

**Rep. Andrew Clyde
SAVE America Act
Amendment #1**

Amendment to exclude noncitizens from the population used for congressional apportionment, to require a revised apportionment prior to certain elections, to require the inclusion of a citizenship question in all future decennial censuses, and for other purposes.

At the appropriate place in the bill, insert the following new sections:

SECTION. 4. EXCLUSION OF NONCITIZENS FROM APPORTIONMENT BASE.

- (a) In General.— Section 22(a) of the Act entitled “*An Act to provide for the fifteenth and subsequent decennial censuses and to provide for an apportionment of Representatives in Congress*”, approved June 18, 1929 (2 U.S.C. 2a(a)), is amended by inserting after “not taxed” the following: “and excluding individuals who are not citizens of the United States.”

SECTION. 5. REVISED APPORTIONMENT.

- (a) Mandatory Revised Apportionment.—

1. Not later than January 31, 2027, the Secretary of Commerce shall compute and transmit to the President a revised apportionment of Representatives among the States, consistent with the amendment made by section 2 of this Act, excluding only those individuals for whom official records indicate noncitizen status with reasonable certainty, and doing so to the maximum extent practicable given the time, data, and information available to the Secretary.
2. If the Secretary determines that completion of the revised apportionment by January 31, 2027, is not practicable due to data limitations or noncooperation, the Secretary may extend the deadline to not later than March 31, 2027, and shall immediately notify Congress and the affected States of the expected completion date.
3. Upon receipt of such revised apportionment, the President shall immediately transmit to the Clerk of the House of Representatives the revised statement showing the number of Representatives to which each State is entitled under such apportionment, and the Clerk of the House of Representatives shall immediately transmit to the governor of each State a revised certificate stating the number of Representatives to which such State is entitled.

- (b) Use of Official Government Data and Records.— In carrying out subsection (a), the Secretary of Commerce shall, without requiring the repetition of a decennial census, utilize only official data and records in the possession of Federal or State governmental entities and may apply statistical estimation, matching, and imputation methods to such official data and records. The exclusion of noncitizens shall be based on the best available evidence and reasonable administrative or statistical inference and shall not be invalidated solely because complete precision is unattainable.

- (c) State Cooperation.— Upon request of the Secretary of Commerce, each State shall provide, in a timely manner, such information as is necessary to carry out subsection (a), including

information maintained by State agencies relating to citizenship, immigration status, or eligibility for State or Federal benefits, to the extent permitted by law.

- (d) **Presumption of Validity.**— A revised apportionment transmitted pursuant to this section shall be presumed lawful. A court may set aside such apportionment only upon a clear and convincing showing that the Secretary of Commerce acted in excess of statutory authority or in violation of an express constitutional limitation.
- (e) **Effective Date of Revised Apportionment.**— A revised apportionment transmitted under subsection (a) shall apply to all elections for Representatives in Congress occurring after the transmission of such apportionment and before the first apportionment determination made pursuant to law following commencement of the 2030 decennial census, including elections held in 2028 and 2030, and shall apply to the determination of the number of electors to which each State is entitled for the Presidential election held in 2028.

SECTION. 6. CITIZENSHIP STATUS ON DECENNIAL CENSUS.

- (a) **In General.** — Section 141 of title 13, United States Code, is amended—
 - 1. by redesignating subsection (g) as subsection (h); and
 - 2. by inserting after subsection (f) the following:

“(g) (1) In conducting the 2030 decennial census and each decennial census thereafter, the Secretary shall include in any questionnaire distributed or otherwise used for the purpose of determining the total population by States a checkbox or other similar option for the respondent to indicate, for the respondent and for each of the members of the household of the respondent, whether that individual is—

- (A) a citizen of the United States;
- (B) a national of the United States but not a citizen of the United States;
- (C) an alien lawfully residing in the United States; or
- (D) an alien unlawfully residing in the United States.

(2) Not later than 120 days after completion of a decennial census of the population under subsection (a), the Secretary shall make publicly available the number of persons per State, disaggregated by each of the 4 categories described in subparagraphs (A) through (D) of paragraph (1), as tabulated in accordance with this section.”.

SECTION. 7. EXPEDITED JUDICIAL REVIEW FOR CHALLENGES TO THIS ACT.

- (a) **Covered Actions.**— Any civil action or proceeding filed in any federal court that challenges the validity, implementation, enforcement, or interpretation of this Act (“covered action”) shall be treated as an expedited matter subject to this section.
- (b) **Three-Judge District Court Panel.** —
 - 1. Upon filing a covered action, a three-judge district court panel shall be convened.
 - 2. The panel shall consist of three judges in active service, selected at random by the Chief Justice of the United States from among all active judges:
 - i. One judge shall be a circuit judge, and
 - ii. No more than two judges may be from the same circuit.
 - 3. The panel shall hear all covered actions on an expedited schedule, including motions, briefs, and oral arguments.

- (c) Direct Appeal to the Supreme Court. — Any judgment, order, or ruling of the three-judge panel in a covered action shall be directly appealable to the Supreme Court of the United States, which may review the case on an expedited basis.
- (d) Limitation on Relief Pending Review. — No court shall issue any temporary restraining order, injunction, vacatur, stay, or other form of equitable relief that would prevent, delay, or impede the implementation of this Act except through the procedures established in subsections (b) and (c).
- (e) Definitions. — For purposes of this section, “covered action” includes any civil proceeding arising under, relating to, or challenging the validity, interpretation, or implementation of this Act, including but not limited to administrative, procedural, or executive actions taken pursuant to this Act.

SECTION. 8. FEDERAL REMOVAL.

- (a) Federal Jurisdiction.— The United States district courts shall have original jurisdiction over any civil action arising under, relating to, or challenging the implementation, enforcement, or validity of this Act.
- (b) Removal from State Court.—
 - 1. Any civil action filed in a state court asserting claims arising under, relating to, or challenging this Act may be removed to the appropriate United States district court by the United States or any officer charged with implementing this Act, in accordance with 28 U.S.C. §§ 1441 and 1446.
 - 2. Removal shall be effected within 30 days of service of the state-court complaint.
- (c) Assignment to Three-Judge Panel.— Upon removal, the district court shall immediately assign the action to a three-judge district court panel convened under Section 5 of this Act.
- (d) Preservation of Other Claims.— Nothing in this section prevents a state court from adjudicating claims not arising under, relating to, or challenging this Act.

SECTION. 9. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held unconstitutional, the remainder of this Act and the application of the provisions to any other person or circumstance shall not be affected.