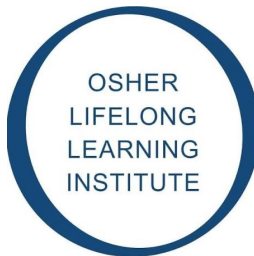


THE MOTHER OF ALL MIDTERMS: THE GAME-CHANGING AMERICAN ELECTIONS OF 2026

OLLI + POLS 484, Fall 2026

Sonoma State

06 October 2026



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1

An Announcement...



<https://projectsuperbloom.org/>



Lia Anselmino, SSU, POLS
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 **Project Super Bloom PAC**

2

Our Sessions & “Schedule”

• Week #1, 06 OCT 2026:

Overview of class, topics, & how Midterms “work,”
Key ideas & measures in Midterms—the case of
polling & assessment of what We “know,”

• Week #2, 13 OCT 2026:

The case of down ballot races and non-candidate
campaigns;
How ballot measure campaigns work—and the
curious case of CA as “The Great Exception”

• Week #3, 20 OCT 2026:

The Battlefield of Elections: The VRA, VBM, & CF,
CFR (Voting Rights Act; Vote-by-Mail; & Campaign
Finance / Campaign Finance Reform)

• Week #4, 27 OCT 2026:

How information works in Elections? Mis-, Dis-, and
Mal-Information in Today’s Environment; the TV ads
& the history of presidential advertising;

• Week #5, 03 NOV 2026:

Election Day – What to expect?
What to watch for?
Where to get information & have your own analysis?

• Week #6, 10 NOV 2026

Post-Midterm Elections analysis;
What did We expect? What did We learn?
What comes next – the “Lame Duck” & DEC 11th

3

Review – Session #1 & #2

How Do We Explain U.S. Midterm Election Outcomes?

- Referendum on the president vs. “Backlash” on the president?
- Reversion to Party ID (PID) and/or ideology
- Response to economy & job approval
- Response to other issues (war/peace, etc.) / “October Surprise”
- Action of strategic politicians (such as “strategic retirements”)
- Money and / or turnout races
- Reliable pattern of the 19th AND 20th centuries save 4 elections
- *What is “average” midterm presidential seat loss?*
- What “variables” determine the depth of seat loss?

4

Review - Why the Stakes Are High?

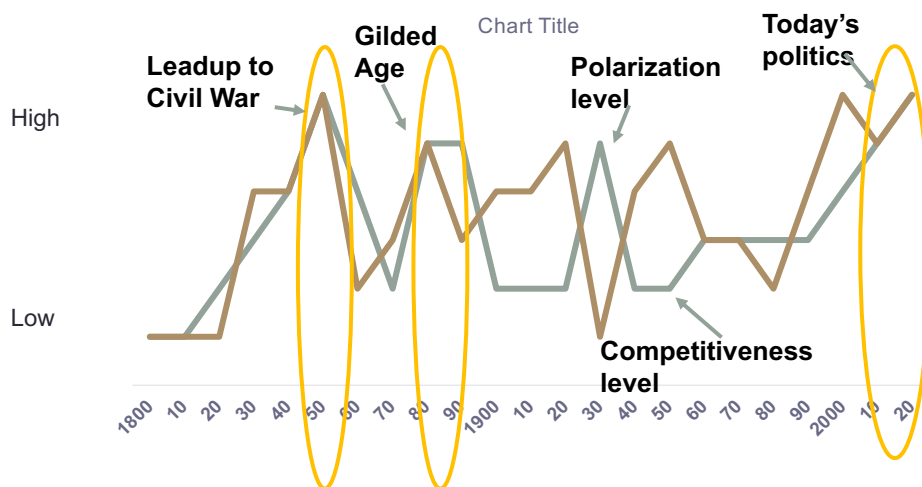
Today's politics are marked by –

Extreme polarization – the political parties are far apart, at both the leadership and mass levels;

Extreme competitiveness—the parties are very closely matched, with power hanging on the balance with each election.

5

Historical Perspective Party Polarization & Competitiveness



Note: Competitiveness is based on size of majority in House of Representatives

6

The Polarization / Competitiveness Effect

- Historically, when the parties have been polarized and closely matched, elections have been:
 - **Perceived as existential** –the future of the country is viewed by many to be at stake
 - **Consuming**—the parties have concentrated as much or more on winning the next election as on governing.
- NOTE: Of the nation's 60 midterm elections, 10 were / are **polarized + competitive + existential**
 - Five are recent: 2006; 2010; 2018; 2022; b + 2026

7

Review – What to Consider With All of These Polls?

RECALL Polling Questions - for General Elections:

1. **Who** conducted the poll?
2. **Where, how, and when** was the poll conducted?
REGION MATTERS!!
3. This close (21 days out to E-Day), **LVs** or **RVs**?
4. Outlier poll? **Or consistent results with others?**
5. National polling sample? **Or state-level poll?**
6. **Track-record operation?** Or candidate – or campaign operation conducting the poll?
7. Leading questions? **Or can You actually see / find / examine the questions asked?**

Additional Polling Resources:

- <https://fiftyplusone.news/latest-polls>
- <https://www.natesilver.net/p/trump-approval-ratings-nate-silver-bulletin>
- <https://morningconsult.com/articles/tag/political>
- <https://www.thegreenpapers.com/>
- <https://www.ipsos.com/en-us/latest-us-opinion-polls>
- <http://www.ppic.org/survey/>
- <https://igs.berkeley.edu/research/berkeley-igs-poll>
- <https://www.pewresearch.org/u-s-surveys/>
- <https://ssrs.com/ssrs-solutions/voter-poll/>

How to Read Polls, in general, some guidelines:

- <https://www.nbcnews.com/politics/2020-election/here-are-five-questions-ask-when-analyzing-political-polls-n1053401>

8

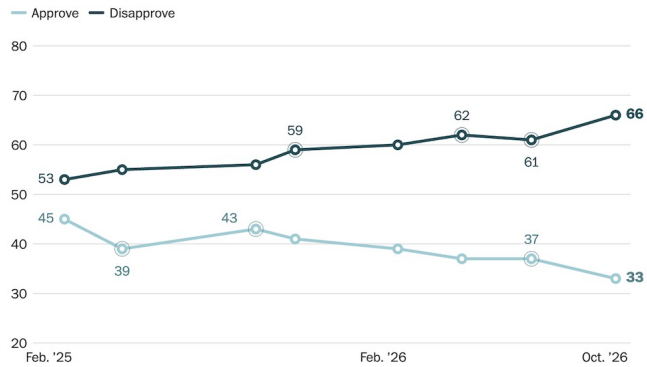
Poll, ABC News / WA Post/ IPSOS This Weekend



The Washington Post
Democracy Dies in Darkness

President Trump's approval rating reaches record low

Q: Do you approve or disapprove of the way Donald Trump is handling his job as president? (Among U.S. adults)



Note: Percentage skipping question not shown.

Source: Washington Post-ABC News-Ipsos polls. Latest survey conducted Oct. 9-13, 2026, among 2,545 U.S. adults with an error margin of +/- 2 percentage points; error margin among subgroups.

9

FiftyPlusOne



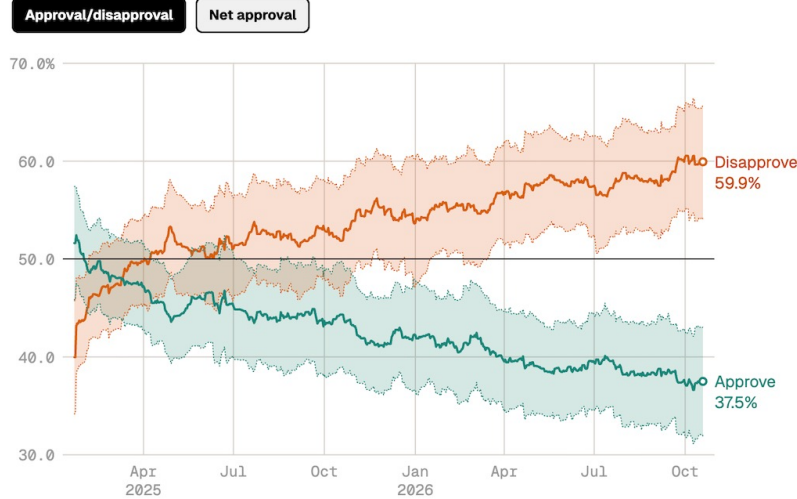
Will the Republicans or Democrats win the U.S. House popular vote this November?

See: <https://fiftyplusone.news/polls/approval/president> and more at: <https://fiftyplusone.news/>

10

Do Americans **approve** or **disapprove** of Donald Trump?

An updating polling average of Donald Trump's approval rating and disapproval rating in his second term, accounting for each poll's quality, recency, sample size, and partisan lean



$$\begin{array}{r}
 59.9 \\
 + \\
 37.5 \\
 = \\
 97.4\%
 \end{array}$$

Up .05 pts from last week

11

UPCOMING IMPORTANT DATES FOR THE NOVEMBER 3 GENERAL ELECTION

OCTOBER 5: Early Voting sites open

OCTOBER 5: County elections officials will begin mailing ballots on or before this date

OCTOBER 6: Secure ballot drop boxes open

OCTOBER 19: Last day to register to vote for the general election. To check your voter registration status, visit MyVoterStatus.sos.ca.gov

OCTOBER 20 – NOVEMBER 3, 2026: Same Day Registration available. Voters can "conditionally" register and vote a provisional ballot during this time

NOVEMBER 3: Election Day — Polls shall be open throughout the state from 7 a.m. to 8 p.m.

See vote.ca.gov for more info.

- or -

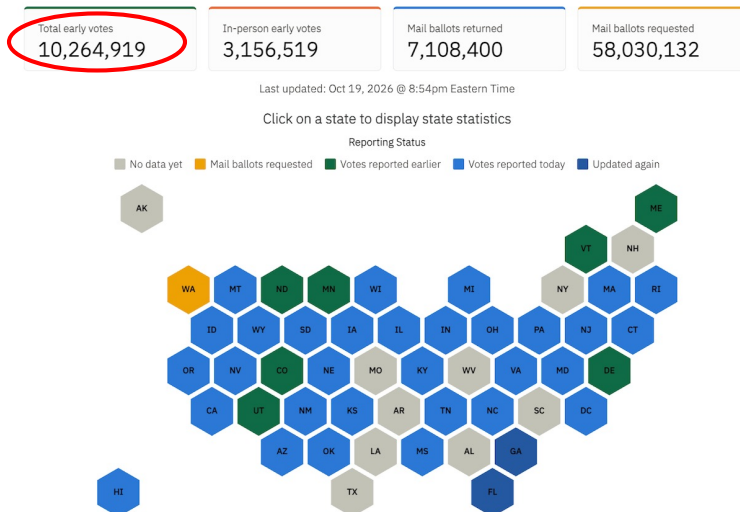
vote411.org

12

<https://electindex.com/early-vote/>



National Statistics



Where is the Early Vote?

Navigate [here](#):

<https://election.lab.ufl.edu/early-vote/2026-early-voting/>

ELECTION | GEORGIA GOVERNOR RACE | POLITICS | VOTING

Georgia voters smash early voting record for first day of a midterm election



15

Early Vote Synopsis, 20 OCT 2026

- So far, [49% of votes are cast by registered Democrats](#), 29% from registered Republicans, and 22% from unaffiliated or minor-party voters.
- By comparison, of the 46 million early and mail-in votes cast in [2022](#), 43% came from Democrats, 34% from Republicans, and 24% from unaffiliated/third party voters.
- [NBC News narrows the focus](#) to just Senate battleground states, where the picture is similar:
 - 53% of early votes by Democrats; 35% by Republicans; and 12% by independents.
 - Democrats are setting the pace in each of the 10 battlegrounds save Alaska, where Republicans lead by 1 point.

PUNCHLINE: Registered Republicans are voting at lower levels even as turnout goes up for everyone else.

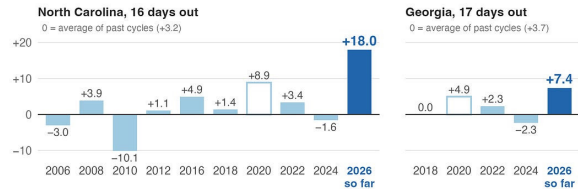
16

Early Vote Synopsis, Cont'd 20 OCT 2026

- Republicans are skipping early voting. Question is: Will they show up on Election Day?
- In North Carolina, Democrats have cast 70% of the two parties' early ballots, the most lopsided split at this point since at least 2006.

This year's early vote is far more Democratic than usual

How much more Democratic the early vote is than its baseline electorate, compared with the average past cycle at the same point before Election Day, in points



Bars show each cycle's early-vote edge minus the average edge across past cycles (NC: +3.2; GA: +3.7). 2020 (outlined) is left out of the average because of COVID-era voting. North Carolina: early in-person and mail ballots 16 days out vs. active registered voters. Georgia: early in-person and mail ballots 17 days out vs. people who voted in either of the two previous general elections, by last partisan primary ballot; 2018, 2020 and 2022 leave out counties with incomplete ballot files. Shares count only Democrats and Republicans. NC 2014 not available this early (early voting opened 12 days out). Source: NC State Board of Elections; Georgia Secretary of State.

Strength in Numbers

gelliottmorris.com

17

Ok....Are YOU Ready??

What does our Model show at this point?

Are Democrats High on Hopium?

Has DJT 2.0 Triaged Enough to Blunt Midterm History?



18

Setting Up a Discussion \$\$\$ & Voting

- Trump is shoring up support in the states he won by double digits;

In nearly every Senate battleground, more Republicans say they're worse off than better off

The 2024 presidential margin, the current FiftyPlusOne Senate polling average, and the share saying they're financially better off minus the share saying they're worse off than a year ago

State	2024 presidential margin	Current Senate polling average	Better minus worse off: all adults	Better minus worse off: Republicans
North Carolina	R+3.2	D+10.1	-19	-6
Georgia	R+2.2	D+9.1	-20	-8
New Hampshire	D+2.8	D+7.1	-20	+1
Ohio	R+11.2	D+4.0	-17	-3
Minnesota	D+4.2	D+3.5	-23	-4
Michigan	R+1.4	D+3.3	-22	-4
Texas	R+13.7	D+3.2	-23	-9
Alaska	R+13.1	D+3.0	-23	-6
Maine	D+6.9	D+2.2	-23	-2
Kansas	R+16.1	D+1.5	-18	-3
Iowa	R+13.2	D+0.7	-22	-6
South Carolina	R+17.9	R+1.1	-19	-7
Nebraska	R+20.9	R+1.1	-19	-5
Florida	R+13.1	R+6.3	-18	-3
Montana	R+19.9	R+15.9	-22	-6
Mississippi	R+22.9	—	-14	-4
Louisiana	R+22.0	—	-14	-3

Source: Wave Polling and Research poll of 5,000 U.S. adults, conducted online Oct. 5-8, 2026, by Verasight; state estimates by WRP (Republican figures are +/- about 6 points). Republicans include winners. FiftyPlusOne polling averages as of Oct. 15, 2026. Nebraska and Montana margins are for independent candidates; no average for Louisiana or Mississippi.

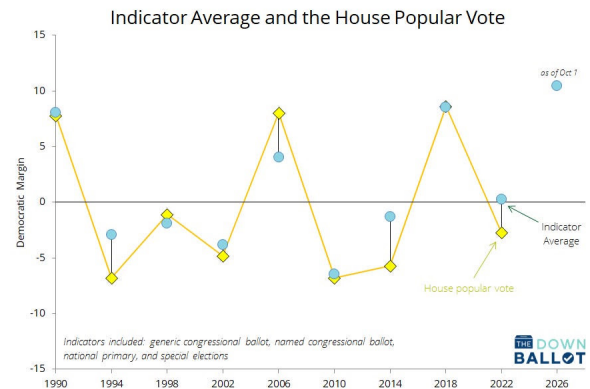
Strength in Numbers

gallotomr.com

19

Setting Up a Discussion \$\$\$ & Voting

- Pay attention to the “swing” of the vote from **SAFE GOP** to **Swing** / “Toss-Up” race
- A recent Democratic poll of a House race in Ohio featured a remarkable finding.
- 15th District around Columbus, represented by Republican Mike Carey, [the survey](#) found Democratic challenger Don Leonard leading by a 46-45 margin.
- **What made the result so noteworthy is that Carey's district voted for Donald Trump over Kamala Harris by a comfortable 10-point spread in 2024.** If that poll is indeed accurate, it not only means Leonard could win but also that he's doing **11 points better** than you'd expect given the outcome of the most recent presidential election.



20

New Materials – The CF Discussion (Campaign Finance) + Spending of 2026

- **CF, This Election: GOP**

TOTAL SPENDING:

\$4.185 billion

- **CF, This Election, Dems:**

TOTAL SPENDING:

\$3.562 billion

- **Campaign Spending, 2026:**

**Consider this a few ways –
from JAN to now;**

**Just this last month / four
weeks;**

Just the final 10 – 14 days

The most precious commodity <two weeks out? It isn't \$\$\$

23

What is *NOT FULLY* in These CF Totals?

- **GOP \$\$\$ Effects:**

RNC has, “transferred more than \$44 million between mid-August and mid-October” in a roughly even split to the NRSC and the NRCC.

Many of those transfers will be disclosed in a filing TONIGHT (20 OCT 2026).

“At least \$6 million more is set to be sent to those two committees by Election Day, the committee said.”

RNC said it raised \$18.5 million in September and entered October with \$76 million cash on hand. ([New York Times](#))

- The “full effect” of these USSC decisions earlier this year:

[National Republican Senatorial Committee v. Federal Election Commission \(June 30, 2026\)](#)

The Ruling: In a 6–3 conservative-majority decision, the Supreme Court struck down long-standing federal limits on coordinated campaign spending between political parties and candidates.

+

Political Advertising Rates Dispute / Lower Court Pause (September/October 2026)

The Ruling: USSC paused a lower-court ruling (from the U.S. Court of Appeals for the Fourth Circuit) that had challenged the Federal Communications Commission’s (FCC) policy allowing political parties and joint fundraising committees to access discounted “lowest unit charge” TV and radio advertising rates. [[1](#), [2](#), [3](#)]

24

Campaign Spending Has **SOARED** Since 1998

- According to [OpenSecrets](#), a nonpartisan group that tracks money in American politics, federal elections in 1998 cost roughly \$3.1 billion in inflation-adjusted dollars.
- The 2020 elections — presidential and congressional — cost about \$18.3 billion in today's inflation-adjusted terms, making them the most expensive federal election cycle in history.
- By 2014, that figure had grown to nearly \$5.1 billion. Four years later, the 2018 midterms cost \$7.1 billion.
- One big reason: Democratic presidential primary, where billionaires Michael Bloomberg and Tom Steyer [spent nearly \\$1.4 billion combined](#) on unsuccessful bids. Add in an expensive Biden-Trump showdown and several extraordinarily costly Senate races, and 2020 became a particularly costly election year.



25

SOARING Campaign Spending

More recently, the 2022 midterms came in at \$9.5 billion in campaign spending; and the 2024 presidential election cycle cost another \$14.8 billion, which is more than the [entire GDP](#) of North Korea.

These record fundraising numbers have resulted in record spending numbers, primarily for candidate advertising.

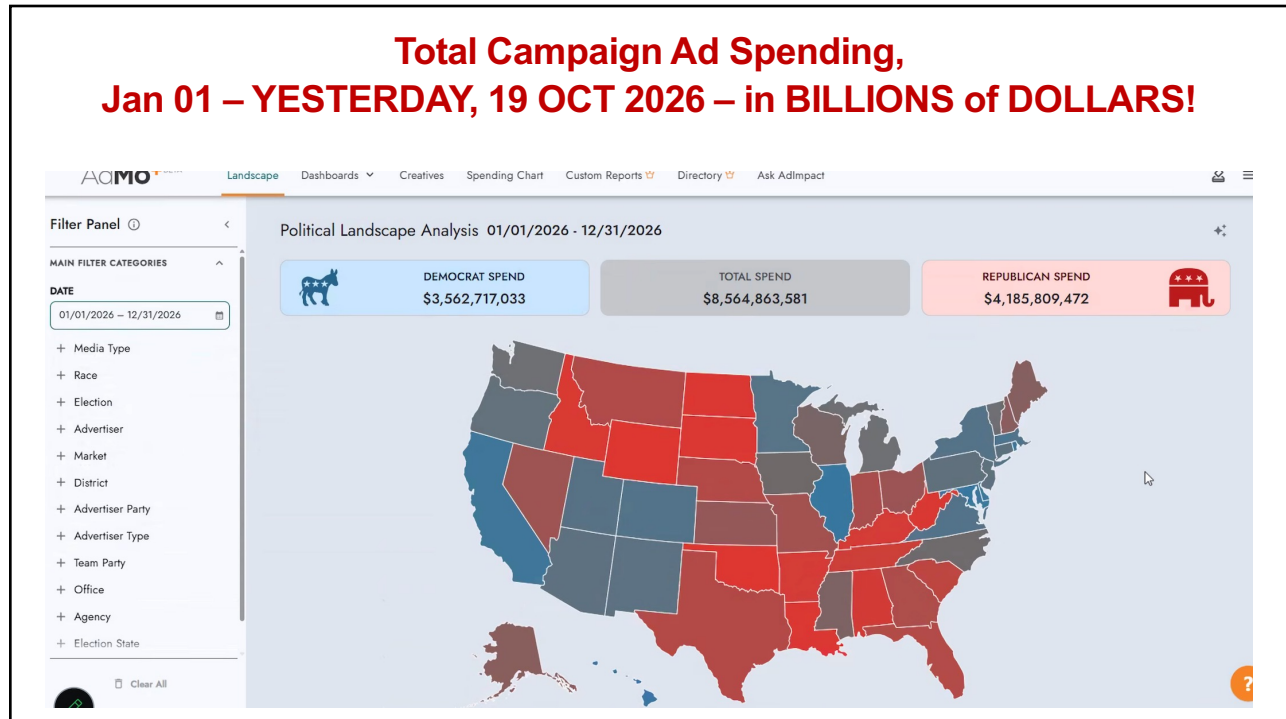
[AdImpact](#), a company that tracks political advertising, projects that in the 2026 election cycle candidates and parties will spend [\\$11.6 billion](#) in political advertising, more than 30% more than the roughly \$8.9 billion spent on advertising in the 2022 midterms.

\$5.6 billion is projected for traditional broadcast television; \$2.7 billion for connected TV and streaming; and another \$1.6 billion for advertisements on major digital platforms.

As much as the world has gone digital, traditional TV commercials are still the biggest line item on a candidate's spending sheet.

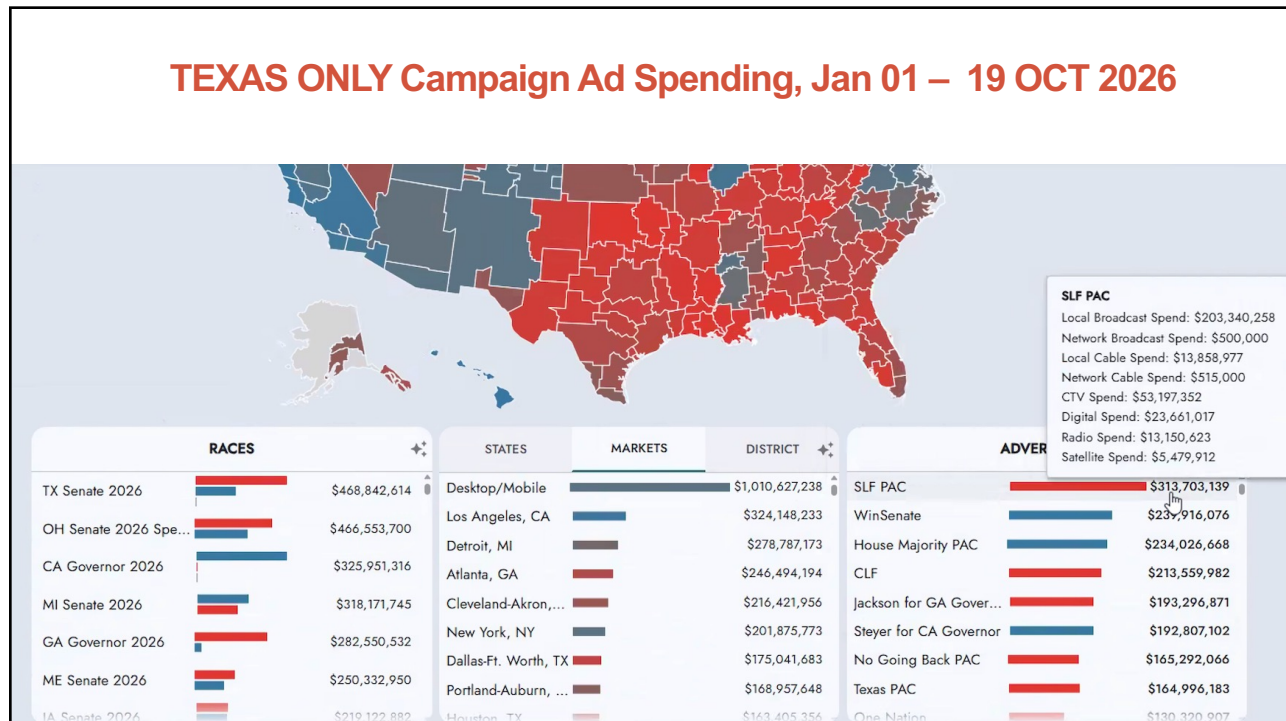
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Total Campaign Ad Spending, Jan 01 – YESTERDAY, 19 OCT 2026 – in BILLIONS of DOLLARS!



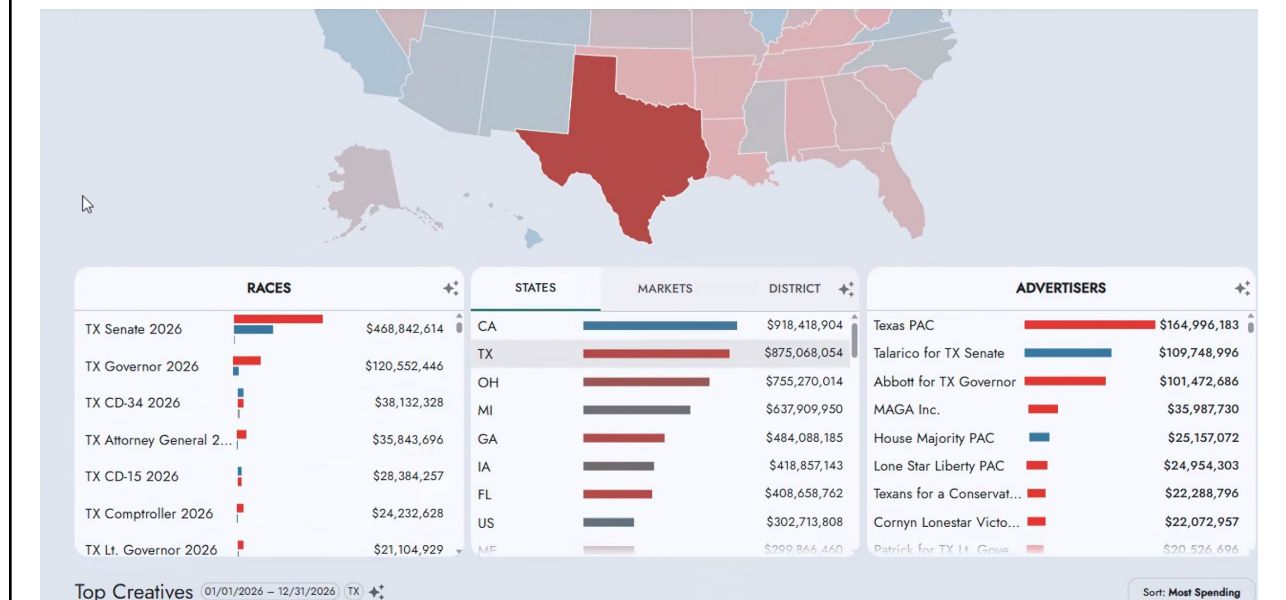
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TEXAS ONLY Campaign Ad Spending, Jan 01 – 19 OCT 2026



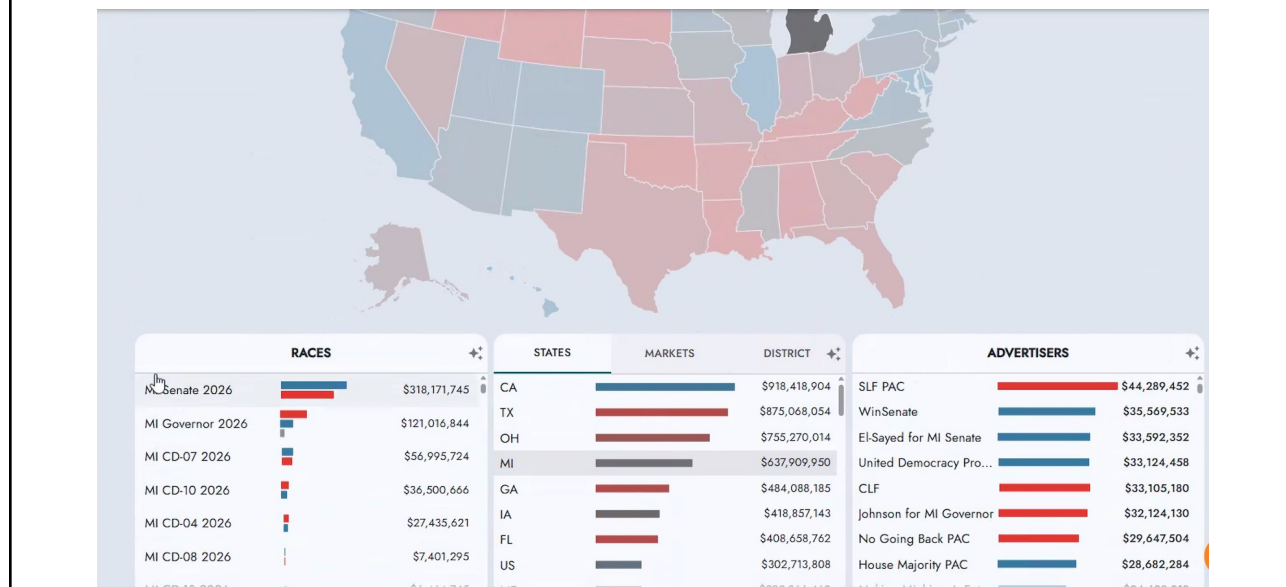
28

TEXAS ONLY Campaign Ad Spending, Jan 01 – 19 OCT 2026



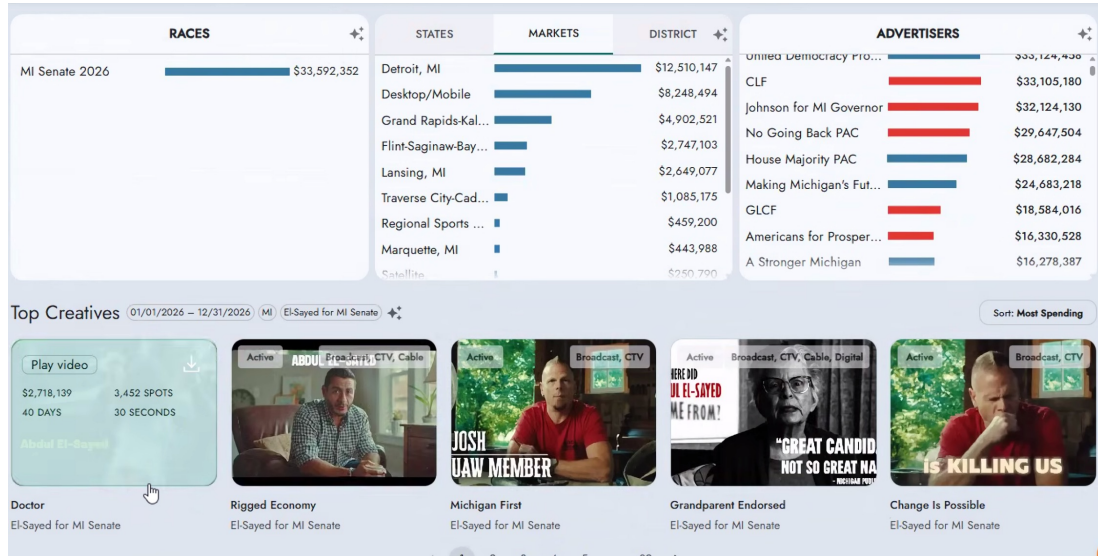
29

MICHIGAN ONLY Campaign Ad Spending, Jan 01 –19 OCT 2026



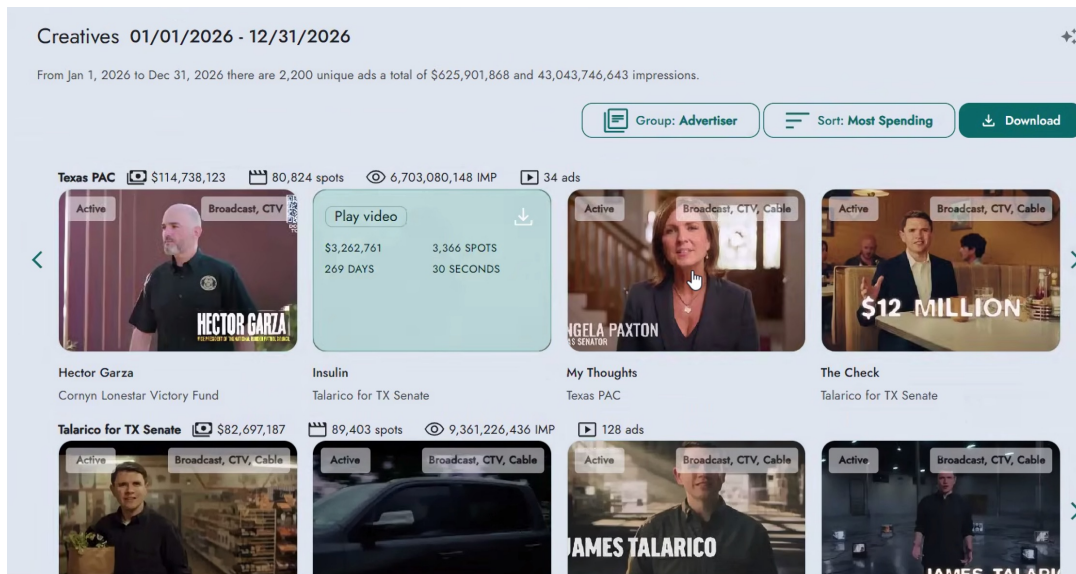
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More on MICHIGAN Political Advertising



31

AdImpact Tool for Ads & Digging Into Spending



32

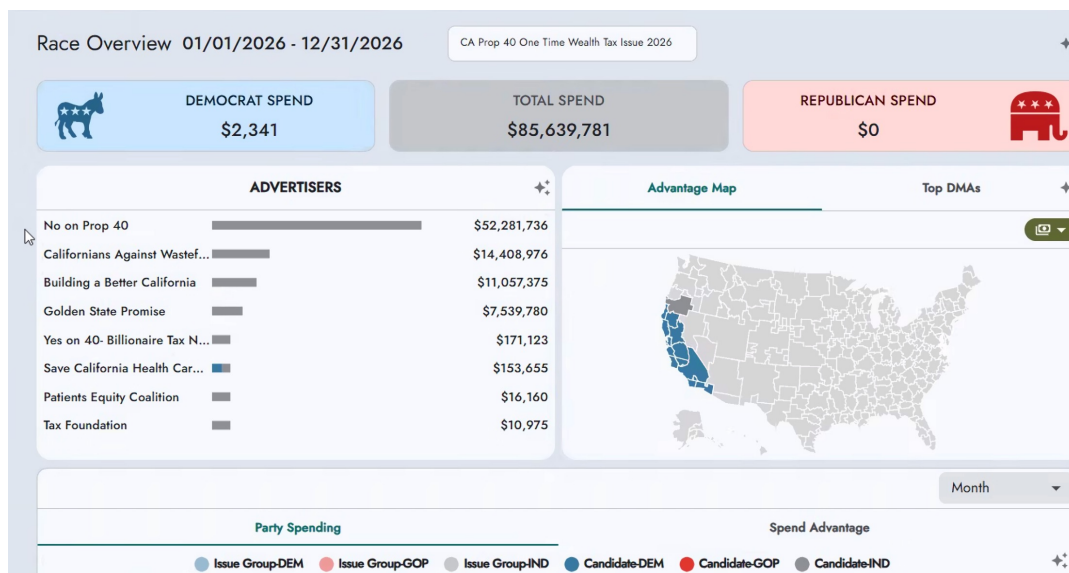
AdImpact Tool for Ads & Digging Into Spending

arket, Primary Target, Secondary Target, Tertiary Target, Tone, Issue, Spot Length, Broadcast Spend, Cable Spend, CTV Spend, Digital Spend, Total Spend, Broadcast Impressions, Cable Impressions, CTV Impressions, Digital Impressions, Total Impressions, 

Primary Election	Secondary Election	Tertiary Election	Market	Primary Target	Secondary Target	Tertiary Target	Tone	Issue	Spot Length	Broadcast Spend	Cable Spend
TX Senate 2026 General			Abilene-Sweetwater, TX; Albany, GA; Albany-Schenectady-Troy, NY; Albuquerque-Santa Fe, NM; Alexandria, LA; Alpena, MI; Amarillo, TX; Anchorage, AK; Atlanta, GA; Augusta, GA; Austin, TX; Bakersfield, CA; Baltimore, MD; Bangor, ME; Baton	Talarico for TX Senate			Negative	Crime; Transgender Minors	30		
										\$21,071,989	

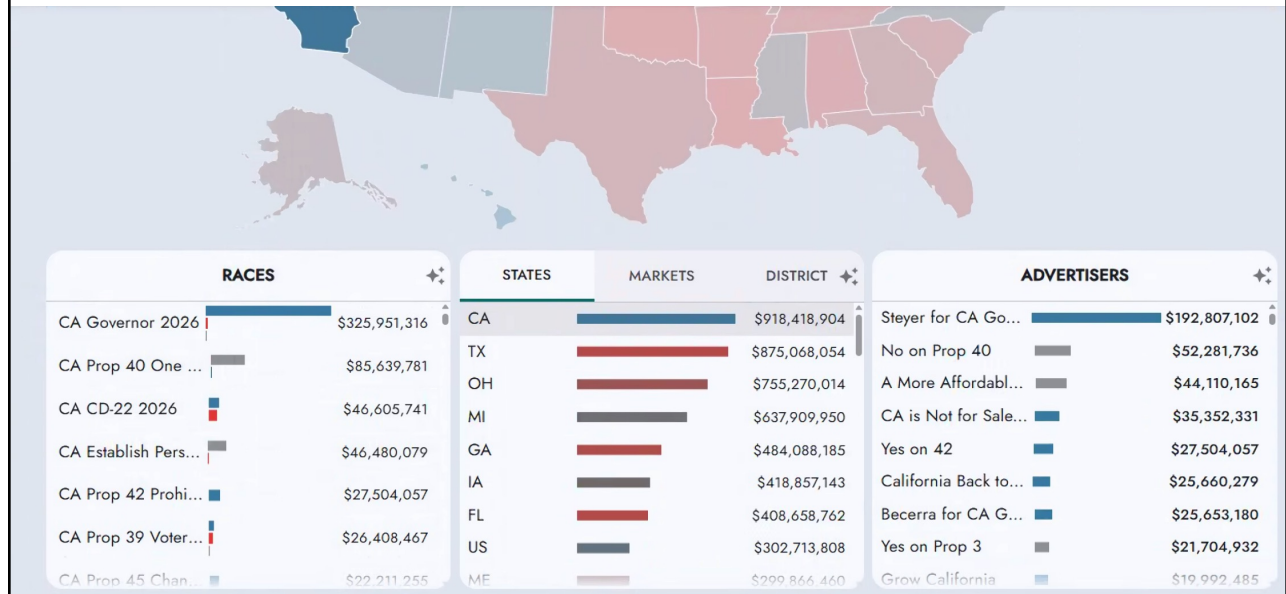
33

What About CA – Prop. 40?



34

Other CA Media Buys, Spending, 01JAN – 19 OCT 2026



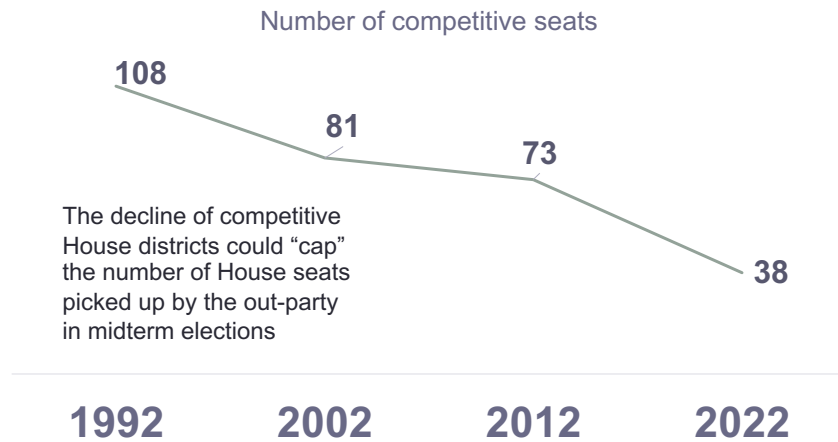
35

A FUNDAMENTAL REMINDER!!

- House seats:
- Number of “**Marginals?**” vs. “**Swing Seats?**”
- **Expanding** vs. **Contracting** maps?
- Waves are smaller than in the past (: redistricting)
- **Blue** wave confined to **Red** states?
- Senate “fundamentals.”
- Party base + “types of independents / leaners”
- Candidate Quality & Ability to self-fund?
- **Challengers** NEED to be +5 by Halloween
- **Blue** wave confined to **Red** states?

36

Reminder: Decline in “Competitive” House Seats

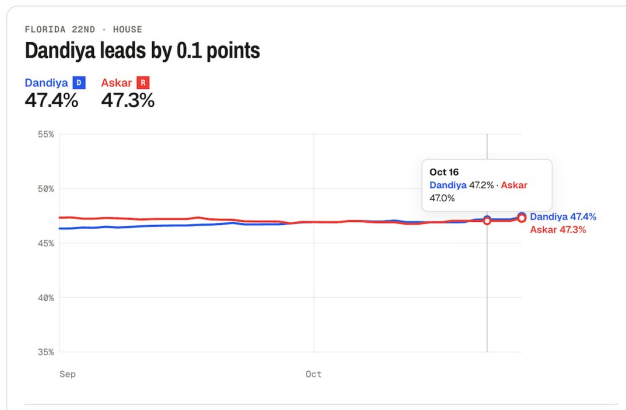


Source: *NY Times*, Feb 7, 2022 for 1992, 2002, and 2002. The 2002 number estimated by author from multiple sources. A competitive seat is defined as one in which the presidential candidates in prior election were within 5 percentage points of each other.

37

Examples of Closeness in Races - Dem Leads?

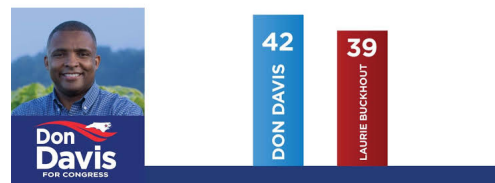
• FL-22



• NC-1

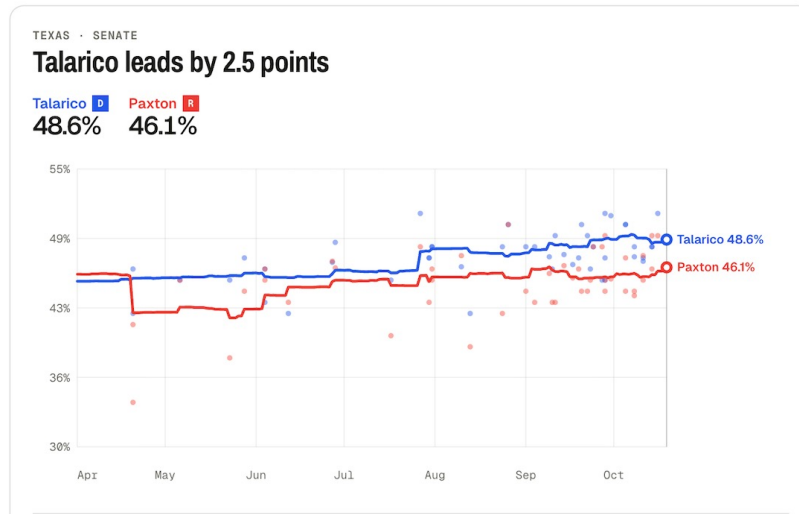
- Democratic incumbent Don Davis leads Republican challenger Laurie Buckhout 50% to 43% in the latest general election poll for [North Carolina's 1st Congressional District](#).

Recent polling of 500 likely 2026 voters has Don Davis leading in the new NC-01



38

Sliver Bulletin, TX Senate Race, PAST WEEKEND to YESTERDAY



39

The Red ---> Blue Game, House Level



<https://www.nrcc.org/2026/03/17/nrcc-introduces-maga-majority-to-expand-house-gop-majority-in-2026/>



<https://dccc.org/2026-red-to-blue/>

40

End of Part I: Questions to these points at all?

Email contact:
david.mccuan@Sonoma.edu



41

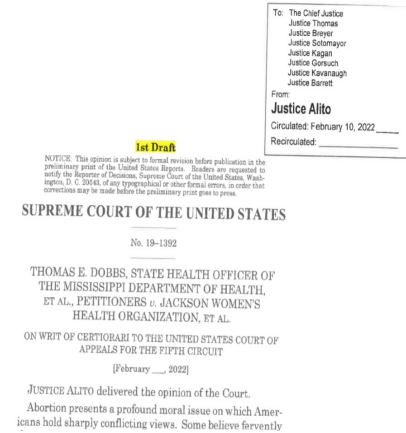
**Part II: The Courts & a Growing Constitutional Crisis –
The Real Measure of Trump 2.0?**

42

42

The USSC & How it Operates; Terms & Concepts to Know

- The "Writ of Certiorari;"
- The "Rule of Four;"
- The "Opinion" process;
- Where to find these?;
- The concept of "ordered liberty;"



43

How do the USSC Justices "Make" Decisions?

- **Scholars have identified three primary models of judicial decision-making: legal, attitudinal, and strategic.**
- The earliest of the three, **the legal model** asserts that judges are neutral arbiters of the law (Maveety 2003; Levi 1949). According to this model, judges decide cases in light of the facts in relation to precedent (existing case law), plain meaning of the Constitution and statutes, and the intent of the legislative branch and Constitutional framers (Segal and Spaeth 2002).
- Over time, scholars became less satisfied with this black-and-white picture of judicial decision-making.
- Research revealed that justices consistently voted in ways that could be placed on a left-right ideological spectrum (Schubert 1968; Pritchett 1948). These discoveries led to the development of the attitudinal model, which asserts that judges decide cases in light of the facts in relation to their ideological values and attitudes (Segal and Spaeth 2002). In other words, judges decide cases based on their views about the relevant law and the parties in a suit (Spaeth 1972). Therefore, "private attitudes become public law" (Pritchett 1941).

44

44

Making USSC Decisions, cont'd

- It is important to note that law still matters in the **attitudinal** model. Studies show that justices' preferences are constrained by precedent, judicial review, and adherence to constitutional provisions when they make decisions (Bailey and Maltzman 2008; Spriggs and Hansford 2001). Justices' attitudes and the law are thus in a *conditional relationship*; what judges want to do is constrained by what they can do under the law (Gibson 1978).
- The idea of the constrained justice is central to the **strategic** model of judicial decision-making. While justices may have their own preferences, they are in a state of interdependence with their colleagues and other branches of government (Epstein and Knight 1998; Murphy 1964). In order to "win" the final outcome of the case, they may have to compromise in other areas, such as opinion content. Constraints on justices' preferences can come from sources both internal (e.g., collegial relations; interbranch relations) and external (e.g., public opinion; interest groups) (see Baum 1998).
- See, for example, this URL for ideas on "[constitutional interpretation](https://constitutioncenter.org/the-constitution/white-papers/on-originalism-in-constitutional-interpretation):"
<https://constitutioncenter.org/the-constitution/white-papers/on-originalism-in-constitutional-interpretation>

45

45

Making USSC Decisions, cont'd

- The KEY is this:

HOW TO INTERPRET THE CONSTITUTION?

What say YOU on this matter?

46

46

Where to Find ACTUAL SCOTUS / USSC Decisions? Examples

- [US Supreme Court website \(www.supremecourt.gov\)](http://www.supremecourt.gov)
- Go to: <https://www.supremecourt.gov/opinions/opinions.aspx>
- https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf



<https://www.politico.com/news/2022/05/02/read-justice-alito-initial-abortion-opinion-overturn-roe-v-wade-pdf-00029504>

POLITICO

47

How Rules *Matter*...and How They Have Changed...Example, cont'd

- **Politico** [leaked](#) a draft version of a Supreme Court decision for *Dobbs v. Jackson Women's Health Organization* late in the day, 02 May 2022.
- The leaked memo noted that it would uphold the Mississippi law at 15 weeks of pregnancy — and would overturn both *Roe v. Wade* and *Planned Parenthood v. Casey*.
- Dated Feb. 10, 2022, the draft decision was not final.
- RECALL simply even the rules of the Court - and how the 'Rule of Four' works to hear cases; yet, that Rule, is challenged as an artifact of the old USSC.
- The following slides detail why...

48

48

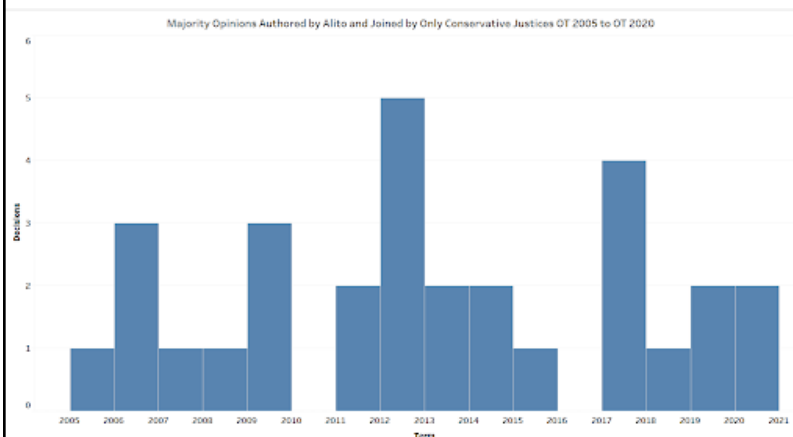
Changes in Institutional Rules, Norms, & Parameters: Actors

- One way to understand all of this is by which Justice is assigned to author an opinion;
- For example, one can examine Justice Alito's authorship of majority opinions in cases decided by a single vote where no liberal justice sat in the majority.
- **This has happened 30 times** — one time in 2005, three times in 2006, one time in 2007 and in 2008, three times in 2009, two times in 2011, five times in 2012, two times in 2013, two times in 2014, one time in 2015, four times in 2017, one time in 2018, two times in 2019, and two times in 2020.



49

Changes in Institutional Rules, Norms, & Parameters: Actors



50

Changes, cont'd: Actors

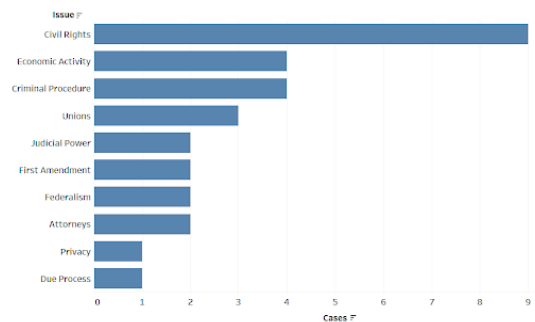
- Based on the [US Supreme Court Database](#) issue coding, the issues that came up in more than one of these cases include deportation, attorney fees, federal preemption of state legislation, the Voting Rights Act (VRA) of 1965, and governmental liability.
- According to the [Database's](#) more general issue coding nine cases dealt with civil rights, four with economic activity, four with criminal procedure, three with unions, two with judicial power, two with the First Amendment, two with federalism, two with attorneys, one with privacy, and one with due process.

51

51

Changes, cont'd: Actors

- Alito's majority opinions decided by a single vote altered prior precedent twice — in *Janus* and *McDonald*.
- Justice Alito also held laws unconstitutional four times in the 5-4 decisions with only conservative justices in the majority and where he was the majority author — in *Davis v. FEC*, *Harris v. Quinn*, *Janus*, and *McDonald*.



52

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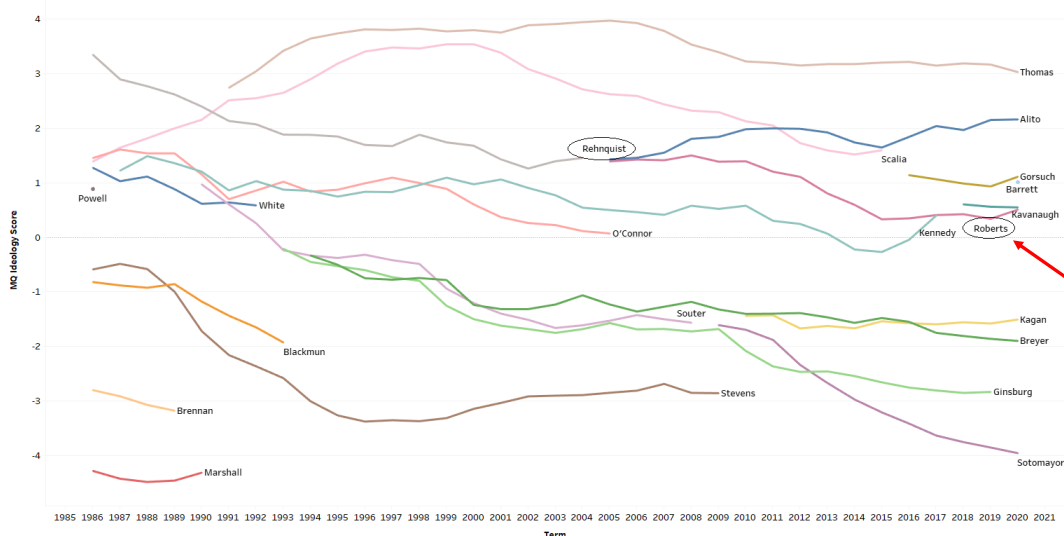
Changes, cont'd: Institutional Processes

- Much of what makes a Chief Justice powerful is what they can do to influence the Court's most important decisions.
- During both Rehnquist's and Roberts' role as Chief Justice, many of the most important cases have been decided by five-to-four votes. These include Texas v. Johnson, Lawrence v. Texas, Bush v. Gore, Citizens United v. FEC, Shelby County v. Holder, and Obergefell v. Hodges.
- What is the Chief Justice's role in five-to-four decisions?



53

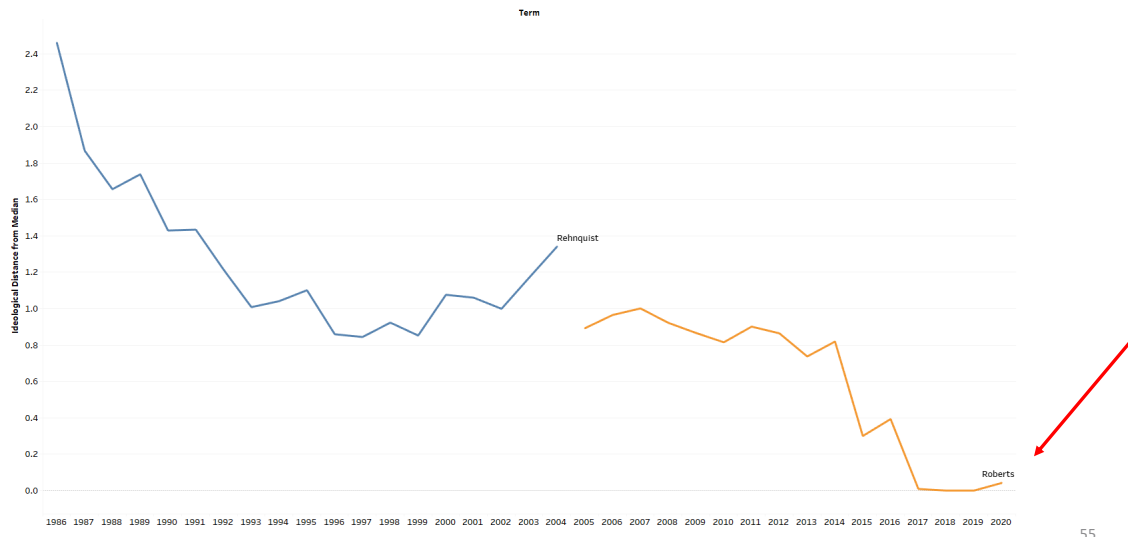
Changes, cont'd: The USSC as an Institution & Shifts: Roberts as the Median? Really?



54

54

Changes, cont'd: The USSC as an Institution – Chief Justice Roberts as Marginalized to the Median Justice



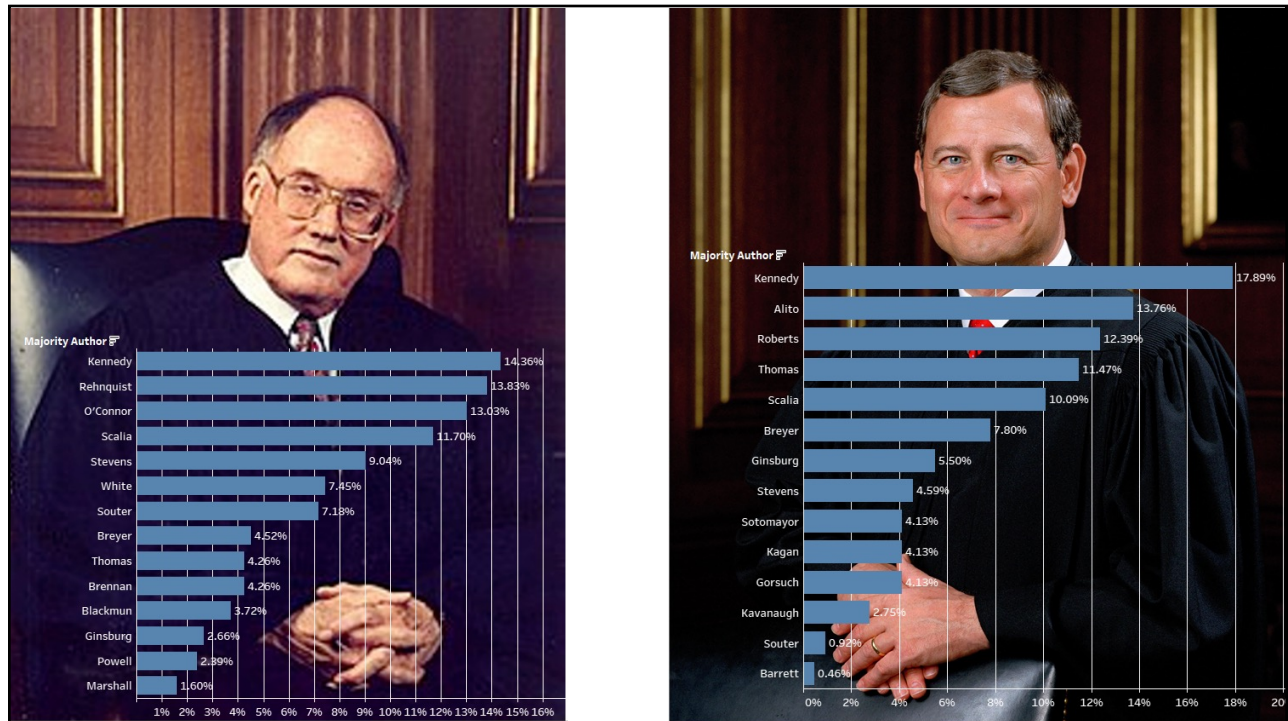
55

Changes, cont'd: The USSC as an Institution – Is it now the Alito Court? The Roberts Court? Both??

- How can we measure this shift?
- **Any measure of the role of the Chief Justice has to take into account one key institutional power – the Chief Justice's majority opinion assignment power.**
- When the Chief Justice is in the majority, the Chief gets to select the majority opinion author.
- This power of assigning authorship of the Court's opinion provides the Chief with the capacity to direct the Court's policy-making agenda.
- This assignment power is unique among the Chief's duties in its ability to shape the development of the law.
- Selection of who will draft the majority opinion directs policy alternatives that receive consideration by the Court.

56

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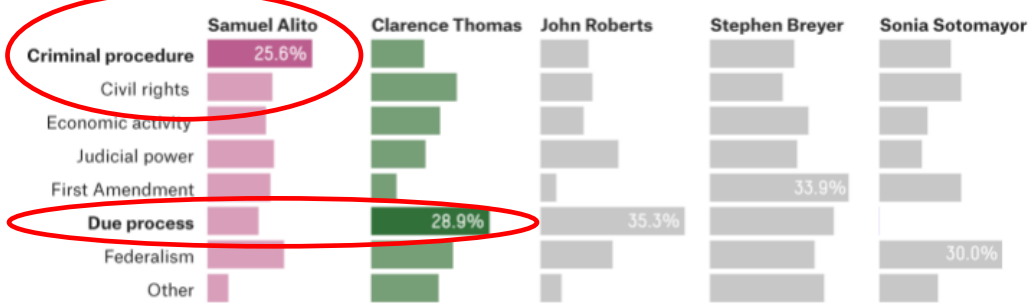


57

Where Does This Court Go *THIS TERM*?

Thomas and Alito have focused on different issues

Of the close cases Supreme Court justices voted on, share they wrote dissents on, by issue

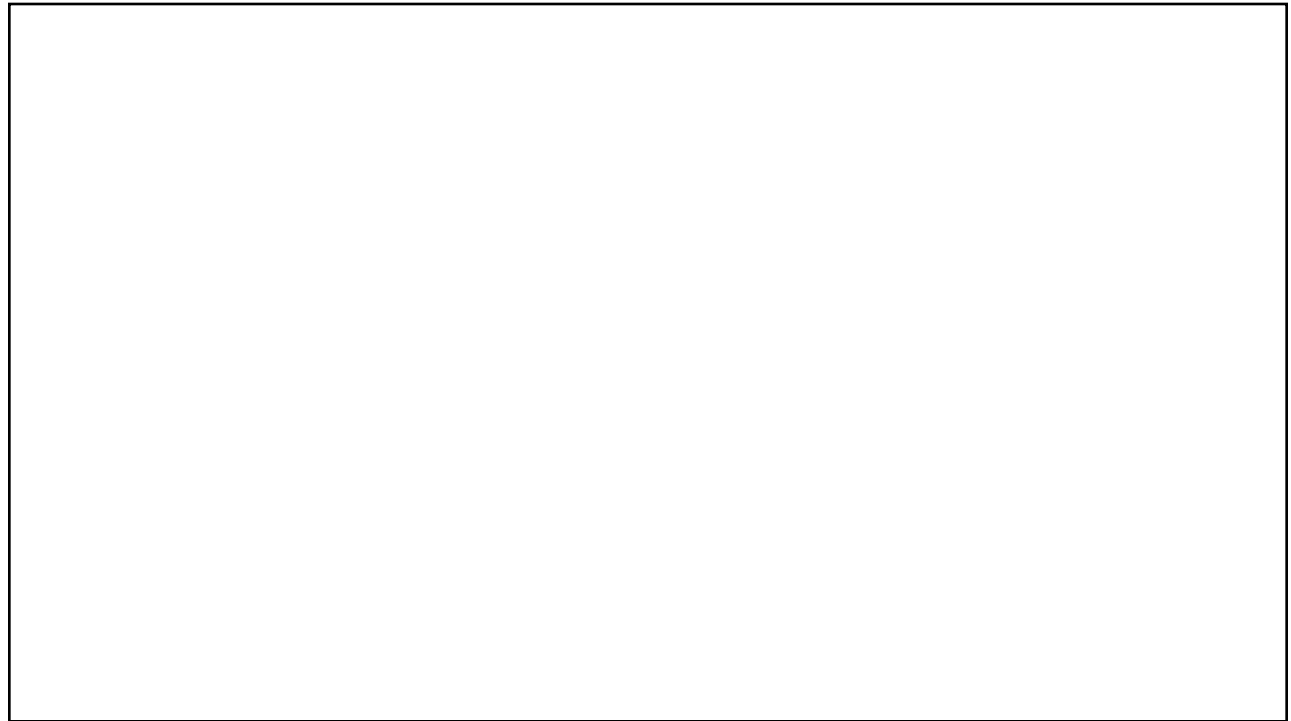


Dissents were included if they were authored or co-authored. Justices Kagan, Gorsuch, Kavanaugh and Barrett are not shown because of their shorter tenures on the court. Close cases are those with three or four votes in the minority. "Other" includes cases classified as pertaining to attorneys, federal taxation, interstate relations, miscellaneous, private action, privacy and unions, of which there are fewer. Excludes cases not assigned an issue by the Supreme Court Database.

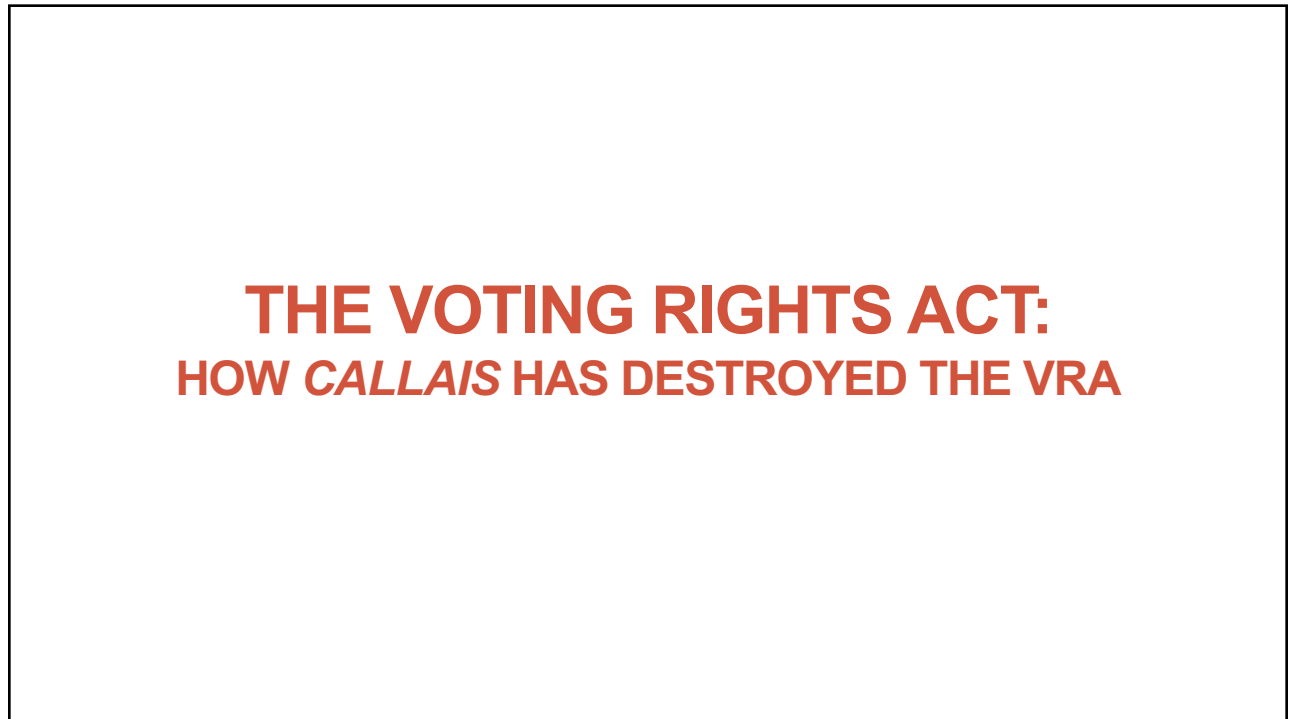
FiveThirtyEight

SOURCE: SUPREME COURT DATABASE

58



59



60

Louisiana v. Callais (2026)

Is a landmark ruling that decided that Section 2, the last enforceable provision of the 1965 Voting Rights Act, will continue to stand.

61

Background to *Callais*

After the 2020 census, Louisiana—where Black residents are about one-third of the population—drew just one majority-Black congressional district out of six.

Black plaintiffs sued under **Section 2 of the Voting Rights Act** for packing Black voters into a single district and diluting their voting power.

A federal judge ordered a new map adding a second majority-Black district: a long, narrow 250-mile stretch from Baton Rouge to Shreveport. Used in the 2024 election, the map helped elect a Black Democratic candidate.

White plaintiffs then sued, claiming the district violates the **Equal Protection Clause of the 14th Amendment**—*Louisiana v. Callais* (2026).

62

A Rare Twist to the Case

The Supreme Court took the case but, after argument, carried it to this term and expanded the questions presented—a **rare step, most famously in *Citizens United***.

What began as a challenge to a second majority-Black district as racial gerrymandering **then was asked whether drawing majority-minority districts to satisfy Section 2 of the Voting Rights Act violates the 14th or 15th Amendments**.

In effect, the Court expanded the case to determine whether race-based redistricting is inherently unconstitutional, which would effectively void Section 2.

63

An Even Rarer Twist to the Case

When *Louisiana v. Callais* was filed, Louisiana was defending its map with two majority-Black districts.

After the Supreme Court set the case for re-argument, state Republican officials urged the Court to invalidate that map.

Governor Jeff Landry said that if it falls, Louisiana will revert to a 5–1 map, possibly 6–0.

Political twists meeting legal / judicial twists!

64

**Key Background Question Here –
Can the Tools of Political Science be used to Solve Important Legal Problems?**

SHELBY COUNTY v. HOLDER (ORAL ARGUMENT, FEB. 27, 2013)

*CHIEF JUSTICE ROBERTS:
Is it the government's submission that
the citizens in the South are more
racist than citizens in the North?*



*SOLICITOR GENERAL VERRILLI:
It is not, and I do not know the answer
to that, Your Honor...*



65

This Session

Here is a history of the Voting Rights Act to explain why this case matters—and how the Supreme Court resolved it:

Two threads run through that history:

- (1) conflict between Congress and the Court over interpretation of Section 2 of the VRA**
- (2) conflict between the Court's Republican and Democratic appointees over its interpretation.**

66

Before the 1965 Voting Rights Act

The Constitution's original voting provision (the "Elections Clause"):

Article 1, Section 4: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations."

As amended in 1870:

15th Amendment: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Yet, the Supreme Court acted as if the Constitution had not been amended, privileging Article 1, Section 4 (and 2) to uphold the suppression of Black voters in the South.

In cases stretching from 1898 to 1959, the Supreme Court regularly upheld the constitutionality of the poll tax and literacy test.

67

Congress Intervenes – 1965 Voting Rights Act

Section 2 of the 15th Amendment: "The Congress shall have power to enforce this article by appropriate legislation."

Acting on that authority, Congress **outlawed the literacy test** and restricted the power of southern states to set election rules:

The Voting Rights Act's key provisions:

Section 4. Contained the formula that defined the jurisdictions subject to Section 5. Jurisdictions were subject if they had used a "test or device" (such as the literacy test or poll tax) and had a voting rate under 50 percent.

Section 5. (Preclearance requirement) Required covered jurisdictions to have U.S. Justice Department approval to make changes in their election procedures.

68

Less Attention, at the Time, was Given to --

Section 2 - prohibits voting practices or procedures that discriminate by race or color (legal basis for after-the-fact suits)

Unlike Sections 4 and 5, which were set to expire unless renewed by Congress, **Section 2 had no expiration date.**

Additionally:

Section 2 applied to all states, not just those subject to the pre-clearance requirement

69

Renewing the Voting Rights Act

The original Act had a 5-year expiration date.

In 1970, Congress renewed it for 5 more years;

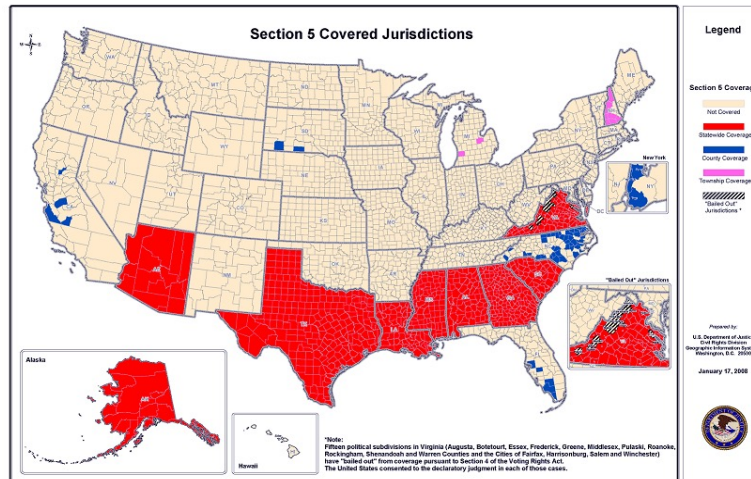
In 1975, Congress renewed it for 7 years, while amending it to include “language groups” as a protected category.

The amendment was aimed at protecting Native Americans, Hispanics, Asian Americans, and Alaskan Natives.

The amendment had the effect of adding **Texas, Arizona, and Alaska** to the states subject to the pre-clearance requirement.

70

Jurisdictions Subject to Preclearance under the Voting Rights Act as amended in 1975



71

In 1980, the Court Narrowed the VRA's scope - *City of Mobile v. Bolden* (1980)

In *City of Mobile v. Bolden* (1980), a Section 2 ruling, the Supreme Court by 6-3 upheld an apportionment that disadvantaged Black voters.

"[A]n official action ... is not unconstitutional solely because it results in a racially disproportionate impact. **Discriminatory purpose ... must be shown** to establish a violation."

Although the Court's majority held discriminatory intent was required, **Section 2 itself did not require proof of intent**. Its standard was "results" – **discriminatory effect, intended or not**.

"No voting qualification . . . shall be imposed . . . in a manner **which results** in a denial or abridgement of the right . . . to vote on account of race or color."

MAJORITY: Burger (R), Blackmun (R), Powell (R), Rehnquist (R), Stevens (R), Stewart (R)

DISSENT: Brennan (D), Marshall (D), White (D)

Note: (R) Republican presidential nominee; (D) Democratic presidential nominee

72

The 1982 Renewal of the Voting Rights Act

In 1982, Congress extending the VRA for 25 years –
Congress also Congress amended Section 2 to make clear to the Supreme Court that a **discriminatory result** was sufficient to prove a violation.

“A violation . . . is established if, based on the totality of circumstances, it is shown that the political processes . . . [deny] members of the electorate . . .

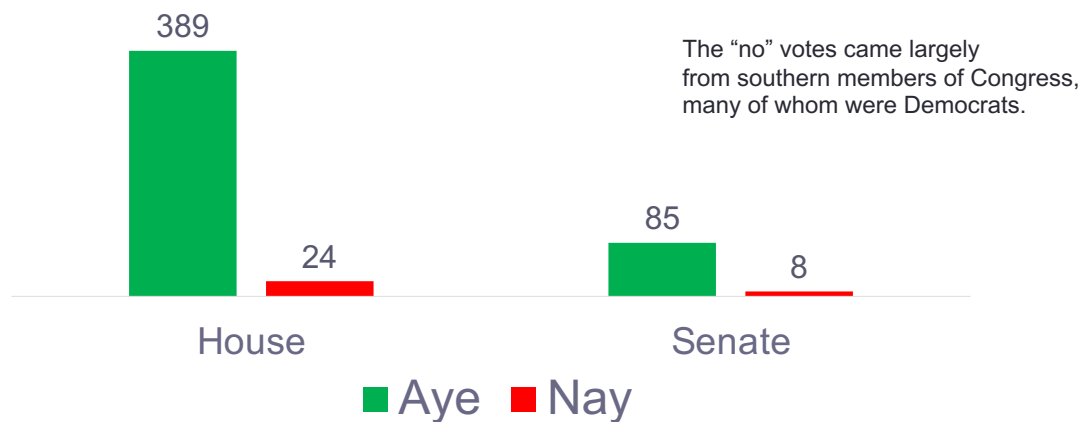
[the chance to] elect representatives of their choice.”

The amendment clarified that **intent was not the required standard**.

73

Congressional Vote on 1982 Extension of VRA

Vote of members



74

The Supreme Court aligns itself with Congress *Thornburg v Gingles* (1986)

- North Carolina's 1982 legislative redistricting plan “cracked” a Black majority district to turn it into a White majority district.
- Black voters sued, alleging a violation of Section 2 since “**the result**” was to make it impossible for Black voters to elect a candidate of their choice.
- In a 9-0 decision, the Court ruled in favor of the plaintiffs, striking down North Carolina’s redistricting plan as a violation of Section 2.

75

To guide lower courts, the Supreme Court devised a three-point “test” as part of its *Gingles* ruling

The test specified three conditions for a successful Section 2 challenge:

1. The racial or language minority group has to be “**sufficiently large and geographically compact** to constitute a majority in a single-member district”;
2. The minority group has to be “**politically cohesive**” (meaning “shared political preferences”); and
3. The “majority **votes sufficiently as a bloc** to enable it” to usually elect the candidate of its choice.”

Intent was irrelevant. The legal issue was based strictly on whether those conditions were met. If they existed, dilution of the vote of a racial or language majority was a violation of Section 2 of the Voting Rights Act.

76

The Supreme Court Limits Authority of the Justice Department – *Shaw v. Reno* (1993)

Using its Section 5 preclearance authority, the Justice Department rejected North Carolina's post-1990 census redistricting plan, directing the state to create a second majority-Black congressional district.

North Carolina drew a district with a highly irregular shape, prompting white residents to sue, claiming a **violation of the Fourteenth Amendment's Equal Protection Clause**.

In a 5-4 decision, the Supreme Court held that the district was unconstitutional, holding that redistricting for remedial purposes must pass "**strict scrutiny**" – the highest standard, **shifting virtually the full burden of proof onto the Justice Department, thereby restricting its pre-clearance authority**. Until then, the courts had deferred to the Department's judgment unless egregiously wrong.

MAJORITY: Kennedy(R), O'Connor(R), Rehnquist(R), Scalia(R), Thomas(R)

DISSENT: Blackmun(R), Stevens (R), Souter (R), White (D)

Note: (R) Republican presidential nominee; (D) Democratic presidential nominee

77

Invoking a Retrogress Standard *Reno v. Bossier Parish School Board* (2000)

Arose in the context of a **Louisiana redistricting plan** that, **based on population percentages**, properly included an additional minority-majority district.

The Justice Department concluded the plan violated Section 2 of the VRS and refused to grant it preclearance (Section 5, VRA)

In a 5-4 decision, the Supreme Court ruled in favor of the redistricting plan, holding that Section 5's preclearance requirement **only applied to actions that would make minorities worse off ("the retrogress standard")**. Since the redistricting didn't take away an existing minority-majority district, it could not be voided by the Justice Department.

MAJORITY: Kennedy (R), O'Connor (R), Rehnquist (R), Scalia (R), Thomas (R)

DISSENT: Breyer (D), Ginsburg (D), Stevens (R), Souter (R)

Note: (R) Republican presidential nominee; (D) Democratic presidential nominee

78

The Supreme Court Redefined Congress's "results" standard *Georgia v. Ashcroft* (2003)

In a case involving Georgia redistricting, the Supreme Court in a 5-4 ruling upheld the cracking of a majority Black district, while redefining the criteria for judging racial discrimination.

In its 1982 amendment, Congress had specified that minority votes must have "[the chance to] elect representatives of their choice."

The Court created instead an **"influence" standard**, ruling that states could **"unpack" minority-majority districts** (reduce the minority population to less than a majority) if **minority voters still have some ability to "influence" their representatives.**

MAJORITY: Kennedy (R), O'Connor (R), Rehnquist (R), Scalia (R), Thomas (R)

DISSENT: Breyer (D), Ginsburg (D), Stevens (R), Souter (R)

Note: (R) Republican presidential nominee; (D) Democratic presidential nominee

79

2006 Renewal of the Voting Rights Act

In 2006, Congress renewed the Voting Rights Act for another 25 years.

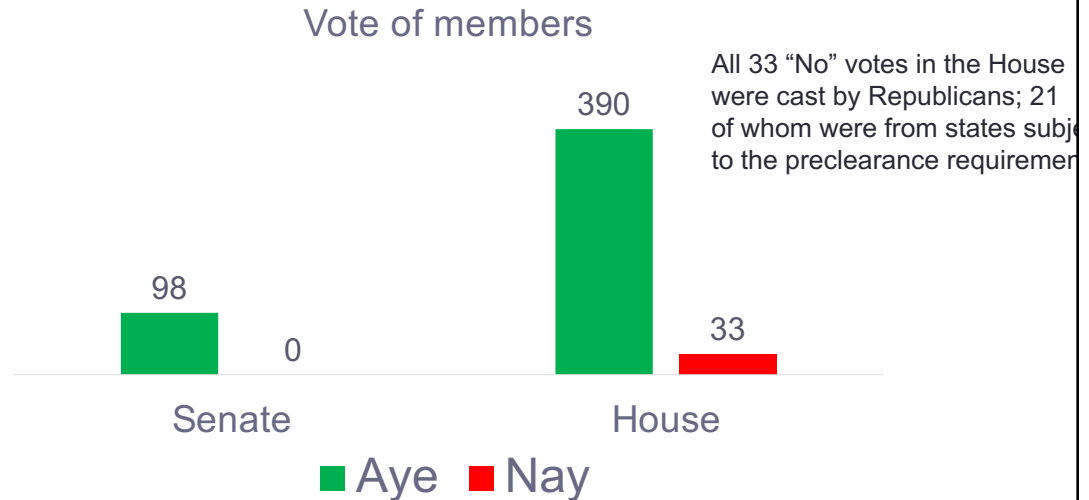
In doing so, Congress again amended the VRA, this time to make it clear to the Supreme Court's interpretation in *Georgia v. Ashcroft* was not its intent.

The amendment reads: "The purpose of Section 5 is to prohibit enactment of changes that have the purpose or will have the effect of diminishing the ability of any citizens of the United States on account of race or color . . . **to elect their preferred candidates of choice to public office.**"

The amendment restored the previous **"ability to elect" standard** established by the *Gingles* ruling.

80

Congressional Vote on 2006 Extension of VRA



81

Supreme Court Voids Sections 4 and 5 of VRA *Shelby County v. Holder* (2013)

Republican officials in Shelby County, Alabama claimed that federal oversight of their elections violated their authority under the Constitution's **10th Amendment**.

In a 5-4 decision, the Supreme Court sided with Shelby County, **striking down Section 4 of the Voting Rights Act** and declaring its formula for federal oversight outdated and, as such, **violated the 10th Amendment's principle of "equal sovereignty" among states**.

The effect was to make **Section 5's preclearance provision inoperative** since there was no longer a method for identifying the affected jurisdictions.

MAJORITY: Alito (R), Kennedy (R), Roberts (R), Scalia (R), Thomas (R)

DISSENT: Breyer (D), Ginsburg (D), Kagan (D), Sotomayor (D)

Note: (R) Republican presidential nominee; (D) Democratic presidential nominee

82

The Dissent in *Shelby County v. Holder*

The minority opinion, written by Ruth Bader Ginsburg, argued that **Congress had in fact determined that the jurisdictional formula was still appropriate and, as such, Section 4 should remain in effect** (i.e., designated states should still be required to have Justice Department approval before making changes to their voting laws):

The dissent read in part:

“In 2006, as in prior reauthorizations, Congress carefully considered whether the covered jurisdictions had eliminated the vestiges of voting discrimination before reauthorizing the Act. **It did so based on a legislative record that spanned more than 15,000 pages and documented continuing racial discrimination in voting.**”

83

Impact of the *Shelby* ruling

Within a year of *Shelby*, **every state** subject to the preclearance requirement **changed its voter eligibility rules in ways that limited ballot access.**

All these states had a Republican-controlled legislature.

The Supreme Court in a 2014 ruling, that split strictly along party line, upheld Texas’s more restrictive voting law, which a lower court had judged to violate Section 2 of the VRA.

Source: [“Supreme Court Allows Discriminatory Voting Law to Stand,”](#) Brennan Center for Justice, 2014..

84

Supreme Court Weakens Section 2 *Brnovich v Democratic National Committee (2021)*

Arizona's Republican-controlled legislature passed a law making it a felony—except for family, licensed caregivers, or officials—to collect ballots for others (“ballot harvesting”) or to vote outside one's assigned precinct.

These practices were common only among the state's Native Americans on reservations where there was often a great distance to a polling place.

Challenged under Section 2 of the Voting Rights Act, the law was upheld by the Supreme Court in a 6-3 decision. The Court acknowledged the law's “**disparity in impact**” but said that “**does not necessarily mean that a system . . . does not give everyone an equal opportunity to vote.**”

MAJORITY: Alito (R), Barrett (R), Gorsuch (R), Kavanaugh (R), Roberts (R), Thomas (R)

DISSENT: Breyer (D), Kagan (D), Sotomayor (D)

Note: (R) Republican presidential nominee; (D) Democratic presidential nominee

85

That Brings us to *Louisiana v. Callais (2026)*

During the October rearguing of the case, Republican-appointed justices **questioned whether race-conscious redistricting should have an endpoint**, echoing *Shelby County*'s view that the “exceptional conditions” of the 1960s may no longer exist.

“This court's cases, in a variety of contexts, have said that race-based remedies are permissible for a period of time — sometimes for a long period of time, decades in some cases — but that they should not be indefinite, and **should have an end point.**”

- Justice Brett M. Kavanaugh

In reply, Democratic-appointee Justice Ketanji Brown Jackson pointed out that **Section 2 of the VRA is not time limited.**

86

More on the Oral Arguments

At the October argument, Republican-appointed justices questioned whether Section 2 **violates the 14th and 15th Amendments because of its underlying racial preference mandate.**

Democratic-appointed justices **defended Section 2 of the Voting Rights Act as a remedy for vote dilution.**

87

Possible Outcome 1

Uphold the Current Map

The Court could rule that Louisiana had a "compelling government interest" (strict scrutiny standard) in complying with Section 2 of the Voting Rights Act.

Impact: Would reaffirm that the VRA can justify race-conscious redistricting.

Likelihood: Very unlikely, given

Court's decision to reargue & expand case (was an option the 1st time)

What was said in oral argument

Partisan makeup of the Court

88

Possible Outcome 2

Strike Down the Current Map as a Racial Gerrymander on Narrow Grounds

The Court could simply hold that the new, oddly shaped district was not sufficiently compact (**thereby failing the *Gingles* test**) and therefore violated the 14th Amendment's Equal Protection Clause.

Impact: It would leave Section 2 and the “Gingles test” intact

Likelihood: Unlikely, given

Court's decision to reargue & expand case (was an option the first time)

What was said in oral argument

Partisan makeup of the Court

89

Possible Outcome 3

Strike Down the Current Map as a Racial Gerrymander while Developing an Alternative to the *Gingles* test

In its opinion, the Court could hold that the Gingles test doesn't comply with the “strict scrutiny” standard and one that does—for example, by requiring extreme “cracking” of minority voters in redistricting.

Impact: It would leave Section 2 in place but make it significantly harder for plaintiffs to bring suit (by narrowing Section 2's application).

Likelihood: Somewhat likely, given

Court's inclination in some instances to seek a middle ground.

In *Shelby*, Chief Justice Roberts in invalidating Section 5 made a strong argument that Section 2 remained intact as a protection.

In oral argument, Justice Kavanaugh seemed somewhat receptive to the idea of a new test (he would be the 5th justice, thus creating a majority)

90

Possible Outcome 4 – Actually What Was Ruled

Strike Down the Current Map as a Racial Gerrymander while also Striking Down Congress's Results-Based Standard

The Court could hold that Section 2 of the VRA is unconstitutional as applied (violation of 14th Amendment) and cannot be used to mandate the "intentional" creation of race-based districts.

- **Impact:** Would end nationwide the requirement for states to draw majority-minority districts and make it exceedingly hard to challenge discriminatory maps in the future.

Likelihood: Most likely outcome, given Court's decision to reargue the case What was said in oral argument given the Court's partisan makeup; Court's recent decisions (gerrymandering, "colorblind" affirmative action).

THIS IS WHAT HAPPENED AS AN OUTCOME / The Decision

91

LET'S TACKLE YOUR QUESTIONS, COMMENTS, & CONCERNS

WHERE TO GET INFORMATION ON POLITICS...

RESOURCES ON AMERICAN POLITICS - LOOKING TO 2026 AND BEYOND...

LINKS ON THE FOLLOWING PAGES

Anything further, please
Contact me at:

david.mccuan@sonoma.edu

92

Where to Find Info.: The Politics of the New Roaring '20s

Websites for General Elections Info.:

- www.thegreenpapers.com
- www.votesmart.org
- <http://election.princeton.edu>
- www.opensecrets.org (on \$\$\$)
- <http://funderscommittee.org/> (Dem. \$\$)
- www.politico.com
- www.centerforpolitics.org (UVA)
- www.electoralmaps.org
- www.uselectionatlas.org
- www.smartvoter.org
- www.factcheck.org
- www.vote.caltech.edu
- The Election Resource Hub @ MIT:
- <https://electionlab.mit.edu/>

Websites for Polling...Data...and DD:

- <https://www.ipsos.com/en-us/latest-us-opinion-polls>
- <http://www.ppic.org/survey/>
- <https://igs.berkeley.edu/research/berkeley-igs-poll>
- <https://igs.berkeley.edu/library/california-ballot-measure-guides>
- <http://www.iandrinstitute.org/>
- <http://www.iandrinstitute.org/data.cfm>

How to Read Polls, in general, some guidelines:

- <https://www.nbcnews.com/politics/2020-election/here-are-five-questions-ask-when-analyzing-political-polls-n1053401>

93

What are “Midterm Elections?” Tools to Arm Yourself for the 2026 Midterms:

On All Things Midterms of 2026:

- <https://statesunited.org/resources/2026-midterm-elections-resource-hub/>
- <https://www.usvotefoundation.org/when-are-2026-midterm-elections-and-what-their-purpose>
- [Factcheck.org](https://factcheck.org)
- <https://www.us.vote/how-to-vote>
- <https://www.usvotefoundation.org/>

On All Things Redistricting:

- Moritz Law School, The Ohio State:
- <http://moritzlaw.osu.edu/election-law/information-analysis/>
- Loyola School of Law:
- <http://redistricting.lls.edu/>
- The Brennan Center, NYU School of Law:
- <http://www.brennancenter.org/>

94

More Websites for Politics & Elections Info.

- elections.gmu.edu
- www.pollster.com
- www.gallup.com
- www.pollsandvotes.com
- www.cqpolitics.com
- www.rollcall.com ; www.thehill.com
- www.fivethirtyeight.com
- www.pewresearch.org
- <http://blog.lib.umn.edu/cspg/smartpolitics/>

Just on money / \$\$\$ below:

- www.opensecrets.org
- www.maplight.org
- www.followthemoney.org
- www.campaignfinance.org

Top CA Elections Resources:

- CVF Online Guide:
- www.calvoter.org
- <https://calvoter.org/covg>
- Voter's Edge:
- <http://votersedge.org/>
- <https://votersedge.org/ca/>
- Official CA Voter's Guide:
- <http://www.voterguide.sos.ca.gov/>
- California Choices Guide:
- <http://www.californiachoices.org>
- CA Dept. of Finance, Demographic Research Unit:
- <http://www.dof.ca.gov/Forecasting/Demographics/>

95

Where to Monitor Social Media (SM) Trends on Campaigns, Elections, & Politics?

[Observatory on Social Media,
Indiana U.](http://www.osome.iu.edu/)

OSoMe ("awe•some") highlights the results of a broad research project aimed to study information diffusion in social media. Site has tools to explore how people spread ideas through online social networks.

<https://osome.iu.edu/>

[Center for an Informed Public \(CIP\),
U. of Washington](http://www.cip.uw.edu/)

The Center for an Informed Public is an interdisciplinary research initiative at the University of Washington that helps individuals, communities, and institutions navigate our complex information environments.

<https://www.cip.uw.edu/research/>

96