGGETT.

H.R. 3321: Mr. NEGUSE, Mr. RUPPERSBERGER, and Mrs. CAROLYN B. MALONEY of New York.

H.R. 3348: Mrs. NAPOLITANO.

H.R. 3353: Mr. MOONEY and Mr. O'HALLERAN.

H.R. 3354: Ms. CHU.

H.R. 3362: Ms. SCANLON and Mr. LARSEN of Washington.

H.R. 3382: Mr. PALAZZO.

H.R. 3407: Ms. SCANLON.

H.R. 3437: Mr. HUFFMAN.

H.R. 3447: Ms. WILD.

H.R. 3482: Mr. BACON and Mr. RESCHENTHALER.

H.R. 3488: Ms. SCANLON.

H.R. 3519: Ms. KUSTER and Mr. PERLMUTTER.

H.R. 3529: Mr. GARBARINO.

H.R. 3565: Mrs. LESKO.

H.R. 3587: Ms. TITUS and Mr. RUIZ.

H.R. 3650: Mr. GOODEN of Texas, Mr. LAWSON of Florida, and Mr. GONZALEZ of Ohio.

H.R. 3657: Mr. GRIJALVA and Mr. HIMES.

H.R. 3686: Mr. O'HALLERAN.

H.R. 3689: Mr. COHEN.

H.R. 3759: Mr. BILIRAKIS and Mr. DOGGETT.

H.R. 3780: Mr. PHILLIPS and Ms. PINGREE.

H.R. 3807: Ms. WILSON of Florida and Mr. VICENTE GONZALEZ of Texas.

H.R. 3824: Mr. LIEU and Mr. LAWSON of Florida.

H.R. 3829: Mr. SCHNEIDER and Mr. TIFFANY.
H.R. 3932: Mr. AUCHINCLOSS, Mr. CÁRDENAS, Mr. FITZPATRICK, and Mr. WENSTRUP.
H.R. 3940: Mr. KIM of New Jersey.
H.R. 3988: Ms. JACKSON LEE.
H.R. 4058: Mrs. NAPOLITANO, Mr. TONKO, and Ms. WILD.
H.R. 4071: Mr. CHABOT, Mrs. CAMMACK, and Mr. POSEY.
H.R. 4110: Ms. JACKSON LEE.
H.R. 4134: Mr. AGUILAR, Ms. SALAZAR, Mr. TRONE, and Mr. RODNEY DAVIS of Illinois.
H.R. 4141: Mr. SMUCKER, Ms. SÁNCHEZ, Mr. KILDEE, Mr. EVANS, Mr. KELLER, Ms. KELLY of Illinois, Mr. OWENS, and Mr. BRENDAN F. BOYLE of Pennsylvania.
H.R. 4173: Mr. BEYER, Mr. O'HALLERAN, Mr. BOWMAN, Mr. GALLEGO, Mr. MCNERNEY, Ms. OCASIO-CORTEZ, Mr. PAYNE, Mr. PERLMUTTER, Ms. BLUNT ROCHESTER, and Mr. BROWN.
H.R. 4311: Ms. BLUNT ROCHESTER, Ms. BASS, Mrs. LAWRENCE, Ms. SCANLON, Mr. BROWN, Mr. LARSON of Connecticut, Mr. HIGGINS of New York, Mr. BISHOP of Georgia, Ms. LEGER FERNANDEZ, Mr. PASCRELL, Mr. BEYER, Mr. KIM of New Jersey, Mr. SWALWELL, Mr. GREEN of Texas, Mr. VEASEY, Mr. MCGOVERN, Ms. LOFGREN, and Ms. WILLIAMS of Georgia.
H.R. 4323: Mrs. NAPOLITANO, Ms. MOORE of Wisconsin, Mr. KILMER, and Ms. MCCOLLUM.
H.R. 4358: Mr. BILIRAKIS.
H.R. 4429: Mr. THOMPSON of Pennsylvania.
H.R. 4443: Mrs. HAYES.
H.R. 4444: Mrs. HAYES.
H.R. 4445: Mr. FITZPATRICK.
H.R. 4495: Ms. BONAMICI, Mr. DANNY K. DAVIS of Illinois, Mr. SCHIFF, Mr. AGUILAR, Mr. MCGOVERN, Mr. CÁRDENAS, and Ms. DEAN.
H.R. 4496: Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. DANNY K. DAVIS of Illinois, Mr. SCHIFF, Mr. AGUILAR, Mr. MCGOVERN, Mr. CÁRDENAS, Mr. POCAN, Mr. DESAULNIER, and Mr. BEYER.
H.R. 4497: Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. DANNY K. DAVIS of Illinois, Mr. SCHIFF, Mr. AGUILAR, Mr. MCGOVERN, Mr. CÁRDENAS, Mr. POCAN, Mr. DESAULNIER, Mr. BEYER, Ms. BONAMICI, Mr. NEGUSE, and Ms. DEAN.
H.R. 4557: Mr. MALINOWSKI.
H.R. 4568: Mr. BANKS.
H.R. 4575: Mr. MOULTON, Mr. FITZPATRICK, Mr. RYAN, Mrs. MCBATH, and Mr. GAETZ.
H.R. 4612: Mr. CASTEN and Mr. DEUTCH.
H.R. 4642: Mr. GALLEGO, Mr. GRIJALVA, and Mr. VAN DREW.
H.R. 4645: Mr. EMMER, Mr. GROTHMAN, Mr. BUDD, and Mr. MAST.
H.R. 4663: Ms. SCANLON, Mr. DANNY K. DAVIS of Illinois, Mr. DEFAZIO, and Mr. SAN NICOLAS.
H.R. 4687: Mr. RUSH.
H.R. 4690: Mr. NEGUSE.
H.R. 4700: Mr. PANETTA.
H.R. 4716: Mrs. DEMINGS, Ms. NEWMAN, Mr. TAKANO, and Mr. SUOZZI.
H.R. 4735: Mr. MEEKS.
H.R. 4736: Ms. ROSS, Mr. EVANS, and Mr. DEUTCH.
H.R. 4738: Mr. ROUZER, Mr. STEIL, Mr. LATURNER, Mr. FORTENBERRY, Mr. MOORE of Utah, and Mr. LAHOOD.
H.R. 4748: Mr. MANN.
H.R. 4750: Mr. RODNEY DAVIS of Illinois.
H.R. 4758: Mr. RESCHENTHALER.
H.R. 4759: Mr. VELA and Mrs. BUSTOS.
H.R. 4764: Mr. C. SCOTT FRANKLIN of Florida, Mr. BUDD, and Mr. STEUBE.
H.R. 4769: Mr. GARBARINO.
H.R. 4781: Mr. KELLY of Pennsylvania and Mr. KELLER.
H.R. 4785: Ms. MANNING and Mr. PAPPAS.
H.R. 4792: Mrs. LESKO.
H.R. 4811: Ms. ROYBAL-ALLARD, Ms. GARCIA of Texas, Mrs. NAPOLITANO, Ms. SCANLON, and Mr. HUFFMAN.
H.R. 4821: Mr. PALMER.
H.R. 4824: Mr. FITZPATRICK, Mr. RYAN, and Ms. NORTON.
H.R. 4833: Ms. DEAN, Mrs. WATSON COLEMAN, Mr. KATKO, Mr. KIM of New Jersey, Mr. SCHIFF, Ms. LEE of California, Mr. LEVIN of California, and Mr. MORELLE.
H.R. 4851: Mrs. DINGELL.
H.R. 4880: Mrs. MILLER-MEEKS and Mr. LIEU.
H.R. 4943: Ms. DEAN and Ms. WILD.
H.R. 4944: Ms. DEAN and Ms. WILD.
H.R. 4979: Mr. JONES and Ms. JAYAPAL.
H.R. 4994: Mr. PERLMUTTER.
H.R. 5033: Mr. HORSFORD.
H.R. 5047: Mr. BABIN, Mr. GROTHMAN, and Mr. KELLY of Pennsylvania.
H.R. 5068: Mr. VAN DREW.
H.R. 5071: Ms. STEFANIK, Mr. VAN DREW, Ms. CHENEY, Mr. WALTZ, Ms. SALAZAR, Mr. MEIJER, Mr. CARTER of Georgia, Mrs. WAGNER, Mr. SMITH of New Jersey, Mrs. HARSHBARGER, Mr. RICE of South Carolina, Mr. ZELDIN, Mr. FULCHER, Mr. WESTERMAN, Mrs. HARTZLER, Mr. MCKINLEY, and Miss GONZÁLEZ-COLÓN.
H.R. 5079: Mr. GROTHMAN.
H. Res. 117: Ms. SALAZAR.
H. Res. 214: Mr. LUETKEMEYER.
H. Res. 338: Ms. JACKSON LEE.
H. Res. 362: Mr. GOTTHEIMER.
H. Res. 366: Mr. COURTNEY and Ms. LETLOW.
H. Res. 547: Mr. VAN DREW, Ms. ROSS, Mr. NADLER, and Mrs. AXNE.
H. Res. 557: Mrs. CAMMACK.
H. Res. 583: Ms. JACKSON LEE, Mrs. DINGELL, Mr. DEUTCH, Mr. GARAMENDI, Ms. DEAN, Ms. LOIS FRANKEL of Florida, Mr. GRIJALVA, Ms. NEWMAN, Ms. STEVENS, Ms. PINGREE, Ms. JAYAPAL, and Mr. LOWENTHAL.
H. Res. 589: Mr. COHEN and Mr. PETERS.