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**CONGRESSWOMAN SHEILA JACKSON LEE, OF TEXAS**

**FLOOR STATEMENT**

**IN SUPPORT OF H.R. 9**

*“Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act  
Reauthorization and Amendments Act of 2006”*

**JULY 12, 2006**

Mr. Chairman, I thank the gentlemen for yielding. I rise in proud support of H. R. 9, the “Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.” Had I and several of my colleagues not heeded the requests of the bipartisan leadership of the Committee and the House, there might be an amendment to the bill adding the name of our colleague, John Lewis of Georgia, to the pantheon of civil rights giants listed in the short title.

Mr. Chairman, with our vote today on H.R. 9, each of us will earn a place in history. Therefore, the question before the House is whether our vote on the Voting Rights Act will mark this moment in history as a “day of infamy,” in FDR’s immortal words, or will commend us to and through future generations as the great defenders of the right to vote, the most precious of rights because it is preservative of all other rights. For my part, I stand with Fannie Lou Hamer and Rosa Parks and Coretta Scott King, great Americans who gave all and risked all to help America live up to the promise of its creed. I will vote to reauthorize the Voting Rights Act for the next 25 years.

I will oppose all of the poison pill amendments offered by the gentlemen from Iowa, Georgia, and, sadly, my home state of Texas. Collectively, these amendments eviscerate the pre-clearance provisions of Section 5, end assistance to language minorities, and shorten the period of renewal by 15 years.

Mr. Chairman, the proponents of these amendments claim their amendments are intended to “save” or “preserve” or “strengthen” the Voting Rights Acts. To claim that you are strengthening the Voting Rights Act by offering amendments that weaken it is like saying you must destroy a village in order to save it. There will be time enough to discuss in detail each of the

weakening amendments when they are offered later today. But at this time I think it very important to discuss the provisions of the Voting Rights Act which I believe an overwhelming majority of the members of this House will vote to adopt today. I also want to spend some time reminding my colleagues, and the American people, why this nation needed a Voting Rights Act in 1965 and still needs it today. The American people are entitled to know why the Voting Rights Act is widely regarded as the most successful civil rights legislation in history. For all the progress this nation has made in becoming a more inclusive, equitable, and pluralistic society, it is the Voting Rights Act “that has brought us thus far along the way.”

I. Before the Voting Rights Act

Mr. Chairman, today most Americans take the right to vote for granted, so much so that just over half of eligible Americans vote in a presidential election. Americans generally assume that anyone can register and vote if a person is over 18 and a citizen. Most of us learned in school that discrimination based on race, creed or national origin has been barred by the Constitution since the end of the Civil War.

Before the 1965 Voting Rights Act, however, the right to vote did not exist in practice for most black Americans. And, until 1975, most American citizens who were not proficient in English faced significant obstacles to

voting, because they could not understand the ballot. Even though the Indian Citizenship Act gave Native Americans the right to vote in 1924, state law determined who could actually vote, which effectively excluded many Native Americans from political participation for decades. Asian Americans and Asian immigrants also have suffered systematic exclusion from the political process and it has taken a series of reforms, including repeal of the Chinese Exclusion Act in 1943, and passage of amendments strengthening the Voting Rights Act three decades later, to fully extend the franchise to Asian Americans. It was with this history in mind that the Voting Rights Act of 1965 was designed to make the right to vote a reality for all Americans.

Through the years leading up to the passage of the Voting Rights Act, courageous men and women braved threats, harassment, intimidation, and violence to gain the right to vote for disenfranchised Americans.

When the Civil Rights Movement came to Ruleville, Mississippi in 1962, Fannie Lou Hamer quickly became an active participant. With training and encouragement from the Student Nonviolent Coordinating Committee (SNCC), Hamer and several other local residents attempted to register to vote, but were unsuccessful because they did not pass the infamous literacy tests. In retaliation for trying to register, Hamer was fired from her job, received phone threats, and was nearly a victim of 16 gunshots fired into a

friend's home. But Hamer was not intimidated: by 1963 she was a field secretary for SNCC and had successfully registered to vote. Once, when asked whether she was concerned that agitating for civil rights might stir up a backlash from white Mississippians, Fannie Lou Hamer famously said:

I do remember, one time, a man came to me after the students began to work in Mississippi, and he said the white people were getting tired and they were getting tense and anything might happen. Well, I asked him, "how long he thinks we had been getting tired?" ... *All my life I've been sick and tired. Now I'm sick and tired of being sick and tired.*

Mr. Chairman, the Voting Rights Act of 1965, as amended, was enacted to remedy a long and sorry history of discrimination in certain areas of the country. Presented with a record of systematic defiance by certain States and jurisdictions that could not be overcome by litigation, this Congress -- led by President Lyndon Johnson, from my own home state of Texas -- took the steps necessary to stop it. It is instructive to recall the words of President Johnson when he proposed the Voting Rights Act to the Congress in 1965:

"Rarely are we met with a challenge.....to the values and the purposes and the meaning of our beloved Nation. The issue of equal rights for American Negroes is such as an issue.....the command of the Constitution is plain. It is wrong -- deadly wrong -- to deny any of your fellow Americans the right to vote in this country."

It was wrong to deny African-Americans and other citizens their right to vote. It was wrong then and it is wrong now. Nothing has done more to right those wrongs than the Voting Rights Act. Without exaggeration, it has been one of the most effective civil rights laws passed by Congress.

In 1964, there were only approximately 300 African-Americans in public office, including just three in Congress. Few, if any, black elected officials were elected anywhere in the South. Today there are more than 9,100 black elected officials, including 43 members of Congress, the largest number ever. The act has opened the political process for many of the approximately 6,000 Latino public officials that have been elected and appointed nationwide, including 263 at the state or federal level, 27 of whom serve in Congress. Native Americans, Asians and others who have historically encountered harsh barriers to full political participation also have benefited greatly.

Mr. Chairman, the Voting Rights Act of 1965 is no ordinary piece of legislation. For millions of Americans, and many of us in Congress, the Voting Rights Act of 1965 is a sacred treasure, earned by the sweat and toil and tears and blood of ordinary Americans who showed the world it was possible to accomplish extraordinary things.

Mr. Chairman, I hail from the great State of Texas, the Lone Star State. A state that, sadly, had one of the most egregious records of voting discrimination against racial and language minorities. Texas is one of the Voting Rights Act's "covered jurisdictions." In all of its history, I am only one of three African-American women from Texas to serve in the Congress of the United States, and one of only two to sit on this famed Committee. I hold the seat once held by the late Barbara Jordan, who won her seat thanks to the Voting Rights Act. From her perch on this committee, Barbara Jordan once said:

I believe hyperbole would not be fictional and would not overstate the solemnness that I feel right now. *My faith in the Constitution is whole, it is complete, it is total.*

I stand today an heir of the Civil Rights Movement, a beneficiary of the Voting Rights Act. I would be breaking faith with those who risked all and gave all to secure for my generation the right to vote if I did not do all I can to strengthen the Voting Rights Act so that it will forever keep open doors that shut out so many for so long. And the first and most important thing to do today is to vote in favor of H.R. 9 and against all weakening amendments.

## II. Renewal of Section 5 and Section 203

Congress needs to reauthorize Section 5 of the Voting Rights Act, which requires election law changes proposed by covered jurisdictions to be pre-cleared by the Department of Justice. The reason is simple. Equal opportunity in voting still does not exist in many places. Discrimination on the basis of race still denies many Americans their basic democratic rights. Although such discrimination today is more subtle than it used to be, it must still be remedied to ensure the healthy functioning of our democracy. It is the obligation of the federal government to see that the constitutionally protected right to vote is guaranteed. This is what the Voting Rights Act is designed to do.

### Section 5: Pre-clearance

Section 5 applies to 16 states in whole or in part, including my home state of Texas. Under section 5, a covered jurisdiction must submit proposed changes to any voting law or procedure to the Department of Justice or the U.S. District Court in Washington, D.C for pre-approval, hence the term preclearance. The submitting jurisdiction has the burden of proof to show that the proposed change(s) are not retrogressive, i.e. that they do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.



The formula used to designate these covered jurisdictions was first adopted in 1965 and then subsequently amended in 1970 and 1975. Section 5 applies to any state or county where a discriminatory test or device was used as of November 1, 1964, and where less than 50 percent of the voting age residents of the jurisdiction were registered to vote, or actually voted, in the presidential election of 1964, 1968, or 1972. Although the formula used by Congress focused on registration rates, Congress was not principally focused on voter turnout rates. Rather, Congress understood and found that there was an exceptionally strong correlation between low registration rates in the covered jurisdiction and active, purposeful discriminatory conduct intended to keep African-Americans from voting.

Mr. Chairman, it is important to emphasize that preclearance does not punish states for the wrongdoings of the past. Nor does it stifle their ability to move forward and progress. That is because covered jurisdictions are able to remove themselves from the restrictions of preclearance through a process known as bailout which sets forth clear and demonstrable standards. Among other things, the jurisdiction must show that:

- (1) It has not used a test or device with a discriminatory purpose or effect with respect to voting;

(2) No state or federal court has issued a final judgment against the state or political subdivision for voting discrimination;

(3) The jurisdiction has submitted all voting changes for preclearance in compliance with Section 5;

(4) The Attorney General has not objected to a proposed voting change, and no declaratory judgment under section 5 has been denied by the U.S. District Court for the District of Columbia; and

(5) The Justice Department has not assigned federal examiners to carry out voter registration or otherwise protect voting rights in the jurisdiction.

Currently eleven local jurisdictions in Virginia have taken advantage of the bailout provisions thus far. Mr. Chairman, preclearance acts as an essential deterrent because it puts modest safeguards in place to prevent backsliding. As a bipartisan report by the U.S. Senate in 1982 said, without Section 5, many of the advances of the past decade could be wiped out overnight with new schemes and devices, such as the mid-decade redistricting conducted in Texas, which the U.S. Supreme Court struck down in part in LULAC v. Perry, 546 U.S. \_\_\_, No. 05-254 (June 28, 2006) and the Georgia voter identification scheme, which just this week was struck down for a second time.

Mr. Chairman, many scholars and voting rights experts agree that without the deterrent effect of Section 5, there will be little to prevent covered jurisdictions from imposing new barriers to minority participation.

As much as I and many other may like to see it, Section 5 should not be made permanent. Making it permanent would render it vulnerable to a constitutional challenge. Because Section 5 is race conscious, it must be able to withstand strict scrutiny by the courts. What this means, in part, is that the provision must be narrowly tailored to address the harms it is designed to cure. Many legal experts question whether the Court would find a permanent Section 5 to be narrowly tailored, such as to survive a constitutional attack.

Similarly, Section 5 should not be changed to apply nationwide. Although this might sound attractive, a nationwide Section 5 would also be vulnerable to constitutional attack as not narrowly tailored or congruent and proportional to address the harms it is designed to cure, as required by the Supreme Court's recent precedents. Section 5 is directed at jurisdictions with a history of discriminating against minority voters. In addition, nationwide application of Section 5 would be extremely difficult to administer, given the volume of voting changes that would have to be reviewed. This expansion of coverage would dilute the Department of Justice's ability to

appropriately focus their work on those jurisdictions where there is a history of voting discrimination.

Section 203 (Language Assistance)

Mr. Chairman, it is crucial that everyone in our democracy have the right to vote. Yet, having that right legally is meaningless if certain groups of people (such as the disabled or those with limited English proficiency) are unable to accurately cast their ballot at the polls. Voters may be well informed about the issues and candidates, but to make sure their vote is accurately cast, language assistance is necessary in certain jurisdictions with concentrated populations of limited English proficient voters.

Section 203 was added to the Voting Rights Act in 1975 and requires certain jurisdictions to make language assistance available at polling locations for citizens with limited English proficiency. These provisions apply to four language groups: American Indians, Asian Americans, Alaskan Natives, and those of Spanish heritage. A community with one of these language groups will qualify for language assistance if (1) more than 5% of the voting-age citizens in a jurisdiction belong to a single language minority community and have limited English proficiency (LEP); or (2) more than 10,000 voting-age citizens in a jurisdiction belong to a single

language minority community and are LEP; AND (3) the illiteracy rate of the citizens in the language minority is higher than the national illiteracy rate.

Section 203 requires that registration and voting materials for all elections must be provided in the minority language as well as in English. Oral translation during all phases of the voting process, from voter registration clerks to poll workers, also is required. Jurisdictions are permitted to target their language assistance to specific voting precincts or areas.

There are currently a total of 466 local jurisdictions across 31 states that are required to provide language assistance nationwide. Of this total: 102 must assist Native Americans or Alaskan Natives across 18 states; 17 local jurisdictions in seven states must assist Asian language speakers and; 382 local jurisdictions in 20 states must assist speakers of Spanish. The total of these figures exceeds 466 because 57 of these Section 203 jurisdictions across 13 states must offer assistance in multiple languages.

There is a great misconception that section 203 is not needed because voters must be citizens, who are required to speak English. While this is true, such citizens still may not be sufficiently fluent to participate fully in

the voting process without this much-needed assistance. In addition, there are many other citizens, the majority of whom are Latinos and Native Americans, who were born in the United States but have had little or no education and/or are limited English proficient. The failure of certain jurisdictions to provide adequate education to non-English speaking minorities is well documented in legal decisions and in quantitative studies of educational achievement for Latinos and Native Americans. Before the language assistance provisions were added to the Voting Rights Act in 1975, many Spanish-speaking United States citizens did not register to vote because they could not read the election material and could not communicate with poll workers. Language assistance has encouraged these and other citizens of different language minority groups to register and vote and participate more fully in the political process which is healthy for our democracy.

Mr. Chairman, it should be stressed that language assistance is not costly. According to two separate Government Accounting Office studies, as well as independent research conducted by academic scholars, when implemented properly language assistance accounts only for a small fraction of total election costs. The most recent studies show that compliance with Section 203 accounts for approximately 5% of total election costs.

Finally, Mr. Chairman, language assistance works. To cite one example, in 2003 in Harris County, Texas, officials did not provide language assistance for Vietnamese citizens. This prompted the Department of Justice to intervene and, as a result, voter turnout doubled and a local Vietnamese citizen was elected to a local legislative position. Another example: implementation of language assistance in New York City had enabled more than 100,000 Asian-Americans not fluent in English to vote. In 2001, John Liu was elected to the New York City Council, becoming the first Asian-American elected to a major legislative position in the city with the nation's largest Asian-American population.

### Conclusion

The Voting Rights Act of 1965, represents our country and this Congress at its best because it matches our words to deeds, our actions to our values. And, as is usually the case, when America acts consistent with its highest values, success follows. I urge my colleague to vote for the bill and reject all amendments. I yield back the balance of my time. Thank you.