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**Testimony of Campaign Legal Center in Support of Michigan Voting Rights Act**

**I. INTRODUCTION**

Campaign Legal Center (“CLC”) is pleased to offer this testimony in support of Senate Bills 961, 962, 963 and 964, collectively referred to as the Michigan Voting Rights Act (the “MIVRA”).

CLC is a nonpartisan, nonprofit organization dedicated to advancing democracy through law. Through its extensive redistricting and voting rights work, CLC seeks to ensure fair representation at the federal, state, and local levels. CLC supported the enactment of state voting rights acts in Washington, Oregon, Virginia, New York, Connecticut, Minnesota, Colorado, and Maryland, and it brought the first-ever lawsuit under the Washington Voting Rights Act in Yakima County, Washington, and under the Virginia Voting Rights Act in Virginia Beach, Virginia.

CLC strongly supports the MIVRA because it will allow traditionally disenfranchised communities across Michigan to participate equally in the election of their representatives. Passage of the MIVRA will empower Michiganders to vindicate their right to vote—by restoring and strengthening the core protections of the federal Voting Rights Act (“VRA”) that have been narrowed by federal courts for decades.

While CLC supports all provisions of the MIVRA, the focus of this testimony will be SB 961’s protections against voter suppression and vote dilution, as well

as the reforms contained in SB 963 that will ensure that all voters, no matter what language they speak, can participate fully in elections.

## II. BACKGROUND

States can offer new hope for voters by adopting state voting rights acts, like the MIVRA, that restore and improve upon the protections in their federal counterpart.

The federal VRA was one of the most transformative pieces of civil rights legislation ever passed. Section 2 of the federal VRA prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in a language minority group. The 1982 amendments to Section 2, which allowed litigants to establish a violation of the VRA without first proving discriminatory intent, created a “sea-change in descriptive representation” across the country.<sup>1</sup>

Unfortunately, over the years, the protections established by the federal VRA have been steadily eroded. Since the U.S. Supreme Court’s 2013 decision in *Shelby County v. Holder*,<sup>2</sup> jurisdictions with histories of discrimination have been able to implement restrictive voting policies, including dilutive election systems and redistricting maps, without federal oversight. In *Brnovich v. Democratic National Committee*, the Court further weakened Section 2 of the federal VRA by making it even harder for voters to challenge discriminatory laws in court. And most recently, in *Louisiana v. Callais*,<sup>3</sup> the Court rendered Section 2’s protections against racial vote dilution functionally inoperable.

Beyond the courts, Congress has also failed to shore up federal voting rights protections, and the current presidential administration is openly hostile to voting rights, as evidenced by its dismantling of the voting rights enforcement arm of the Civil Rights Division of the U.S. Department of Justice. These developments have left millions of voters vulnerable to discrimination and suppression. In response to this national landscape, states must step in and ensure their voters have the legal tools necessary to defend their freedom to vote.

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<sup>1</sup> Michael J. Pitts, *The Voting Rights Act and the Era of Maintenance*, 59 ALA. L. REV. 903, 920–22 (2008).

<sup>2</sup> 570 U.S. 529 (2013).

<sup>3</sup> No. 24-109, 2026 WL 1153054 (2026).

Momentum for state VRAs is growing. California (2002), Washington (2018), Oregon (2019), Virginia (2021), New York (2022), Connecticut (2023), Minnesota (2024), Colorado (2025), and Maryland (2026) have already enacted such protections, while states like Alabama, Florida, Illinois, New Jersey, Louisiana, and Rhode Island are working to follow suit. Michigan should take advantage of this opportunity and join these other states in ensuring all of its citizens have equal access to the democratic process.

The MIVRA will be a critical path forward to protect voting rights for systemically disenfranchised communities. By enacting this critical legislation, Michigan can become a national leader and restore critical parts of the protections that have been shamefully stolen from voters, while also making enforcement of those protections more efficient and less costly.

### **III. REASONS TO SUPPORT THE MIVRA**

The MIVRA ensures that Michigan citizens have powerful legal tools to combat racial discrimination in voting, including by allowing voters to challenge voter suppression and vote dilution. The federal VRA contains analogous provisions, but federal courts have blunted those tools over the years, including most recently in *Louisiana v. Callais*. SB 961's standards are broader and stronger, reaching suppressive and dilutive practices that the federal VRA does not. In addition to enabling Michiganders to vindicate their civil rights in court, the pre-suit notice and safe harbor provisions in SB 961 also allow jurisdictions to remedy potential violations without the need for expensive litigation. And the reforms contained in SB 963 allow more voters with limited English proficiency to have access to translated ballots and election materials. As discussed below, the following features of the MIVRA are important reasons to support the bill:

- The MIVRA provides a framework for assessing voting discrimination claims tailored to the barriers to voting that traditionally disenfranchised communities face at the local level.
- The MIVRA prioritizes remedies for voting discrimination that enable traditionally disenfranchised communities to equally participate in the franchise.
- The MIVRA's pre-suit notice provisions allow jurisdictions to proactively remedy potential violations *before* litigation occurs.

- The MIVRA provides express statutory guidance to ensure courts interpret voting-related conflicts of law in favor of the right to vote.
- The MIVRA expands access to language assistance for more voters with limited English proficiency than the federal VRA.

**A. The MIVRA codifies strong protections against voter suppression.**

SB 961’s voter suppression cause of action enables voters to uproot practices that create racially discriminatory barriers to the ballot box—for example, insufficient polling locations in certain neighborhoods, arbitrary voter purges, or discriminatory allocations of election administration resources.

Under the federal VRA, voters can challenge practices that “result[] in a denial or abridgement” of the right to vote on account of race or color.<sup>4</sup> The Supreme Court, however, has greatly limited the kinds of claims that voters can bring under that provision. In 2021, the Supreme Court created five additional “guideposts” for proving voter suppression that have little bearing on whether voter suppression has occurred.<sup>5</sup> This complex, multi-factor analysis also makes Section 2 voter suppression claims costly and time-consuming to litigate. More recently, the Supreme Court reinterpreted Section 2 of the federal VRA to require plaintiffs to provide proof of intentional racial discrimination.

SB 961 codifies the previous interpretation of the federal VRA that focuses on racially discriminatory results—and simplifies and strengthens the legal test that applies to voter suppression claims. Under the MIVRA, a violation is established by showing either that that the practice results in a disparity in the ability of voters of color to participate in the electoral process, or that, under the totality of circumstances, the practice results in an impairment of the ability of voters of color to participate in the franchise. Under the federal VRA, on the other hand, voters have to show (among other things) both a disparity and an impairment under the totality of the circumstances—in addition to satisfying the host of additional factors courts have engrafted onto Section 2.

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<sup>4</sup> 52. U.S.C. § 10301.

<sup>5</sup> See *Brnovich v. DNC*, 594 U.S. 647, 666, 669–72 (2021).

This innovation of the MIVRA will allow voters of color to show that voting discrimination has occurred without having to jump over unnecessary burdens of proof. Furthermore, because the standard is more explicitly defined by the MIVRA, state courts will have proper guidance about how to determine whether a violation has occurred.

**B. The MIVRA codifies strong protections against vote dilution.**

SB 961's vote dilution cause of action empowers voters to challenge methods of election that deprive protected class members of an equal opportunity to participate in the political process. Local methods of election might be vote dilutive if a racial, ethnic, or language-minority group lack an equal opportunity to elect candidates of their choice, for example, because of an at-large system that allows a local majority to win every seat, or because of a district plan that cracks communities across multiple districts or packs them into just one.

For decades, federal courts have required a plaintiff bringing a vote dilution claim under Section 2 of the federal VRA to show that: (1) the minority group being discriminated against is sufficiently large and geographically compact to constitute the majority of voters in a single-member district; (2) there is racially polarized voting; and (3) white bloc voting usually prevents minority voters from electing their candidates of choice.<sup>6</sup> If these three conditions were met, the court would then consider whether, under the totality of the circumstances, the practice or procedure in question has the result of denying a racial or language minority group an equal opportunity to participate in the political process.

In *Louisiana v. Callais*, the Supreme Court “updated” this already burdensome framework in two critical ways.<sup>7</sup> First, *Callais* now requires Section 2 plaintiffs to submit evidence “giving rise to a strong inference of intentional discrimination” beyond evidence showing the challenged practice has racially discriminatory effects, which was for decades sufficient to prove a Section 2 violation.<sup>8</sup> Second, *Callais* requires plaintiffs to “disentangle race from politics in proving their case.”<sup>9</sup> But in places where protected class voters overwhelmingly support one party, diluting based on party necessarily means

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<sup>6</sup> *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986).

<sup>7</sup> *Callais*, 2026 WL 1153054, \*14–16.

<sup>8</sup> *Id.* at \*16.

<sup>9</sup> *Id.*

diluting based on race. In essence, *Callais* allows jurisdictions to avoid Section 2 liability by simply claiming that a racially dilutive election practice is “just politics.” The combined effect of these changes is to render Section 2’s prohibition of racial vote dilution nearly impossible to enforce in many places where it occurs.

As with its voter suppression provisions, SB 961 codifies into state law the same types of protections against vote dilution that the strongest version of the federal VRA guaranteed before it was effectively dismantled by the Supreme Court—and it strengthens and streamlines that legal standard. The MIVRA requires plaintiffs to prove two things: a harm and a remedy. Plaintiffs must show that either racially polarized voting or the totality of circumstances combine with a locality’s method of election to result in an impairment of a racial, ethnic, or language-minority group’s ability to nominate or elect the candidates of their choice. Proof of intent beyond a demonstration of discriminatory results is not required. Plaintiffs must also show that a change to the current method of election would likely mitigate that impairment. By streamlining the increasingly complex standard for federal vote-dilution claims that federal courts have developed over four decades, the MIVRA aligns the applicable legal test with the core of the vote dilution injury.

Importantly, unlike under the federal VRA, a protected class does not need to be residentially segregated—that is, be sufficiently large and geographically compact to constitute the majority in a district—to receive protections under the MIVRA. Following the passage of civil rights legislation, residential segregation has decreased in some parts of the United States, but racially polarized voting and underrepresentation of minority communities persist.<sup>10</sup> Thus, many communities that do not face residential segregation may still lack equal opportunities to elect candidates of choice to their local government. By not requiring minority communities to be segregated to prove minority vote dilution, the MIVRA addresses vote dilution in all its forms. That critical innovation is also a central feature of state voting rights acts passed in California, Washington, Oregon, Virginia, New York, Connecticut, Minnesota, Colorado, and Maryland.

Finally, SB 961 allows two or more protected classes of voters within an election district to bring a coalition claim, so long as they can establish that they are politically cohesive. This explicit recognition of coalition claims

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<sup>10</sup> See generally Nicholas O. Stephanopoulos, *Civil Rights in a Desegregating America*, 83 U. CHI. L. REV. 1329 (2016).

counteracts an erroneous outlier decision of the Sixth Circuit Court of Appeals that has long made it impossible for federal coalition claims to proceed in Michigan.<sup>11</sup> The MIVRA's affirmation of coalition claims reflects its spirit and intent to protect all traditionally disenfranchised communities from discriminatory voting rules and election systems, whether they impact one or multiple racial groups. If two or more communities vote in a bloc together, organize to elect candidates together, and suffer from vote dilution together, they should be able to work together to prove and combat vote dilution.

**C. The MIVRA expands the remedies that traditionally disenfranchised communities can seek to ensure their electoral enfranchisement.**

Under the MIVRA, if a violation is found, the court shall order appropriate remedies that are tailored to address the violation in the local government. The court may only take such action if the remedy will not impair the ability of the protected class of voters to participate in the political process. SB 961 recognizes that vote denial and vote dilution tactics take many different forms and are not solely limited to traditional methods of voter discrimination. Examples of such remedies include replacing a discriminatory at-large system with a district-based or alternative method of election; new or revised redistricting plans; adjusting the timing of elections to increase turnout; and adding voting hours, days, or polling locations.

The MIVRA also specifies that courts may not defer to a proposed remedy simply because it is proposed by the local government. This directly responds to an egregious flaw in the federal law, where Section 2 has been interpreted by the federal courts to grant government defendants the "first opportunity to suggest a legally acceptable remedial plan."<sup>12</sup> This often leads to jurisdictions choosing a remedy that only minimally addresses a discriminatory voting practice rather than fully enfranchising those who won the case. This is antithetical to the concept of remedying racial discrimination; courts should not defer to the preferences of a governmental body that has been found to violate anti-discrimination laws in fashioning a remedy for that body's own discriminatory conduct. The MIVRA avoids this problem by allowing the court to consider remedies offered by *any* party to a lawsuit, and prioritizing remedies that will not impair the ability of protected class voters to participate in the political process.

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<sup>11</sup> See *Nixon v. Kent County*, 76 F.3d 1381 (6th Cir. 1996) (en banc).

<sup>12</sup> *Cane v. Worcester County*, 35 F.3d 921, 927 (4th Cir. 1994).

**D. The MIVRA avoids lengthy litigation by allowing jurisdictions to proactively remedy potential violations.**

As set forth in SB 961, a prospective plaintiff must send a jurisdiction written notice of a violation and wait at least 60 days before bringing a lawsuit. During that time, both parties have the opportunity to collaborate in good faith to find a solution to the alleged problem. The jurisdiction may also remedy a potential violation on its own initiative and gain safe harbor from litigation for at least 90 days. The MIVRA recognizes that many jurisdictions will seek to enfranchise traditionally disenfranchised communities by remedying potential violations. Such notice and safe-harbor provisions will enable them to do so without the costs and delays associated with lengthy litigation.

By contrast, no such pre-suit notice requirement exists in Section 2 of the federal VRA. As a result, voters often spend considerable time and money investigating potential violations of the federal VRA and litigating claims that could have been resolved sooner through collaboration, sparing costs which are later borne by the taxpayer.

In recognition of the fact that traditionally disenfranchised communities cannot enforce their own voting rights unless they are aware of the policy changes that impact those rights, the MIVRA also contains provisions that require the Secretary of State to provide notice to the public of several different types of election-related changes, including changes in voting locations, hours or days available for voting, and early voting plans. Local governments must provide notice of any changes they are making to their election systems, district boundaries, voter list maintenance systems, and governmental reorganizations. These provisions ensure that impacted voters will be able to open lines of communication with their local governments, make them aware of potential violations, and work with them on proactive remedies as soon as possible.

**E. The MIVRA provides guidance to Michigan judges as they interpret laws, policies, procedures, or practices that govern or affect voting.**

The MIVRA specifies that judges should resolve ambiguities in interpreting Michigan state and local election laws in favor of protecting the right to vote. This language is consistent with the Michigan Constitution's explicit guarantees that, "[e]very citizen of the United States who is an elector qualified to vote in Michigan shall have...the fundamental right to vote" and that "[n]o person shall: (1) enact or use any law, rule, regulation, qualification, prerequisite, standard, practice, or procedure; (2) engage in any harassing, threatening, or intimidating conduct; or (3) use any means whatsoever, any of

which has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.”<sup>13</sup>

SB 961’s instruction to courts to construe laws in favor of the right to vote is in line with the spirit and the letter of the Michigan Constitution. This clarification provides a pro-voter default rule for judges interpreting laws, policies, procedures, or practices that govern or affect voting, which will reduce litigation costs by avoiding unnecessary arguments over statutory interpretation. The Colorado, Connecticut, Minnesota, New York, and Washington Voting Rights Acts contain similar provisions.

#### **F. The MIVRA expands access to language assistance for Michigan voters with limited English proficiency.**

Even proficient English speakers can often find ballots and election materials to be complicated and confusing. For voters with limited English proficiency, it can be far more challenging to navigate the voting process, understand the candidates and issues, and make informed decisions. SB 963 improves on Section 203 of the federal VRA in several important ways.

Michigan has a diverse population and a growing number of naturalized citizens who have limited proficiency in English, including the nation’s largest Arab-American community. Unfortunately, many of these eligible voters do not receive voting materials or assistance in their primary languages in counties throughout the state. SB 963 enables Michigan to go above and beyond the language assistance requirements set by federal law. The federal Voting Rights Act requires a jurisdiction to provide language assistance if more than 5% or more than 10,000 of its voting-age citizens belong to a single language-minority community and have limited proficiency in English, and the community’s illiteracy rate is higher than the national illiteracy rate.<sup>14</sup> These thresholds are not sufficient to meet Michigan’s needs; only four Michigan jurisdictions are currently required to provide language assistance under federal law.<sup>15</sup>

SB 963 lowers the population threshold so that language assistance must be provided for any community that constitutes more than 2% of a county or more than 4,000 people. However, a local government does not have to provide language assistance if that 2% amounts to fewer than 100 people. In this way, the MIVRA strikes a reasonable balance between expanding high quality

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<sup>13</sup> Mich. Const. Art. II, § 4.

<sup>14</sup> Voting Rights Act, Section 203, 52 U.S.C. § 10503.

<sup>15</sup> Voting Rights Act Amendments of 2006, Determinations Under Section 203, 86 Fed. Reg. 69611 (Dec. 8, 2021).

language assistance and minimizing the administrative burden of implementation on election officials.

The MIVRA also guarantees voters assistance in the state's commonly spoken languages, including Arabic and various African languages, which are not covered by Section 203 of the federal Voting Rights Act, which defines a language minority group narrowly to mean "persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage."<sup>16</sup>

Instead of limiting language assistance to communities with certain heritages and English literacy rates below the national level, SB 963's definition of a community that needs language assistance is more streamlined, yet more expansive. Any community that speaks a common language other than English and has limited English proficiency is eligible for language assistance if it meets the population threshold.

Together, these provisions will ensure that no Michigander is excluded from democratic participation based on their inability to speak or understand enough English to engage in the electoral process.

#### **IV. CONCLUSION**

We strongly urge you to enact the MIVRA and strengthen voting rights in the state of Michigan. The MIVRA signifies a pivotal inflection point for the state of Michigan to lead in protecting voting rights and eliminating barriers to citizens making their voices heard.

Respectfully submitted,

*/s/ Lata Nott*

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<sup>16</sup> Voting Rights Act, Section 208, 52 U.S.C. § 10508(e).