

**DR. ABIGAIL THERNSTROM, ANSWERS TO:**

QUESTIONS FOR THE RECORD FROM SENATOR CHARLES E. GRASSLEY  
The Voting Rights Amendment Act, S. 1945: Updating the Voting Rights Act in  
Response to Shelby County v. Holder

Questions posed by Sen Grassley:

1. As a matter of social science, is it valid for a coverage formula to trigger preclearance based on a uniform number of violations by a state and its subdivisions without regard to the population of the state or the number of jurisdictions within the state?
2. What is the difference between the coverage formula that Congress established in 1965 and the coverage formula contained in S.1945?

**ANSWERS:**

1.  
No. It is not valid to have a coverage formula that is based on a uniform number of violations by a state and its subdivisions without regard to the population of the state or the number of jurisdictions within the state.

The proposed formula uses the *absolute number* of voting rights violations as the triggering mechanism, and thus ignores the huge variance in population size among the 50 states. This obvious problem could have been solved by looking instead at the *rates* of violation per, say, 100,000 residents— particularly rates relative to the size of the *minority* population of the various states. A state with a large population but comparatively few minority citizens could be expected to have many fewer voting rights complaints than one of the same size but much larger numbers of minorities within its boundaries.

2.  
The 1965 coverage formula was carefully designed to hit precisely those states that had been intentionally depriving blacks of their Fifteenth Amendment rights. No states were named. Instead a statistical trigger was used: states with total (both black and white) registration and turnout below 50 percent were rightly assumed to be engaging in deliberate disfranchisement.

If the same trigger (turnout below 50 percent) were used today, Only West Virginia (with its turnout of 47.8 percent in 2012) would be covered.

S. 1945 contains a section that refers to “PERSISTENT, EXTREMELY LOW MINORITY TURNOUT.” It provides that jurisdictions may be brought under coverage and deprived of their ordinary rights to govern themselves if any of several statistical measures indicate that minority voters have lower turnout rates than others.

But it is hard to believe that anyone familiar with basic demography ever reviewed this section. It assumes simplistically that if minority participation is low by some measure, the jurisdiction must be at fault—that its political process must be somehow flawed. This assumption flies in the face of an abundance of social science knowledge about voting behavior.

As I argued at much greater length in my submitted testimony, racial/ethnic groups that differ in their average age can be expected to have different rates of voter turnout. Older people are far more likely to vote than young ones are. Since the Hispanic population today includes many more young people than elderly ones, the group can be expected to have lower turnout rates than that of non-Hispanics. The bill assumes public officials are doing something to suppress the minority vote. And yet it is impossible to know what any jurisdiction could do to force the young to vote at the same rate as the old.

Education is a second powerful force driving electoral turnout. Electoral participation everywhere is notably higher among the well educated than among those with little schooling. Since both blacks and Latinos have less schooling on the average than non-Hispanic whites, lower minority turnout rates in a community are not evidence that that the local political process is flawed and that its elections need to be regulated and monitored by the federal government.

Turnout disparities along racial or ethnic lines can also be the result of residential mobility. Newcomers to a community are much less likely to turn out at the polls than long-settled residents. Two other closely related drivers of voting behavior are family income and home ownership.

That whites, blacks, Latinos, and Asians are not equally likely to turn out at the polls is not at all surprising, since they differ from each other in their age structure, education, income, residential mobility, and rates of home ownership.

In sum, forces far beyond the control of any state, and of any of its political subdivisions, result in glaring disparities in rates of electoral participation. The framers of the entire section of the proposed legislation focused on the issue of “low minority turnout” seem oblivious to what every social scientist knows. It would extend federal control over a great many jurisdictions that have made every possible effort to provide equal opportunity to elect candidates of their choice to all of the citizens.

A final problem with this section of the proposed legislation is its casual disregard of how the evidence about turnout at the local level is to be found. The bill blithely states that “in each odd-numbered calendar year” the Attorney General of the United States “in consultation with the heads of the relevant offices of the government” will provide

“figures determined using scientifically accepted statistical methodologies.” This seems to imply that the necessary data are already in the hands of the federal government; all the Attorney General needs to do push the right button and it will pop up on his computer screen. That this is far from the case is spelled out in my submitted testimony.