

BILINGUAL VOTING REQUIREMENTS REPEAL ACT OF 1996

\_\_\_\_\_  
JULY 31, 1996.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
\_\_\_\_\_

Mr. CANADY, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 351]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 351) to amend the Voting Rights Act of 1965 to eliminate certain provisions relating to bilingual voting requirements, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary .....	1
Background and Need for the Legislation .....	1
Hearings .....	8
Committee Consideration .....	8
Vote of the Committee .....	9
Committee Oversight Findings .....	9
Committee on Government Reform and Oversight Findings .....	9
New Budget Authority and Tax Expenditures .....	9
Congressional Budget Office Cost Estimate .....	9
Inflationary Impact Statement .....	11
Section-by-Section Analysis and Discussion .....	11
Agency Views .....	11
Changes in Existing Law Made by the Bill, as Reported .....	13
Dissenting Views .....	23

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bilingual Voting Requirements Repeal Act of 1996”.

**SEC. 2. REPEAL OF BILINGUAL VOTING REQUIREMENTS.**

(a) **BILINGUAL ELECTION REQUIREMENTS.**—Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a) is repealed.

(b) **VOTING RIGHTS.**—Section 4 of the Voting Rights Act of 1965 (42 U.S.C. 1973b) is amended by striking subsection (f).

**SEC. 3. CONFORMING AMENDMENTS.**

(a) **REFERENCES TO SECTION 203.**—The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) is amended—

(1) in section 204, by striking “or 203,”; and

(2) in section 205, by striking “, 202, or 203” and inserting “or 202”.

(b) **REFERENCES TO SECTION 4.**— The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) is amended—

(1) in sections 2(a), 3(a), 3(b), 3(c), 4(d), 5, 6, and 13, by striking “, or in contravention of the guarantees set forth in section 4(f)(2)”;

(2) in paragraphs (1)(A) and (3) of section 4(a), by striking “or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2)”;

(3) in paragraph (1)(B) of section 4(a), by striking “or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) that denials or abridgments of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision”; and

(4) in paragraph (5) of section 4(a), by striking “or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) that denials or abridgments of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision”.

**PURPOSE AND SUMMARY**

H.R. 351, the Bilingual Voting Requirements Repeal Act of 1996, repeals Sections 4(f) and 203, the bilingual voting requirements, from the Voting Rights Act of 1965 (the “Act”). With the repeal of Sections 4(f) and 203, the Federal Government will no longer be in the business of mandating that certain jurisdictions provide ballots and other election materials in foreign languages.

**BACKGROUND AND NEED FOR THE LEGISLATION**

The Voting Rights Act of 1965 was primarily designed to provide swift, administrative relief where there was compelling evidence that racial discrimination continued to plague the electoral process, thereby denying black Americans the right to exercise their franchise as guaranteed by the Fifteenth Amendment to the Constitution. The Act was amended in 1975 to require multi-lingual ballots and other election materials in jurisdictions where a combination of the following three factors existed: English deficiency, illiteracy and low voter turnout. This expansion of the Act added two new sections: the administrative preclearance provisions of title I, section 4, and the supplemental provisions of title II, section 203.

The 1975 amendments were based on findings<sup>1</sup> which have been attacked as unsupported by the record of hearings conducted by the

<sup>1</sup> 42 U.S.C. 1973b(f)(1) states that “The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are

Committee. The underlying premise for this expansion of the law was that it was somehow discriminatory to conduct an election in the English language. When the ballots were last authorized in 1992, after 17 years of use, no statistical evidence was produced to show that bilingual ballots had increased voter participation by language minorities in any covered jurisdiction.

I. THERE IS NO EVIDENCE OF DISCRIMINATION IN VOTING TO JUSTIFY CONTINUED FEDERAL INTERVENTION

At the time the law was enacted in 1975, several representatives expressed the view that expansion of the Act to cover some groups who speak languages other than English provided “a remedy for which there is no wrong.” “More accurately” they wrote, “the bill applies the strongest remedies of the Voting Rights Act to jurisdictions whose record of voting discrimination is, in general, still waiting to be proved.”<sup>2</sup>

The expansion of the Act in 1975 went far beyond the original concept of the 1965 Act, or the concept envisioned when the Voting Rights Act was given a five-year extension in 1970. The 1975 amendments aimed to protect “language minorities.” But “coverage” under the Voting Rights Act does not deal with the rights of the individual voter but with the remedies imposed against governments that discriminate in voting. What the Voting Rights Act addresses in its pertinent provisions is the imposition of remedies for violations of those rights—violations which Congress must find to have occurred in fact.

Although the argument was made in 1975, the case was not. The record simply did not support the expansion of coverage to include the additional jurisdictions contemplated by the multilingual provisions of the bill. Rep. Jack Brooks, the former chairman of this Committee, wrote separately in 1975 to underscore the fact that “Congress, and especially the Judiciary Committee, should enact far-reaching constitutional legislation only when it is supported with solid evidence. To date, I question whether adequate evidence exists.” Rep. Brooks also noted that Arthur Fleming, Chairman of the U.S. Commission on Civil Rights informed the House Judiciary Subcommittee that the Commission lacked conclusive evidence of minority language discrimination in the electoral process.<sup>3</sup>

Also voicing skepticism about the need for the bilingual provisions in his testimony before the House subcommittee, Assistant Attorney General J. Stanley Pottinger stated:

If we are put to the task of supporting with the same degree of statistical and anecdotal information as was existing in the past two enactments of the Civil Rights Act, the same kind of support here \* \* \* we do not yet have that.<sup>4</sup>

excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation.”

<sup>2</sup>H. Rept. No. 196, 94th Congress, 1st Sess. 119 (1975). Dissenting views of Representatives Robert McClory, Hamilton Fish, Jr., Edward Hutchinson, Charles E. Wiggins, Carlos J. Moorhead, and Henry J. Hyde.

<sup>3</sup>H. Rept. No. 196, 94th Congress, 1st Sess. 66–67 (1975).

<sup>4</sup>Extension of the Voting Rights Act: Hearings Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 94th Cong., 1st Sess. 294 (1975) (testimony of Assistant Attorney General J. Stanley Pottinger).

Speaking before the Senate subcommittee six weeks later, Pottinger declared:

In my testimony before the House Subcommittee, I suggested that if a strong case were made of widespread deprivations of the right to vote of non-English-speaking persons \* \* \* expansion of the special provisions of the act might be warranted \* \* \*. Since that time, considerable testimony had been presented to this subcommittee and to the House subcommittee \* \* \*. In light of the other remedies available and in light of the stringent nature of the special provisions, the Department of Justice has concluded that the evidence does not require expansion based on the record currently before us. *In other words, that record is not compelling.*<sup>5</sup>

Moreover, Mr. Pottinger highlighted the existing remedies available under the Act for language minorities. Before the Act was amended in 1975, section 2 provided that:

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.

Section 3 of the Act directs the Attorney General to institute legal actions to enforce section 2 of the Act. Under sections 11 and 12 of the Act, any official found to have deprived anyone of their voting rights can be fined or imprisoned.<sup>6</sup> In his testimony before the House Judiciary Subcommittee, Pottinger expressed the view that such provisions of the Voting Rights Act already applied to minority language persons.<sup>7</sup>

## II. FEDERALISM

One thing that proponents and opponents of the Voting Rights Act could agree on in 1965—it was a radical statute. In 1965, when Congress first passed the Voting Rights Act, the record of hardcore voting discrimination in the jurisdictions covered by the legislation was so pervasive that Congress was justified in banning literacy tests and devices and in requiring that any and all changes in voting laws and practices in the affected areas be cleared in Washington, D.C. before they could go into effect. The remedies in the 1965 Act were imposed automatically by a “trigger” based upon discrimination borne out by statistical information and voluminous other evidence.

<sup>5</sup> Extension of the Voting Rights Act: Hearings Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary, 94th Cong., 1st Sess. 543–544 (1975) (testimony of Assistant Attorney General J. Stanley Pottinger) (emphasis added).

<sup>6</sup> 42 U.S.C. 1973i, 42 U.S.C. 1973j.

<sup>7</sup> Extension of the Voting Rights Act: Hearings Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 94th Cong., 1st Sess. 178–179 (1975) (testimony of Assistant Attorney General J. Stanley Pottinger).

*A. The multilingual mandate is based on an arbitrary, mechanical formula*

To address the findings made by the Committee in 1975, Congress enacted a prohibition on conducting elections only in the English language in covered jurisdictions under the Act. Two mechanical formulas transformed certain states, counties and parishes into covered jurisdictions under the “language minority” provisions of the Act. However, as discussed below, these formulas indicate a certain antipathy toward actual discrimination in voting among many Americans who the Act purportedly seeks to protect.

Only individuals who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage and who number more than 10,000 or five percent of the population in a political subdivision (a county, a parish, or an Indian tribe without respect to county lines) derive the alleged benefits of the multi-lingual voting provisions of the Act. Therefore, ethnic groups covered under the Act must live sufficiently clustered in political subdivisions to be entitled to the Act’s language minority provisions. Under these formulas, unless the voting age population level of a designated “language minority” group approaches the arbitrary five percent threshold outlined in section 4(f)(3) or in section 203(b), they do not acquire the guarantees that the Act prescribes.

The 1990 Census lists 327 different languages now spoken in the United States. There is no principled basis for the provision of multi-lingual ballots to only four enumerated language minority groups. The hearings on this issue in 1975, on which the findings for the “language minority” provisions were based, focused primarily on Mexican-Americans in several counties in Texas.<sup>8</sup> Asian Americans were scarcely mentioned at the hearings. But when legislation was introduced containing the new language minority provisions, apparently only 4 language groups had been subject to voting discrimination that was “pervasive and national in scope.” However, one should note that—

[W]e should be clear that even though access to bilingual ballots is mandated \* \* \*, this access is not a right. If it were a right, it would be possessed by all citizens. The Act makes no attempt to provide this access to all members of linguistic minorities; access is mandated only for minorities that number more than 10,000 in a jurisdiction, or which make up more than 5% of the eligible voters. The thousands of citizens in smaller linguistic minorities—all equally Americans—are not denied a right; they are denied an accommodation. If they were denied a right, they would be entitled to redress under the equal protection clause of the 14th Amendment. And voting in the United States would suddenly become an impossibly expensive and chaotic exercise as officials attempted to provide ballots and instructions in hundreds of different languages, some of

<sup>8</sup>See, Extension of the Voting Rights Act: Hearings Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 94th Cong., 1st Sess. (1975).

them not yet reduced to writing. That is what a *right* to bilingual ballots would require.<sup>9</sup>

*B. The multilingual mandate is both ineffective and expensive*

*1. Effectiveness*

The only objective and reliable data available to measure voter registration and participation on a nationwide basis is found in the U.S. Census Bureau's Current Population Reports.<sup>10</sup> The Current Population Reports show that Hispanic citizen voter registration has decreased since the inception of multilingual ballots and other election materials. Using the last presidential election year before the multilingual provisions were added to the Act as a baseline, the 1972 voting registration rate of persons of Hispanic origin was 44.4 percent. In 1992, the number had declined to 35.0 percent. In addition to the fact that Hispanic voter registration has not improved, Hispanic voter participation has also declined since the multilingual provisions have been in effect. In 1972, 37.5 percent of persons of Hispanic origin were reported voting. In 1992, only 28.9 percent were reported voting.<sup>11</sup>

The data from the Current Population Reports is the only objective information that exists that shows evidence of the effectiveness—or lack thereof—of the multilingual voting assistance provisions of Sections 4(f) and 203. There is no evidence which shows that twenty-one years of multilingual voting assistance has increased registration or voting by language minorities. The lack of evidence of effectiveness is especially striking in contrast to the record in 1975 when Congress was considering reauthorization of the original non-language provisions of the Voting Rights Act.

The Voting Rights Act has been extremely effective in terms of diminishing barriers to and improving minority voting registration throughout the covered areas. Registration rates for blacks in covered southern jurisdictions has continued to increase since passage of the Act. For example, while only 6.7 percent of the black voting age population of Mississippi was registered before 1965, 63.2 percent of such persons were registered in 1971–72. Similar dramatic measures in black registration can be observed in Alabama, Georgia, Louisiana, and Virginia. Severe gaps between black and white registration rates have also greatly diminished since the Act's passage. Prior to 1965, the black registration rate in the State of Alabama lagged behind that of whites by 49.9 percentage points. In 1972, that disparity had decreased to 23.6 percentage points. Likewise in Mississippi, that disparity had decreased from 63.2 percentage points \* \* \* Closing registration gaps

<sup>9</sup>Bilingual Voting Requirements Repeal Act of 1996: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary, 104th Cong., 2d Sess. (1996) (testimony of Boston University President John Silber).

<sup>10</sup>The decennial census does not record information about whether a person has voted or is registered to vote. The Current Population Reports are ongoing, monthly surveys of 55,000 households. Every two years, questions are included about voting.

<sup>11</sup>Current Population Reports: 1992. Population Characteristics. Voting and Registration Statistics in the Election of November 1992. Series P-20, Nos. 174, 228, 293, 344, 383, 414, 440.

have occurred throughout the covered southern jurisdictions.<sup>12</sup>

## 2. Cost

In addition to being ineffective, the multilingual mandate is expensive. There are no current nationwide statistics on the cost and use of multilingual election materials and ballots and no evidence was presented to the Subcommittee to indicate that the cost of material is justified by widespread use. The Subcommittee did hear compelling testimony however from the Registrar of Yuba County, California, who stated that in the last three elections (which include the 1996 primary election, the 1994 general election, and the 1994 primary election), her office spent \$46,204.00 on translations and multilingual election materials. Despite the fact that Yuba County is a covered jurisdiction under section 4(f) of the Act and has had only 1 request in the last 16 years, Yuba County remains a covered jurisdiction under the Act. County Registrar Frances Fairey testified how this figure was wasteful and ineffective to her county:

I have been Registrar for sixteen years and only once has my office staff handed Spanish literature to anyone. Let me restate that again; in my sixteen years as Registrar I have received only this one request. This was offered to, not requested by the individual. The only other requests came from teachers who use this material in their classes.<sup>13</sup>

Another example of the expense and ineffectiveness of the multilingual mandate is the experience of Los Angeles County, California. In the 1994 general election, Los Angeles County had to provide ballots and other election materials in *six* different languages—Chinese, Japanese, Vietnamese, Tagalog, Spanish and English. The additional cost to the County of providing ballots and election materials in these five foreign languages was \$345,477.19, at an average cost per voter of \$21.27.<sup>14</sup> The Congressional Budget Office estimates that passage of H.R. 351 will result in savings of \$5–10 million per election for covered state and local governments.

## III. FINDINGS

Based on evidence presented to the Subcommittee it is clear that the findings made in 1975 are no longer an accurate reflection of reality. When the “language minority” provisions were last authorized in 1992 after 17 years of use, no statistical evidence was produced to show that the bilingual ballots had increased voter participation by language minorities in any covered jurisdiction. Furthermore, no incidents of actual discrimination were cited in relation to the expansion and reauthorization of the bilingual voting re-

<sup>12</sup> Extension of the Voting Rights Act: Hearings Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary, 94th Cong., 1st Sess. 779 (1975).

<sup>13</sup> Bilingual Voting Requirements Repeal Act of 1996: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary, 104th Cong., 2d Sess. (1996) (testimony of Frances Fairey, Clerk, Recorder, and Registrar of Voters for Yuba County, CA).

<sup>14</sup> Offices of the Los Angeles Registrar-Recorder/County Clerk (Election Information Section).

quirements in 1992 and no such incidents were presented in 1996 to justify continuance of the multilingual provisions.

*A. The Harmful Effects of Federally Mandated Multilingualism*

American society has developed on the “melting pot” theory—that is, that the whole of America is a nation of immigrants, and that each of us, or our forefathers, have been required to learn English in order to succeed. Every American values his or her heritage, but that is coupled with a recognition that as Americans, we must acquire a facility in English if we are to assimilate effectively and fully participate in all facets of American life. The 1975 amendments have the effect, whether intended or not, of encouraging minority language dependency and therefore self-imposed segregation, both politically and culturally.

English is our common language of discourse. In recognition of this fact, now, more than ever, the Federal Government has a responsibility to look for things to bring us together as a nation and unify us rather than encourage further separation along racial and ethnic lines. Ballots are the recognized, endorsed, formalized, authoritative, approved instrument for citizen participation in the electoral process. The ballot’s highly official nature gives great weight to all that is written on it. Present this information in English, and the message is unmistakable that English is the language in which this nation functions. Ballots in English do not reflect on the language each one of us may choose to speak in our homes or in our churches, but it is the language in which all Americans periodically make decisions that affect the future of the whole nation.

A ballot in two or more languages delivers a very different message. Such a ballot gives an official seal of approval to other languages as co-equal to English in the process that determines the future course for our nation. It says that the highest authorities in the land place no special value on the English language for the most symbolic act of democratic self-governance.

#### HEARINGS

The Committee’s Subcommittee on the Constitution held one day of hearings on H.R. 351 on April 18, 1996. Testimony was received from 12 witnesses: Representative John Edward Porter; Representative Bob Livingston; Representative Xavier Becerra; Representative Nydia Velázquez; Representative Peter King; Dr. John Silber, President, Boston University; Karen Narasaki, Executive Director, National Asian Pacific American Legal Consortium; Ronald Rotunda, the Albert E. Jenner, Jr. Professor of Law, University of Illinois; Hon. Deval Patrick, Asst. Attorney General for Civil Rights, Department of Justice; Linda Chavez, President, Center for Equal Opportunity; Antonia Hernandez, President and General Counsel, Mexican American Legal Defense & Education Fund; Frances Fairey, County Clerk and Recorder, Yuba County, California.

#### COMMITTEE CONSIDERATION

On May 23, 1996, the Subcommittee on the Constitution met in open session and ordered reported favorably the bill, H.R. 351, with

a single amendment in the nature of a substitute, by a recorded vote of 5 to 2, a quorum being present.

On July 16, 1996, the Committee met in open session and ordered reported favorably the bill, H.R. 351, with a single amendment in the nature of a substitute, by a recorded vote of 17 to 12, a quorum being present.

#### VOTE OF THE COMMITTEE

A motion to report favorably the bill, H.R. 351, as amended, was agreed to by a rollcall vote of 17 to 12. The vote was as follows:

AYES	NAYS
Mr. Hyde	Mr. Schiff
Mr. Moorhead	Mr. Conyers
Mr. Sensenbrenner	Mr. Frank
Mr. McCollum	Mr. Schumer
Mr. Gekas	Mr. Bryant (TX)
Mr. Coble	Mr. Reed
Mr. Smith (TX)	Mr. Scott
Mr. Canady	Mr. Watt
Mr. Goodlatte	Mr. Becerra
Mr. Buyer	Ms. Lofgren
Mr. Hoke	Ms. Jackson Lee
Mr. Bono	Ms. Waters
Mr. Heineman	
Mr. Bryant (TN)	
Mr. Chabot	
Mr. Flanagan	
Mr. Barr	

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 351, the following estimate and comparison prepared

by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 29, 1996.*

Hon. HENRY J. HYDE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 351, the Bilingual Voting Requirements Repeal Act of 1996, as ordered reported by the House Committee on the Judiciary on July 16, 1996. CBO estimates that enacting this legislation would have no significant impact on the federal budget. Enacting H.R. 351 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

H.R. 351 would amend the Voting Rights Act of 1965 (Public Law 89-110) to repeal the requirement that certain jurisdictions provide bilingual voting materials.

*Federal budgetary impact.*—Under current law, the Department of Justice enforces the provisions of the Voting Rights Act, and the Census Bureau determines which jurisdictions should provide bilingual voting materials. Enacting H.R. 351 would not significantly affect spending by these agencies.

*Impact on State, local, and tribal governments.*—H.R. 351 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). By rescinding bilingual election requirements, the bill would, in general, save state, local, and tribal governments money. Some states—New Mexico, for example—would continue to provide bilingual materials and education because of state or local constitutional or statutory requirements. In those cases, H.R. 351 would have no budgetary effect. In other cases—such as counties in rural South Dakota with large Native American populations—volunteers provide translator assistance for oral language communities, and those services cost local governments nothing. Some large jurisdictions, however, incur substantial costs when they have to hire translators and print informational material and ballots in a number of different languages. This is particularly the case in southern California and New York.

Total costs of complying with current law range from minimal in small jurisdictions to over \$250,000 in the nation's largest counties with large non-English speaking populations. Over 250 jurisdictions are subject to the bilingual requirements, but most of these jurisdictions are relatively small. CBO estimates that state and local jurisdictions, in total, could save between \$5 million and \$10 million per election if H.R. 351 became law.

*Impact on the private sector.*—This bill would impose no new private-sector mandates as defined in Public Law 104-4.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for

federal costs), Leo Lex (for the state, local, and tribal government impact), and Matthew Eyles (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director*.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 351 will have no significant inflationary impact on prices and costs in the national economy.

#### SECTION-BY-SECTION ANALYSIS AND DISCUSSION

##### *Section 1. Short title*

This section provides that this Act may be cited as the "Bilingual Voting Requirements Repeal Act of 1996".

##### *Section 2. Repeal of bilingual voting requirements*

Section 2 of the Bilingual Voting Requirements Repeal Act of 1996 would repeal section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a) and section 4(f) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(f)).

Both sections assume for purposes of the Act that covered jurisdictions are engaged in discrimination against language minorities to such an extent that the Federal Government must interject itself to regulate an election process traditionally reserved to the States in order to remedy the discrimination. Both sections mandate that covered jurisdictions provide ballots and other election materials in languages other than English. Moreover, jurisdictions subject to section 4(f) are subject to the preclearance provisions under section 5 of the Act.

##### *Section 3. Conforming amendments*

Section 3 of the Bilingual Voting Requirements Repeal Act of 1996 would make conforming amendments to all sections of the Act that reference sections 203 and 4(f) by deleting all such references.

#### AGENCY VIEWS

The views of the Department of Justice are set forth in the following letter.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
*Washington, DC, June 11, 1996.*

Hon. HENRY HYDE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This letter presents the views of the Justice Department on H.R. 351, which would repeal the minority language provisions of the Voting Rights Act of 1965. This letter follows the Department's earlier letter to Chairman Canady of the Subcommittee on the Constitution and testimony before the Subcommittee by Assistant Attorney General Deval L. Patrick. Both of these documents are enclosed for your review.

We strongly oppose the repeal of these important provisions of the Voting Rights Act. For over two decades, these provisions have guaranteed the right to vote of United States citizens who are not yet fully proficient in English. If a repeal bill were sent to the President, the Attorney General would recommend that he veto such legislation.

Congress added the minority language provisions to the Voting Rights Act in 1975, recognizing that large numbers of United States citizens who primarily spoke languages other than English had been effectively excluded from participation in our electoral process. Congress made specific findings that voting discrimination against citizens of language minorities is pervasive and national in scope, and that these citizens were denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. Therefore, the rationale for the minority language provisions was, in part, identical to that for removing obstructions at the polls for illiterate African American citizens: Congress recognized that the inability to read and understand voting instructions and ballots should not be a bar to the constitutional right to vote, whether the discrimination that had contributed to that illiteracy was based on race, national origin, or language proficiency.

The repeal of the minority language protections of the Voting Rights Act would disenfranchise American citizens who only recently have had the opportunity to engage meaningfully in participatory democracy. The minority language provisions were passed to help American citizens, who work and pay taxes, but have not mastered English well and need some assistance to be able to cast an informed vote. The minority language provisions enable these voters to know not only who is running for office, but also to understand complex constitutional amendments or bond issues that appear on the ballot and have just as profound an effect on their lives as the individuals elected to office. The minority language provisions increase the number of registered voters and permit voters to participate on an informed basis.

The stated purpose of H.R. 351 is to eliminate the bilingual election provisions in the Voting Rights Act. Those provisions are found in section 203 (42 U.S.C. 1973aa-1a) and section 4(f)(4) (42 U.S.C. 1973b(4)(f)(4)) of the Act. However, in the process of eliminating those provisions, H.R. 351 would repeal section 4(f) in its entirety, including section 4(f)(2). The bill would remove all references to section 4(f)(2) throughout the Voting Rights Act. By applying such a broad brush, the bill would have other detrimental consequences as well, since it would call into question the applicability of the protections of the Voting Rights Act to members of language minority groups (defined as "persons who are American Indian, Asian American, Alaskan Native or of Spanish heritage," (42 U.S.C. 19731(c)(3)). For example:

1. By eliminating both section 4(f)(2) and the reference to it in section 2(a) of the Act (42 U.S.C. 1973(a)), H.R. 351 appears to eliminate entirely the nationwide ban on discriminatory election practices against members of language minority groups. This could prevent members of language minority groups from being able to challenge vote dilution, such as that

found unlawful by the court in *Gomez v. City of Watsonville*, 863 F. 2d 1407 (9th Cir. 1988), cert. denied, 489 U.S. 1080 (1989) (successful challenge by Hispanics to city at-large election system). More fundamentally, H.R. 351 would call into question the legal right of members of language minorities, such as Hispanic-Americans and Asian-Americans, to challenge such blatantly harmful election practices as limiting the voter registration of only language minority citizens to one day a week or limiting only their balloting to the hours of 10:00 a.m.–12:00 noon.

2. H.R. 351 also would raise a host of questions about the coverage under section 5 of the Act (42 U.S.C. 1973c) of jurisdictions that became covered as a result of the 1975 amendments to the Act. Those amendments created the coverage formula found in the third sentence of section 4(b) (42 U.S.C. 1973b(b)). It is unclear whether a jurisdiction that has been covered since 1975—because it met the section 4(b) criteria—would remain covered until it could “bail out,” using the provisions of Section 4(a) (42 U.S.C. 1973b(a)). More drastically, H.R. 351 could be interpreted to eliminate such section 5 coverage entirely for these jurisdictions.

3. H.R. 351 also appears to eliminate the availability of Federal voting examiners and observers to protect individuals from being denied the right to vote because they are members of language minorities. See Section 6 (42 U.S.C. 1973d) and Section 8 (42 U.S.C. 1973f).

In the past, Congress has recognized and understood the need for minority language voting assistance. It has extended the minority language provisions twice and the provisions are now in effect until 2007. The interest in a vital democracy—through access to the ballot box—is not limited to any particular political party. Each enactment and amendment strengthening the minority language provisions has enjoyed strong bipartisan support in the Congress and the support of the Ford, Reagan and Bush Administrations. This Administration proudly joins this bipartisan tradition.

More than our language that unites us. We are united as Americans by the principles of tolerance, free speech, representative democracy, and equality under the law. Because H.R. 351 contravenes each of these principles, we strongly oppose this bill.

Thank you for this opportunity to provide the Department’s views on H.R. 351. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration’s program.

Sincerely,

ANDREW FOIS,  
*Assistant Attorney General.*

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**VOTING RIGHTS ACT OF 1965**

\* \* \* \* \*

TITLE I—VOTING RIGHTS

SEC. 2. (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision 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<sup>1</sup>, or in contravention of the guarantees set forth in section 4(f)(2)<sup>2</sup>, as provided in subsection (b).

\* \* \* \* \*

SEC. 3. (a) Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color<sup>1</sup>, or in contravention of the guarantees set forth in section 4(f)(2)<sup>2</sup>, (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color<sup>1</sup>, or in contravention of the guarantees set forth in section 4(f)(2)<sup>2</sup>, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or

effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2)]: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure 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 sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

SEC. 4. (a)(1) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of 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 such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section 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 such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. A declaratory judgment under this section shall issue only if such court determines that during the ten years preceding the filing of the action, and during the pendency of such action—

(A) no such test or device has been used within such State or 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 the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) 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 State or political subdivision [or (in the case of a State or subdivision seeking a declaratory judgment under the

second sentence of this subsection) 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 State or 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;

\* \* \* \* \*

(3) No declaratory judgment shall issue under this subsection with respect to such State or political subdivision if such plaintiff and governmental units within its territory have, during the period beginning ten years before the date the judgment is issued, engaged in violations of any provision of the Constitution or laws of the United States or any State or political subdivision with respect to discrimination in voting on account of race or color [or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2)] unless the plaintiff establishes that any such violations were trivial, were promptly corrected, and were not repeated.

\* \* \* \* \*

(5) An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for ten years after judgment and shall reopen the action upon motion of the Attorney General or any aggrieved person alleging that conduct has occurred which, had that conduct occurred during the ten-year periods referred to in this subsection, would have precluded the issuance of a declaratory judgment under this subsection. The court, upon such reopening, shall vacate the declaratory judgment issued under this section if, after the issuance of such declaratory judgment, a final judgment against the State or subdivision with respect to which such declaratory judgment was issued, or against any governmental unit within that State or subdivision, determines that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision [or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) 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 State or subdivision], or if, after the issuance of such declaratory judgment a consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices 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 guar-

antees set forth in section 4(f)(2)] if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

[(f)(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

[(2) 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 because he is a member of a language minority group.

[(3) In addition to the meaning given the term under section 4(c), the term "test or device" shall also mean any 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. With respect to section 4(b), the term "test or device", as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

[(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of section 4(a) provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan Natives and American Indians, if the predominate language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.]

SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the first sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect

to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentence of section 4(b) are in effect shall enact or seek to administer any voting qualifications or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, 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 qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color【, or in contravention of the guarantees set forth in section 4(f)(2)】, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure 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 sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty 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 enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-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 of the United States Code and any appeal shall lie to the Supreme Court.

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b), unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color【, or in contravention of the guarantees set

forth in section 4(f)(2)】, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities: *Provided*, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

\* \* \* \* \*

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color【, or in contravention of the guarantees set forth in section 4(f)(2)】 in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

\* \* \* \* \*

**【BILINGUAL ELECTION REQUIREMENTS**

**【SEC. 203.** (a) The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

**【(b) BILINGUAL VOTING MATERIALS REQUIREMENT.—**

**【(1) GENERALLY.—**Before August 6, 2007, no covered State or political subdivision shall provide voting materials only in the English language.

**【(2) COVERED STATES AND POLITICAL SUBDIVISIONS.—**

**【(A) GENERALLY.—**A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on census data, that—

**【(i)(I)** more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

**【(II)** more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or

**【(III)** in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

**【(ii)** the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

**【(B) EXCEPTION.—**The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

**【(3) DEFINITIONS.—**As used in this section—

**【(A)** the term “voting materials” means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots;

**【(B)** the term “limited-English proficient” means unable to speak or understand English adequately enough to participate in the electoral process;

[(C) the term “Indian reservation” means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

[(D) the term “citizens” means citizens of the United States; and

[(E) the term “illiteracy” means the failure to complete the 5th primary grade.

[(4) SPECIAL RULE.—The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

[(c) Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

[(d) Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

[(e) For purposes of this section, the term “language minorities” or “language minority group” means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.】

#### JUDICIAL RELIEF

SEC. 204. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, [or 203,] he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

PENALTY

SEC. 205. Whoever shall deprive or attempt to deprive any person of any right secured by section 201~~], 202, or 203]~~ *or 202* of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

\* \* \* \* \*

## DISSENTING VIEWS

By reporting H.R. 351, the Republican majority continues to attack the bi-partisan civil rights consensus that has existed in this nation for more than three decades. The minority language assistance provisions of the Voting Rights Act have been signed into law and supported by Presidents Ford, Reagan and Bush, as well as Presidents Clinton and Carter. During their most recent reauthorization in 1992, Senator Hatch (R-UT) said that the provisions are an “integral part of our government’s assurance that Americans do have \* \* \* access” to the ballot box.<sup>1</sup> The fact that House Republicans would repudiate the civil rights positions of their own Presidents and Senate Judiciary Chairman only serves to illustrate how truly extreme their party has become.

Denying citizens minority language assistance with regard to voting will not force or encourage them to learn English. As the late Hamilton Fish, Jr., then Ranking Republican on the House Judiciary Committee so eloquently stated in 1992, “by enabling language minority citizens to vote in an effective and informed manner, we are giving them a stake in our society, and this assistance \* \* \* will lead to more, not less, integration and inclusion of these citizens in our mainstream.”<sup>2</sup>

The evidence available to date indicates that the minority language provisions of the Voting Rights Act are an effective, targeted, low cost method of ensuring the Constitutional right to vote. According to the Government Accounting Office, the average cost of providing written assistance is minuscule, costing an average of 2.9% of election expenses or less.<sup>3</sup> Recent studies confirm that nearly three-fourths of Spanish speaking American citizens would be less likely to vote if minority language assistance were not available.<sup>4</sup> Moreover, by striking section 4(f)(2) of the Voting Rights Act, H.R. 351 goes so far as to dismantle federal anti-discrimination language protections for language minorities.<sup>5</sup>

Reporting this legislation represents yet another sad day for this Committee. Its actions are the equivalent of a modern day poll tax designed a century ago to keep African Americans from the voting booths. We urge the Members to oppose this extreme short-sighted measure.

---

<sup>1</sup> See *infra* note 17.

<sup>2</sup> See *infra* note 18.

<sup>3</sup> See *infra* note 33.

<sup>4</sup> See *infra* note 28.

<sup>5</sup> See *infra* notes 29–31.

I. THE MINORITY LANGUAGE ASSISTANCE PROVISIONS OF THE VOTING RIGHTS ACT ARE WELL GROUNDED IN EXPERIENCE AND FACT, AND HAVE ENJOYED BROAD, BIPARTISAN SUPPORT

The Voting Rights Act was first adopted in 1965 in response to discriminatory tactics faced by African American voters in the South. This landmark legislation granted to all American citizens the right to vote in any federal, state or local election.<sup>6</sup> In 1975, Congress recognized that large numbers of American citizens whose primary language was not English had also been effectively excluded from participation in our electoral process, and added two significant minority language provisions to protect them.<sup>7</sup> The first provision added was Section 4(f) of the Voting Rights Act, which requires, among other things, minority language assistance (such as bilingual ballots and other forms of minority language voting assistance) in those jurisdictions where:

- (1) over 5 percent of the voting-age citizens, on November 1, 1972, were members of a single language minority group; (2) registration and election materials were provided only in English on November 1, 1972; and (3) less than 50% of citizens of voting age voted or were registered to vote in the November, 1972 election.<sup>8</sup>

(Section 4(f) is also subject to general provisions and limitations under the Voting Rights Act, including the requirement that any changes in voting procedures in a covered jurisdiction must be preapproved by the Department of Justice or Federal District Court.)

The second provision added was Section 203 of the Voting Rights Act,<sup>9</sup> which required similar minority language assistance in those jurisdictions where it is determined:

- (i) that more than 5 percent of the citizens of voting age of such State or political subdivisions are members of a single language minority and are limited-English proficient and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate.<sup>10</sup>

<sup>6</sup>In originally passing the Voting Rights Act, Congress found a variety of devices were being used in the South to deny citizens the right to vote on account of their race or color. Chief among these discriminatory practices were: (1) literacy tests; (2) completion of application forms; (3) oral Constitutional understanding and interpretation tests; (4) understanding of the duties and obligations of citizenship; and (5) good moral character requirements. See generally, H. Rept. No. 439, 89th Cong., 1st Sess. (1965).

<sup>7</sup>This was not the first instance in American history where the importance of translation into minority languages was recognized. For example, in 1774 the Continental Congress ordered documents of its deliberations printed in German so that Americans of German descent could understand the decisions being made by that body. The Articles of Confederation were issued in English, German, and French. And in California, as early as 1850, the legislature authorized the dissemination of statutes, legislative journals and supreme court decisions in English and Spanish. See Juan F. Perea, "Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English," 77 Minn. L. Rev. 269 (1992).

<sup>8</sup>42 U.S.C. sec. 1973b(f).

<sup>9</sup>Section 203 is expressly predicated on rights guaranteed by the Fourteenth and Fifteenth Amendments (equal protection and the right to vote). See 42 U.S.C. sec. 1973a(a).

<sup>10</sup>In order for a jurisdiction to be covered, the 5 percent threshold must be met by a single language minority group (i.e., 3 percent Spanish and 2 percent Chinese would not be covered under Section 203). For the purpose of the Voting Rights Act, the term "language minority" includes "persons who are American Indian, Asian American, Alaskan Natives, or of Spanish Heritage." 42 U.S.C. secs. 1973aa-1 (b), (e), 1973l(c)(3).

Unlike Section 4(f), which is based on a one-time finding of discriminatory voting practices, Section 203 allows for a changing determination of coverage, based on census data.

The 1975 Amendments were enacted on the recommendation of the U.S. Commission on Civil Rights which found, among other things, that language minorities experienced high illiteracy rates and voting discrimination.<sup>11</sup> Congress further determined language minority citizens suffered from voting discrimination as a result of inadequate numbers of minority registration personnel, uncooperative registrars, and the disproportionate effect of purging laws on non-English speaking citizens because of language barriers.<sup>12</sup>

In 1982, Congress again found that discrimination against language minorities affected their right to vote and extended the authorization for Section 4(f) of the Voting Rights Act for 25 years (to 2007) and Section 203 for 10 years (to 1992).<sup>13</sup> In 1992, Congress continued to find inequitable treatment in education which resulted in high rates of illiteracy and impaired the ability of language minorities to vote.<sup>14</sup> At this time Congress chose to reauthorize Section 203 for an additional 15 years (to 2007, concurrent with the rest of the Act),<sup>15</sup> and further broadened the scope of Section 203 to add a supplementary formula to cover counties where there are more than 10,000 voters in a single language minority group who speak English poorly.<sup>16</sup>

As was the case in 1975 (with President Ford) and 1982 (with President Reagan), the 1992 Amendment was signed into law by a Republican President (Bush) and received broad and bipartisan support in the Congress. For example, during the 1992 Senate Judiciary hearing regarding the extension of the minority language provisions of the Voting Rights Act, Senator Orrin Hatch (R-UT) stated:

The right to vote is one of the most fundamental of human rights. Unless government assures access to the ballot box, citizenship is just an empty promise. Section 203 of the Voting Rights Act, containing bilingual election

<sup>11</sup> See Extension of the Voting Rights Act of 1965: Hearings Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 94th Cong., 1st Sess. 771-789 (1975); See also, U.S. Commission on Civil Rights, Civil Rights Issues Facing Asian Americans in the 1990s, (1992) at 99.

<sup>12</sup> In addition to restrictive voter registration procedures aimed at language minorities, Congress found many obstacles were placed in the paths of language minority voters designed to frighten, discourage, frustrate, or otherwise inhibit participation by voting (e.g., failure to locate voters' name on precinct lists, location of polls at places where minority voters feel unwelcome or uncomfortable, or which are inconvenient to them, inadequacy of voting facilities, under-representation of minority language poll workers and the lack of bilingual materials at the polls, and outright physical, economic and political intimidation). See generally, S. Rept. No. 295, 94th Cong., 1st Sess. (1975).

<sup>13</sup> Since the adoption of the Voting Rights Act, covered jurisdictions were found to have substantially moved from directly discriminatory impediments to voting to more sophisticated devices that dilute minority voting strength. In the period of 1975-80, the most common devices used to dilute minority voting power were annexations, the use of at-large elections, majority vote requirements, and the redrawing of district lines. 42 U.S.C. sec. 1973b(a)(F)(8); See S. Rept. No. 417, 97th Cong., 2nd Sess. 10 (1982).

<sup>14</sup> See generally, H. Rept. No. 655, 102nd Cong., 2nd Sess. (1992).

<sup>15</sup> 42 U.S.C. Sec. 1973aa-1a(b)(1).

<sup>16</sup> For example, Los Angeles County has 200,000 limited English proficient voting age Hispanics, but had not previously been covered under Section 203, while small jurisdictions with far fewer Hispanics had been covered under the 5% threshold. Section 203 was also expanded to include jurisdictions which include any part of a reservation with 5% or more Native American or Alaska Native limited-English proficient voting age citizens. 42 U.S.C. Sec. 1973aa-1a(b)(2)(A)(i)(II).

requirements, is an integral part of our government's assurance that Americans do have access.<sup>17</sup>

The late Hamilton Fish, Jr., the Ranking Republican, on the House Judiciary Committee, was similarly supportive when the Committee took up the 1992 authorization legislation, arguing:

[I]t seems evident to me that by enabling language minority citizens to vote in an effective and informed manner, we are giving them a stake in our society, and this assistance provides true access to government that I trust will lead to more, not less, integration and inclusion of these citizens in our mainstream.<sup>18</sup>

The 1992 Amendments were adopted by overwhelming bipartisan margins of 237–125 in the House, and 75–20 in the Senate.<sup>19</sup> Yet, only four years later, this bill would repeal these provisions without evidence that the discrimination has ended.

## II. REPEAL OF THE MINORITY LANGUAGE PROVISIONS WILL SIGNIFICANTLY OBSTRUCT THE RIGHT TO VOTE

At the signing of the 1982 extension, President Reagan declared that the right to vote is “the crowning jewel of American liberties” and noted the Voting Rights Act “proves our unbending commitment to voting rights.”<sup>20</sup> Unfortunately, by now seeking to strike the minority language assistance provisions of the Voting Rights Act, Congress will be taking a dangerous step away from the Constitutionally guaranteed right to vote.

To illustrate, the registration and voting statistics of language minority citizens when compared to their Caucasian counterparts was alarmingly low in 1972—before the Voting Rights Act was made applicable to language minorities. Only 44.4% of citizens of Latino descent were registered to vote, while 73.4% of Caucasians were registered in 1972.<sup>21</sup> And in 1974, only 22.9% of Latino-origin citizens participated in the national election, which was less than one-half of the participation rate for Caucasians.<sup>22</sup>

Since then, the minority language assistance provisions of the Voting Rights Act have provided a catalyst for increased voter participation in language minority populations. From 1980 to 1990, Latino voter population increased by five times the rate of the rest of the nation, and the number of Latinos registered to vote increased by approximately 500,000 between 1990–92.<sup>23</sup> Participation statistics for Native Americans also indicate an increase in turnout as a result of minority language voting assistance. One study indi-

<sup>17</sup> S. Hrg. 102–1066, 102nd Cong., 2nd Sess. 1992 at 134.

<sup>18</sup> House Judiciary Committee Markup of H.R. 4312 and H.R. 5236, Transcript at 22–23, June 4, 1992.

<sup>19</sup> See 138 Cong. Rec. H6614 (daily ed. July 24, 1992); 138 Cong. Rec. S11825 (daily ed. August 7, 1992).

<sup>20</sup> See Pub. Papers of the President—Administration of Ronald Reagan (1982) at 822.

<sup>21</sup> S. Rept. No. 295, 94th Cong., 1st Sess. (1975) citing Current Population Reports: 1972, Population Characteristics, Voting and Registration Statistics in the Election of November 1972, Series p. 20, No. 263, Table 1, at 22.

<sup>22</sup> S. Rept. No. 295, 94th Cong., 1st Sess. (1975) citing unpublished data for the Current Population Survey: 1974, provided by the Bureau of Census to the Senate Judiciary Committee.

<sup>23</sup> H. Rept. No. 655, 102nd Cong., 2nd Sess. 6 (1992); See also Letter from Antonia Hernandez, President and General Counsel, Mexican American Legal Defense and Education Fund, to the Honorable Charles T. Canady, Chairman, Subcomm. on the Constitution of the Comm. on the Judiciary, (April 23, 1996).

cates that voter turnout for reservation precincts on seven Arizona Indian reservations rose from 11,789 in 1972 to 15,982 in 1980.<sup>24</sup> Similarly, the Navajo Nation reports that voter registration increased from 5,049 in 1972 to 7,015 in 1990 in McKinley County, New Mexico, and voter turnout increased from 9,706 in 1972 to 18,355 in 1990 in Apache County, Arizona.<sup>25</sup>

At the same time, exit polls revealed that in Los Angeles 84% of Asian American voters indicated that bilingual ballots would be helpful,<sup>26</sup> while 80% of Asian American voters in Chinatown and Queens, New York indicated they would vote more often if bilingual assistance were provided.<sup>27</sup> Similarly, 70% of monolingual Spanish-speaking American citizens have indicated they would be less likely to register to vote if minority language assistance were not available.<sup>28</sup>

In addition to repealing the federal requirement for minority language assistance in voting, H.R. 351 dangerously vitiates a number of other critical protections currently provided under the Voting Rights Act. H.R. 351 repeals language in Section 4(f)(2) of the Voting Rights Act which prohibits the imposition of voting qualifications or procedures which discriminate against language minorities.<sup>29</sup> Among other things, by repealing this key protection, H.R. 351 could prevent language minorities from being able to challenge actions designed to dilute their voting power, such as using "at large" districts to minimize minority language voting strength.<sup>30</sup> In addition, since section 3 of H.R. 351 deletes various important cross-references to Section 4(f) throughout the Voting Rights Act, it could eliminate the requirement that jurisdictions having a previous record of discrimination against language minorities pre-clear changes in their voting procedures,<sup>31</sup> and terminate the authority of federal examiners and observers to enforce voting guarantees with regard to minority language citizens.<sup>32</sup> By repealing these provisions, a Republican party which purports to be against discrimi-

<sup>24</sup> See A Bill to Reauthorize Section 203 of the Voting Rights Act: Hearing on H.R. 4312 Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 102d Cong., 2d Sess. 16 (1992) (Joint testimony of the Native American Rights Fund and the National Congress of American Indians).

<sup>25</sup> Navajo Nation Office of Election Administration, Window Rock, Arizona, May 17, 1996.

<sup>26</sup> See A Bill to Reauthorize Section 203 of the Voting Rights Act: Hearing on H.R. 4312 Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 102d Cong., 2d Sess. 16 (1992) (Statement of the Japanese American Citizens League).

<sup>27</sup> See The Bilingual Voting Provision of the Voting Rights Act of 1965: Hearing on S. 2236 Before the Senate Comm. on the Judiciary, 102d Cong., 2d Sess. at 4-5 (1992) (Statement of Charles Pei Wang, Vice Chairman, United States Commission on Civil Rights).

<sup>28</sup> See Esteban Lizardo, *Bilingual Elections: Latinos, Language and Voting Rights: A Report by the Mexican American Legal Defense Fund*, (1992).

<sup>29</sup> "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 citizens of the United States to vote because he is a member of a language minority group." 42 U.S.C. sec. 1973b (4)(f)(2).

<sup>30</sup> See, Letter from Andy Fois, Assistant Attorney General, Department of Justice, to the Honorable Henry J. Hyde, Chairman, House Judiciary Committee, (June 11, 1996) ("H.R. 351 appears to eliminate entirely the nationwide ban on discriminatory election practices against members of language minority groups. This could prevent members of language minority groups from being able to challenge vote dilution, such as that found unlawful by the court in *Gomez v. City of Watsonville*, 863 F.2d 1407 (9th Cir. 1988); cert. denied, 489 U.S. 1080 (1989) (successful challenge by Hispanics to city at-large election system)").

<sup>31</sup> Id. ("H.R. 351 would also raise a host of questions about the coverage under section 5 of the Act [relating to preclearance of changes to voting procedures] that became covered as a result of the 1975 changes to the Act.>").

<sup>32</sup> Id. ("H.R. 351 also appears to eliminate the availability of Federal Voting examiners and observers [under section 6 and 8 of the Act] to protect individuals from being denied the right to vote because they are members of language minorities.").

nation will allow the imposition of measures which intentionally discriminate against language minorities.

### III. THE MINORITY LANGUAGE ASSISTANCE PROVISIONS OFFER A LOW COST, EFFICIENT MEANS OF SAFEGUARDING VOTING RIGHTS

The minority language assistance provisions of the Voting Rights Act constitute a low cost and efficient method of ensuring the Constitutional right to vote. The Government Accounting Office has found that the average cost of providing written language assistance in elections is negligible, costing an average of 2.9% of election expenses or less.<sup>33</sup> Seventy-nine percent of the jurisdictions responding to this study reported no costs in providing bilingual oral assistance.

The County of Los Angeles, the only jurisdiction in the nation required by the Voting Rights Act to provide voting assistance in more than two languages, reported that during the 1994 elections only 2% of its \$15 million budget was spent on providing bilingual voting materials and assistance. The New York City Board of Elections reported that the cost of providing bilingual materials in Chinese and Korean for the 1991 City Council elections was only \$3,300.<sup>34</sup> Wherever possible, the Justice Department seeks to keep the costs of minority language assistance at a minimum, working with minority language communities to develop flexible, low cost means of complying with the law.<sup>35</sup>

Despite its low cost, the benefits of minority language assistance are immense. According to the 1990 census, for example, in Cook County, Illinois, 87,977 voting age Hispanics lack sufficient English fluency to participate in English only elections; in Queens County, New York, 19,162 Chinese American voting age citizens also lack such fluency. In Los Angeles County, 39,886 Chinese American voting age citizens, and 265,350 Hispanic voting age citizens are limited-English proficient.<sup>36</sup> Repealing the minority language provisions of the Voting Rights Act will disenfranchise these and hundreds of thousands language minority citizens.

### IV. REPEAL OF THE MINORITY LANGUAGE PROVISIONS WILL NOT RESULT IN ANY SIGNIFICANT INCREASE IN ENGLISH LANGUAGE PROFICIENCY

One of the great red herrings of the legislative debate surrounding the minority language provisions of the Voting Rights Act is the assertion by supporters of H.R. 351 that such language assistance should be unnecessary because proficiency in English is a prerequisite to citizenship. This belies the fact that English proficiency

<sup>33</sup> U.S. General Accounting Office, *Bilingual Voting Assistance: Costs of Administering During the November, 1984 General Election* (1985).

<sup>34</sup> *Voting Rights Act: Bilingual Education, Expert Witness Fees, and Presley: Hearing Before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, 102nd Cong., 2d Sess. at 296 (1992).*

<sup>35</sup> See, *A Bill to Amend the Voting Rights Act of 1965: Hearings on H.R. 351 Before the Subcomm. on the Constitution of House Comm. on the Judiciary, 104th Cong., 2d Sess. at 14-15 (1996)* (Statement of Deval Patrick, Assistant Attorney General, Civil Rights Division), [Hereinafter, "1996 House Hearings."] For example, a program adopted by Alameda County, California with the assistance of the Justice Department provides bilingual election information for some 12,000 Chinese-speaking citizens without requiring the hiring of any new poll workers and uses efficient and flexible targeting of electoral information.

<sup>36</sup> *Id.* at 11.

is not required for citizenship if the applicant is over 50 years of age and has lived in the U.S. over 20 years, or if the applicant is over 55 years old and has been in the country for more than 15 years.<sup>37</sup> More significantly many native born American citizens grow up speaking languages other than English. This includes Native Americans,<sup>38</sup> Alaska Natives, Puerto Ricans and citizens residing in Guam and other U.S. territories without an English language heritage. Moreover, Hispanic children who grow up with Spanish as their first language are often educated in inferior schools and are frequently unable to obtain proficiency in English.<sup>39</sup>

Even to the extent a naturalized citizen is able to pass a citizenship test given in English, this does not mean he or she is able to readily understand the lengthy and complex ballot initiatives which have become so prevalent in recent years. And it is no answer to respond that such initiatives can be explained by the friends or family of the minority language citizen. As Rep. Lofgren (D-CA) noted during Committee consideration, it is often difficult for family members to explain such initiatives in the absence of importing their own political or partisan bias.<sup>40</sup>

### *Conclusion*

It is a sad statement that at a time when voter participation remains unacceptably low, some in Congress could support legislation that further deters our citizens from voting. It is even more shameful to selectively raise the barriers to full voter participation for minority language citizens. Such citizens contribute fully to our society, pay taxes and fight and die for our country. They, no less than all of our other citizens, are entitled to participate in our democracy by exercising their right to vote.

Although the focus of the debate surrounding this legislation has been on the use of foreign languages by immigrants, in reality, the core of the issue concerns the Constitutional and civil rights of American citizens—both native born as well as naturalized—whose first language is not English. Limiting the voting rights of such citizens will add little to their incentives to become proficient in English, but will significantly increase their alienation from our society. The reality is that today's immigrants are already learning English at a rate equal to or faster than previous generations.<sup>41</sup> If the proponents of H.R. 351 were truly interested in increasing un-

<sup>37</sup> 8 U.S.C. Sec. 1423(b)(2).

<sup>38</sup> It is the declared policy of the U.S. government pursuant to the Native American Languages Act, to encourage the use and preservation of Native American languages. The Act specifically recognizes that the use of Native American languages should not be restricted in any public proceeding. See 25 U.S.C. secs. 2901, 2904.

<sup>39</sup> A study by the Civil Rights Commission found that Mexican Americans, African Americans, and Native Americans in the Southwest did not receive the benefits of public education at a rate equal to their Caucasian counterparts, and were denied equal educational opportunities in some situations. The Senate Judiciary Committee also found that high illiteracy rates in language minority communities was not due to mere happenstance, but was a result of the failure of the state to provide equal educational opportunities to members of language minority groups. See U.S. Commission on Civil Rights, *The Voting Rights Act: Ten Years After* (1975); See also U.S. Commission on Civil Rights, *Ethnic Isolation of Mexican Americans in Public Schools in the Southwest* (1971).

<sup>40</sup> House Judiciary Committee Markup of H.R. 351, Transcript at 86, July 16, 1996.

<sup>41</sup> K. McCarthy & R. Burchiaga Valdez, "Current and Future Effects of Mexican Immigration in California," (1986); C. Veltman, "The Future of Spanish Language in the United States," (1988); A. Califa, "Declaring English the Official Language: Prejudice Spoken Here," 24 *Harv. C.R.-C.L. L. Rev.* 293, 314 (1989).

derstanding of the English language, they would seek to enhance the availability of English as a Second Language (ESL) classes—which face long waiting lists around the nation.<sup>42</sup> In our view, H.R. 351 represents little more than a desperate effort by Republicans to find yet another divisive wedge issue deep into an election year—as Representative Schroeder noted, “to keep hate alive.”<sup>43</sup> Instead of disparaging minority and Native American languages and limiting voting rights, we should be celebrating our diversity and tolerance.

JOHN CONYERS, Jr.  
 BARNEY FRANK.  
 HOWARD L. BERMAN.  
 JOHN BRYANT.  
 JERROLD NADLER.  
 MELVIN L. WATT.  
 ZOE LOFGREN.  
 MAXINE WATERS.  
 PAT SCHROEDER.  
 BOBBY SCOTT.  
 XAVIER BECERRA.  
 SHEILA JACKSON LEE.




---

<sup>42</sup>In Los Angeles, the demand for ESL classes is so great that some schools operate 24 hours per day, and 50,000 students are on the waiting lists city-wide; in New York City, an individual can wait up to 18 months for ESL classes. See 1996 House Hearings at 16, n. 35 (1996) (Statement of Deval Patrick, Assistant Attorney General, Civil Rights Division).

<sup>43</sup>House Judiciary Committee Markup of H.R. 351, Transcript at 73, July 16, 1996.