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The Voting Rights Act in North Carolina:
Turnout, Registration, Access, and Enforcement

By

Nicole Willcoxon

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requirements for the degree of

Doctor of Philosophy

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University of California, Berkeley

Committee in charge:

Professor Taeku Lee, Chair
Professor Eric Schickler
Professor Kevin M. Quinn

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Abstract

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The 2016 presidential election was the first such contest since 1964 to take place in the absence of a key enforcement provision of the Voting Rights Act of 1965, namely Section 5 of the Act. Since the Supreme Court controversially suspended implementation of Section 5 in 2013, many states and localities have been transforming the legal and administrative frameworks of their elections, with dramatic implications for voter turnout and access to the franchise, especially for racial and ethnic minorities. The stakes are high: along with the Civil Rights Act of 1964, the Voting Rights Act dismantled the legal foundations of white supremacy in the southern United States, and its vigorous enforcement enfranchised millions of black and poor white voters.

Section 5 required that covered jurisdictions obtain prior approval from the federal government for certain changes to its electoral institutions or election administration. In its 2013 decision, the Supreme Court overturned the formula for determining which jurisdictions were covered by Section 5. The coverage formula was originally based on the use of discriminatory "tests or devices," and voter participation rates in the 1964 presidential election. The formula was renewed four times by Congress, with minor revisions. Overturning this formula in 2013, the Supreme Court in effect suspended the application of Section 5 across 15 states that were covered completely or in part. Chief Justice John Roberts wrote for the majority that it was "irrational for Congress to distinguish between States in such a fundamental way based on 40-year-old data, when today's statistics tell an entirely different story. And it [was] irrational to base coverage on the use of voting tests 40 years ago, when such tests have been illegal since that time" (*Shelby County v. Holder* 2013).

Do current "statistics tell an entirely different story?" This dissertation examines how Section 5 affected election-related outcomes in a single but important state, North Carolina. North Carolina is a critical case to investigate because it has a distinctive pattern and scope of Section 5 coverage and unusually rich registration and turnout records stretching back decades.

The findings are unambiguous. Section 5 had a positive, independent, and statistically significant effect on voter turnout and registration at its outset and also over time, including in the period just before its suspension. These effects were particularly strong among black North Carolinians. Moreover, the data show that suspending Section 5 in 2013 depressed turnout in the 2016 statewide elections in North Carolina, especially for black voters. The dissertation also investigates the mechanisms for the effectiveness of Section 5 coverage in protecting the franchise, including improved registration rates and polling places per 10,000 voting age persons. Submission patterns suggest that the frequency of county requests to the Department of Justice is positively associated with improved voter access in the covered jurisdictions. The findings of this dissertation have significant implications for theories of U.S. political development, democratization, political behavior, racial politics, and federalism.

Dedication

This dissertation is dedicated to my husband George Willcoxon, and to my children Theodore and Elizabeth, the greatest research assistants I could ever ask for.

Acknowledgements

I would like to acknowledge the help, support, and encouragement of many family members, mentors, colleagues, and friends that made this dissertation possible. First, I thank my committee, Professor Taeku Lee, Professor Eric Schickler, and Professor Kevin M. Quinn, for their invaluable guidance on this process and comments on this dissertation. I also sincerely thank my husband, George Willcoxon, for his support, assistance, time, and patience, without which I could not have completed this project. His dedication to making the world more peaceful is the reason this work was written on three different continents.

My graduate career has come full circle from an undergraduate internship in the Voting Section of the United States Department of Justice, where I reviewed Section 5 submissions. I am forever grateful and appreciative of the mentorship from Professor Samuel Kernell, who not only gave me a tremendous opportunity to work as his research assistant, but encouraged me to apply to the UCDC program, which led to the internship that began my interest in voting rights. Professor Kernell's encouragement also led me to pursue a doctorate in political science.

I would also like to also acknowledge mentorship from Professors Eric Schickler and Adam Berinsky, who gave me an excellent chance to work on a project to overhaul historical public opinion data. Professor Taeku Lee also provided an invaluable opportunity to work on public opinion research projects and organize the Race, Ethnicity, and Immigration Colloquium at the Institute of Governmental Studies. These opportunities helped me gain new skill sets and fostered my interest in survey research, racial politics, elections, and American political institutions. Numerous other professors and colleagues in the political science department at the University of California, Berkeley, also greatly shaped my intellectual growth and encouraged me to pursue this particular project, including Terri Bimes, Jack Citrin, Rodney Hero, Ted Lempert, and Margaret Weir.

Further, I would like to acknowledge several other mentors outside of UC Berkeley who encouraged me along the way. In particular, Mark Baldassare at the Public Policy Institute of California has been a great mentor to me throughout my graduate career and I am grateful for all I have learned from him about survey research and California politics and public policy. I also appreciate the opportunities, guidance, advice, and mentorship from Jennifer Benz, Dean Bonner, Richard Bernard, John Fairbank, Richard Maullin, David Metz, Sonja Petek, Rick Sklarz, and Trevor Tompson.

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Chapter 1: Introduction

The 2016 presidential election was the first such contest since 1964 to take place in the absence of a key enforcement provision of the Voting Rights Act of 1965, namely Section 5 of the Act. Since the Supreme Court controversially suspended implementation of Section 5 in 2013, many states and localities have been transforming the legal and administrative frameworks of their elections, with dramatic implications for voter turnout and access to the franchise, especially for racial and ethnic minorities. The stakes are high: along with the Civil Rights Act of 1964, the Voting Rights Act dismantled the legal foundations of white supremacy in the southern United States, and its vigorous enforcement enfranchised millions of black and poor white voters.

Passed by Congress and signed into law by President Lyndon B. Johnson in 1965, the Voting Rights Act of 1965 (VRA) greatly expanded the Department of Justice's (DOJ's) legal means to implement voting rights protections for minorities after a long, contentious struggle for the franchise. After the Civil War and the ratification of the 14th and 15th Amendments to the Constitution, black men became newly enfranchised in the former slave states, and estimates suggest registration exceeded 90 percent in some Southern states (Brown-Dean et al. 2015). Yet, following the 1876 election, Reconstruction-era policies began to reverse—Southern states rewrote their constitutions to formalize extensive voting restrictions. These reversals occurred in the context of organized campaigns of violence and terror to drive blacks from public life after the withdrawal of federal troops. Nearly a century of black disenfranchisement ensued.

Blacks were subjected to institutionalized as well as informal discrimination that prevented them from voting and participating in the democratic process. To name a few: white primaries, poll taxes, literacy tests, grandfather clauses, "good character," and "criminal" tests were commonplace before the passage of the Voting Rights Act. Physical and verbal intimidation, including lynchings, characterized the struggle for voting rights in the 20th century, culminating in the Selma-to-Montgomery march in 1965. The violence faced by peaceful black activists on "Bloody Sunday," at the hands of white Alabama state troopers under orders from Governor George Wallace, was President Johnson's final impetus to send a voting rights bill to Congress (May 2013). The VRA has since proven one of the most, if not the most, effective pieces of civil rights legislation ever enacted, ushering in a new era of enfranchisement and profoundly changing the American political landscape.

Before 1965, registration and participation among blacks was extremely low in a large number of jurisdictions across the South. In 1960, the United States Commission on Civil Rights reported that in 129 counties across 10 states, where blacks comprised more than five percent of the voting age population, fewer than 10 percent of blacks were registered; in 23 counties, none were registered (United States Commission on Civil Rights 1961, 11).

Some progress for black enfranchisement was made after voting protections were passed in 1957, 1960, and 1964 (United States Department of Justice 2015; hereafter USDOJ). Yet, in the 1964 presidential election, a large gap in voter turnout between blacks and whites nationwide persisted (58 percent vs. 71 percent, respectively). In the South, just 44 percent of voting age blacks voted in the 1964 election compared to 57 percent of whites (United States Census Bureau 1965).

The low incidence of black political engagement was the direct result of intentional measures on the part of Southern governments at all levels to block access to the franchise. Governors' offices, state legislatures, county elections boards, and municipal governments were all complicit in institutionalizing this system of racial domination. President Johnson sought federal legislation that would break down local and state governments' ability to prevent blacks from voting; his administration determined that federal oversight was the only means to ensure black voters' access to the ballot box, particularly in the South (May 2013).

After Bloody Sunday, President Johnson instructed his attorney general, Nicholas deBelleville Katzenbach, to write the "the goddamnest toughest voting rights act that you can devise" (quoted in Kennedy 2015). The Act that emerged in 1965 suspended literacy tests in many jurisdictions and also allowed the federal government to appoint examiners to oversee elections in the most discriminatory locations.[1] Section 5 of the VRA was included as the law's primary enforcement mechanism. Section 4(b) of the VRA lays out the formula that determined coverage under Section 5. Namely, a jurisdiction was covered by Section 5 if it had a history of institutionalized discrimination in voting—in particular a "test or device"—as well as voter turnout or registration rates below 50 percent in the 1964 presidential election. Jurisdictions covered by Section 5 were required to receive 'preclearance' from the Department of Justice for virtually all changes to their electoral institutions or election administration.

Although intended as a temporary provision, Congress repeatedly determined that Section 5 was still necessary and extended it in 1970, 1975, 1982, and in 2006. The 1975 extension expanded the scope of the Act to protect the voting rights of language minorities.[2] Ultimately, nine entire states, mostly in the South, were covered under the preclearance provision. Several individual jurisdictions in states around the country were also covered, including 40 out of 100 counties in North Carolina. Figure 1 shows Section 5 covered jurisdictions in 2013, before the provision was suspended by the Supreme Court.[3]

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[1] Poll taxes in federal elections were banned in 1964, when the 24th Amendment to the United States Constitution was ratified.
[2] There are 466 local jurisdictions covered by the language provisions of the VRA (McDonald 2006).
[3] See Appendix for full list of covered counties and dates in which coverage was applied.

Figure 1:
Section 5 Covered Jurisdictions in 2013
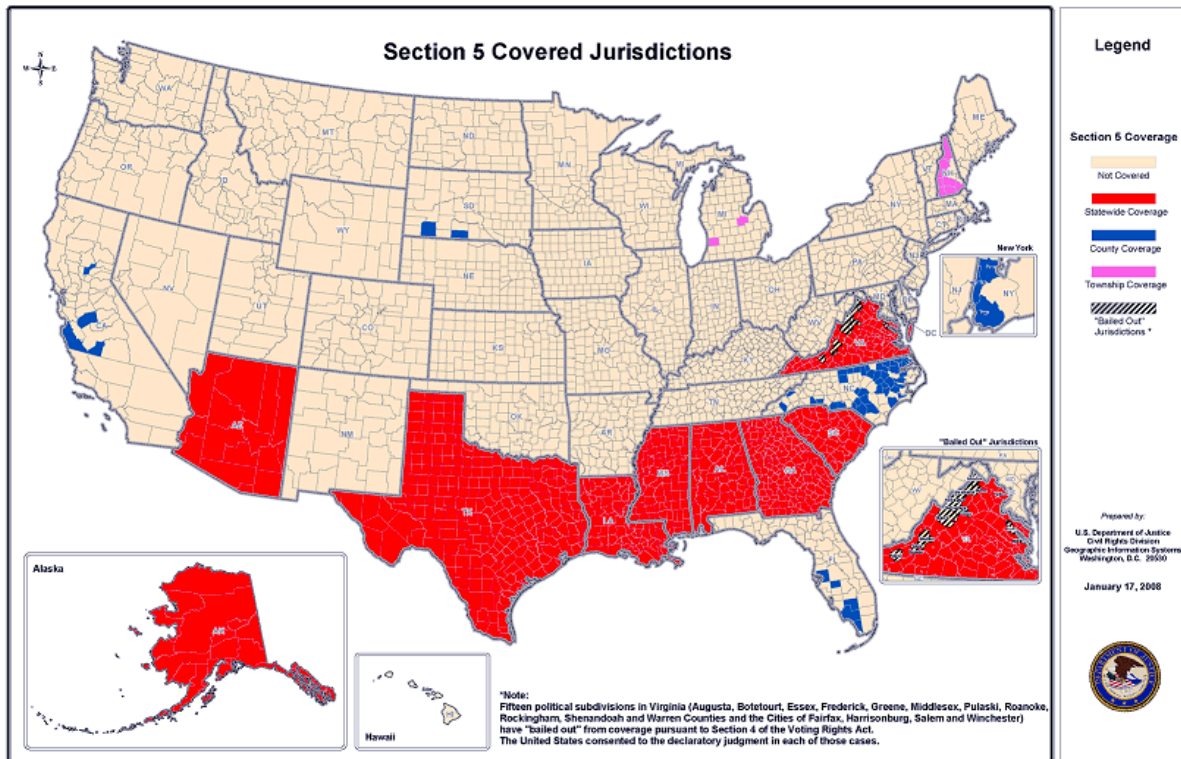
Source: *United States Department of Justice.* 2015.

Section 5 was not the only enforcement mechanism of the Voting Rights Act. Section 2, a permanent and nationwide provision, prohibits "voting practices or procedures that discriminate of the basis of race, color, or membership in one of the language minority groups" covered by the VRA (USDOJ 2015). Section 2 permits plaintiffs to sue jurisdictions for implementing voting changes with discriminatory intent. The provision differs from Section 5 in that the latter places the burden of proof on jurisdictions to establish that voting changes are not discriminatory, rather than plaintiffs. The operation of Section 5 made election administration in covered jurisdictions more transparent—the Department of Justice published notices each week of submitted election changes, thus providing publicly available information about changes *before* they were implemented (National Commission on Voting Rights 2014). Under Section 2, meanwhile, a voting change is put in place until halted by a court, a process that can take years and is very expensive.

Section 5 was controversial from the outset. The coverage of some jurisdictions but not others, based on the Section 4(b) formula, led many critics to question the law's constitutionality, as well as its continued necessity, given advances in voter participation and representation among blacks and other minorities since 1965. Proponents of Section 5, on the other hand, held that it was the key mechanism that led to improvements in voting among minorities. Absent the law, problematic jurisdictions would have a much freer hand in administering elections, opening a door for newer and more sophisticated forms of

institutional discrimination. This very debate played out in the *Shelby County v. Holder* (2013) Supreme Court case that suspended Section 5.

Coverage meant that any change in voting procedures—as small as moving a polling place location to as large as implementing a redistricting plan—had to be submitted to, and approved by, the DOJ.[4] Jurisdictions were required to submit plans and evidence that showed voting changes would not disproportionately affect minority voters.[5] The DOJ received over one-half million individual submissions from 1965 to 2013 (USDOJ 2015). More than 3,000 voting changes in over 1,000 objection letters were denied preclearance (National Commission on Voting Rights 2014).[6]

Despite the Supreme Court's declaration that the coverage formula was, by 2013, unconstitutional, studying the impact of the Section 5 provision remains critical. First, few studies attempt to quantify Section 5's impact on voter participation and electoral institutions by comparing covered and non-covered jurisdictions (c.f. Ansolabehere, Persily, and Stewart III 2012; Davidson and Grofman 1992; Shah, Marschall, and Ruhil 2013). To the extent that quantitative analysis is undertaken, most studies provide general trends using aggregate data over time, but do not attempt to isolate Section 5's independent effects, controlling for potential confounding variables.

Second, while the overall success of the VRA is not widely disputed, the mechanisms behind that success is less clear. For example, improvements in registration and turnout rates among blacks have not been uniform nationwide. From 1964 to 1980, the voter turnout rate fell in the North and the West regions of the country, from 75 percent to 61 percent; the rate dropped more for blacks, from 72 percent to 53 percent (Current Population Survey 1984; hereafter CPS). Yet in the South, turnout rates held steady overall for the same time period, and rose from 44 percent to 48 percent among blacks (CPS 1984). This presents an important puzzle since not all jurisdictions in the South were covered under Section 5. Where and when has the VRA had the greatest impact, and why?

Third, relatedly, the law imposed vastly different institutional arrangements for the administration of state and county elections in covered versus non-covered jurisdictions. A "burden of proof" was placed on specific jurisdictions in the United States. That is, covered jurisdictions, from 1965 until the *Shelby* decision in 2013, were required to obtain permission for changes to their electoral institutions from the federal government. At the same time, another set of jurisdictions was not required to do so. How did these different sets of circumstances impact voter participation? Furthermore, how did these vastly different arrangements shape the development of electoral institutions? These questions are

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[4] The definition of a "change," is described as follows: "In *Allen* v. *State Board of Elections*, 393 U.S. 544, 565 (1969), the Supreme Court stated that the coverage of Section 5 was to be given a broad interpretation. Any change affecting voting, even though it appears to be minor or indirect, returns to a prior practice or procedure, ostensibly expands voting rights, or is designed to remove the elements that caused objection by the Attorney General to a prior submitted change, is subject to the Section 5 review requirement" (USDOJ 2015).

[5] According to the law, a voting change cannot be approved unless the change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color."

[6] The National Commission on Voting Rights report stated that Louisiana had the most preclearance denials, followed by Texas, South Carolina, Mississippi, and Georgia (National Commission on Voting Rights 2014, 11).

even more crucial now that the preclearance provision has been lifted and *no* jurisdiction is required to obtain permission to make voting changes. How will political participation be affected in jurisdictions formerly protected under the preclearance provision?

Finally, lawmakers have introduced bipartisan voting rights legislation to restore Section 5 preclearance, using a new coverage formula. Some legislation seeks to implement a coverage criteria for states and localities that have histories of voting rights violations. Defining the new coverage formula remains a topic of interest among voting rights stakeholders, as do other reforms to make voting more accessible. Research quantifying the impact of Section 5 is thus timely and policy relevant.

As these statutes move through the legislative process, research on the mechanisms behind Section 5 enforcement is invaluable. How effective was Section 5 in achieving the government's intended goal of protecting minorities' voting rights? What are the consequences of the removal of Section 5? What was the relationship between the oversight mechanism and voter outcomes? Answers to these questions can help inform efforts to secure voting rights in the future. The research will also make important contributions to the field of political science by expanding the understanding of patterns of black and white political participation over time, the role of federal oversight in improving political participation, and the effect of legal institutions on the practice of democracy. More broadly, this research contributes to discussions surrounding civil rights, political development, and racial politics.

This dissertation addresses many of the questions above by focusing on a single, partially-covered, state; by utilizing novel datasets; and by conducting a variety of different statistical tests, depending on the research question, to understand the impact of Section 5. The focus on North Carolina is a key innovation for a number of reasons. One challenge with research on voter registration and turnout generally is that it is difficult to isolate the independent effect of an institution in cross-jurisdiction comparisons. Ansolabehere and Konisky (2006), for example, point out that cross-state evaluations of registration and turnout, in particular, omit important variables. Therefore, the empirical approach taken here is to analyze county-level and individual-level dependent variables in a single state that has a unique pattern and scope of Section 5 coverage. This approach allows us to 'hold constant' a number of confounding variables that are difficult to measure.

North Carolina closely approximates a natural experiment to assess how Section 5 oversight impacted voter outcomes. As mentioned above, jurisdictions fell under Section 5 coverage if a 'test' or 'device' was used to screen voters in the 1964 presidential election, and voter turnout fell below 50 percent of the voting age population in that same election.[7] This threshold landed North Carolina in a unique situation: it had a statewide literacy test in place in 1964, but statewide voter turnout was 52 percent. North Carolina thus escaped coverage at the state level. Based on county-level turnout, 39 out of 100 counties fell below the 50

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[7] A test or device was a means by which jurisdictions excluded individuals from voting. Examples included literacy tests, good moral character tests, or having "another registered voter vouch for his or her qualifications" (USDOJ 2015).

percent turnout cutoff.[8] Several counties, moreover, had turnout rates within five percentage points of the 50 percent threshold, closely missing or meeting this cutoff. These marginal counties are especially important to analyze, because selecting a 50 percent cutoff was an arbitrary decision. For counties falling around the cutoff, assignment to coverage was essentially by chance. Notably, coverage was not limited to counties with the highest proportion of black residents, nor did it encompass the majority of blacks in North Carolina. In 1965, just over half of the nonwhite voting age population in the state lived in a covered county. North Carolina's Section 5 covered counties are shown in Figure 2.

Figure 2
Map of North Carolina Section 5 Covered Counties[9]
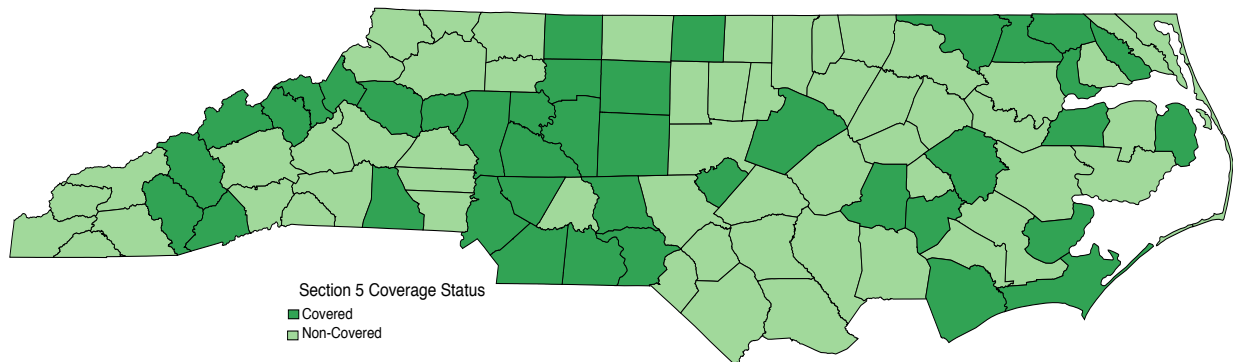
North Carolina was the only partially-covered state in the original 1965 Act. Even after the coverage formula was amended in 1970 and 1975, North Carolina remained the only state in which the number of covered and non-covered jurisdictions was close to balanced.

North Carolina has unusually rich data available for researchers interested in racial and ethnic politics. North Carolina began to collect voter registration by race beginning in 1966. Before that time, such data were incomplete or collected in an ad hoc manner, as it was across most of the South. Importantly, voter turnout data by race are available beginning in 2002. Researchers can leverage this data to assess the impact of a number of important variables on political participation. This dissertation uses this data to investigate the impact of Section 5, and the patterns of its implementation, on the political participation of black and white North Carolinians since the 1960s.

Each of these unique circumstances makes North Carolina an excellent case study to understand the VRA's impact on political participation. The bulk of the analysis isolates Section 5 coverage as a predictor variable to observe differences in outcomes between covered counties and non-covered counties in North Carolina, at different time periods from

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[8] One additional county in North Carolina, Jackson County, was designated as a covered county under the language minority provisions enacted in 1975.

[9] Counties in North Carolina covered under Section 5 prior to the *Shelby* ruling include: Anson, Beaufort, Bertie, Bladen, Camden, Caswell, Chowan, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Gaston, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Jackson, Lee, Lenoir, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Person, Pitt, Robeson, Rockingham, Scotland, Union, Vance, Washington, Wayne, and Wilson. Jackson was covered under the 1975 language provision expansion. The remaining counties were covered from 1965 through the *Shelby* ruling in 2013.

1950 to 2016. It also analyzes the entire available record of Section 5 submissions from North Carolina's covered jurisdictions. The research accomplishes the following:

- Tests levels of voter turnout before, during, and after Section 5 of the VRA was implemented.
- Holds constant state-level dynamics that can confound cross-state analysis of the VRA's impact.
- Shows how coverage status, and federal oversight, independently affected voter turnout and voter registration by race, across time, holding constant potential confounding variables.
- Compares marginally covered to marginally non-covered counties to understand the local average treatment effect of Section 5.[10]
- Examines the relationship between Section 5 and an additional measure of voter access, the county-level precinct rate, over time.
- Integrates an analysis of Section 5 submissions to compare outcomes among covered counties. Addresses the question of whether "more active" counties—i.e. those that requested more electoral changes—saw greater increases in voter access, or vice versa.

The dissertation is structured as follows. In Chapter 2, I provide an overview of the VRA and Section 5 and discuss the determinants of voter turnout laid out in the political science field broadly, as well as the links between the VRA and voter turnout specifically. I expand upon the substantive and methodological justifications for investigating North Carolina. An overview of voter turnout time trends, thereafter, is presented. The chapter then examines the effect of Section 5 on voter turnout both in the initial period after the Act's passage, as well as throughout the entire period of enactment. Subsequently, the chapter turns to the "treatment" effect of Section 5 in North Carolina's marginally covered counties in election years leading up to *Shelby*. Thereafter, I look at the consequences of *Shelby* on voter turnout, comparing the 2012 presidential election to the 2016 presidential election.

In Chapter 3, I discuss the literature relating to voter access more directly, explain voter registration time trends in North Carolina, and then evaluate the impact of Section 5 on two measures of access—registration and the number of polling places per person. This analysis spans the years 1966 through 2016.

In the fourth chapter, I lay out the current state of the literature on the enforcement of Section 5. Descriptive statistics and overall trends on Section 5 submission activity in North Carolina are then presented. Next, I assess the mechanism of the provision's enforcement by gauging the extent to which Section 5 submission activity levels influenced voter access in North Carolina's covered counties, from 1970 through 2013.

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[10] This is also important because numerous states avoided coverage designation by marginally missing the Section 5 threshold. For example, Arkansas just missed the coverage threshold because 50.5 percent of the voting age population voted in the 1964 Presidential Election.

The final chapter summarizes the key findings, explaining why they are important given the current state of voting rights in the United States, and suggesting a future research agenda on the topic.

Key findings

- Section 5 was crucial for the expansion of the franchise in North Carolina in the 1960s and 1970s. In these early years, covered counties had turnout about 10.9 percentage points higher in presidential elections compared to non-covered counties, holding all else constant. In midterm elections, turnout was about 14.4 percentage points higher in covered counties, compared to non-covered counties, holding all else constant. Voter registration was also significantly higher in covered counties.

- Section 5 had persistent and beneficial effects over time. From 1965 through its suspension in 2013, Section 5 coverage was associated with the convergence of voter participation rates between covered and non-covered counties. In covered counties, overall voter turnout rates increased about 0.32 percentage points per year in presidential elections, and black registration rates increased about 0.50 percentage points per year.

- Section 5 was still having its intended effect on voter participation rates when the Roberts Court suspended it in 2013. An analysis of participation rates leading up to 2013 shows that 'marginally covered' counties—those near the original threshold for coverage—outperformed 'marginally non-covered' counties on multiple dimensions and at statistically significant levels. The treatment effects are large: black voter turnout was approximately 9.1 percentage points higher in marginally covered counties than in marginally non-covered counties in the 2004, 2008, and 2012 presidential elections, and 6.5 percentage points higher in the 2002 and 2006 midterm elections. Similar tests show that from 2008 through 2012, black registration was 11.4 percentage points higher in the marginally covered counties versus marginally non-covered counties.

- The suspension of Section 5 coverage in 2013 was associated with lower turnout in the newly uncovered counties in the 2016 presidential election. An analysis of 5.66 million registrants using North Carolina's voter history file shows that black registrants residing in newly uncovered counties were 10.9 percent less likely to vote in 2016 than black registrants residing in the other counties. White registrants in newly uncovered counties were also less likely to vote in 2016 than white registrants residing in the other counties, though the effects are smaller than differences for black registrants. Among all registrants, those in newly uncovered counties were 6.1 percent less likely to vote in 2016 than registrants residing in the other counties. These findings are highly statistically significant and strongly suggest that the removal of federal oversight may have affected the results of statewide elections in North Carolina in 2016.

- Section 5 coverage is associated with greater numbers of polling places per 10,000 persons of voting age. In 1966, covered counties had fewer precincts per 10,000 persons

of voting age than non-covered counties—7.1 versus 8.2. However, these rates converged over time and by 2000 were nearly identical. In each year since 1972, coverage is associated with an increase of .026 precincts per 10,000 persons of voting age.

- Section 5 had a salutary effect of improving white voter participation, in addition to black participation. Between 1972 and 2012, coverage was associated with between a 0.18 to 0.30 percentage-point increase in white registration each year, depending on the regression model. While the effect size is smaller than observed for black registration, it is still statistically significant. In the earliest years of the Act, white registration rates were lower in marginally covered than in marginally non-covered counties; yet by 2008-2012, white registration was 7.8 percentage points higher in marginally covered counties. In presidential election years 2004, 2008, and 2012, white turnout was 5.3 percentage points higher in marginally covered counties. In the 2010 midterm election, turnout was 5.8 percentage points greater in covered counties just above the coverage threshold.

- Improvements in voter participation were largest in covered jurisdictions with frequent compliance with the preclearance requirement. The number of requests to make electoral changes are positively associated with registration and precinct rates in the covered counties. Each "action," or specific request to change an election rule or institution, is associated with a 0.11 percentage point increase in black registration and 0.01 additional precincts per 10,000 persons of voting age.

Chapter 2: The Voting Rights Act and Turnout in North Carolina

The 2016 general election in the United States was historic for a number of reasons, perhaps most significantly the surprise victory of businessman Donald Trump in the electoral college, despite losing the popular vote to Hillary Clinton by over three million votes. Beyond its anomalous results, the 2016 presidential election was also the first such contest since 1964 to take place in the absence of key enforcement provisions of the Voting Rights Act of 1965. Since the Supreme Court suspended implementation of Section 5 of the Voting Rights Act in 2013, states and localities have been transforming the legal and administrative frameworks of their elections, with dramatic implications for voter turnout, and access to the franchise, especially for racial and ethnic minorities. The stakes are high: apart from the 15th Amendment to the U.S. Constitution, which extended the franchise to blacks and former slaves, and the 19th Amendment, which gave women the right to vote, the Voting Rights Act of 1965 is the single most important electoral institution in the country. Along with the Civil Rights Act of 1964, the Voting Rights Act dismantled the legal foundations of white supremacy in the southern United States, and its vigorous enforcement enfranchised millions of black and poor white voters. The Voting Rights Act of 1965 is arguably the most important federal statute enacted in the 20th century.

In its 2013 decision, the Supreme Court overturned the formula for determining which jurisdictions were covered by Section 5, the core enforcement mechanism of the Voting Rights Act, which had been renewed for the fourth time in 2006. Overturning this formula in effect suspended the application of Section 5 across 15 states that had been covered completely or in part. Section 5 required that certain identified jurisdictions obtain prior approval from the federal government for any changes to its electoral institutions or elections administration, for example, moving polling places, changing from district to at-large council elections, or redrawing district boundaries. This so-called 'preclearance' provision gave the federal Department of Justice substantial powers to oversee elections in more than 8,000 state and local jurisdictions nationwide (Lopez 2014).

The formula for determining which jurisdictions were covered by Section 5 was established in the 1965 Act, with only minor revisions in subsequent Amendments. The original formula placed a jurisdiction under Section 5 coverage if 1) there was a "test or device" such as a literacy test, education requirement, or "good morals" test in place for the 1964 presidential election, and 2) either voter turnout or voter registration for the 1964 presidential election was below 50 percent of the voting age population. In addition to imposing federal oversight in covered jurisdictions, the Act prohibited tests or devices in these jurisdictions. In later Amendments, Congress expanded the coverage formula by supplementing it with new trigger dates of 1968 and 1972, and it extended the prohibition of tests or devices nationwide. In striking down the coverage formula in 2013, Chief Justice John Roberts wrote for the majority that it was "irrational for Congress to distinguish between States in such a fundamental way based on 40-year-old data, when today's statistics tell an entirely different

story. And it [was] irrational to base coverage on the use of voting tests 40 years ago, when such tests have been illegal since that time" (*Shelby County v. Holder* 2013).

Do current "statistics tell an entirely different story?" This chapter applies a variety of quantitative methodologies to examine the effectiveness of Section 5 of the Voting Rights Act; the analysis looks at a single but important state, North Carolina, that has a distinctive pattern and scope of Section 5 coverage and unusually rich and detailed registration and turnout records stretching back decades. The research questions include whether and to what extent the implementation of Section 5 improved voter turnout in the elections following 1965; whether and to what extent Section 5 coverage influenced patterns of voter turnout during the core years of implementation, approximately 1972 to 2013; whether and to what extent Section 5 was still having an impact on minority voting patterns just prior to its suspension by the Supreme Court; and whether and to what extent the suspension of Section 5 in 2013 negatively impacted minority voting patterns in the 2016 presidential election. These research questions address core issues of democracy, political development, and civil rights in the United States.

To answer the research questions, I constructed new datasets comprising longitudinal data for all 100 North Carolina counties since 1950, including demographic, economic, and institutional variables. Statistical tests are then applied to subsets of this panel, depending on the precise research questions. The analysis proceeds chronologically. First, a difference-in-differences model estimates the initial effect of the implementation of Section 5 on voter turnout in North Carolina in the years after 1965. Second, time-series—cross-section (TSCS) regressions identify the demographic, economic, political, and institutional drivers of voter turnout in North Carolina from 1972 to 2012, including Section 5 coverage. Third, a regression discontinuity design is used to estimate the continuing impact of Section 5 coverage on voter turnout in the decade leading up to its suspension by the Supreme Court. Fourth, a final fixed effects model estimates the impact on voter turnout of removing federal supervision on covered counties for the 2016 presidential election. This final test uses a voter panel dataset I constructed from the North Carolina State Board of Elections individual-level voter file and includes over 11 million observations.

The results are unambiguous. Section 5 of the Voting Rights Act caused statistically significant and substantively meaningful improvements in voter turnout across the time period, including black voter turnout in the latest years of Section 5's implementation. [11]

In the years immediately following passage in 1965, Section 5 coverage—by itself—led to a jump in overall presidential turnout of about 10.9 percentage points in covered counties, and a jump in overall midterm turnout of about 14.4 percentage points in covered counties. These results are over and above predicted improvements due to statewide or national turnout trends.

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[11] Voter turnout data by race is not available until 2002. Therefore, the analysis focuses on changes to the overall levels of voter turnout immediately after the law's passage and over time from 1965 to 2013. Separate analyses are conducted using the voter turnout data by race in the later years of the law's implementation.

Over the subsequent decades during the core period of its enforcement, Section 5 was associated with the convergence of voter turnout in covered and non-covered counties in North Carolina—at a rate of about 0.32 percentage points per year, holding other variables constant.

A separate analysis of voter turnout by race shows that in the decade prior to the suspension of Section 5, black voter turnout was approximately 9.1 percentage points higher in marginally covered counties than marginally non-covered counties in presidential elections, and 6.52 percentage points higher in the 2002 and 2006 midterm elections. Section 5 coverage also had statistically significant and salutary effects on white turnout and overall turnout in both presidential and midterm elections the decade prior to the *Shelby* decision.

Finally, suspending Section 5 coverage in 2013 depressed turnout among registered voters in counties that were newly uncovered. Among registrants overall, individuals in newly uncovered counties were 6.1 percent less likely to vote than their peers in counties that were always uncovered. The effects were greater among black registrants; blacks in newly uncovered counties were 10.8 percent less likely to vote than blacks in counties never covered by Section 5.

Taken together the quantitative results indicate the vital importance of Section 5 coverage, and the federal supervision it triggered, to explain the patterns of voter turnout in North Carolina. Section 5 coverage improved black turnout, white turnout, and overall turnout at substantively meaningful levels across the period, and was having its intended effect even as the Supreme Court suspended its implementation in 2013. The Supreme Court decision in Shelby precipitated a large volume of observed and unobserved changes to North Carolina's election administration; preliminary analysis indicates that these changes reduced black turnout at significant levels in the November 2016 election.

Section 5 of the Voting Rights Act of 1965

Passed by Congress on 4 August 1965 and signed into law by President Lyndon Johnson two days later, the Voting Rights Act of 1965 (VRA) greatly expanded the powers of the federal Department of Justice (DOJ) to ensure the voting rights of minorities. The VRA was intended to enforce the 15th Amendment of the U.S. Constitution, ratified in 1870, which declared that citizens could not be denied the vote due to race, color, or previous condition of servitude. Efforts to enfranchise black men and male former slaves were initially successful, and their registration rates exceeded 90 percent in some Southern states (Brown-Dean et al. 2015). When federal enforcement of civil rights laws ended after the 1876 election, southern states rewrote their constitutions to formalize extensive voting restrictions. Nearly a century of black disenfranchisement ensued, despite periodic attempts to reestablish the franchise for blacks in the south. Upon signing the Voting Rights Act, President Johnson declared, that it was "a triumph for freedom as huge as any victory that has ever been won on any battlefield." The Act was "one of the most monumental laws in the history of American freedom" (Public Papers of Lyndon B. Johnson 1966).

The VRA immediately abolished in many jurisdictions several mechanisms that were used to keep blacks from voting, including literacy tests, education requirements, grandfather clauses, "good character" tests, and other rules that subverted black voter participation, even if the mechanisms were ostensibly colorblind. It also established a structure of federal oversight over elections in locations deemed historically and institutionally discriminatory against blacks. All of six southern states, and 39 counties in North Carolina, were originally covered under the Section 5 provision. Additional jurisdictions became covered after the VRA's 1968 and 1972 revisions.[12] Covered jurisdictions were required to obtain "preclearance" from the DOJ for any changes to voting rules prior to their implementation. Rule changes requiring preclearance ranged from redrawing district boundaries, to moving polling places, to increasing or decreasing elected officials' term limits. Intended as a temporary provision, Congress repeatedly determined that federal supervision was still necessary, and Section 5 was renewed in 1970, 1975, 1982, and finally in 2006, when it was extended for another 35 years. The 1975 renewal expanded Section 5 coverage to include language minority groups.[13]

In addition to Section 5, the VRA had another enforcement mechanism, Section 2, which is a permanent provision of the law that still applies nationwide. Section 2 prohibits "voting practices or procedures that discriminate on the basis of race, color, or membership in one of the language minority groups" covered by the VRA (United States Department of Justice 2015; hereafter USDOJ). The Section 2 provision provides a legal means for plaintiffs to sue jurisdictions that manipulate voting rules with discriminatory intent. Section 5 differed from Section 2 in its scope of coverage and the oversight responsibility it granted to the federal government to oversee elections. Under Section 5, the burden of proof was placed on covered jurisdictions to show that changes to electoral rules and procedures were not discriminatory, rather than on plaintiffs.

Section 5 was distinctive because it put the burden of proof on state and local governments to demonstrate non-discrimination, and it gave the federal government a mandate to monitor state and local governments. The federal government would not only oversee electoral changes in covered jurisdictions, but could also send federal examiners to register voters and federal observers to watch polls. A focus of Section 5 was to identify and stop discriminatory practices and institutions before they were implemented. Section 5 made election administration in covered jurisdictions more transparent—the DOJ published notices each week of submitted election changes, thus providing publicly-available information about changes before they were employed (National Commission on Voting Rights 2014). To the contrary, under Section 2, a voting change is put in place until halted by a court, a costly process that can take years.

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[12] Section 5 covered the following states as a whole in 1965: Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia. It also covered 39 counties in North Carolina. After the 1970 and 1972 extensions, Section 5 also applied to the states of Alaska, Arizona, and Texas, as well as four counties in California, five counties in Florida, three counties in New York, two counties in South Dakota, and two townships in Michigan. One additional jurisdiction in North Carolina, Jackson County, became covered under the 1975 language minority extension of the Act.
[13] There are 466 local jurisdictions covered by the language provisions of the VRA (McDonald 2006).

The preclearance process centralized the monitoring of changes to electoral rules and procedures, and made the process of changing institutions more visible. Section 5 coverage meant that any change in voting procedures—as small as moving a polling place location to as large as implementing a redistricting plan—had to be submitted to, and approved by, the DOJ.[14] The submission process required a local jurisdiction to draft a report indicating how the change would affect minority voters in the district, and staff members and attorneys in the Voting Section of the DOJ would review the submission to ensure the change was compliant with the VRA. In addition, an important administrative feature of the submission process was the requirement that Voting Section staff in the DOJ obtain views of local minority leaders and/or stakeholders before approval of a Section 5 submission to change an election rule. This process ensured that minorities were represented in the decision-making process to change election rules.

The volume of preclearance submissions was quite large; from 1965 to 2013, 556,268 submissions were received (USDOJ 2015). Most preclearance submissions were approved; around 3,000 voting changes in 1,000 objection letters were denied preclearance from 1965 to 2013. Still, the fact that the DOJ could prevent a change from taking place is considered part of the deterrent effect of Section 5. While jurisdictions may have found the submission process burdensome and time-consuming, it was ultimately less costly than getting entangled in litigation (Middlemass 2015). This legal regime had profound effects on institutional outcomes, even in later years. The 113 preclearance denials since 1995 included 58 redistricting plans, 20 changes to election methods, 20 ballot access restrictions, seven annexations or de-annexations, and four changes affecting bilingual procedures (National Commission on Voting Rights 2014).[15] In North Carolina, there were a total of 2,387 distinct submission requests for 5,522 electoral changes at the county level,[16] and 67 objections from 1965 to 2013.[17]

In 2013, nearly 50 years after the VRA's passage, the Supreme Court of the United States fundamentally transformed voting rights protections in the covered jurisdictions. The Court ruled in *Shelby County v. Holder* (2013) that the 1964 formula determining federal oversight was no longer rational and therefore unconstitutional. Though the Court left Section 5 intact, in practice Section 5 is suspended since it cannot be implemented without a coverage

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[14] The definition of a "change," is described as follows, according to The United States Department of Justice (2015): "In *Allen* v. *State Board of Elections*, 393 U.S. 544, 565 (1969), the Supreme Court stated that the coverage of Section 5 was to be given a broad interpretation. Any change affecting voting, even though it appears to be minor or indirect, returns to a prior practice or procedure, ostensibly expands voting rights, or is designed to remove the elements that caused objection by the Attorney General to a prior submitted change, is subject to the Section 5 review requirement."

[15] The National Commission on Voting Rights Report stated that Louisiana had the most preclearance denials, followed by Texas, South Carolina, Mississippi, and Georgia (pg. 11).

[16] These counts are based on my own coding of Section 5 submission requests. Documentation of the submission requests were obtained via a Freedom of Information Act Request I submitted to the Department of Justice. These data are discussed in a subsequent chapter.

[17] While the overall total number of objections may seem relatively small compared to the volume of submissions, Fraga and Ocampo (2006) find that the DOJ used an intermediary step to prevent the implementation of discriminatory voting practices: requesting more information. Such requests happened far more frequently than objections, with nearly 7,000 more information requests submitted between 1990 and 2005; these requests prevented more than 1,200 proposed electoral changes from taking effect (Fraga and Ocampo 2006).

formula, and each Republican-led Congress since 2013 has declined to provide a new formula.

The ruling effectively halted the preclearance process, and the DOJ also stopped the federal observer program.[18] The majority of the Court argued that the coverage formula was obsolete because "times have changed"—that blacks now participate at equal rates as whites, and that the coverage formula unfairly burdens certain political jurisdictions over others, violating states' rights. Chief Justice Roberts, writing for the majority, argued:

> There is no denying, however, that the conditions that originally justified these measures no longer characterize voting in the covered jurisdictions. By 2009, the racial gap in voter registration and turnout [was] lower in the States originally covered by [Section 5] than it was nationwide.

> History did not end in 1965...voting tests were abolished, disparities in voter registration and turnout due to race were erased, and African-Americans attained political office in record numbers (*Shelby County v. Holder* 2013).

The minority of the Court, led by Justice Ruth Bader Ginsburg, argued that the success of the law itself warrants the preservation of its constitutionality, and that the Court should defer to Congress on voting rights cases—indeed, Congress was given extraordinary powers after the Civil War to protect civil rights; Congress had repeatedly reauthorized the law with the coverage formula (Schwartz 2013). In addition, Justice Ginsburg argued that the law was still necessary. Even though the tests or devices that the VRA intended to quell were no longer in place, jurisdictions have resorted to new forms of discrimination:

> The grand aim of the Act is to secure to all in our polity equal citizenship stature, a voice in our democracy undiluted by race. As the record for the 2006 reauthorization makes abundantly clear, second-generation barriers to minority voting rights have emerged in the covered jurisdictions as attempted *substitutes* for the first-generation barriers that originally triggered preclearance in those jurisdictions.... The sad irony of today's decision lies in its utter failure to grasp why the VRA has proven effective. The Court appears to believe that the VRA's success in eliminating the specific devices extant in 1965 means that preclearance is no longer needed.... With that belief, and the argument derived from it, history repeats itself (*Shelby County v. Holder* 2013).

At the same time, even in writing the opinion striking down the coverage formula, Chief Justice Roberts acknowledged that "voting discrimination still exists; no one doubts that" (*Shelby County v. Holder* 2013). Ultimately, the Court did not invalidate Section 5 itself, meaning that it left an opportunity for legislators to design new rules that would determine which jurisdictions should face the preclearance requirement under the current political environment (Schwartz 2013).

Meanwhile, evidence for the success of the VRA is clear and direct: participation and representation rates have increased dramatically for black voters since its passage. In 1964,

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[18] Section 8 of the VRA allowed the DOJ to send federal observers to oversee elections in covered jurisdictions.

less than a quarter of blacks were registered to vote in the South, yet now as many as three-quarters are registered (Brown-Dean et al. 2015). By the end of 1965, a quarter of a million blacks became newly registered, a third of them by Federal Examiners (American Civil Liberties Union 2017; hereafter ACLU). In recent years, and in several states, blacks turn out to vote in higher percentages than whites—even in places with histories of discrimination such as Mississippi, where as few as seven percent of blacks were registered to vote in the 1964 presidential election (Brown-Dean et al. 2015).[19] Moreover, in 2008, American voters elected Barack Obama as the first black president in the country's history, signifying a huge political shift for black representation. By the 2012 Presidential election, 66 percent of black voters turned out to vote, similar to the proportion of whites (64 percent), exceeding white turnout nationally for the first time in history (Current Population Survey 2012 Supplement 2012). This higher turnout among blacks has translated into greater representation. From 1970 to 2000, the number of blacks in elected office nationwide increased from 565 to 5,579, and in 2015, the United States had more than 10,000 black elected officials (Bositis 2006; Brown-Dean et al. 2015).

Questions still remain about the reasons for this progress. While aggregate level statistics show impressive progress since 1964, participation and representation rates vary significantly across political jurisdictions and levels of government, especially at the local level (Hajnal and Lewis 2003). Although blacks in certain states and localities meet or exceed whites in registration and turnout, there are still proportionally far fewer black elected and appointed government officials. In *The Triumph of Voting Rights in the South,* Bullock III and Gaddie (2009, 330) find that across the South, there was no state in which blacks held a proportion of political offices commensurate with their percentage of the voting age population.

Justice Ginsberg and other observers warn that second-generation election practices present new threats to minority voter participation. After nearly 50 years of VRA enforcement, there is still evidence that voting discrimination exists. Blacks are more likely to be asked for their drivers' licenses at the polls, to cast provisional ballots, and wait in longer lines than whites (Stewart III 2009). Research also shows that state and local governments have implemented election schemes that dilute minorities' electoral power throughout the country, regardless of special coverage status under Section 5, including in North Carolina (Earls, Wynes, and Quatrucci 2008). Rules have been implemented that in effect discriminate on account of race, such as expanding the terms of white elected officials, redrawing district lines to break up black voting power, withholding information about elections, mandating excessive reregistration requirements, changing polling place locations at the last minute, requiring voter identification to cast a ballot, decreasing the number of polling places (Keech and Sistrom 1994), and situating polling places in intimidating locations (Bositis 2006). Section 5 was a mechanism to prevent the implementation of such schemes. Since 1982, 49 DOJ objection letters were issued in response to North Carolina election procedure changes (USDOJ 2015). These objections related to at-large elections, residency requirements, staggered terms, districting, annexations, and runoff requirements (Earls, Wynes, and

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[19] By 1967 the black registration rate in Mississippi rose to about 60 percent (ACLU 2017).

Quatrucci 2008). Since the enactment of the VRA, dozens of election changes were blocked by the federal government in the North Carolina covered counties.

The Aftermath of *Shelby*

Soon after the *Shelby* decision, with the preclearance requirement lifted, several formerly covered jurisdictions pushed forward with expansive changes in electoral rules and procedures. For example, Texas and North Carolina each enacted legislation requiring voter identification. Texas attempted to implement a redistricting plan that had been denied preclearance under Section 5. North Carolina advanced a bill in the State House to require voter ID; it also reduced early voting from 17 to 10 days, eliminated same-day registration,[20] prohibited pre-registration of 16 and 17 year olds, and barred the counting of ballots cast in the wrong precincts. Similarly, Alabama also passed a strict voter ID law and the state planned to close 31 DMV locations, largely in majority-black counties.[21] In response to the flurry of changes in North Carolina, the DOJ sued North Carolina under Section 2 of the VRA, claiming that African Americans are more likely to vote early and use same-day registration, and therefore the new regulations were discriminatory. The Texas and North Carolina voter ID laws were each struck down by federal courts, citing discriminatory intent. North Carolina's new limits on early voting and same-day registration were also overturned just prior to the 2016 General Election. Judge Diana Motz wrote that new voter restrictions were enacted deliberately "because of race" and constituted "one of the largest restrictions of the franchise in modern North Carolina history" (Quoted in Purdy 2016).

While the proliferation of voter identification laws and other restrictive measures preceded *Shelby*, the *Shelby* decision has clearly given such efforts new impetus. Before *Shelby*, the DOJ found that voter ID laws in South Carolina (entirely covered under Section 5) and Florida (partially covered)[22] had discriminatory effects, and the DOJ blocked their implementation (Ansolabehere, Persily, and Stewart III 2012). Similar laws were not limited to Section 5 covered jurisdictions. Wisconsin, for example, had a strict voter ID law struck down in 2016 by a federal district court under Section 2; the presiding judge ruled that the law would lead to "real incidents of disenfranchisement, which undermine rather than enhance confidence in elections, particularly in minority communities" (quoted in Tucker and Miller 2017). As of this writing, the Wisconsin law is still under litigation. According to the National Conference of State Legislators, as of 2017, 34 states across the country have some sort of law in place that requires voters to produce identification to cast a ballot (Underhill 2017).

"Second generation" efforts to restrict access to the franchise go beyond voter ID. For example, during the 2016 primary, Maricopa County, Arizona (a formerly covered state), cut the number of polling places from 200 to 60—resulting in one polling place for every 108,000 residents in Phoenix; voters in turn saw extremely long lines to cast ballots, with reports of some turning away from the polls (Santos 2016). The state of Nebraska reduced

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[20] Election Day Registration (EDR) has been shown to boost turnout among minorities. See for example Fitzgerald (2005) and Burden et al. (2014). Others (see: Rocha and Matsubayashi 2014) see no effect.

[21] See: The Editorial Board. "Alabama Puts Up More Hurdles for Voters." *The New York Times*. October 5, 2015.

[22] Five counties in Florida were covered under the 1975 reauthorization of the VRA. Covered counties included Collier, Hardee, Hendry, Hillsborough, and Monroe.

its early voting days; Ohio also reduced its early voting days and changed its absentee voter rules (*Brennan Center for Justice* 2016). The examples go on and on. According to a 2014 report by the *Brennan Center for Justice*, 21 states have implemented significant voting restrictions since 2010, and 14 states implemented new voting restrictions for the 2016 general election (Weiser and Ospal 2016).

A number of studies suggest that the *Shelby* decision will negatively affect voter turnout in the long-term. For example, Billingsley and Murray (2015), call the decision "premature" for Mississippi, because while "the gap between minority and non-minority voter registration and voting has improved," the state has implemented other "measures of vote discrimination" (16). The authors cite DOJ objections—an indicator of noncompliance with the VRA—as well as the number of federal observer coverages and find that the "majority of [voting] violations" actually occurred more recently, between 1982 and 2012, rather than immediately following passage of the law. The authors suggest that the VRA was actually remedying current—not past—discrimination. An extensive 2014 report by the National Commission on Voting Rights detailed similar findings: institutional discrimination and efforts to block minorities' access to the ballot box still exists and Section 5 was an effective protection against these efforts.

As of this writing, a dataset and associated article amassed by Morgan Kousser may be the most thorough and expansive study to date of the consequences of suspending Section 5. Kousser (2015) specifically focuses on the changes in electoral institutions that resulted from the preclearance provision; the analysis examines Section 5 objections, submissions, Section 2 lawsuits, and demographic variables and presents the geography of legal cases and Section 5 actions. The author rejects two central arguments Chief Justice Roberts made in the Court's rationale for overturning the coverage formula—that by 2006, voting discrimination was no longer a problem that Congress needed to remedy, and that discrimination was no longer centered on the covered jurisdictions. Kousser concludes that the Section 5 coverage scheme was successful, and was accurate in remedying voter discrimination, "hitting the target about 94 percent of the time" (Kousser 2015, 25); voting rights events were nearly always in covered jurisdictions (and concentrated in the South and Southwest), and the rate of "electoral discrimination" was much higher when comparing demographically similar covered and uncovered counties.

In short, the findings of a small but growing literature contradict the Court's claims in *Shelby*. This chapter contributes to that discussion.

Implications of *Shelby* for Studying Section 5

It is critically important to understand—and quantify—the impact that the Section 5 provision had on voter turnout. Of course, voting has real political and social consequences: blacks, Latinos, Asian Americans, Native Americans, and other minority groups in the United States remain underrepresented in political office (Pei-te Lien 2006). Blacks comprise 12.5 percent of the country's voting age population, but hold 10 percent of U.S. House seats, 8.5 percent of seats in state legislatures, 5.7 percent of city council seats, and two percent of U.S. Senate seats (Brown-Dean et al. 2015). Several scholars argue that underrepresentation

generates policy outcomes that do not accurately reflect public preferences, let alone minority preferences (e.g. Grofman and Davidson 1992; Hero and Tolbert 1995; Preuhs 2006). Brown-Dean et al. (2015, 3) calculate that in terms of policy outcomes "blacks were the least advantaged group in America".[23] Access to the ballot box, fair electoral institutions, and the representation of minorities are key for their ability to influence public policy (Browning, Marshall, and Tabb 1984; Keech 1968). Coverage under Section 5 may not just have had direct impacts on increasing political participation and representation (Shah, Marschall, and Ruhil 2013), but indirect outcomes as well. For example, Schuit and Rogowski (2016) show that blacks were more substantively represented by their elected officials in covered, versus uncovered, jurisdictions. Understanding the institutional causes of disenfranchisement, and its remedies, is an important precondition for fully integrating minorities into political life in the United States.

Even though the Supreme Court has effectively suspended enforcement of Section 5, the analysis below makes a clear case for the continued relevance of Section 5, and the Voting Rights Act more broadly. The majority of the Court in the *Shelby* ruling challenged Congress to devise a more modern, fair, and effective coverage formula for protecting voting rights. Among other things, understanding Section 5's impact will help lawmakers craft a new coverage formula, if they eventually decide to do so. This research also contributes to the understanding of the effect electoral institutions have on citizens' participation in a federal democracy, and the role federal mandates can play in protecting the franchise at state and local levels.

While the DOJ, a number of scholars, and think tanks, among others, have documented the tremendous role the VRA has played in increasing black political participation in the United States, many studies have looked exclusively at outcomes at the state-level (Bullock III and Gaddie 2009; Bullock III, Gaddie, and Wert 2016; Vallely 2004).[24] Few of these studies have done so by holding constant confounding factors. Evaluations of the effectiveness of the VRA tend to fall into two camps—reports from think tanks that show "topline" level improvements—that is, aggregate trends over time at the state or national level, or comparisons across states. These studies tend to use descriptive statistics to paint a broad picture of the success of the Act, rather than use regression analysis to isolate the independent effect of the VRA, and Section 5 in particular, on voter turnout against a background of demographic, economic, and political shifts since 1965. Potentially confounding variables such as increases in wealth, improvements in education, and changes in the racial and ethnic compositions of a jurisdiction cannot be controlled for in these analyses. These studies are extremely useful for charting the role of the VRA in U.S. political development since 1965, but they cannot isolate or quantify the independent effect of the law at the state and local level.

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[23] The report states that blacks were policy "winners" 31.9 percent of the time, compared to 37.6 percent for whites, and the difference is ten times larger than the difference between low- and high-income earners (Brown-Dean et al. 2015, 3). Using individual-level survey data, the researchers show that race was the only demographic indicator in which policy responsiveness from the government differed starkly.

[24] There is also a well-developed literature on Section 2 of the VRA, and among legal scholars on the actual constitutionality of the law (See for example Katz 2006).

A second set of studies does use regression analysis to assess the impact of the VRA, but does so by comparing across multiple jurisdictions with different electoral institutions, political and civic cultures, and political economies. Such an approach increases the risks of omitting variables. Some research on the VRA has looked at voter participation at the county-level, where elections are administered, but much of that research looks only within covered counties. County election boards in the covered counties were tasked with seeking Section 5 preclearance; it is thus critical to understand how that federal oversight influenced voter participation at the level of the law's implementation. Further, it is not entirely clear how *durable* improvements in political participation have been, how political participation in non-covered jurisdictions compare, and importantly, what to expect now that Section 5 is no longer in place. The current study seeks to add to the literature on the VRA by tackling these important questions.

Recent research on the VRA has used regression discontinuity designs to isolate the effect of the Section 203 provision, which requires language assistance for language minority groups in certain jurisdictions, primarily impacting Latino, Asian American, and Native American communities in the United States (Fraga and Merseth 2016; Hopkins 2011; Jones-Correa 2005; Parkin and Zlotnick 2014). Such important work draws links between access to non-English language voting materials and increased voter turnout and registration among language minorities. These findings collectively suggest that a federal mandate to standardize the election materials among jurisdictions meeting certain population thresholds results in greater political incorporation of minorities. Yet as of this writing, I have found no works that use a regression discontinuity design to isolate the "treatment" effect of Section 5. The current research expands on foundational work on the VRA showing the great impact the law had on voter turnout in the South in the early years (Grofman and Davidson 1994); it expands upon such analysis by quantifying its effect in its latest years of implementation, as well as the effect of removing the preclearance requirement from the covered jurisdictions.

Determinants of Voter Turnout

Explaining voting patterns and the determinants of voter behavior is one of the richest and most venerable research programs in political science. This extensive literature often starts from the premise that voting is costly and ineffective at the individual level, therefore voter participation is a paradox in need of explanation (Downs 1957; Riker and Ordeshook 1968). Though voter turnout in the United States is comparatively low, people do vote, if in uneven patterns (Blais 2000; Verba, Schlozman, and Brady 1995). Beyond the theoretical questions about whether people vote to satisfy impulses of civic duty, to respond to social pressure, or contribute to a collective good (Abramson and Aldrich 1982; Martinez 2013)—what are the institutions, political circumstances, and individual characteristics that drive participation in elections in the United States?

Because the literature on voter turnout in the United States is vast, it is helpful to organize several dimensions identified by political scientists. Determinants of voter turnout might be

grouped into three categories: **institutional**, **political**, and **demographic**. Each of these elements shapes and interacts with turnout trends over time.

The political science literature has pinpointed a number of institutional determinants of voter turnout. Institutional factors include laws, rules, and procedures that **directly grant or limit participation in the franchise**, such as voting age laws; the constitutional amendments extending the franchise to blacks, former slaves, women, and 18 to 20 year olds; and poll taxes, property requirements, literacy tests, white-only primaries, closed primaries, and others. Another set of institutional factors influence turnout by **regulating the convenience of the voting booth**, such as early voting laws, registration laws, vote by mail, motor voter, the number of polling places in a district, and other laws that either ease or restrict voters' ability to cast a ballot. A third set of institutions that affect voter turnout are **related to the structures of government**, such as district versus at-large elections, simultaneous timing with Presidential elections, and non-partisan versus partisan elections. In the landmark book *The American Voter*, Campbell et al. (1960) showed that institutional determinants can be context specific: literacy tests and residency requirements had no effect on turnout in Northern states, while poll taxes and residency requirements decreased turnout in the South by nearly ten percentage points.

Political determinants of voter turnout refer to the political circumstances of the electoral contests that drive voter participation levels. Such factors are numerous, but can include incumbency status of candidates (Jacobsen 1987), competitiveness of a race (Fraga and Hersh 2010), whether an election is partisan or nonpartisan (Schaffner, Streb, and Wright 2001), the intensity of the partisan competition (Timpone 1998), direct democracy (Donovan, Tolbert, and Smith 2009), the amount of money spent on a race (Cox and Munger 1989), exposure to advertising or other voter contact, messaging—or the type of voter contact (Ansolabehere and Iyengar 1995), and "electoral saliency"—whether an individual's participation is likely to impact policy (Martinez 2013). Mobilization efforts by parties, candidates, and interest groups also matter, and direct voter contact has been found to be the most effective means of convincing voters to turn out (Green and Gerber 2000; Michelson 2003). In order for a voter to make an investment in the "cost of voting," moreover, several political and institutional factors must align (Downs 1957; Riker and Ordeshook 1968). For example, Brown, Jackson, and Wright (1999) find that a more liberal ideological statehouse "promotes turnout, but that it does so by facilitating registration, especially among the poor" (Brown 2013). Bobo and Gilliam (1990) and Lublin and Tate (1992) find that black turnout increases when cities have a black mayor or black mayoral candidates, respectively, indicating the important contextual factor of trust and efficacy.

Demographic factors refer to research showing that distinct segments of the voting age population turnout at different rates: age, race, ethnicity, education, income, and mobility all correlate with turnout. Partisanship, moreover, and partisan loyalties, are also hugely important to voting behavior (Bartels 2000) and turnout. Of course, institutional and political factors can influence the extent to which demographics determine voting patterns. Personal attributes, along with attitudes toward government and integration into civil society also affect turnout (Abramson and Aldrich 1982; Verba, Schlozman, and Brady 1995).

A vast literature on these individual-level characteristics uses survey data to dissect the extent to which demographics, partisanship, and political efficacy are intertwined with the propensity to vote. Scholars have combed the American Community Survey (ACS), the General Social Survey (GSS), the American National Elections Study (ANES), and countless other public opinion polls and surveys to understand *Who Votes?* (Leighley and Nagler 2014; Wolfinger and Rosenstone 1980), as well as when, how, and why they vote. This scholarship often pairs the political and structural context with survey data to understand the differential impact of various institutions on participation and voting behavior across demographic and political subgroups. Generally, this research shows that younger, poorer, less educated, male, unmarried, nonwhite, and those who identify as Democrats or no party at all are less likely to vote than those who are older, wealthier, more educated, female, married, white and Republican. There are of course exceptions to these trends, particularly depending on the political context (as mentioned above), such as the stakes of an election, mobilization efforts, and period of time. Further, although demographic and political features of an individual can be characterized to drive national trends in voting, it is also the case that much of these trends vary significantly when examined as smaller levels of aggregation, such as the county, municipal, and even precinct and neighborhood level (Gimpel, Dyck, and Shaw 2004).

Institutional Determinants of Turnout

Since this dissertation is concerned with the impact of a formal institution on voter turnout, it is helpful to examine previous findings in the institutional literature at some depth. This will help evaluate the importance of the quantitative findings in subsequent sections.

Basic institutional features of voting include baseline eligibility. For most elections in the United States, a person is eligible to vote if she is at least 18 years of age, a citizen (in virtually all elections), not a convicted felon (in most states), and registered to vote with state or local authorities. It is important to note that this was of course not always the case—as voting was once a right only of property-owning white males. Scholars have examined each of the expansions (and contractions) of the franchise, and of course, there are consequences for the level of voter turnout. While expanding eligibility may imply that more people vote, this is only true in absolute terms, not relative terms. For example, after 18 to 20 year olds entered the electorate in 1972, overall turnout declined, as these voters were less likely to cast a ballot. Rosenstone and Hansen (1993) demonstrate the complex question of why, despite increases in education from the 1950s to the 1980s, there was a decrease in turnout in elections. Weaker partisan loyalties among the younger generation, and less integration into social life, are partial explanations for the lower propensity to vote among 18 to 20 year olds (Burnham 1982). Fewer efforts by parties to mobilize (Shea and Green 2007)—as well as their ability to mobilize (Powell 1986)—and incorporate this segment of the electorate also mattered. Another case of uneven turnout in the aftermath of an expansion of voting rights relates to the VRA directly. As blacks re-entered the electorate as a result of the law, voter registration and turnout increased markedly throughout the South, especially in the covered counties. Yet, progress was not consistent across jurisdictions and still lagged in the South relative to the North (Bositis 2006).

Registration requirements are a key institutional determinant of voter turnout. Enfranchisement has been discussed in the political science literature as a "two-step" process: voters must first register before they can vote (Fenster 1994; Rosenstone and Wolfinger 1978). Since registration is not automatic in the United States, individuals must overcome hurdles just to be placed on the voter rolls. In the post-Reconstruction era, several of these hurdles refer to basic eligibility; literacy tests, grandfather clauses, and "good morals" tests were outlawed with the VRA and subsequent laws, and the poll tax was outlawed for federal elections by the 24th Amendment in 1964 and for all elections in 1966. Scholars such as V.O Key, J. Morgan Kousser, Richard Valelly, and others (Highton 2004) have extensively documented the great extent to which these mechanisms suppressed turnout (Rusk and Strucker 1978) and essentially excluded entire groups of people from participating in the political process (Alt 1994). These laws disproportionately affected blacks' and poor whites' access to the ballot box (Key 1949).

The most egregious barriers to voting were repealed during the Civil Rights Era, including explicit barriers to registration and turnout for minorities (white primaries and grandfather clauses), lower-income voters (property requirements and poll taxes), and lower education (schooling requirements and literacy tests). Nonetheless, modern registration laws can still inhibit exercise of the franchise by making the process more cumbersome. Multiple studies have documented the extent to which current registration requirements (both restrictive and expansive) impact voter turnout. The research shows that regardless of whether laws are intended to increase the costs of voting, or are merely implemented for practical reasons, there are significant implications for turnout across disparate groups in society. Indeed, at a basic level, registration encumbers voting (Burden and Neiheisel 2011; Powell 1986), especially for those with lower income and education (Brown 2010; Piven and Cloward 1988).

Wolfinger and Rosenstone (1980) laid much of the groundwork for current scholarship on how registration laws shape turnout. Wolfinger and Rosenstone (1978; 1980) highlighted that the costs of voting matter; getting over the hurdle of registration was a key determinant of a voters' propensity to turnout. Indeed, they found that the liberalization of registration laws would have increased turnout in the 1972 Presidential Election by about nine percentage points, although the demographic composition of that larger electorate would have been remarkably similar to the actual electorate (Wolfinger and Rosenstone 1978). In other words, while turnout for blacks, especially in the South, would benefit from more relaxed registration requirements, such increases in turnout would not necessarily translate into more political influence for blacks.

The specific features of registration rules and procedures also matter. In addition to showing that registration requirements alone suppress turnout, Wolfinger and Rosenstone (1980) find that early deadlines to register matter. Others have come to similar conclusions: making the registration process easier would boost turnout (Mitchell and Wlezien 1995; Teixera 1992). A host of additional research documents that a variety of state-level registration rules, such as residency requirements (Squire, Wolfinger, and Glass 1987), felon disenfranchisement laws (Bowers and Preuhs 2009), procedures for counting provisional ballots (Kimball and Kropf 2006), and methods of purging voter rolls (Wolfinger and Highton

1995), all have significant implications for turnout and; under some circumstances, these institutions can change election outcomes (Uggen and Manza 2002). These findings matter for assessing the impact of the VRA over time: if more inclusive registration laws in and of themselves do not increase political access for minorities, then what mechanisms interact with these laws to maximize turnout and representation? The implications of this question might be particularly relevant outside of covered jurisdictions (which are mostly in the South), where elections were not overseen by the federal government from 1965 to 2013.

If restrictive registration laws suppress turnout (Jackson, Brown, and Wright 1998), which demographic groups are disproportionately impacted, for which elections, and in which jurisdictions? Registration laws vary significantly at the state- and local-levels in the United States (Hajnal and Lewis 2003), providing political scientists and others with ample subject matter to understand which types of institutions promote or limit voter turnout. One example that has been examined extensively in the literature is registration closing dates before Election Day; closing dates lower turnout as the length of time to register before an election decreases (Kelley, Ayres, and Bowen 1967; Wolfinger and Rosenstone 1980). Further, having no, or relaxed, closing dates to register, a practice in a handful of states, results in higher turnout (Brians and Grofman 2001; Highton 2004). Residency requirements, although they have become less stringent over time, are also important determinants of turnout, and particularly affect more mobile populations such as college students and young people. The current law in North Carolina requires that a person must reside in a county for at least 30 days before registering in the same county.

Other seemingly mundane rules that relate to election information, access, and procedures can also have significant effects on voter turnout. For example, laws dictating how election information is dispensed—such as notifying registrants of their polling place location prior to the election—affects turnout. Turnout is also higher among language minorities when access to ballots and election information in their native language is mandated by the federal government (Jones Correa 2005; Ramakrishnan 2005). Access to the ballot, moreover, can take many forms and can increase or decrease turnout. The locations of polling places (Brady and McNulty 2011; Dyck and Gimpel 2005; Haspel and Knotts 2005), how many people are served by a polling place, the number of hours people have to vote on Election Day and in the days prior (Wolfinger, Highton, and Mullin 2005), electronic voting (Gibson 2001), and numerous other structures of election administration tend to impact turnout rates.

Voter identification requirements, often thought of as a "second generation" form of disenfranchisement, create another barrier to voting for people who have already registered and have taken the first step to participate. The social science research on voter ID is somewhat mixed, though numerous studies have documented that voter identification requirements are more likely to affect minorities (Cobb, Greiner, and Quinn 2010), and these requirements place major restrictions on access to the vote for minorities (Hajnal, Lajevardi, and Nielsen 2017; Logan, Darrah, and Oh 2012), or those who are less educated or lower-income (Alvarez, Bailey, and Katz 2008) in particular. Others find that voter turnout decreases among all registrants lacking a voter ID, regardless of race or ethnicity (Hood and Bullock III 2012). A few studies show that voter ID requirements either have no effect (Rocha and Matsubashi 2014), or actually a positive effect, on turnout (Larocca and Klemanski

2011). The context of voter ID requirements may also matter. Citrin, Green, and Levy (2014) show that providing additional information about voter ID requirements, coupled with ways to help obtain an ID, boosts turnout among low-propensity voters. Nonetheless, "second generation" efforts to restrict access to the vote go beyond voter ID, as evidenced by research showing that small changes in election practices, such as consolidating polling places, can decrease turnout (Brady and McNulty 2011).

Other institutional determinants of voting relate to the structure of elections—for example, district versus at-large elections (Grofman and Davidson 1994), majority-minority districts, primary versus general elections, and rank choice voting, to name a few. These election structures can have profound impacts depending on the size and demographic composition of a district. The design of electoral institutions has been a focal point of VRA enforcement and vote dilution litigation over time (see *Thornburg v. Gingles* 1986), as the stakes are often high for turnout and the ability of minorities to select candidates that represent them (Engstrom 1994). Katz et al. (2005) analyze Section 2 lawsuits, showing that there have been significant voting rights violations at the local-level, largely because of at-large election systems and discriminatory redistricting efforts; plaintiffs from covered jurisdictions were more successful than those in uncovered jurisdictions. Barreto, Segura, and Woods (2004) find that residing in several majority-Latino districts boosts turnout among Latinos, but decreases turnout for non-Latinos. Gay (2001) finds that majority-black districts have little effect on increasing black turnout, but at the same time do not have a demobilizing effect on blacks, but rather on whites.

Not all recent voting laws are restrictive; indeed "liberal" voting laws—allowing for more days to register before an election or even election day registration, more time during days and evenings to register, and absentee registration are associated with higher turnout (Brown, Jackson, and Wright 1999; Glass, Squire, and Wolfinger 1984; Knack and White 2000; Mitchell and Wlezien 1995; Wolfinger and Rosenstone 1980;).[25] Other methods intended to make voting easier, such as all vote-by-mail elections, have mixed results in boosting turnout (Kousser and Mullin 2007). A prime example of modern efforts to expand access is the National Voter Registration Act (NVRA), also known as the "motor voter" law. The NVRA expanded registration access by mandating that states allow registration at DMVs and other government establishments. In North Carolina, as in many other states, this quickly resulted in much larger voter rolls (McLaughlin et al. 2003).

Research on the impact of the NVRA, nonetheless, is mixed. While turnout in North Carolina declined from 1992 to 1996 from 68.4 to 58.8 percent (NCSBOE), Knack (1999) finds that turnout throughout the country would have dropped more without the NVRA. Although several scholars have found that the NVRA increased registration (Brown and Wedeking 2006; Hill 2003), there is less evidence that such an increase corresponded to higher levels of voter turnout. And further, the NVRA may have inadvertently decreased voter turnout in relative terms *among registered voters* because it expanded the pool of registrants to include

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[25] As mentioned above, North Carolina is an interesting case for examining a variety of institutional changes to the registration process not only because it is partially covered under Section 5 of the VRA, but because the state has gone through a period of liberalization of voter registration procedures and subsequent implementation of restrictive procedures after Section 5 was lifted.

more people of lower income and education levels, who are less likely to cast a ballot (Brown 2010). Indeed, the literature on voter turnout is well established and vast. This paper does not seek to address all of these facets of voter turnout. Rather, it looks closely at how one particular institution, which shaped elections for nearly 50 years in the United States, affected turnout in one state, North Carolina.

The Voting Rights Act and Voter Turnout

Where does the Voting Rights Act fit among the vast research on voter turnout? The political science literature on the VRA has three main pillars. First, the effect of the law on voter participation—primarily registration and turnout. The second main pillar of research on the VRA examines the law's impact on voters' behavior—whether blacks and whites crossover and vote for candidates of the other race. Crossover voting can be considered an indicator of voting discrimination, especially as political polarization deepens and it becomes more intertwined with race (Ansolabehere, Persily, and Stewart III 2012, Hajnal and Lee 2011). Third, researchers assess the extent to which the VRA has helped increase minorities' descriptive representation in public office (Shah, Marschall, and Ruhil 2013), and in turn, substantively (Schuit and Rogowski 2016). Much of the debate surrounding this third pillar of research relates to the ways the law has influenced electoral institutions, such as majority minority districts (See: Guinier 1991; Cameron, Epstein, and O'halloran 1996), redistricting at the state-level, and the size and makeup of districts at the local-level (Grofman and Davidson 1994). On the one hand, such research examines the extent to which lawsuits under Section 2 and preclearance under Section 5 deter local and state governments from enacting voting changes that make it harder for minorities to vote (MacCoon 1979; Katz 2006; 2013). On the other hand, researchers examine the relationship between majority-minority districts, district versus at-large elections, and other institutional designs to understand these effects on minority political incorporation (Grofman and Davidson 1994), with a focus on the covered jurisdictions.

The volume edited by Grofman and Davidson (1994) tackles a range of important questions related to effect of the VRA—from how it impacted minority enfranchisement to how electoral institutions improved black office-holding—across Section 5 jurisdictions. In particular, districts switching from at-large to district elections are key to increases in black representation. These election structures tend to prevent minority vote dilution. Timpone (1997), for example, finds that initial sharp gains in black registration in Mississippi after the VRA's implementation did not immediately translate into increases in black office holding. Conducting a time-series analysis (1964 to 1993), the author explains that the Supreme Court's prohibition of vote dilution in *Allen v. State Board of Elections* in 1969, as well as the broadening in scope of the VRA, accelerated the rate of black representation. Grofman and Handley (1991) show that in the first 20 years after the enactment of the VRA, the proportion of black legislators skyrocketed due to an increase in the number of black districts in which at least 60 percent of the district is black. Single-member districts proliferated due to VRA enforcement, while the number of multi-member and at-large districts—which had a diluting effect on the black vote—decreased (Grofman and Handley 1991). Federal government intervention allowed by the VRA, rather than redistricting or a drop in racial

polarized voting, was the mechanism behind institutional change (Grofman and Handley 1991).

More recently, work by Shah, Marschall, and Ruhil (2013) compares gains in black office holding at the local level in covered versus non-covered jurisdictions, and find that the VRA has increased descriptive representation for minorities on city councils from 1981 to 2006. Covered and uncovered jurisdictions had similar proportions of black elected officials until the 1990s; at that time, covered jurisdictions became more representative. They confirm research showing that black council members are most likely found in majority black districts; yet, for covered jurisdictions, modestly black districts saw greater gains in representation than similar uncovered jurisdictions. This suggests that Section 5 was effective in increasing representation for blacks in general, not only in majority-black jurisdictions. These findings have important implications for North Carolina, a state where there are multiple pockets of majority-black districts, as well as several uncovered counties which did not have oversight, but still had sizable minority populations of blacks. While the current study does not address the effect of the VRA on representation explicitly, identifying its effect on participation in North Carolina will help draw links to representation in future research.

On the question of voter turnout and registration specifically, there is virtually no real disagreement that since the VRA's passage, political participation of black Americans has seen dramatic progress. What is less clear, however, are the reasons why participation has been uneven across the South and across time, after an initial surge in voter registration immediately after 1965. It is also less clear how effective preclearance was as a policy to oversee election changes and hold jurisdictions accountable for rules that could inhibit minority political participation. Several studies of the VRA have shown great insights into the effect of the law by analyzing participation rates throughout the South among both blacks and whites (see: Stanley 1987[26]; Grofman and Davidson 1994; Bullock III and Gaddie 2009).

Numerous expert reports and academic studies explains the extensive role the VRA has played in improving participation for minorities. The institutional impetuses to these improvements, nonetheless, have been scrutinized and debated since the VRA's passage. Timpone (1995), for example, argues that it is important to not consider the VRA in isolation when assessing its effect on voter registration in particular. While the VRA's influence on black voting is "undeniable,"—it was not the primary force. Analyzing aggregate registration figures over time, he attributes grassroots mobilization drives as key to increasing black voter registration, starting with the Voter Education Project even before 1965. Still, he acknowledges that the VRA's enforcement by federal examiners specifically was necessary to drastically increase registration in states with the greatest histories of discrimination— Alabama, Louisiana, and Mississippi. Here, Timpone (1995) highlights some of the important

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[26] Stanley (1987) excludes an explicit examination of the Section 5 provision from his analysis on the southern electoral expansion from 1952 to 1984. The author's rationale for not including a VRA dummy variable in his multivariate regression analysis on turnout is that it causes issues of multicollinearity with other variables related to the VRA, such as literacy tests and federal examiners. The current analysis addresses that problem by isolating the analysis to a single state, North Carolina, which had no federal examiners. Furthermore, because there is variation on coverage status within the state, we can compare changes in turnout across covered versus non-covered jurisdictions, over different time periods, to show that VRA had significant effects even decades after literacy tests were suspended.

nuances in the debate surrounding the impact of the VRA—that progress has been uneven, and that idiosyncratic mechanisms have worked jointly with the law to increase access to the ballot box, depending on the location and history of discrimination.

In the *Triumph of Voting Rights in the South*, Bullock III and Gaddie (2009), conduct a state-by-state analysis of the impact of the VRA over time. The authors describe progress in voting and representation since the VRA's passage "substantial if not unimagined" (5). Improvements are especially greatest "where the Act has been in force the longest," though they also explain that progress has been uneven (Bullock III and Gaddie 2009, 5). The analysis aggregates data on voter registration, turnout, and representation at the state-level across time, and compares covered states in the South to non-covered and partially-covered states. Creating a composite score for each state, the authors produce rankings according to each state's levels of registration and turnout, and the number of black and white elected officials. They find that Alabama, Mississippi, North Carolina (partially covered), and Georgia fared the best, while Arkansas (uncovered), Virginia, Texas, and Tennessee (uncovered), fared the worst. Based on their comparative analysis, they suggest that 1) states subjected to Section 5 saw more progress than those that were not, and the earlier exposure to the law, the greater the impact; 2) blacks generally progressed better—both in terms of participation and representation—in places where they comprised a larger proportion of the population; and 3) an array of other factors might help explain the relative rankings of the states such as "mobilization efforts, relative strength of the Democratic and Republican parties, leadership within the black community, fundraising, and other elements…" (Bullock III and Gaddie 2009, 340).

While the authors produced a compelling comparative analysis of Southern states and VRA coverage, their study has limitations for unpacking the *why* behind states' relative rankings. For one, aggregate-level analysis obscures important contextual differences that exist at the county-level, where elections are administered. Looking at partially-covered states—North Carolina and Florida in particular—in terms of state-level progress obscures the fact that only select jurisdictions were subject to Section 5 preclearance. Finally, while the bulk of the book traces longitudinal changes by state, the comparative analysis of participation and representation metrics only focuses on one year, 2004. This may limit our understanding of how participation and representation among the Southern states are either in flux or consistent over time. Pinpointing when the most progress has been accomplished will help to understand the contextual factors that contribute to that progress.

The authors do include North Carolina as a case-study. In particular, Bullock III and Gaddie (2009) use data from the Census and the North Carolina State Board of Elections to lay out various trends in voter participation and representation from the VRA's implementation until 2006. The authors find that while the levels of participation between blacks and whites have narrowed, black voters continue to register and turnout to vote less often than whites (Bullock III and Gaddie 2009, 218).[27] The study also shows that blacks are not yet represented proportionally and that "race still plays a role in white voter decisions" (Bullock III and Gaddie 2009, 218). There is thus a lack of crossover voting as well. White Democrats

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[27] One exception in their analysis is the year 2004, when black registration and turnout exceeded white registration for the first time, a trend that did not repeat in 2006 (Bullock III and Gaddie, 2009, 193-194).

are more likely to vote for white candidates than black candidates, regardless of incumbency status (Bullock III and Gaddie 2009, 218).

On the issue of crossover voting, Blum (2006) finds similar results, though notes that blacks have nearly achieved proportionality in representation: for example, in 2004, blacks comprised 20.5 percent of the voting age population, and held 15.3 percent of the seats in state legislatures (Blum 2006, 1). Ansolabehere, Persily, and Stewart III (2012) offer several reasons why racially polarized voting might result in a negative impact on minority voting rights. For one, blacks and other minorities will have a harder time electing candidates that will represent them descriptively *and* substantively if "a white majority [is] unwilling to cross over to vote for minority-preferred candidates" (Ansolabehere, Persily, and Stewart III 2012, 208). A consequence of racially polarized voting, therefore, is that political preferences become entrenched in race, and discrimination is thus incentivized to protect incumbents and partisan advantage. The authors find that on average, there are statistically significant, higher levels of racially polarized voting in covered than in uncovered jurisdictions (Ansolabehere, Persily, and Stewart III 2012).

Although the election of Barack Obama as president left an impression that racial polarization in voting decreased in 2008, the authors show that "racial polarization had actually increased in the 2008 election" (Ansolabehere, Persily, and Stewart III, 205). In covered states, Obama's vote share dropped two points among whites, whereas in uncovered states it actually increased six points. The authors use data from 2000 to 2012 and find that racial polarization in voting increased in covered jurisdictions over that period, even accounting for partisanship. In the 2014 congressional elections, when Republicans gained control of the U.S. Senate and picked up 13 House seats, racial polarization in voting persisted: 62 percent of whites voted for Republicans compared to just 10 percent of blacks (Brown-Dean et al. 2015). Race may play an even greater role still in local elections. In a recent study of five major U.S. cities, the racial gap in voting exceeded both the ideological and partisan gap (Hajnal and Trounstine 2014).

Ansolabehere, Persily, and Stewart III (2012) conclude that the differences in racially polarized voting between covered and uncovered jurisdictions suggest that the VRA's coverage formula was still relevant; they argue that "voting in the covered jurisdictions as a whole is becoming more, not less, polarized over time" (Ansolabehere, Persily, and Stewart III 2012, 220). Less than a year before the *Shelby* decision, the authors note:

> "All involved in the debate over the VRA must admit…that we do not know exactly what the world will look like if Section 5 is struck down. Of course, the South would not revert back to Jim Crow days: politics has evolved beyond the days of threatened lynching for the exercise of the franchise. But the many examples in the legislative record of voting rights violations prevented by the VRA hint at what might happen if the covered jurisdictions were otherwise unconstrained. Even if Jim Crow will not return, the familiar regional pattern of discrimination might, as new stratagems replace old ones with minority voters becoming collateral damage in increasingly vicious partisan fights" (Ansolabehere, Persily, and Stewart III 2012, 206-207).

Prior to *Shelby*, others argued that Section 5 was not necessarily needed anymore to protect voting rights in the South. For example, Bullock III and Gaddie (2009) maintained that Section 5 already served its purpose and that all jurisdictions would still be protected under Section 2:

> "The initial goals of the VRA—removing barriers to black registration and turnout—have long since been attained. The more recent goal of facilitating the election of candidates preferred by minority voters has also achieved great success. The remaining concern is whether in the absence of the federal oversight authorized by Section 5 subject jurisdictions would unravel the advances of the last two generations. The potential for that happening seems slight. Suit can be brought under Section 2, a tool used extensively in jurisdictions far beyond the sixteen states wholly or partially covered by Section 5." (Bullock III and Gaddie 2009, 360).

The two quotes above certainly highlight the different perspectives held among VRA observers on the implications for eliminating Section 5. Unpacking this debate, and understanding what will happen to jurisdictions over time, now that the enforcement provision has been lifted, will require more fine-grained analyses of where, when, and why Section 5 was effective.

The literature more often looks to pinpoint the effect of the VRA on covered jurisdictions, rather than comparing covered and uncovered jurisdictions. This focus may have left a hole in our understanding of the development of local-level electoral institutions across the United States since 1965. Much of the comparisons drawn are in the aggregate. A few studies compare registration and turnout rates between covered and uncovered counties in North Carolina, specifically. Keech and Sistrom (1994) explain that black registration in North Carolina as a whole did not see such significant increases after the implementation of the VRA as did places such as Mississippi. Part of the explanation for these distinct trends was that black registration rates in North Carolina were starting from a relatively better standpoint than in the Deep South. The story of progress in North Carolina is one of "slow and steady" improvements, in which black and white registration rates converge over time (Keech and Sistrom 1994).

This evaluation bears out in the analyses below, where we see convergence of turnout rates in the covered versus uncovered jurisdictions over time, and a positive effect of Section 5 when interacted with time, though the covered jurisdictions never fully catch up to the uncovered jurisdictions. The authors, moreover, explain that the proportion of the electorate that was black in the covered counties increased by nine percentage points by 1990, while at the same time that fraction only increased three percentage points in the uncovered counties (Keech and Sistrom 1994, 161). When looking at a more complete time period between 1972 and 2012, however, the proportion of all blacks in covered counties decreased from approximately 54 percent to 47 percent, and increased in the non-covered counties from 46 percent to 53 percent.

In the most extensive study I have found in this regard to date, Thompson (1986) employs a quasi-experimental research design, breaking up North Carolina's counties into two

groups—40 "experimental", those covered by Section 5, and 40 "control" counties—those being uncovered but similar to the experimental counties. Counties were matched using an index of socioeconomic variables, including percent minority and black median income. The findings indicate that voter registration increased far more over time in covered than in uncovered counties. In addition, larger increases in registration rates were not limited to blacks in covered counties, but the study showed parallel increases for white voters. Thompson (1986) lacked data on voter turnout to adequately compare covered to uncovered counties, but did find significant increases in turnout among blacks *within* Section 5 counties, though Thompson's data ends in 1976. Thompson's study also provides evidence that the 50 percent cutoff point for coverage was accurate in identifying counties that were the most discriminatory (Keech and Sistrom 1994).

A more recent study by Cascio and Washington (2013), analyzes voter turnout in states with former literacy tests, and compares them to states that did not have literacy tests in order to assess how turnout affected the distribution of state resources to local governments; the analyses is at the county-level and the study includes North Carolina counties. Employing a difference-in-differences model, the researchers find that literacy test states observed significant gains in turnout over time (Cascio and Washington 2013, 394), more so than the non-literacy test states; these findings line up with Valelly (2006) in his explanation of how black registration rates increased much more in the literacy test states in the South after the VRA was implemented than in other southern states. Cascio and Washington (2013) collect county-level data in the early period of the VRA that is very similar to the current study. Yet, the researchers' work differs from the current analysis because it explicitly identifies the effect of the suspension of literacy tests on turnout, rather than Section 5. Therefore, the entire state of North Carolina is treated as a literacy test state. The independent effect of Section 5, in turn, is not isolated. This study attempts to isolate the effect of Section 5 in order to untangle differences between covered and uncovered jurisdictions on the metric of voter turnout.

Data and Research Design

To answer the core research questions, I compiled a comprehensive dataset of voter turnout, demographics, and institutional and political characteristics in all 100 North Carolina counties from 1950 to 2016. The statistical analyses below were conducted on subsets of this large dataset, depending on the exact research question. The dependent variables examined are voter turnout in presidential, U.S. Senate, and U.S. House elections. Turnout is a percentage calculated as the total number of votes cast in each contest, divided by the voting age population, for each individual county.[28] For each contest, the number of votes by

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[28] All of the analyses in this paper use the voting age population, rather than the citizen voting age population (CVAP). The CVAP is a preferable denominator (McDonald and Popkin 2001), because it excludes non-citizens, felons, and some overseas voters who cannot vote, thus providing a better approximation of the population eligible to vote. While this measure is used in several state-level studies on voter turnout, this measure is not available at the county level in North Carolina. Further, although not reported, controls for foreign-born were used in many of the regression models throughout the paper, and there were no substantive changes to the results. In 1950, the foreign-born population in North Carolina was 0.40 percent, in 1970 it was still less than one percent (*U. S. Census Bureau* 1999), and in 2016 it was 8.8 percent.

county was obtained from the ICPSR General Elections of the United States study, the Congressional Quarterly (CQ) Voting and Elections Collection, or the North Carolina State Board of Elections. For the denominator, voting age population by county is taken from the decennial census before 1972, and then linearly interpolated for intercensal years. Voting age population by county after 1972 are yearly estimates from the North Carolina State Board of Elections, also generated from the decennial census.

The independent variable of interest is Section 5 coverage status at the county level. Counties are coded '1' in each year a county was covered, and '0' in each year a county was not covered.

The dataset also comprises county-level demographic variables, including the percentage of the population that is black, the percentage of the population that is Hispanic or Latino, personal income per capita adjusted to 2015 dollars, the percentage of the population dwelling in urban areas, the percentage of the population that is college-educated, the percentage of the population that is over 65 years old, the percentage of the population that is foreign born, and the percentage of workers who are government employees. These demographic statistics were calculated using the decennial census and, where necessary, interpolated for intercensal years using a standard linear interpolation. Personal income per capita was taken from the U.S. Bureau of Economic Analysis and the U.S. Census, interpolated where necessary.

The dataset also contains indicators of political context for use as controls variables, including the incumbency status of candidates and whether any House races in a given county were uncontested. County-level party registration rates, drawn from official North Carolina State Board of Elections figures, are also included.

Why North Carolina?

One challenge with research on voter registration and turnout generally is that it is difficult to isolate the independent effect of an institution in cross-jurisdiction comparisons. Ansolabehere and Konisky (2006) point out that cross-state comparisons of registration and turnout, in particular, omit important variables. For example, laws that regulate how election information is distributed and how to register as an absentee voter vary across states. Ansolabehere and Konisky (2006) examine the effect of introducing registration on turnout by conducting a county-level analysis within two states, therefore holding confounding state-level election rules constant; the authors find that the introduction of voting registration requirements reduces turnout. While their study largely overcomes the issue of cross-state comparisons, other restrictive registration laws were introduced during the period analyzed, introducing additional confounding factors.

The empirical approach taken here is to analyze county-level voter turnout in a single state that has a unique pattern and scope of Section 5 coverage. North Carolina may be as close as researchers can get to a natural experiment for assessing how Section 5 oversight influenced voter participation. Section 4 of the Voting Rights Act defined the threshold for oversight in Section 5: jurisdictions fell under federal supervision if state or local authorities used a 'test' or 'device' to screen voters in the 1964 presidential election and voter turnout fell below 50

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percent of the voting age population in that same election.[29] The implementation of this threshold landed North Carolina in a unique situation: it had a statewide literacy test in place in 1964, but statewide voter turnout was 52 percent in the presidential election that year, meaning that North Carolina escaped coverage at the state level. Federal authorities then examined county-level turnout, and determined that 39 counties out of 100 fell below the 50 percent turnout cutoff.[30]

Many counties fell just above or just below this cutoff: 35 counties fell within five percentage points above or below the coverage threshold, and 15 counties fell within 2.5 percentage points above or below the coverage threshold. The marginal counties falling just above and just below the turnout cutoff are especially important for comparison because the 50 percent threshold was essentially arbitrary. There is no substantive reason for a 50 percent cutoff, against, say a 45 percent cutoff or a 55 percent cutoff, and counties falling just on either side of the cutoff are likely quite similar on most dimensions.

North Carolina was the only partially-covered state in the original 1965 Act. Even after the coverage formula was amended in 1970 and 1975, North Carolina was still the only state in which there were close to an equal number of covered and non-covered jurisdictions; other states were either covered entirely (Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia) or had just a few covered jurisdictions (California, Florida, Michigan, New Hampshire, New York, and South Dakota). Just over half of the nonwhite voting age population in in North Carolina lived in a covered county. The distinctive pattern and scope of coverage in North Carolina provides a unique opportunity to analyze how political participation differed in covered versus uncovered jurisdictions.

In 1966, approximately 40 percent of the North Carolina's total voting age population lived in covered counties, and approximately 54 percent of its nonwhite voting age population lived in covered counties. Due to population and demographic changes, by 2012 only 34 percent of the total voting age population lived in covered counties, and 44 percent of the nonwhite voting age population lived in covered counties. As shown in Figure 3 below, a larger share of the black voting age population resides in the non-covered counties beginning just after 2000. Over this period, blacks have comprised about a fifth of North Carolina's total population—over two million people in 2012.

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[29] A test or device was a means by which jurisdictions excluded individuals from voting. Examples included literacy tests, good moral character tests, or having "another registered voter vouch for his or her qualifications" (*USDOJ* 2015).

[30] One additional county in North Carolina, Jackson County, was designated as a covered county under the language minority provisions enacted in 1975.

Figure 3
Percentage of Total Black Voting Age Population in North Carolina by Coverage Status 1972-2016
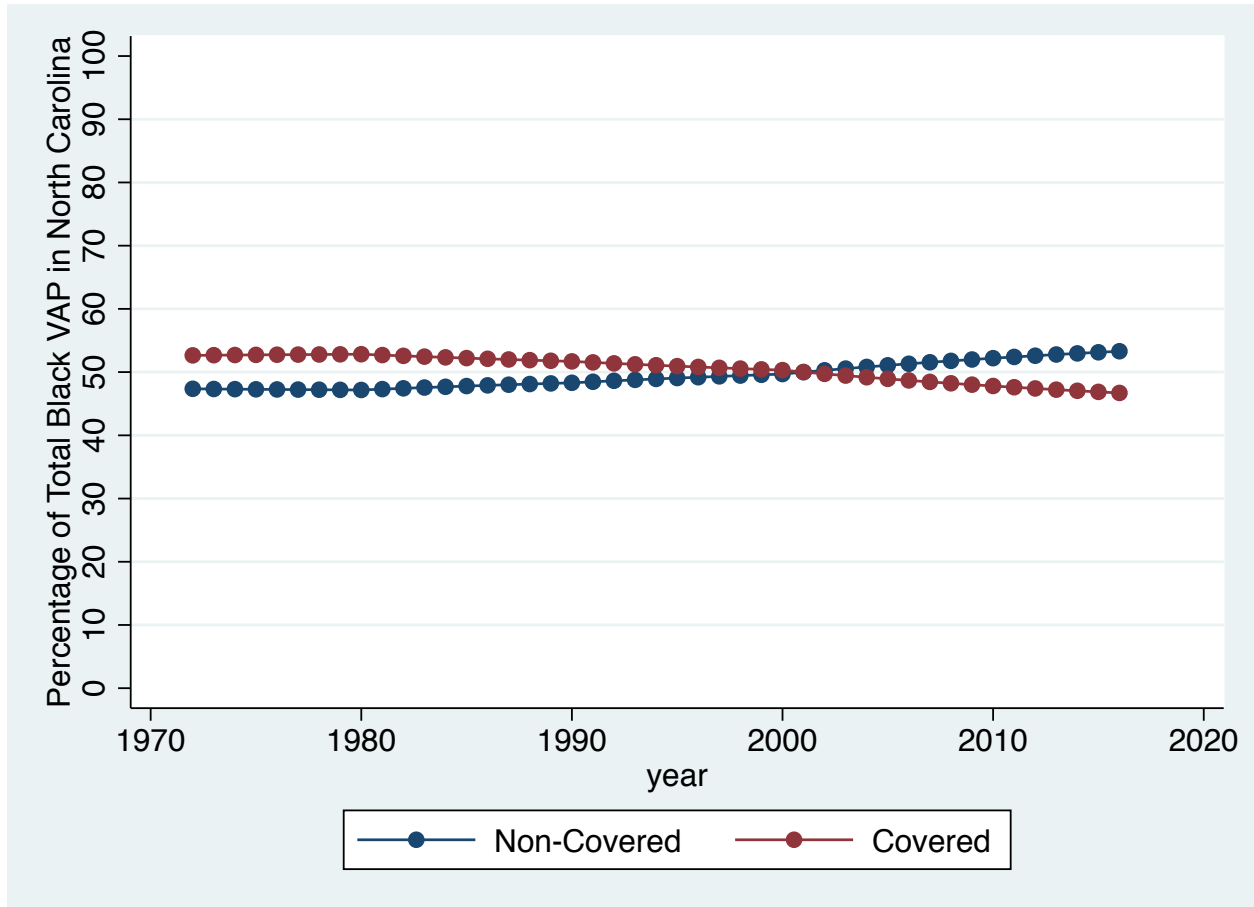
Focusing the analysis on a single state has the advantage of controlling for state-level factors that are difficult to observe or measure, and that complicate multiple-state analyses. Such factors include important drivers of voter turnout, such as changes to state voting laws, the ease of voter registration, state redistricting, political culture, centralization or decentralization, the size of electoral districts, and so forth. The vast majority of prior research on Section 5 has compared outcomes across states (see: Bullock III and Gaddie 2009; Bullock III, Gaddie, and Wert 2016). Indeed, this county-level analysis of participation assesses outcomes at the level of government where elections are actually administered. Counties in North Carolina are charged with registering voters and maintaining voter rolls, running polling places, and conducting elections. Counties were also responsible for submitting requests to the DOJ for Section 5 preclearance. Each county has a three-member board, appointed by the State Board of Elections, whose members are appointed by the Governor, regardless of a county's partisan makeup among its registrants. The appointments are at the discretion of the Governor, and thus are partisan; in every county in the state, two out of three election board members are of the same political party as the Governor.[31]

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[31] This fact has been confirmed by correspondence with multiple staff members of the North Carolina State Board of Elections.

Beyond questions of methodology and analytic leverage, North Carolina is an interesting case because it has long been considered "different" or "more progressive" than the other Southern states originally covered under Section 5 (Keech and Sistrom 1994). Indeed, in 1965, more blacks were registered to vote in the state than elsewhere throughout the South (Keech and Sistrom 1994). Male former slaves were incorporated into Republican politics during Reconstruction; black men held Congressional, state legislative, county commissioner, aldermen, and various other local-level political offices (Keech and Sistrom 1994). Nonetheless, North Carolina disenfranchised blacks along with other southern states in the post-Reconstruction era. Voter registration for blacks became rare and cumbersome and district lines were deliberately redrawn to dilute the black vote. Interestingly, North Carolina was one of the few Southern states that did not have a white primary to limit black participation,[32] though other means were used, such as literacy tests, a grandfather clause, poll taxes, and challenges to registration (Fleer 1968; Keech and Sistrom 1994). These mechanisms of disenfranchisement varied significantly by county; county elections boards largely operated independently from the state in administering elections prior to 1965 (Fleer 1968; North Carolina Advisory Committee 1961).

Indeed, prior to the passage of the VRA, a tremendous amount of discretion was placed on the county election boards and precinct officers in the administration of elections—from how the registration was processed, to how voter rolls were kept updated, to the locations of polling places. These seemingly mundane features of the franchise have been shown to affect turnout, even more recently (Gimpel and Dyck 2005; Haspel and Knotts 2005). One anecdotal example of local-level discretion is that prior to the VRA, several county registrars in North Carolina conducted registration solely out of their own homes—for many reasons, such as the practice being intimidating—and most certainly discouraged voters from registering (Fleer 1968). The implementation of Section 5 standardized much of election administration across *covered* jurisdictions. Further, the state's literacy test was immediately suspended in the covered counties; uncovered counties maintained the literacy test until 1970, when they were suspended nationwide (Keech and Sistrom 1994).

So, while North Carolina was relatively more "progressive" than other Southern states in terms of the extent to which there was a concerted effort to disenfranchise black voters, it is also a state where segregationists and former segregationists dominated politics throughout the post-Reconstruction era and through the Civil Rights Era. In recent decades, the state's demographics have transformed—including an increasingly younger and more Latino population, a growing technology sector, and an expanding middle class. North Carolina has been a presidential battleground state in the last three presidential elections. Moreover, the state's history and reputation as a state of contrasts (Fleer 1992) lends itself to an important and timely case for analyzing the legacy of the VRA.

Finally, North Carolina may serve as a microcosm of the post-*Shelby* environment. Prior to the Court's ruling, North Carolina had enacted numerous electoral reforms that incorporated new voters and increased participation, such as early voting and same-day voter registration (National Commission on Voting Rights 2014). After *Shelby*, these and other reforms were

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[32] Blacks were by and large, however, prevented from participating in "official activities" of the Democratic Party (Fleer 1968).

rolled back and new restrictive electoral laws were put in place. The extent to which participation rates differ in 2014 and 2016 from earlier years will reveal important information about the impact of removing oversight and rolling back electoral reforms.[33]

Voter Turnout in North Carolina

The following section presents time trends of voter turnout in North Carolina to set the context for subsequent analyses. Figure 2 below shows statewide voter turnout in presidential elections in North Carolina since 1952, along with turnout for covered and non-covered counties over the same period (more specifically, the weighted means of covered and non-covered counties). Figure 4 reveals an overall if uneven trend toward higher voter participation since the VRA's passage. Statewide turnout in presidential elections rose from 51.3 percent in 1952 to a local peak of 54.5 percent in 1968. Turnout then dipped to 42.9 percent in 1972, after the ratification of the 26th Amendment to the U.S. Constitution lowered the voting age nationwide to 18 years. Over the subsequent decades, presidential turnout in North Carolina climbed slowly to over 60 percent in 2008, 2012, and 2016.

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[33] Of note, because a federal appeals court struck down North Carolina's voter ID law, elimination of same-day registration, and roll back of early voting days on July 29, 2016, these restrictions were not in place for the 2016 election. However, other institutional changes could have possibly affected turnout, such as moving or eliminating polling places, (discussed in more detail in the section below), because of a lack of federal oversight in the covered jurisdictions.

Figure 4
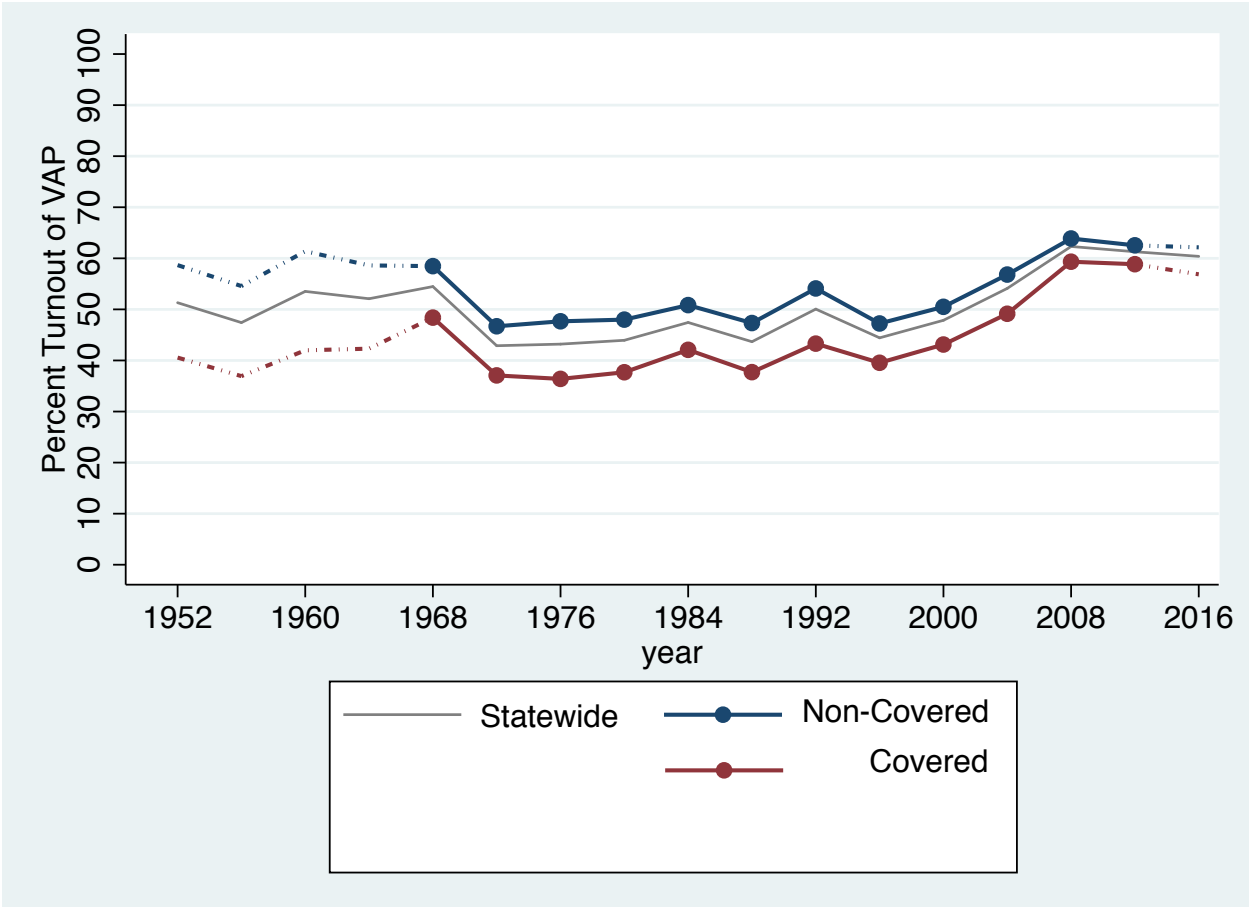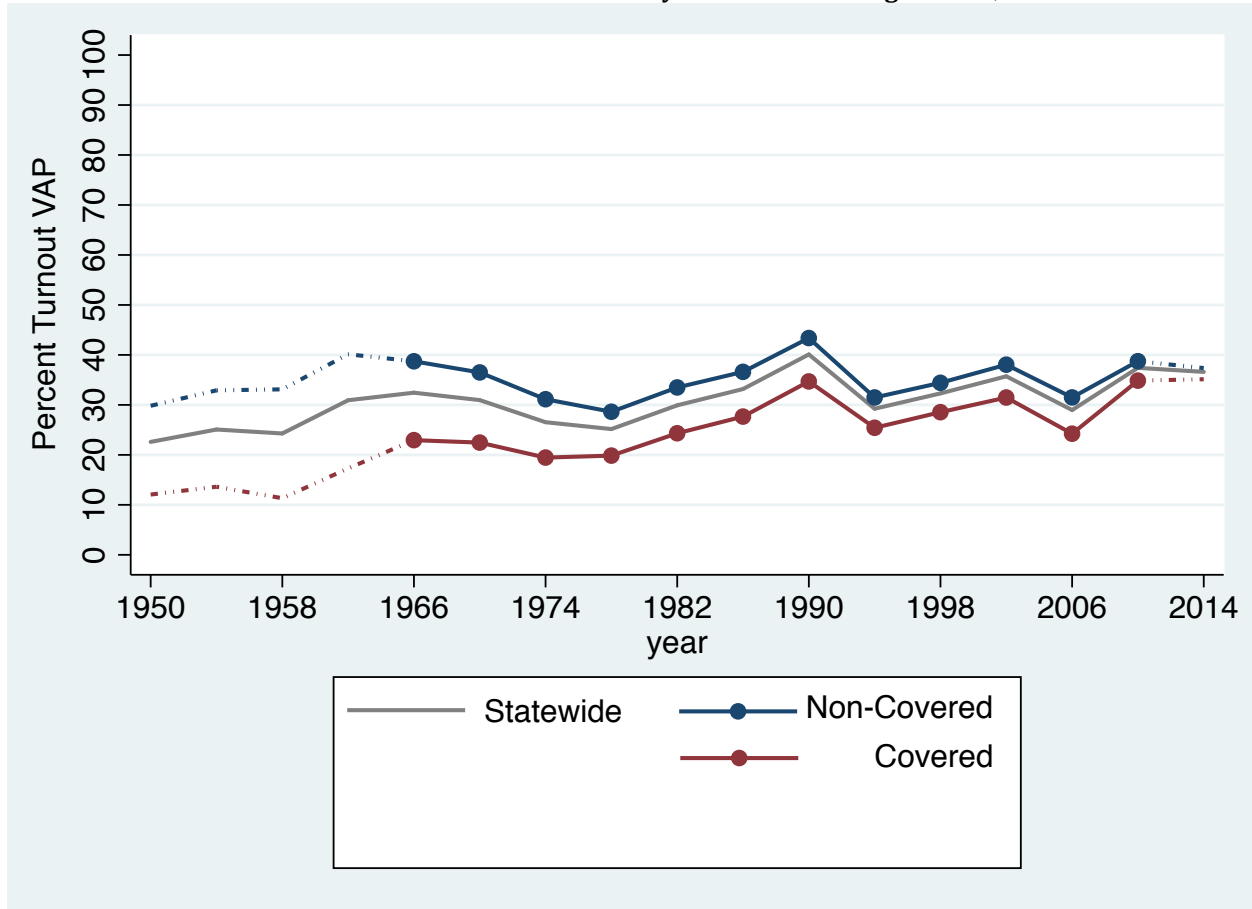**Percent Turnout in Presidential Elections by Section 5 Coverage Status, 1950 to 2016**

Figure 5 shows statewide turnout in midterm elections for the U.S. House of Representatives since 1950, along with turnout for covered and non-covered counties over the same period (more specifically, the weighted means of covered and non-covered counties). Consistent with the rest of the nation, turnout in midterm elections in North Carolina is markedly lower than in presidential election years. In 1950, for example, 23.7 percent of the voting age population voted in the U.S. Senate race; in 2014, the midterm turnout figure was 38.0 percent. Midterm election turnout stood at 30.9 percent in 1962, and rose to 32.4 percent in 1966, but dropped to 26.5 percent in 1974, the first midterm election after ratification of the 26th Amendment. In 1990, midterm turnout exceeded 40 percent for the only time, reaching 41.2 percent. In the 2006, 2010, and 2014 midterm elections, voter turnout hovered around 37 to 38 percent.

Figure 5
Percent Turnout in Midterm House Elections by Section 5 Coverage Status, 1950 to 2016

There are very clear trends in voter turnout when comparing the covered and non-covered jurisdictions over time. Prior to the passage of the Voting Rights Act of 1965, there was a large gap in presidential election turnout between counties that would eventually become covered under Section 5 and counties that were never covered. The gap is approximately 20 percentage points. This gap narrowed sharply in the immediate aftermath of the VRA's passage to about 10 percentage points; thereafter the gap in turnout was approximately 10 percentage points until 1996. From 1996 to 2008, the turnout gap was around seven percentage points. In 2008 and 2012, the difference was 4.5 and 3.7 percentage points, respectively. After Section 5 was overturned in 2013, the gap again widens; the difference was 5.2 percentage points in the presidential election in 2016. Turnout among blacks specifically fell 8.0 percentage points from 2012 to 2016.

In midterm U.S. House races, the figures are similar. Prior to the passage of the Voting Rights Act of 1965, turnout was nearly 20 percentage points lower in the counties that would later be covered under Section 5, compared to the non-covered counties. The gap in turnout in the two sets of counties narrowed in the immediate aftermath of the VRA to 16 percentage points, and remained around 10 percentage points apart until 1994, when the difference was six percentage points. In 2010, the last election before Section 5 was halted, the gap in turnout was four percentage points. In 2014, the first election after *Shelby*, the gap was

nearly the same, approximately three percentage points lower in the former Section 5 counties than in the others.

From 1950 through 2016, across all federal races, turnout in covered counties never met or exceeded turnout in non-covered counties. Looking at turnout rates among registered voters, rather than among the voting age population, reveals similar patterns, though the turnout gaps between covered and non-covered counties are narrower. Turnout data by race is available from 2002 through 2016, and is examined specifically in the RDD analyses below.

Demographic and Economic Characteristics of North Carolina

In several regressions below, I control for various demographic characteristics at the county level. A brief discussion of demographic trends in North Carolina is therefore warranted. Since 1950, the black population has decreased from about 26 percent of the state's population to about 22 percent, while the overall nonwhite population has risen from about 27 percent to 34 percent. Latinos in 2016 made up about 10 percent of the state's population, and foreign-born residents comprised nearly nine percent. The white population has dropped from just over 73 percent in 1950 to about 69 percent in 2016. Also over the period, the state has become significantly more urban, and consistent with the nation, much more educated and older with the aging of the baby boomer generation. The graphs in Figure 6 below show trends in the primary demographic and economic independent variables since 1950, in covered and non-covered counties.

Figures 6a through 6i
The Demographics of Counties in North Carolina 1950-2016
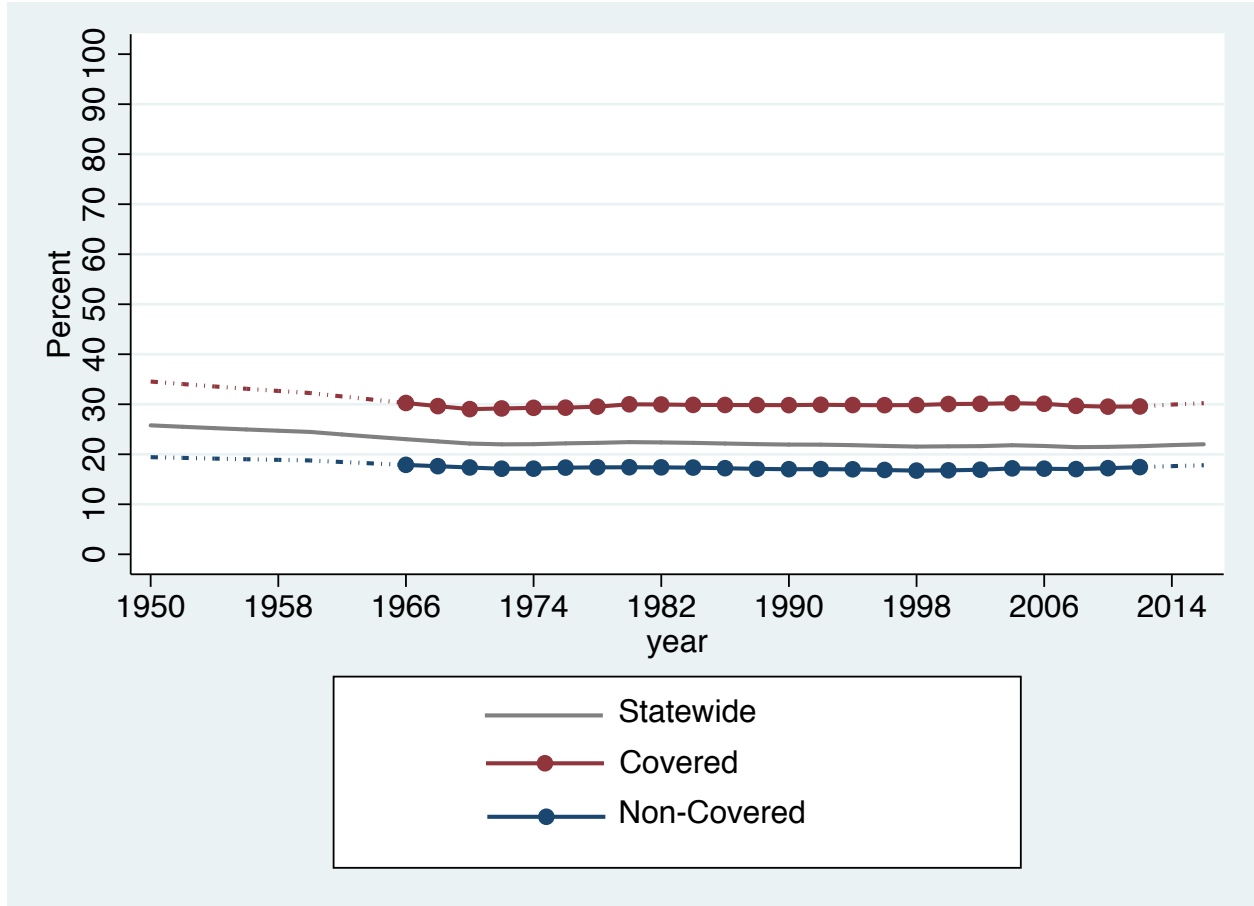
Figure 6a
Percent Black Population

Figure 6b
Percent White Population
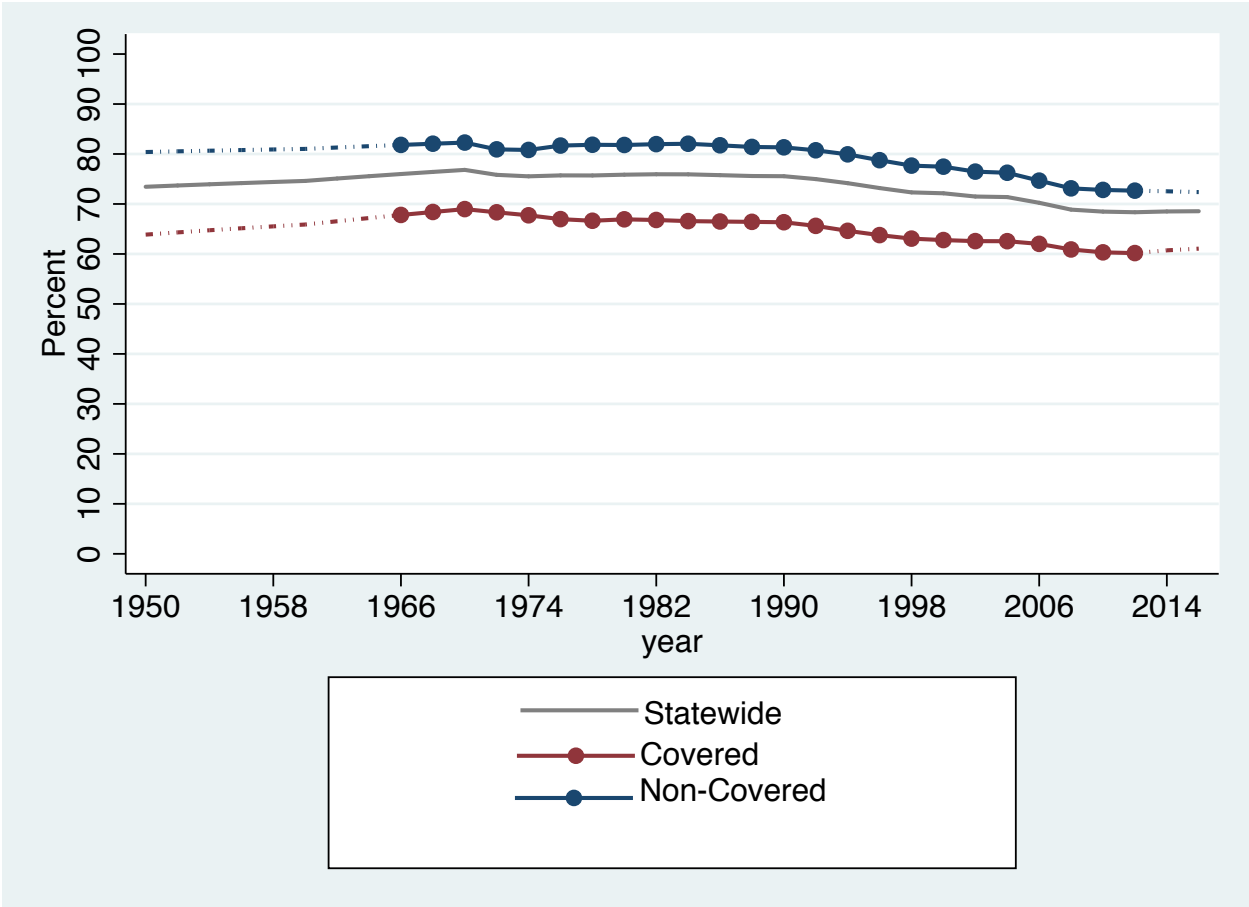
Figure 6c
Percent College Graduates
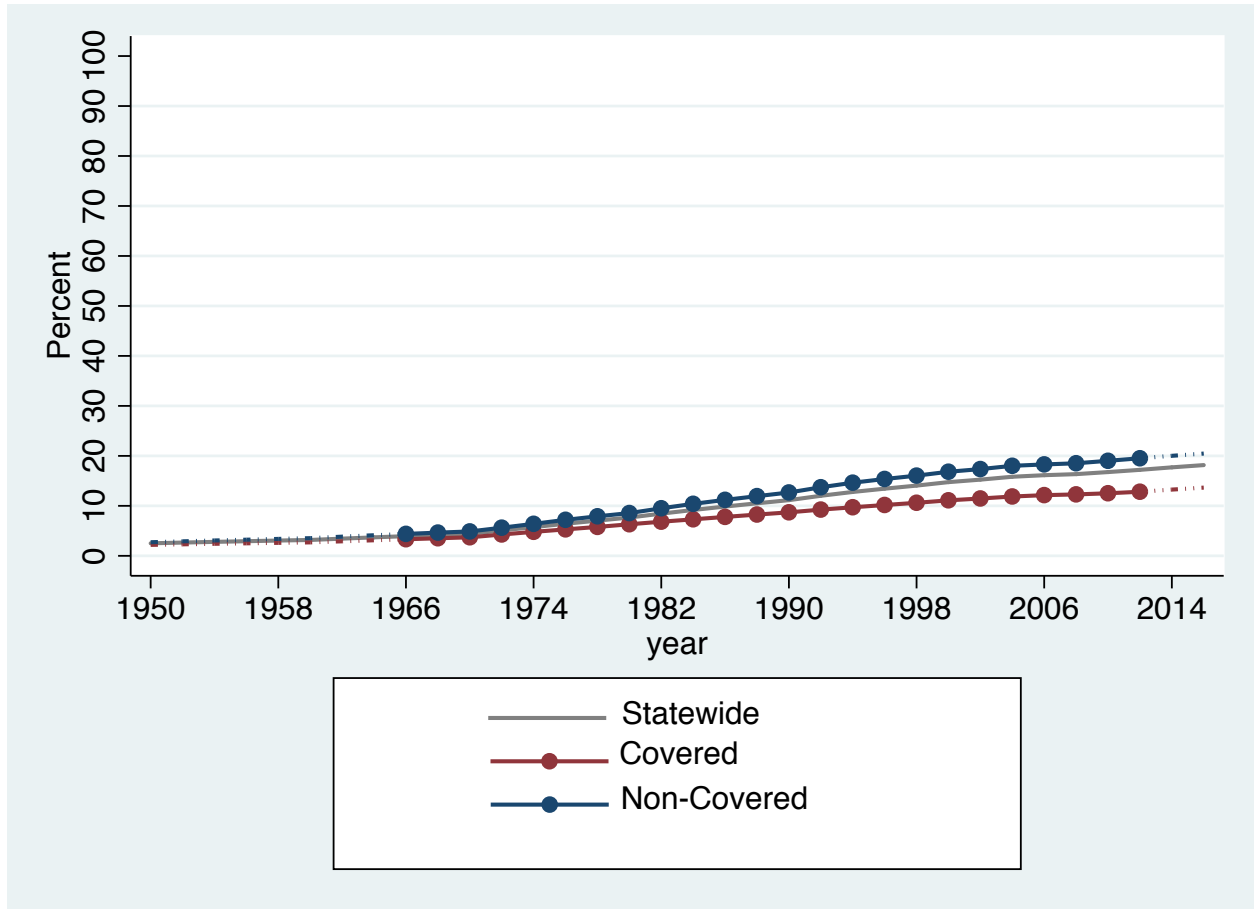
Figure 6d
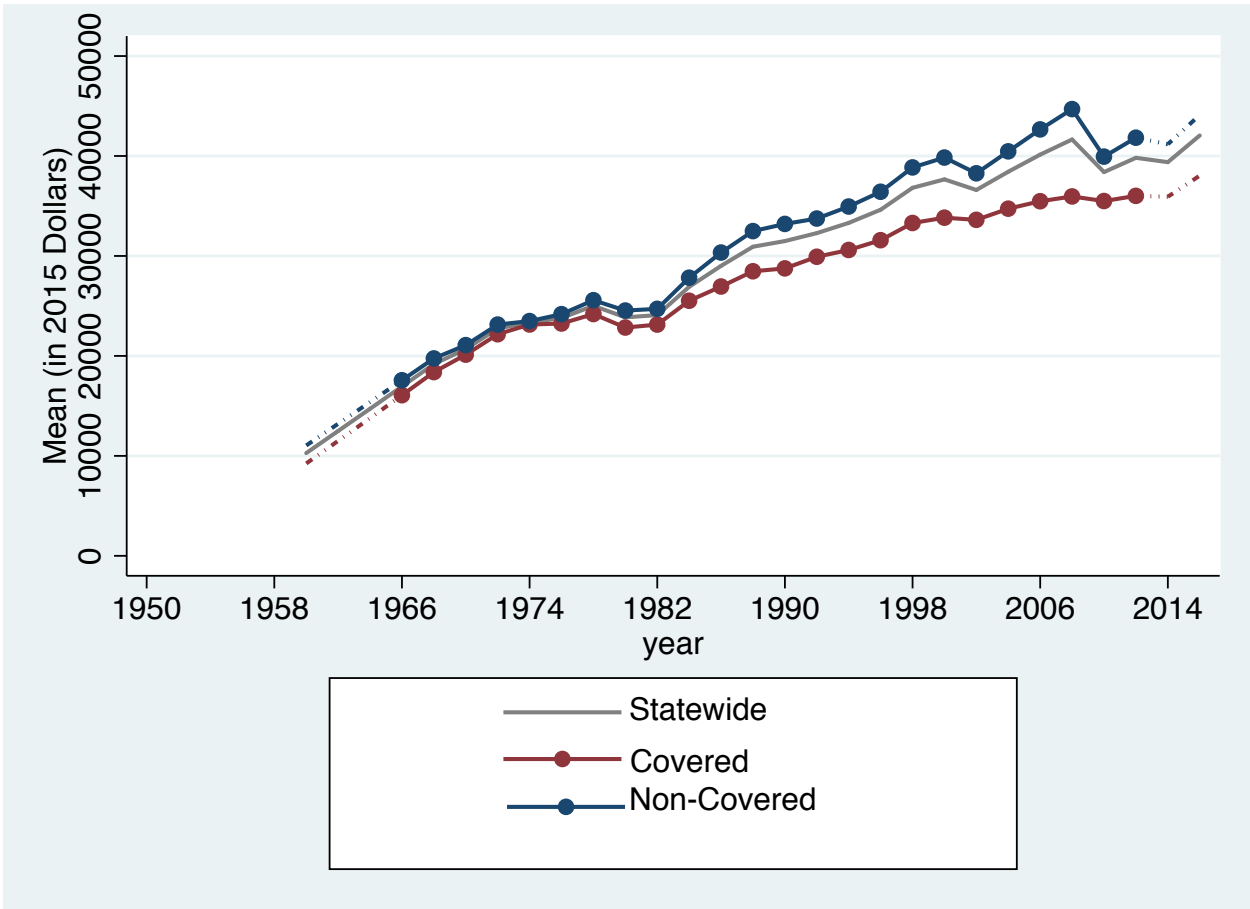**Income Per Capita**

Figure 6e
Percent Urban Population
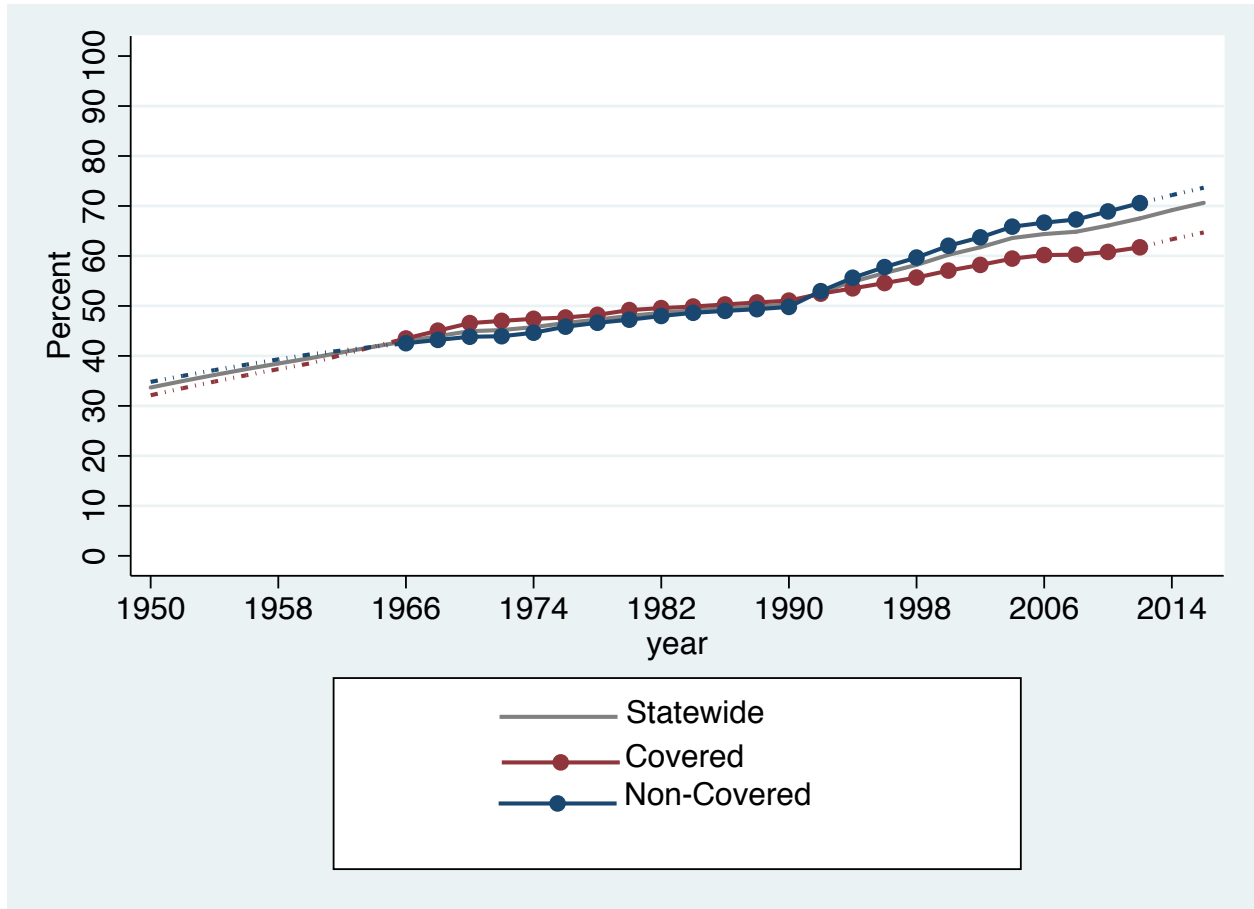
Figure 6f
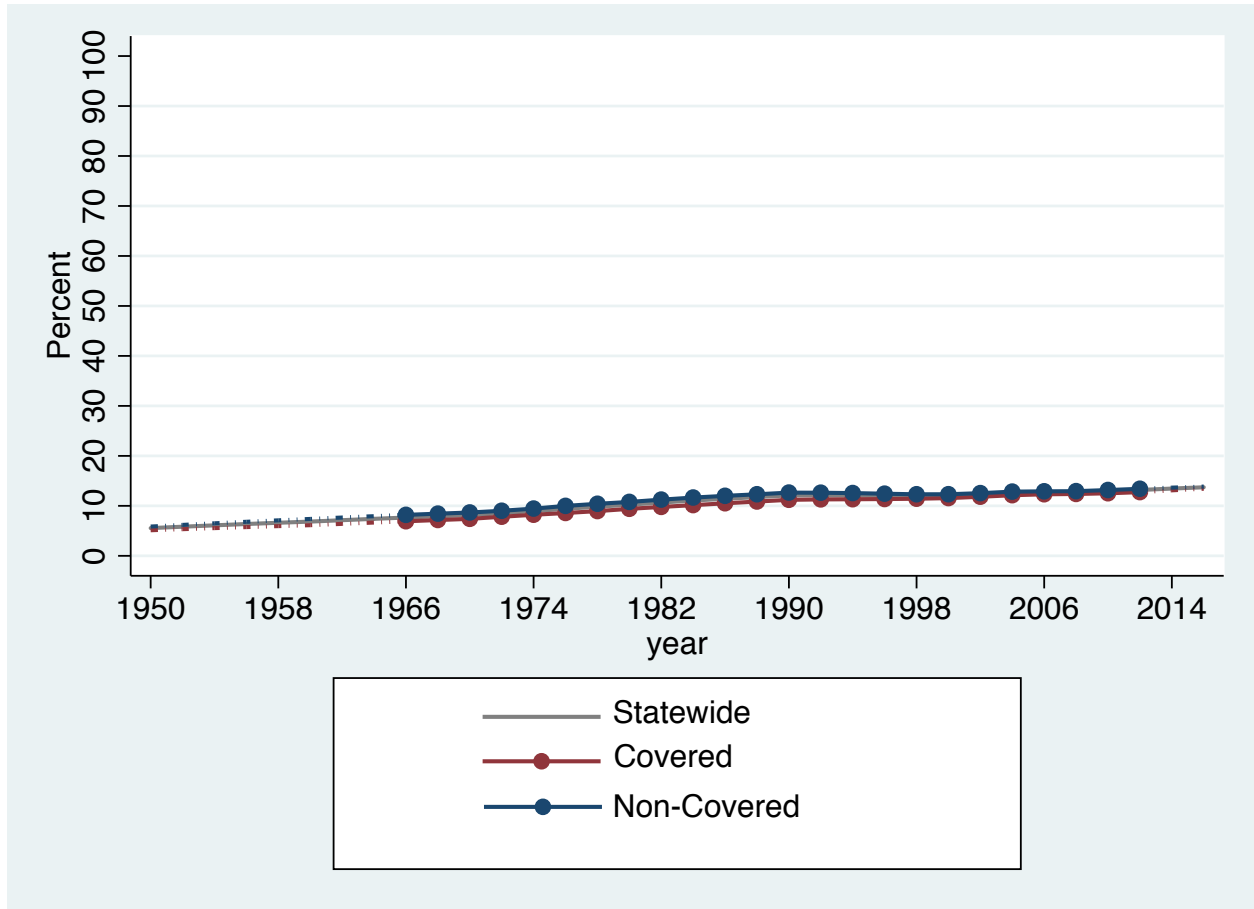**Percent Aged 65 and Older**

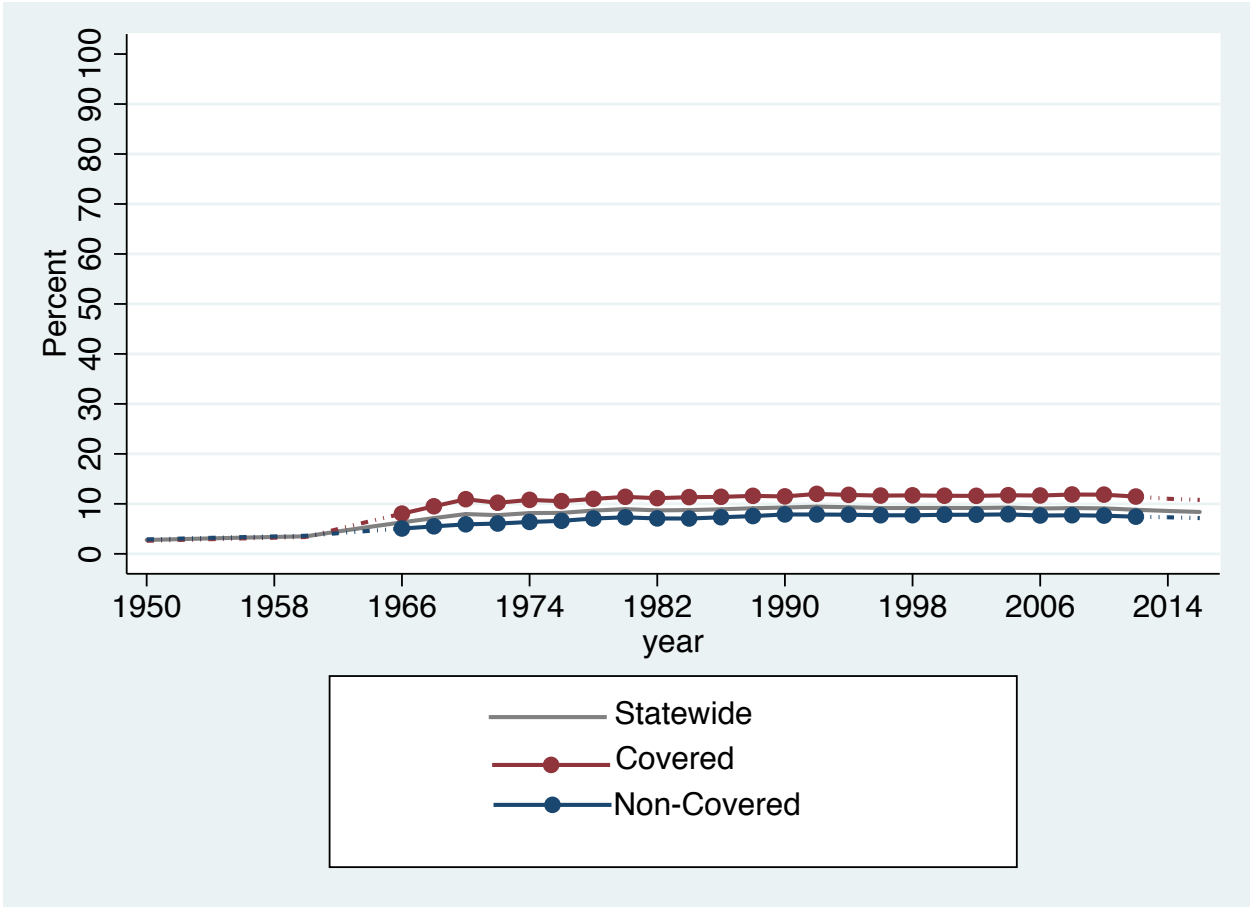**Figure 6g**
Percent Government Employees

Figure 6h
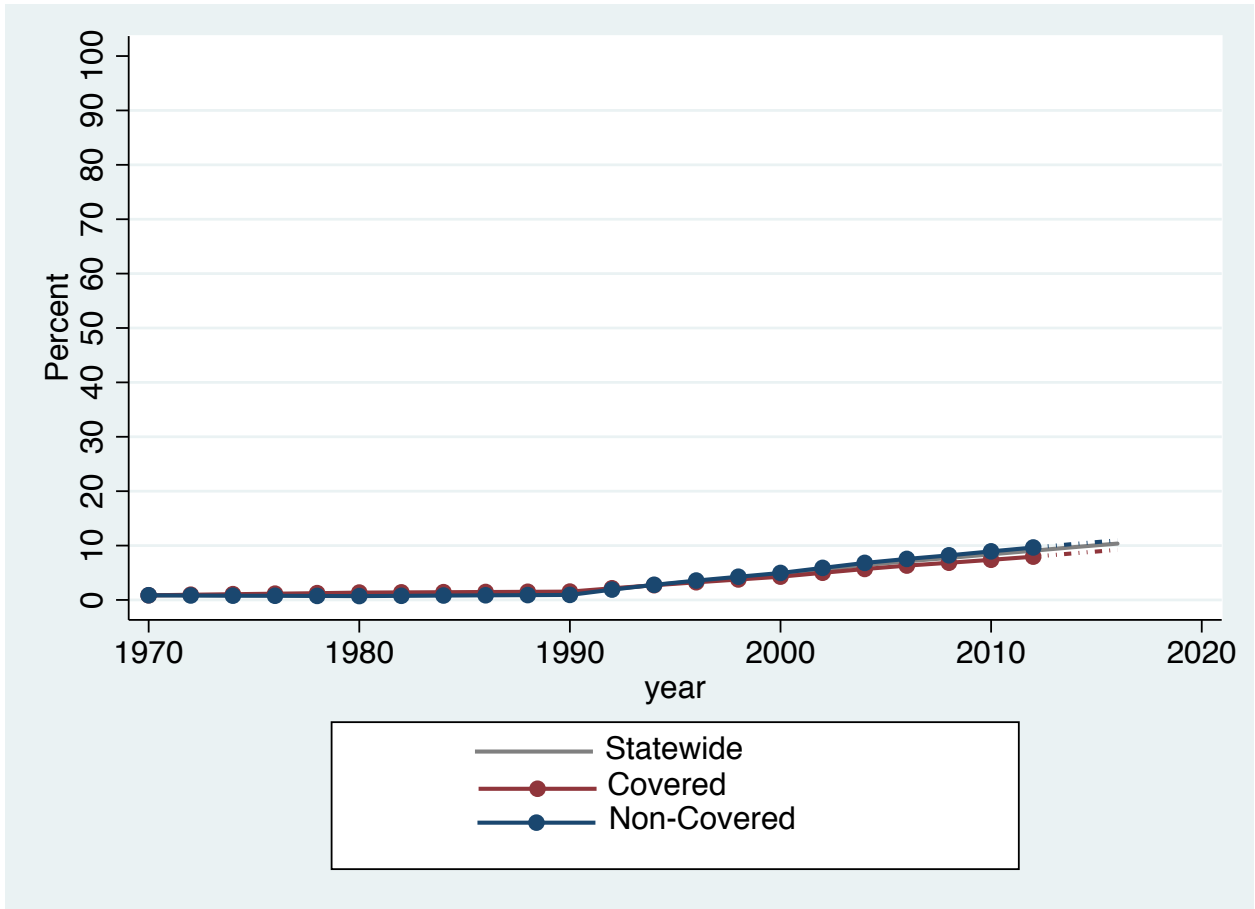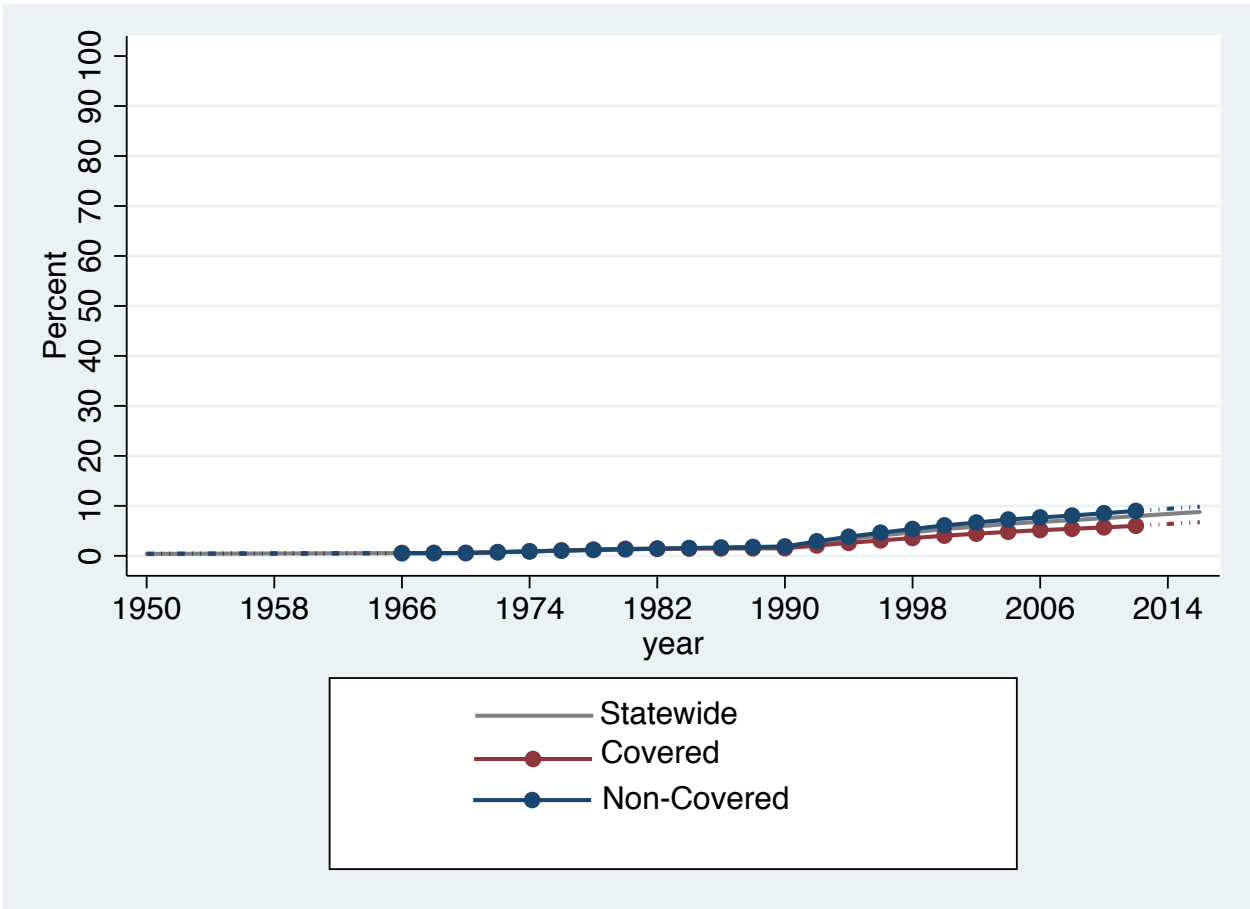**Percent Hispanic or Latino**

**Figure 6i
Percent Foreign Born**

With this dataset, we can answer several critical research questions about the impact of the Voting Rights Act of 1965 on voter turnout in North Carolina. First, what was the initial impact of the VRA on voter participation in the elections immediately following its passage, and is there an independent effect of Section 5 coverage? Second, do these effects persist over time, across the lifetime of Section 5, that is, from 1966 to 2013? Third, was Chief Justice Roberts correct in his 2013 assessment in *Shelby* that the Section 5 coverage formula was obsolete and misaligned? Or was Section 5 still having a desirable effect on voter participation even 50 years after is passage? Fourth, what was the impact of this suspension of federal supervision on voter turnout in newly uncovered counties? Did voter turnout, especially minority turnout, change due to the suspension of Section 5 for the 2016 general election?

The Initial Impact of Section 5 of the VRA in 1965

The descriptive statistics and time trends given above suggest the passage of the Voting Rights Act in 1965 had a modest impact on statewide voter turnout among the voting age population in North Carolina: presidential turnout increased from 52.1 percent in 1964 to 54.5 percent in 1968, while midterm turnout increased from 30.9 percent in 1962 to 32.4 percent in 1966. However, improvements in voter turnout varied dramatically across North Carolina's counties. In the seven majority black counties, presidential turnout spiked from 43.2 percent in 1964 to 57.5 percent in 1968; midterm turnout in the seven majority black counties also rose sharply, from 10.3 percent in 1962 to 26.8 percent in 1966. Among covered counties, presidential turnout jumped from 42.3 percent in 1964 to 48.4 percent in 1968, while among non-covered counties, presidential turnout was flat—58.6 percent in 1964 and 58.5 percent in 1968. Moreover, there is little debate that the passage of the Voting Rights Act had a large and immediate impact on voter turnout elsewhere the South. For example, from the 1964 to 1968 presidential election, turnout rose by 7.3 percentage points in South Carolina, 9.0 percentage points in Virginia, 16.8 percentage points in Alabama, and 19.3 percentage points in Mississippi (National Commission on Civil Rights 1975).

Did Section 5 have a further impact on voter turnout in covered counties, above and beyond statewide trends? Did the federal supervision that accompanied Section 5 coverage generate even greater gains in voter turnout among counties subject to such oversight? Estimating a treatment effect of Section 5 on covered counties requires some care. Comparing changes in presidential or midterm turnout in 'treated' counties before and after passage of the Act in 1965 would fail to account for potential omitted variables that might also contribute to changes in voter turnout between the pre-test and post-test periods, such as other statewide electoral reforms, economic trends, differences in candidate qualities, or, in the case of the 1968 presidential election, the presence of segregationist candidate George Wallace on the ballot.

Instead, I take a difference-in-difference approach (DID), and include non-covered counties as controls. DID designs approximate experiments by estimating the effects of exogenous variables on a treated group relative to a control group. The design uses panel data, with outcomes measured in at least two separate time periods to evaluate the average change

over time of the treated versus control group. The method requires at least one observation before treatment and one observation after treatment, for both the control group and the treatment group. For our purposes, the DID model compares the change in turnout among counties where Section 5 coverage was imposed with the change in turnout in counties where it was not imposed.

The DID approach implicitly controls for any variables common to the treatment group and control group (Ansolabehere and Konisky 2006). In our case, the approach will implicitly control for variables common to the covered and non-covered counties in North Carolina, such as political, social, and economic trends that are operating at a statewide or nationwide level. DID assumes that the treatment group and control group follow 'common trends' in the outcome variable, both before and after treatment. County-level voter turnout in North Carolina meets this assumption: Figures 2 and 3 above show that presidential and midterm turnout in covered and non-covered counties roughly moved together in the three presidential and midterm elections prior to 1965 and the three presidential and midterm elections after 1965. DID is therefore an appropriate model for estimating the treatment effect of Section 5 coverage on voter turnout in covered counties.

DID tests are common in economics and public policy analysis (e.g. Card and Krueger 1994; others). Such research designs have been used in political science to test the effect of institutional changes on voter turnout, such as felon disenfranchisement laws (Miles 2004), registration laws (Ansolabehere and Konisky 2006), voter identification laws (Erikson and Minnite 2009), redistricting (Fraga 2016), rank choice voting (Kimball and Anthony 2016), and the reduction in polling hours (Garmann 2017). Related to election laws in particular, Ansolabehere and Konisky (2006) used this method to test the immediate impact of new voter registration laws in Ohio and New York on voter turnout in the 1960s and 1970s. The research design employed by Ansolabehere and Konisky (2006) is similar to the design used in the current study.

The difference-in-difference is estimated with county-level voter turnout in presidential and midterm elections in North Carolina as the dependent variables. The following control variables were included in the test: the percentage of the population that was black, personal income per capita adjusted to 2015 dollars and logged, the percentage of the population that was dwelling in urban areas, the percentage of the population that was college-educated, the percentage of the population that was over 65 years old, the percentage of the population that was foreign born, and the percentage of workers who were government employees. I began by estimating the difference-in-difference using a single observation per county on each side of the policy intervention (for presidential turnout, the years 1964 and 1968; for midterm turnout, the years 1962 and 1966). However, I also estimated the difference-in-difference using two and four observations per county on each side of the policy intervention. As an additional robustness check, linear regression fixed effects models were estimated as well. The results were robust across all models.

Results

Table 1 shows the results of the difference-in-difference regression model for presidential turnout at the county-level and Table 2 shows the results for midterm turnout. The findings indicate statistically significant and substantively meaningful increases in both presidential and midterm turnout due to the implementation Section 5 in covered counties in North Carolina. While North Carolina witnessed increases in voter turnout in the years following the passage of the Voting Rights Act of 1965, turnout rose more sharply in the Section 5 covered counties. The DID estimates suggest that covered counties saw an additional 10.9 percentage points in presidential turnout above their predicted level, holding everything else constant; the results are highly significant at the $p<0.000$ level. The results also suggest that Section 5 coverage had an even larger effect on midterm turnout: an estimated 14.4 percentage points higher than we would have predicted otherwise; these results are also significant at the $p<0.000$ level.

Could coverage status of North Carolina counties be indicating for other unobserved variables, beyond federal supervision? In other Southern states, coverage status also meant that federal examiners were sent to register black voters; however, this was not the case in North Carolina, where federal examiners were never sent. Coverage status is also not a proxy for the abolition of poll taxes nationwide in 1964, because poll taxes had been abolished in North Carolina in 1920 (Fleer 1968). On the other hand, in North Carolina, federal supervision was accompanied by the immediate suspension of literacy tests in covered counties, while literacy tests were not suspended in the non-covered counties until 1970. Therefore, the treatment effect captures two aspects of Section 5 coverage: federal supervision and the suspension of literacy tests, at least for the years 1966 and 1968. Note however that Section 5 coverage is still significant when observations are added past 1970, after literacy tests were eliminated in all counties. These findings suggest that federal oversight is the causal mechanism for the association between Section 5 coverage and higher voter turnout in covered counties, rather than the 'early' elimination of literacy tests for the 1966 and 1968 elections. Results in Tables 1 and 2 below show the coefficients for expanding the analysis to two and four elections before and after the implementation of Section 5 in 1965.

Table 1

Presidential Turnout: Difference-in-Differences (DID) Estimation on Initial Impact of Section 5 Coverage

Variables	1964 to 1968	Covariates 1964 to 1968	1960 to 1972	Covariates 1960 to 1972	1952 to 1980	Covariates 1952 to 1980
Covered	-19.803***	-10.585***	-22.518***	-13.829***	-23.709***	-13.903***
	(1.753)	(1.446)	(1.487)	(1.538)	(1.062)	(1.103)
Yr. 1966	-0.547	-0.794	-9.651***	-6.687***	-9.985***	-9.630***
	(1.579)	(1.271)	(1.476)	(1.355)	(1.075)	(1.149)
DID Est.	9.880***	10.870***	12.470***	14.378***	12.526***	13.789***
	(2.421)	(1.700)	(2.099)	(1.813)	(1.414)	(1.269)
Black		-0.266***		-0.385***		-0.375***
		(0.040)		(0.039)		(0.027)
Inc. (Log)		1.222		-8.131***		0.181
		(3.896)		(2.801)		(1.605)
Urban		-0.190***		-0.087**		-0.097***
		(0.033)		(0.034)		(0.024)
College		1.109***		0.335		-0.193
		(0.318)		(0.382)		(0.246)
Over 65		0.331		-0.045		0.301
		(0.332)		(0.362)		(0.214)
Gov. Em.		-0.897***		-0.867***		-0.661***
		(0.122)		(0.101)		(0.070)
Constant	63.257***	56.153	65.275***	159.770***	63.175***	69.786***
	(1.289)	(41.804)	(1.152)	(29.437)	(0.894)	(16.074)
R^2	0.47	0.76	0.41	0.62	0.45	0.64
N	198	198	396	396	784	784

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

Table 2

U.S. House Midterm Turnout: Difference-in-Differences (DID) Estimation on Initial Impact of Section 5 Coverage

Variables	1962 to 1966	Covariates 1962 to 1966	1958 to 1970	Covariates 1958 to 1970	1950 to 1978	Covariates 1950 to 1978
Covered	-32.805***	-11.262***	-27.271***	-9.394***	-27.435***	-11.128***
	(3.525)	(2.801)	(1.857)	(1.864)	(1.239)	(1.349)
Yr. 1966	-3.653	-3.751	-4.820***	-7.767***	-7.550***	-9.423***
	(3.643)	(2.658)	(1.815)	(1.650)	(1.363)	(1.446)
DID Est.	13.469***	14.424***	9.797***	10.321***	10.010***	10.195***
	(4.510)	(3.367)	(2.563)	(2.260)	(1.787)	(1.680)
Black		-0.802***		-0.613***		-0.602***
		(0.074)		(0.043)		(0.032)
Inc. (Log)		-5.152		4.110		2.218
		(6.838)		(3.355)		(1.881)
Urban		-0.206***		-0.224***		-0.148***
		(0.066)		(0.043)		(0.031)
College		1.006		0.433		-1.165***
		(0.702)		(0.492)		(0.328)
Over 65		1.528**		1.456***		1.051***
		(0.661)		(0.396)		(0.267)
Gov.		-0.906***		-0.501***		-0.372***
		(0.269)		(0.130)		(0.089)
Constant	49.108***	106.796	53.878***	14.527	51.362***	37.731**
	(2.947)	(71.953)	(1.369)	(34.903)	(0.981)	(18.501)
R^2	0.38	0.72	0.30	0.55	0.32	0.53
N	198	198	693	693	1,274	1,274

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

To check the robustness of these findings, I also ran several fixed effects models, with standard errors clustered by county, including identical covariates. While the results are attenuated slightly, with slightly smaller effect sizes, the results remain significant at p<0.001 for presidential elections and p<0.010 for midterm elections.

One challenge to these DID results in the immediate aftermath of the VRA's passage is that the scope of Section 5 was more fully refined in 1970 in the aftermath of the *Allen v. Board of Elections* (1969) decision. At that time, it was determined that preclearance should be applied broadly to encompass any change affecting voting (*USDOJ* 2015), including the redrawing of district lines and converting to new elections systems. Prior to the ruling, few preclearance requests were submitted, thus complicating the question of the mechanism of Section 5 oversight. Due to this caveat, there may be alternative hypothesis for the initial DID results. Another explanation might be that the DID estimator is not picking up a Section 5 specific effect, but rather, a statewide effect that is disproportionately impacting black counties, which are more likely covered. Rejecting this alternative hypothesis requires additional research that takes into account changes that may have been taking place on the ground in North Carolina's covered counties not observed in the current research. However, given the prominence of the passage of the VRA and the widespread understanding of the pattern of coverage in North Carolina, I believe the DID test is perhaps picking up at least a partial effect of Section 5 coverage. The issue here is whether county registrars and voters in covered counties changed their behavior even in the absence of DOJ enforcement actions prior to 1970. County registrars—and to some extent voters—know they are in covered counties, and I would submit that the prospect of DOJ enforcement action was enough to change behavior.

The Impact of Section 5 on Turnout from 1972 to 2012

The previous section established that Section 5 of the Voting Rights Act had a statistically significant and substantively meaningful impact on voter turnout in North Carolina in the initial years following passage in 1965. This section will examine the impact of Section 5 during its core years of implementation—from 1972 through 2012—to determine the extent to which the preclearance provision had an effect on voter turnout from the time when the submission process became a routine requirement for covered jurisdictions, up until the last election year before Section 5 was halted by the *Shelby* decision. This section begins by discussing the historical context of the implementation, which explains why the analysis begins in 1972. Thereafter, the data utilized in the time series analyses will be discussed. Then, the section turns to an overview of the demographic determinants of voter turnout in North Carolina over the period. Finally, the results of several regression models are presented.

Background

Although Section 5 was put in place immediately with the passage of the VRA in 1965, many states responded to the law by devising new ways to disenfranchise black voters, such as changing the demographic composition of districts to dilute black voting power (Keech and

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Sistrom 1994). In addition, the law lacked clarity on the types of election changes requiring preclearance. These new efforts to dilute black voting happened throughout the South, including in North Carolina. For example, in 1966 the state decentralized authority over elections to allow some county elections boards to implement at-large elections systems for several local and school board races (Keech and Sistrom 1994). As in other covered jurisdictions throughout the region, counties in North Carolina made many election changes without submitting them to the DOJ; as of 1971, only a dozen changes had been submitted to the Justice Department from North Carolina.

In 1969, the Supreme Court decided in *Allen v. State Board of Elections* that Section 5 preclearance should be applied broadly to encompass any change affecting voting (*USDOJ* 2015), including the redrawing of district lines and converting to new elections systems. The result of this ruling was a marked increase in submissions for preclearance across the covered jurisdictions. The number of submissions from North Carolina, specifically, rose after *Allen* as well, though it was still upon the state of North Carolina and local elections boards to initiate the preclearance process (Suitts 1981). Because compliance with—and enforcement of—Section 5 was not fully understood or consistent until after *Allen*, the current analysis begins with the aftermath of that court decision, as well as after the voting age was lowered to include 18 to 20 year olds nationwide. The time-series analysis ends in 2012, the last general election year prior to the *Shelby* decision, which invalidated Section 5. The range of the analysis from 1972 through 2012 will thus show how Section 5 affected turnout in North Carolina's covered counties during the primary years of preclearance enforcement.

Data

The dataset includes observations for each of North Carolina's 100 counties in presidential and midterm election years, from 1972 through 2012. The dependent variables examined are voter turnout, measured in percentages, in presidential, U.S. Senate, and U.S. House elections. Gubernatorial elections were not included in the analysis because they are concurrent with presidential elections in North Carolina. The data sources for county-level voter turnout are described above.

The independent variable of interest is again Section 5 coverage, coded '1' in each year a county was covered, and '0' for each year a county was not covered. In all, there are 1,637 covered observations, and 2,463 uncovered observations. From 1972 to 2012, the coverage status of counties did not change, except for Jackson County, which was added to coverage under the 1975 language minority provisions.

A number of demographic covariates are also included in the analysis. the percentage of the population that is black, the percentage of the population that is Hispanic or Latino, personal income per capita adjusted to 2015 dollars, the percentage of the population dwelling in urban areas, the percentage of the population that is college educated, the percentage of the population that is over 65 years old, the percentage of the population that is foreign born, and the percentage of workers who are government employees. The data sources for county-level independent variables are described above.

Blacks comprised about 22 percent of the total population in North Carolina in 1972; their proportion of the population remained roughly consistent over the period, and in 2012 it was slightly under 22 percent. Blacks made up roughly 16 percent of all registrants in 1972 and just over 22 percent by 2012. Five of North Carolina's 100 counties were majority black in 1972; the population of blacks in these five counties made up 4.5 percent of the total population of blacks in the state and 5.7 percent of black registrants. By 2012, eight of the state's counties were majority black; blacks in these counties comprised 6.8 percent of the total black population in the state and 6.7 percent of black registrants. The majority black counties are all located in the historical 'black-belt' of the state, in the Eastern/Coastal region of North Carolina. In 37 counties, blacks comprised a smaller share of registrants than their proportion of the population as of 2012; in 63 counties, there were more registrants than their share of the population. Among the 37 counties in which blacks made up a smaller share of registrants, 28 were uncovered counties under Section 5 and nine were covered. The figures indicate a marked increase in the number of blacks registered since 1972, when in 98 counties the proportion of black registrants was lower than blacks' proportion of the population.

The Hispanic population is much smaller in North Carolina, though it has grown over the period. In 1972, Hispanics made up less than one percent of voters in the state, but by 2012 the group's percentage of the total population grew to just over nine percent. Cumberland County had the largest proportion of Hispanics in 1972, where this group comprised 2.8 percent of the total county population. In 2012, Duplin County had the highest percentage of Hispanics, making up 21.6 percent of the county's population; at the same time, Hispanics only made up 2.6 percent of the total registrants in the county. Twenty-three counties were more than 10 percent Hispanic; only four (including Duplin) were comprised of a population more than 15 percent Hispanic. In no county in the state did the Hispanic share of registrants meet their share of the population. In Cumberland, they came the closest—Hispanics made up 9.7 percent of the population and 4.4 percent of registrants.

From 1972 to 2012, North Carolina became a much more urban state. In 1972, fewer than half of the population (45.2 percent) was designated as living in an urban area; by 2012, the proportion rose to 67.5 percent. Most of the urban population of the state is concentrated in the Piedmont, or central area of North Carolina, while the Western—also considered the Mountain region—is much more rural. The urban population has grown in the Eastern region of the state since the beginning of the time series. The percentage of adults who are college educated more than tripled, from 5.1 percent in 1972 to 17.2 percent in 2012. With an aging baby boomer population, the proportion of seniors in the state also increased—from 8.5 percent in 1972 to 13.2 percent in 2012. The percentage of the population that were government employees was essentially stable, ticking up from 7.7 percent in 1972 to 8.8 percent in 2012; in North Carolina government employment is an indicator of a large military population, as there are several bases located in the state.

Results

I first test whether and to what extent basic demographic and economic variables are associated with voter turnout at the county level in North Carolina. These tests will help set

benchmarks for our investigation of the independent variable of interest, especially with regards to the effect size and significance levels. These demographic variables are drawn from the extensive literature on voter turnout discussed above: scholars have demonstrated that different racial, ethnic, income, education, employment, and age groups have different patterns of voter turnout, and we should expect counties with different demographic and economic characteristics to have different patterns of voter turnout. I look firstly at presidential turnout in North Carolina counties from 1972 to 2012 and then at U.S. House and U.S. Senate turnout in the same jurisdictions over the same period. Table 3 below shows the results of regressions on this time-series—cross-sectional data using conventional methods, namely a pooled OLS time-series—cross-section with panel corrected standard errors and a generalized estimating equation or "population averaged" model.[34] The results generally confirm well-established findings in the political science literature that jurisdictions with higher proportions of black, poor, urban, younger, and less educated voters saw lower rates over the 1972 to 2012 period, and that jurisdictions with greater proportions of white, wealthy, non-urban, older voters, and more educated voters turned out at higher rates over the same period. In North Carolina, government employment is associated with lower turnout at the county level because two of the largest military bases in the world are in North Carolina, and enlisted soldiers, sailors, and airmen and women are a transient population and less likely to vote (Federal Voting Assistance Program 2014).

Table 3
Voter Turnout and Demographics in North Carolina's Counties 1972-2012

Variables	Presidential, Pooled	Presidential, Population Average	House, Pooled	House, Population Average	Senate, Pooled	Senate, Population Average
Black Pop (Log)	-1.193***	-1.013***	-2.290***	-1.751***	-2.033***	-1.555***
	(0.310)	(0.306)	(0.369)	(0.313)	(0.381)	(0.323)
Inc. (Log)	6.324**	7.520***	3.539	4.887***	6.307*	8.218***
	(2.851)	(1.882)	(2.961)	(1.574)	(3.329)	(1.841)
Urban Pop	-1.473***	-1.079***	-1.429***	-1.250***	-1.607***	-1.697***
	(0.299)	(0.279)	(0.331)	(0.261)	(0.356)	(0.284)
College (Log)	6.897***	5.885***	4.934***	4.048***	5.160***	4.115***
	(1.662)	(1.068)	(1.612)	(0.930)	(1.699)	(1.026)
Pop Over 65	0.305**	0.360***	0.417***	0.472***	0.406**	0.466***
	(0.146)	(0.102)	(0.150)	(0.093)	(0.159)	(0.103)
Gov. (Log)	-5.557***	-6.687***	-4.336***	-5.202***	-4.393***	-4.341***
	(1.287)	(0.861)	(1.060)	(0.833)	(1.233)	(0.882)
House No-Comp			-12.295***	-12.241***		
			(0.624)	(0.527)		
House Incumb.			0.784	0.759		
			(0.539)	(0.474)		
Pres Elect Year			13.342***	13.326***	13.394***	13.423***
			(0.370)	(0.274)	(0.348)	(0.315)
Constant	-15.477	-25.705	0.654	-12.222	-26.132	-45.473***
	(27.155)	(17.249)	(28.121)	(14.354)	(31.280)	(16.859)
R^2	0.47		0.66		0.64	
N	1,084	1,084	2,069	2,069	1,379	1,379

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

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[34] The preferred statistical approach in political science, given a dataset like this, is to use a fixed effect model. However, since Section 5 coverage for North Carolina counties is time invariant over this period, a fixed effect model will not produce coefficients and standard errors on the dependent variable of interest.

Table 4 presents the results of regressions adding in a dummy variable for Section 5 coverage and a time interaction. The pooling approach and the population average approach yield similar results.

Table 4

Turnout and Section 5 Coverage in North Carolina's Counties 1972-2012

Variables	Presidential, Pooled	Presidential, Population Average	House, Pooled	House, Population Average	Senate, Pooled	Senate, Population Average
Covered County	-9.868***	-10.616***	-9.835***	-10.824***	-9.847***	-10.611***
	(1.096)	(1.080)	(1.151)	(1.041)	(1.105)	(1.065)
Coverage*Time	0.322***	0.345***	0.294***	0.310***	0.306***	0.312***
	(0.042)	(0.024)	(0.039)	(0.021)	(0.039)	(0.023)
Black Pop (Log)	-0.748**	-0.742**	-1.743***	-1.436***	-1.467***	-1.144***
	(0.299)	(0.348)	(0.365)	(0.342)	(0.381)	(0.349)
Income (Log)	1.147	1.867	-0.752	0.407	1.682	3.360*
	(2.804)	(1.806)	(2.916)	(1.524)	(3.257)	(1.767)
Urban Pop	-1.207***	-0.533**	-1.165***	-0.769***	-1.319***	-1.212***
	(0.296)	(0.271)	(0.318)	(0.251)	(0.337)	(0.269)
Coll Grad (Log)	6.615***	5.061***	4.380***	2.960***	4.589***	3.135***
	(1.530)	(1.013)	(1.533)	(0.887)	(1.592)	(0.967)
Pop Over 65	0.218*	0.277***	0.352***	0.400***	0.337**	0.403***
	(0.130)	(0.098)	(0.133)	(0.088)	(0.139)	(0.097)
Gov Emp	-5.237***	-6.643***	-3.840***	-4.797***	-3.891***	-3.914***
	(1.224)	(0.855)	(0.980)	(0.806)	(1.125)	(0.845)
House No-Comp			-11.392***	-11.357***		
			(0.602)	(0.502)		
House Incumb.			0.933*	0.923**		
			(0.471)	(0.448)		
Pres. Elect. Year			13.340***	13.313***	13.330***	13.347***
			(0.368)	(0.259)	(0.353)	(0.294)
Constant	37.776	33.800**	44.550	35.237**	21.309	5.398
	(27.140)	(16.686)	(28.204)	(14.017)	(31.174)	(16.319)
R^2	0.54		0.70		0.69	
N	1,084	1,084	2,069	2,069	1,379	1,379

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

Table 4 provides strong evidence that Section 5 coverage improved voter turnout in North Carolina over time, for presidential, U.S. House, and U.S. Senate elections. In the initial years of implementation, Section 5 coverage is associated with lower turnout. In the first presidential election in the period, in 1972, Section 5 coverage corresponds to 9.9 percentage points lower turnout (in the pooled model) or 10.6 percentage points lower turnout (in the population averaged model). For the 1972 U.S. House races, Section 5 coverage corresponds to 9.8 percentage points lower turnout (in the pooled model) or 10.8 percentage points lower turnout (in the population averaged model). All of these results are highly statistically significant ($p<=0.001$).

Why is coverage associated with lower turnout in the initial years of implementation? The results are not surprising given the intent of the law is to target low-turnout jurisdictions and improve their outcomes. The coefficients for the time-interaction variable suggest that this policy intervention had its intended effect. For each additional year, Section 5 coverage is associated with an increase in presidential election turnout of 0.32 percentage points (in the pooled model) or 0.35 percentage points (in the population averaged model). Associated increases in turnout are similar in the U.S. House and Senate models as well. Turnout rates in covered and non-covered jurisdictions therefore converge over time. The joint association

of coverage and its time interaction with turnout becomes positive after approximately 31 years, or in 2003, indicating that covered counties outperform non-covered counties in voter turnout, holding everything else constant, from that point forward.

The results point to the enduring effectiveness of federal oversight of elections in North Carolina over the 1972 to 2012 period.

Voter Turnout and the *Shelby* Decision

This chapter investigates the impact of federal supervision of elections on voter turnout in North Carolina leading up to the *Shelby* decision, and the consequences for the suspension the federal oversight in the aftermath of the decision. Specifically, it uses a regression discontinuity design (RDD) to estimate the impact of Section 5 coverage under the Voting Rights Act on black and white voter turnout. Using the RDD method, multiple analyses are conducted of county-level turnout; results show that federal oversight increased both black and white turnout in Section 5 covered jurisdictions in the lead up to the suspension of Section 5 by the Supreme Court in its 2013 *Shelby* decision. Thereafter, a separate analysis, using a fixed effects model of individual-level data, shows that the suspension of federal oversight led to sharply lower turnout in the 2016 presidential election in formerly covered counties. Taken together, the findings suggest that federal supervision of elections is an effective tool to increase voter turnout among both black and white voters.

One of the central debates surrounding Section 5 is whether the provision is still necessary to protect minorities in certain jurisdictions from efforts by state and local governments to disenfranchise them. The majority in *Shelby* ruled that the coverage formula for Section 5, renewed in 2006 but remaining essentially unchanged since 1965, was obsolete, but the majority left intact Congress' power to oversee state and local election administration. Indeed, Chief Justice Roberts noted that efforts to disenfranchise minority voters had not ended. However, other observers have gone further and argued that federal oversight itself was obsolete—that blacks and other minorities face no distinctive barriers to exercising their right to vote, that blacks and other minorities vote at roughly the same rates as whites, and that contemporary political culture would not tolerate a return to voter suppression tactics reminiscent of the Jim Crow era. Testing these assertions is difficult because voter turnout statistics are generally not available by race or ethnicity, except at the highest levels of aggregation, and are typically taken from self-reported surveys. North Carolina is unusual in this regard: it collects and reports comprehensive demographic information on its registered voters, which in turn permits directly testing the hypothesis that federal supervision of elections under Section 5 is obsolete.

Research design and methodology

This section explains the research design to study the impact of federal oversight of elections on voter turnout in North Carolina. The section first details the implications of Section 5 coverage on the conduct of elections, then explains how North Carolina counties were

assigned to Section 5 coverage, and finishes by arguing that regression discontinuity design is an appropriate approach for estimating the impact of federal oversight on voter turnout.

The Voting Rights Act of 1965 (VRA) greatly expanded the powers of the federal Department of Justice (DOJ) to ensure the voting rights of minorities after a long, contentious struggle for the franchise. The VRA was intended to enforce the 15th Amendment of the U.S. Constitution, ratified in 1870, which declared that citizens could not be denied the vote due to race, color, or previous condition of servitude. The VRA immediately abolished in many jurisdictions several mechanisms that were used to keep blacks from voting, including literacy tests, education requirements, grandfather clauses, "good character" tests, and other rules that deliberately subverted black voter participation, even if the mechanisms were ostensibly colorblind. Perhaps even more far reaching was Section 5 of the Act, which established a mechanism of federal oversight over elections in locations deemed historically and institutionally discriminatory against blacks. Section 5 required that certain identified jurisdictions obtain prior approval from the federal government for any changes to its electoral institutions or elections administration, for example, moving polling places, changing from district to at-large council elections, increasing or decreasing elected officials' term limits, or redrawing district boundaries. Six southern states, and 39 counties in North Carolina, were originally covered under this Section 5 provision.

Though Section 5 was intended as a temporary provision, Congress repeatedly determined that federal supervision was still necessary, and Section 5 was renewed in 1970, 1975, 1982, and finally in 2006, when it was extended for 35 years. After the coverage formula was expanded in 1970 and 1975, the U.S. Department of Justice had oversight powers in more than 8,000 state and local jurisdictions nationwide (Lopez 2014). The 1975 renewal expanded Section 5 coverage to include language minority groups. [35]

The Voting Rights Act originally assigned jurisdictions to Section 5 coverage if they met the following criteria: 1) a "test or device" was in place in the 1964 presidential election, and 2) fewer than 50 percent of the voting age population turned out to vote or was registered to vote in the 1964 presidential election. The entire state of North Carolina met the first prong of the formula because there was a statewide literacy test in place in 1964. However, 52 percent of the state turned out to vote in the 1964 presidential election, just exceeding the threshold for the entire state to be covered under the law. The DOJ, working with the Census Bureau, then calculated the 1964 presidential election turnout at the county level: the total number of votes for president in 1964 was divided by the voting age population from the 1960 census. Most counties fell well above or well below the 50 percent cutoff, but, in the interest of accuracy, the Census Bureau conducted a special census on 21 North Carolina counties with turnout near the 50 percent cutoff. The special censuses took place in late 1965 and early 1966. After completing the special censuses, and recalculating the 1964 presidential election turnout of these 21 counties, the DOJ and Census Bureau assigned 39

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[35] Section 5 covered the following states as a whole in 1965: Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia. It also covered 39 counties in North Carolina. After the 1970 and 1972 extensions, Section 5 also applied to the states of Alaska, Arizona, and Texas, as well as four counties in California, five counties in Florida, three counties in New York, two counties in South Dakota, and two townships in Michigan. One additional jurisdiction in North Carolina, Jackson County, became covered under the 1975 language minority extension of the Act.

out of 100 North Carolina counties to Section 5 coverage (United States Census Bureau 1966). Because there were no reliable voter registration statistics for North Carolina in 1964, the DOJ and the Census Bureau used only voter turnout to determine Section 5 coverage status.

Two counties had unusual assignment procedures. Wake County successfully "bailed out" of coverage in January 1967 by demonstrating that the denominator used to calculate its 1964 presidential election turnout had included the prison population (*Wake County v. United States* 1967). Section 5 thus covered Wake County for only the 1966 midterm election, leaving 39 counties covered until 1975, when Jackson County was added to Section 5 coverage status under the new language minority provisions.

Many counties fell just above or just below this cutoff: 35 counties fell within five percentage points above or below the coverage threshold, and 15 counties fell within 2.5 percentage points above or below the coverage threshold. The marginal counties falling just above and just below the turnout cutoff are especially important for comparison because the 50 percent threshold was essentially arbitrary. There is no substantive reason for a 50 percent cutoff, against, say a 45 percent cutoff or a 55 percent cutoff, and counties falling just on either side of the cutoff are likely quite similar on most dimensions.

North Carolina was the only partially-covered state in the original 1965 Act. Even after the coverage formula was amended in 1970 and 1975, North Carolina was still the only state in which there were close to an equal number of covered and non-covered jurisdictions; other states were either covered entirely (Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia) or had just a few covered jurisdictions (California, Florida, Michigan, New Hampshire, New York, and South Dakota). Just over half of the nonwhite voting age population in in North Carolina lived in a covered county. The distinctive pattern and scope of coverage in North Carolina provides a unique opportunity to analyze how political participation differed in covered versus uncovered jurisdictions.

In 1966, approximately 40 percent of the North Carolina's total voting age population lived in covered counties, and approximately 54 percent of its nonwhite voting age population lived in covered counties. Due to population and demographic changes, by 2012 only 34 percent of the total voting age population lived in covered counties, and 44 percent of the nonwhite voting age population lived in covered counties. Over this period, blacks have consistently comprised about a fifth of North Carolina's total population—over two million people in 2012.

Regression discontinuity design

Regression discontinuity design (RDD) is a procedure for estimating a treatment effect where subjects are assigned to treatment or control groups based on a certain threshold or cutoff in a continuous assignment variable. Subjects scoring on one side of the cutoff receive treatment, while those scoring on the other side do not. RDD hinges on the assumption that observations just above or just below this arbitrary cutoff should not, on average, differ on any independent variables except for the treatment itself. Under this assumption, RDD

approximates an experimental design—close to this arbitrary cutoff, assignment to treatment is essentially random. RDD looks for a discontinuity in the outcome variable at the cutoff score, and estimates a local average treatment effect (LATE) that quantifies the impact of the intervention on the treatment group in a narrow bandwidth around the cutoff, using parametric or non-parametric methods. By focusing on observations assigned to treatment in a near-random fashion, RDD addresses concerns about unobserved confounding variables or selection bias.

RDD has seen increasing use in political science, especially to understand close election outcomes (e.g. Caughey and Sekhon 2011; Lee 2008). A recent series of studies on Section 203 of the Voting Rights Act uses RDD to show that mandating language materials boosts language minority turnout (e.g. Fraga and Merseth 2016; Hopkins 2011). In the case of Section 203, treatment to coverage is determined by language minority population thresholds. RDD allows the latter studies to show that Section 203 has a direct causal impact that improves turnout of language minority voters.

The ingredients for a "sharp" regression discontinuity design are present in the case of Section 5 coverage in North Carolina, because we know the precise mechanism for assignment to treatment. Counties were scored on a continuous variable—their voter turnout in the 1964 presidential election—and were then assigned to treatment if they fell below the cutoff score of 50 percent turnout. Counties scoring above 50 percent turnout in the 1964 presidential election were not assigned to treatment.

I examined multiple different outcome variables at the county level: black, white, and overall turnout in presidential and midterm elections from 2002 to 2012. Percent turnout by race at the county level is constructed using the total number of votes by race from the North Carolina State Board of Elections, and the voting age population by race from the decennial U.S. census, interpolated for intercensal years. Total votes are divided by the voting age population, and then multiplied by 100, to give the percent turnout of black, white, and overall voters. As far as I am aware, the analysis below is the first attempt to evaluate Section 5 of the Voting Rights Act on black, white, and overall turnout using a regression discontinuity design—which is only possible because North Carolina is a partially covered state and it happened to collect and report turnout by race at the county level. Table 5 below presents counts of the total voting age population, and counts and percentages of the black and white voting age populations, across covered and non-covered counties in North Carolina. It also breaks out the figures among marginally covered and non-covered counties.

Table 5
County Counts and Voting Age Population Size, by Coverage Status and Proximity to Discontinuity

	Counties		Black Population		White Population	
	N	VAP	% of Black VAP	VAP	% of White VAP	VAP
Total	100	7,351,323	100	1,553,619	100	5,281,622
Covered	40	2,490,074	47.4	736,564	30.30	1,600,541
Non-Covered	60	4,861,249	52.6	817,054	69.70	3,681,081
Marginally Covered (42.5-49.99%)	25	1,559,677	28.4	441,889	19.82	1,047,055
Marginally Non-Covered (50-57.5%)	15	1,595,938	24.3	378,032	20.28	1,071,017

Results

Wake County and Jackson County are dropped from the analysis because their assignments to the control group and treatment group, respectively, did not reflect their scores from the 1964 presidential election.[36] All analyses were conducted in STATA 14 using the "rdrobust" package, which "implements local polynomial regression-discontinuity point estimators with robust confidence intervals" (Calonico, Cattaneo, and Titiunik 2014). By default, the rdrobust package uses bandwidth selection procedures proposed in Calonico, Cattaneo, and Titiunik (n.d.) to determine the ideal bandwidth for analysis around the cutoff.

Tables 6 and 7 report the local average treatment effects on black turnout, white turnout, and overall turnout in presidential and midterm elections from 2002, the first year for which turnout data by race was available, to 2012, the last election year before the suspension of Section 5. Because the election, reelection, and presidency of Barack Obama could have led to distinctive patterns of black and white turnout in 2008, 2010, and 2012, the tables report treatment effects on the outcome variables in different ways: pooling observations for all presidential election years (2004, 2008, 2012) and all midterm election years (2002, 2006, 2010); pooling observations for only Obama years (2008 and 2012 for presidential elections; 2010 for midterm elections); and pooling observations for non-Obama years (2004 for presidential elections; 2002 and 2006 for midterm elections). Despite the relatively low number of observations, the results are remarkably consistent however one pools the observations, and whether one looks at black turnout, white turnout, or overall turnout.

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[36] As mentioned above, Wake County successfully "bailed out" of coverage in January 1967 by demonstrating that the denominator used to calculate its 1964 presidential election turnout had included the prison population (*Wake County v. United States* 1967). Jackson County was added to Section 5 coverage status under the new language minority provisions. This leaves 39 covered, and 59 non-covered counties included in the analysis.

Presidential turnout

Figures 7, 8, and 9 show scatterplots of black, white, and overall turnout, respectively, in North Carolina presidential elections in 2004, 2008, and 2012. Each point in the scatterplot represents a county-year, with the county's 1964 presidential election turnout—its score for assignment to treatment—indicated on the x-axis and the voter turnout percentage on the y-axis. Each figure suggests a discontinuity in voter turnout when crossing the threshold for Section 5 coverage: voter turnout appears higher among covered (treated) counties than non-covered counties.

Figure 7
Overall Presidential Turnout in Covered and Non-Covered Counties Near the Coverage Threshold
2004 to 2012

Figure 8
Black Presidential Turnout in Covered and Non-Covered Counties Near the Coverage Threshold 2004 to 2012
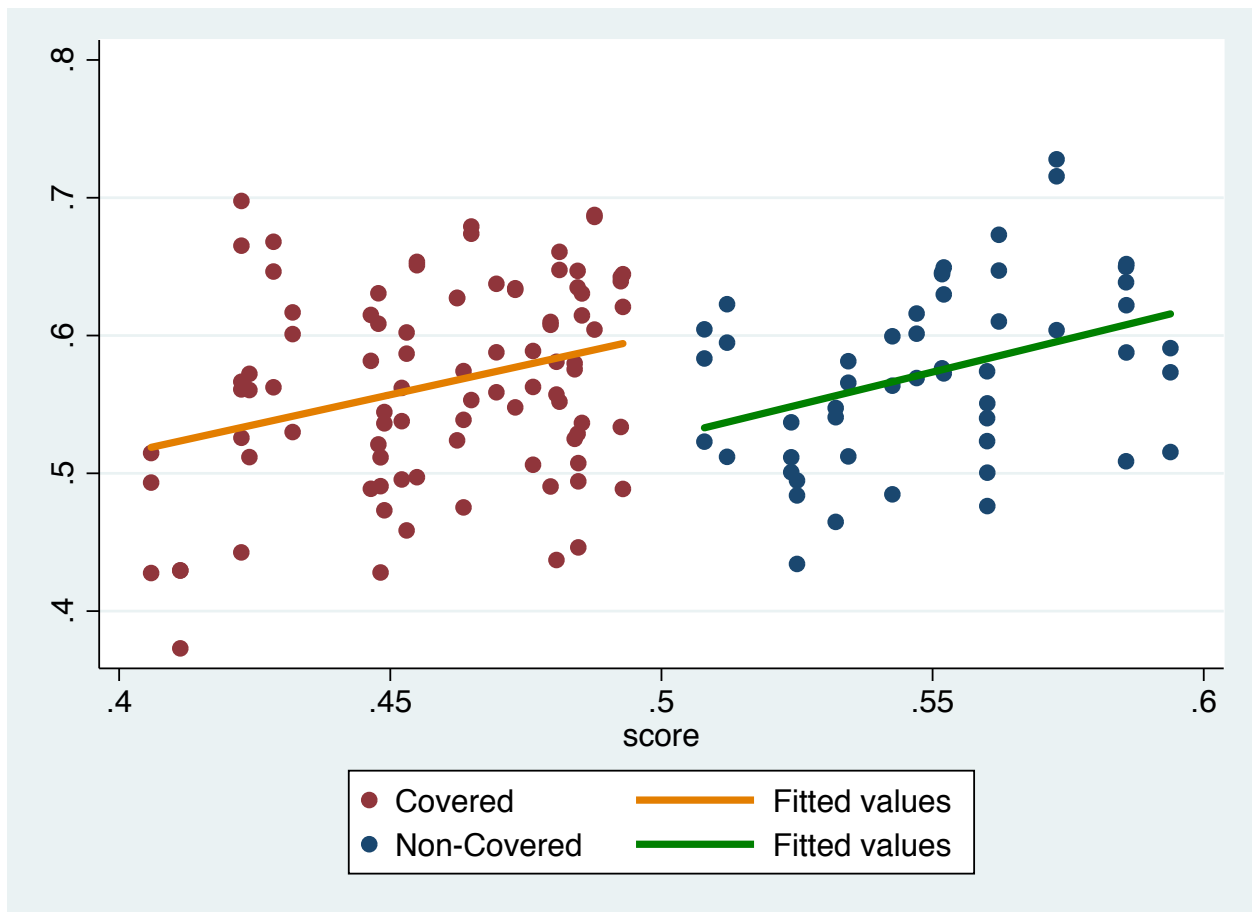
Figure 9
White Presidential Turnout in Covered and Non-Covered Counties Near the Coverage Threshold 2004 to 2012
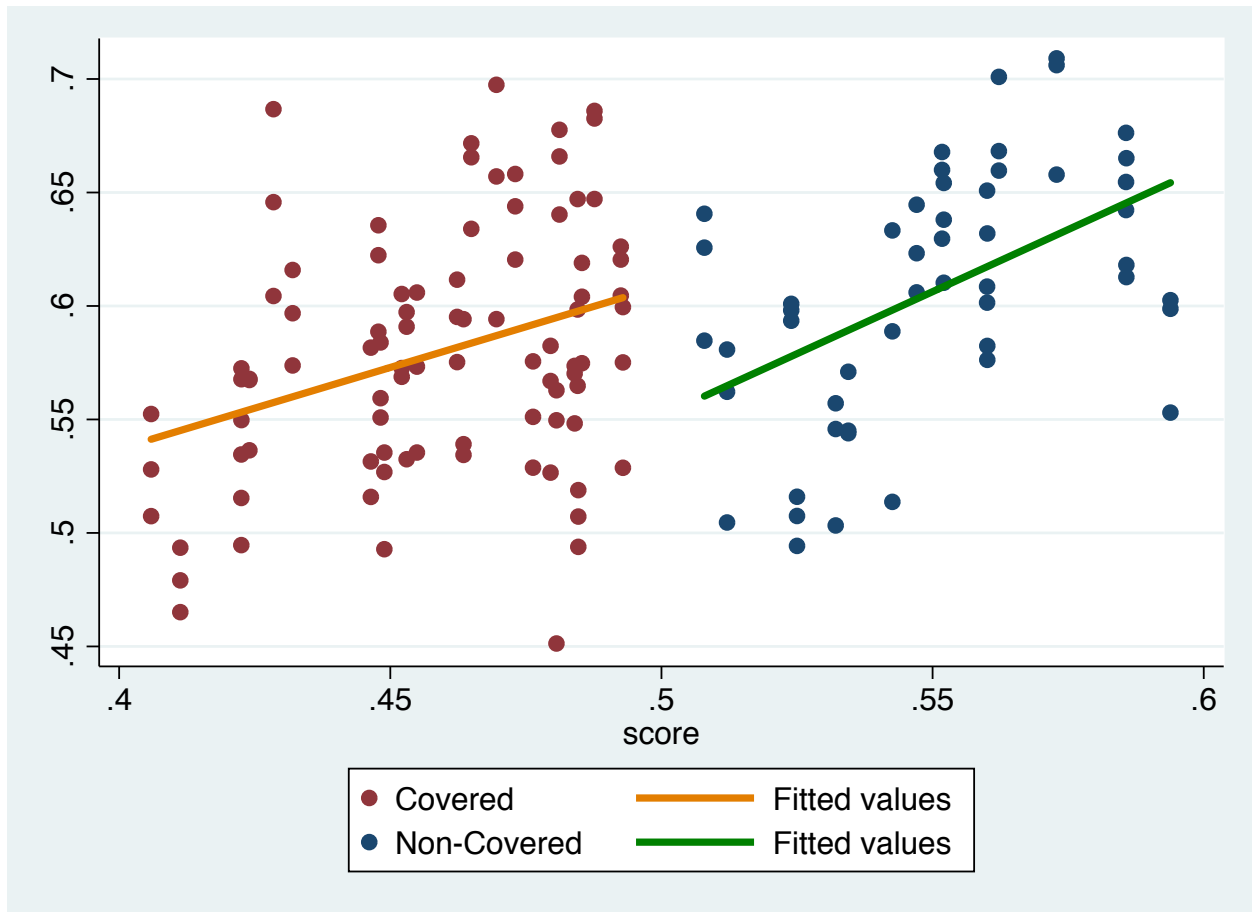
Table 6 provides estimates for local average treatment effects, calculated using local linear regressions on either side of the cutoff, within the default bandwidth.[37] I find positive local average treatment effects for federal supervision of elections on black turnout, white turnout, and overall turnout during presidential election years.

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[37] In all cases, the bandwidth is between 6.9 percent and 9.2 percent around the cutoff.

	Pooled: 2004-2012			Obama: 2008 & 2012			Bush: 2004		
	N	Est.	(SE)	N	Est.	(SE)	N	Est.	(SE)
Overall Turnout	294	6.45**	(3.01)	196	7.23**	(3.17)	98	5.10*	(3.08)
Black Turnout	294	9.12*	(5.48)	196	9.75*	(5.61)	98	7.99*	(4.82)
White Turnout	294	5.29**	(2.66)	196	5.32*	(3.08)	98	5.50	(3.79)

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

When the three presidential election years are pooled (Row 2 in Table 6), Section 5 coverage led to black turnout 9.12 percentage points higher in marginally covered counties, compared to non-covered counties that just missed assignment to treatment. This treatment effect for black turnout is significant at the $p<0.100$ level. The findings are similar when looking only at the Obama elections (LATE of 9.75 percentage points; significant at $p<0.100$) or at the non-Obama election in 2004 (LATE of 7.99 percentage points; significant at $p<0.100$).

Whites also see higher turnout at statistically significant levels in marginally covered counties, relative to non-covered counties just above the 50 percent cutoff. Again, when the three presidential election years are pooled (Row 3 in Table 6), Section 5 coverage led to white turnout 5.29 percentage points higher in treated counties just below the cutoff, compared to counties that just escaped federal oversight. This treatment effect for white turnout is significant at the $p<0.050$ level. The results are similar for the Obama elections (LATE of 5.32 percentage points; significant at $p<0.100$ level), though not significant for the non-Obama election in 2004.

Overall turnout for the presidential elections is higher in covered counties at statistically significant levels, which is not surprising given the positive results for black turnout and white turnout. Examining first the results when the three presidential elections are pooled, I find a local average treatment effect of 6.45 percentage points, with a significance level of $p<0.050$. Again, the results are similar when looking only at the Obama elections (LATE of 7.23 percentage points; $p<0.050$) or only at the 2004 election (LATE of 5.10 percentage points; $p<0.100$).

The findings provide strong evidence that federal oversight of elections in North Carolina substantially increased black, white, and overall turnout in marginally covered counties during the 2004, 2008, and 2012 presidential contests.

Midterm turnout

Figures 10, 11, and 12 show scatterplots of black, white, and overall turnout, respectively, in North Carolina midterm elections in 2002, 2006, and 2010. Each point in the scatterplot represents a county-year, with the county's 1964 presidential election turnout again indicated on the x-axis and the voter turnout percentage again on the y-axis. Each figure

suggests a discontinuity in voter turnout when crossing the threshold for Section 5 coverage: turnout appears higher among covered (treated) counties than non-covered counties.

Figure 10
Midterm Elections: Overall House Turnout in Covered and Non-Covered Counties Near the Coverage Threshold, 2002 to 2010
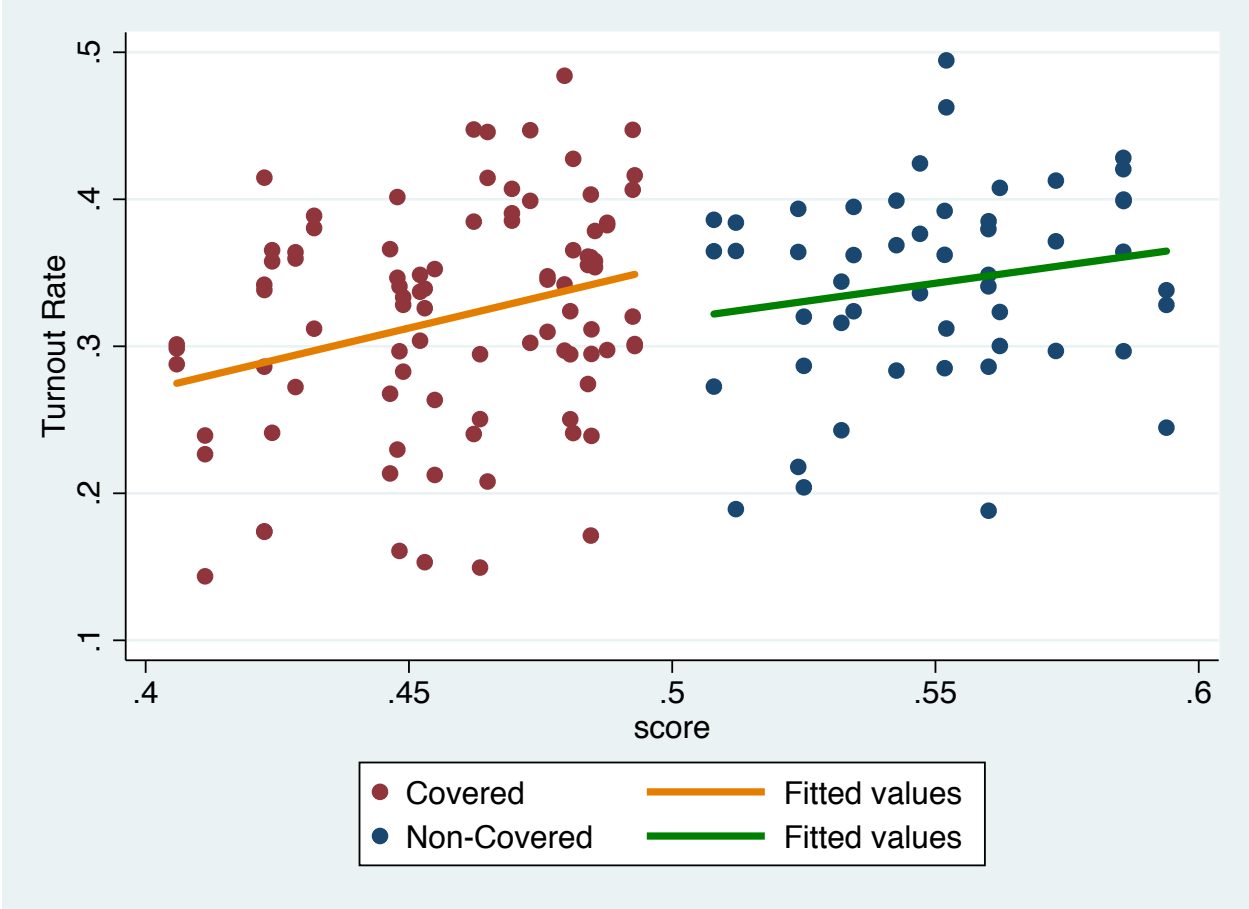
Figure 11
Midterm Elections: Black Turnout in Covered and Non-Covered Counties Near the Coverage Threshold, 2002 to 2010
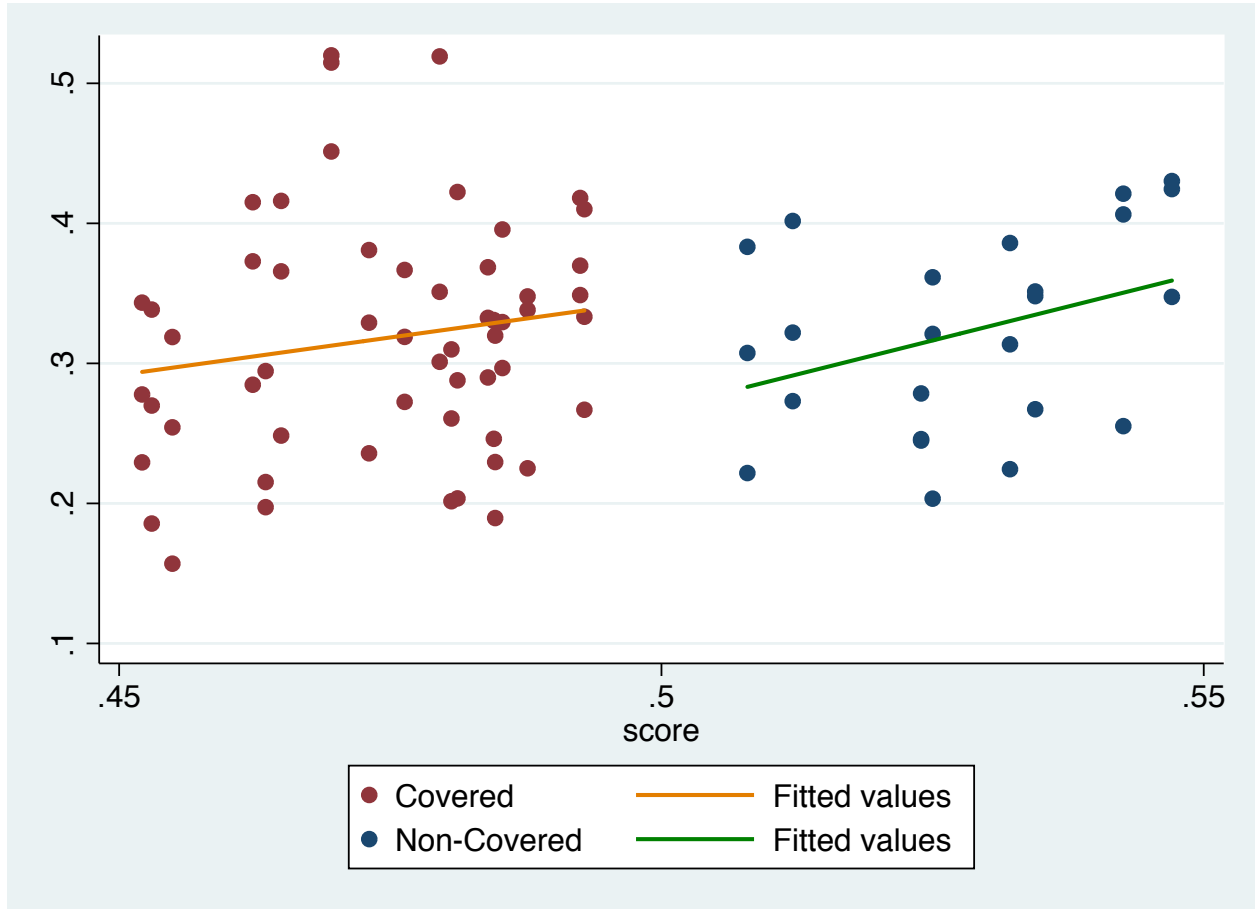
Figure 12
Midterm Elections: White Turnout in Covered and Non-Covered Counties Near the Coverage Threshold, 2002 to 2010
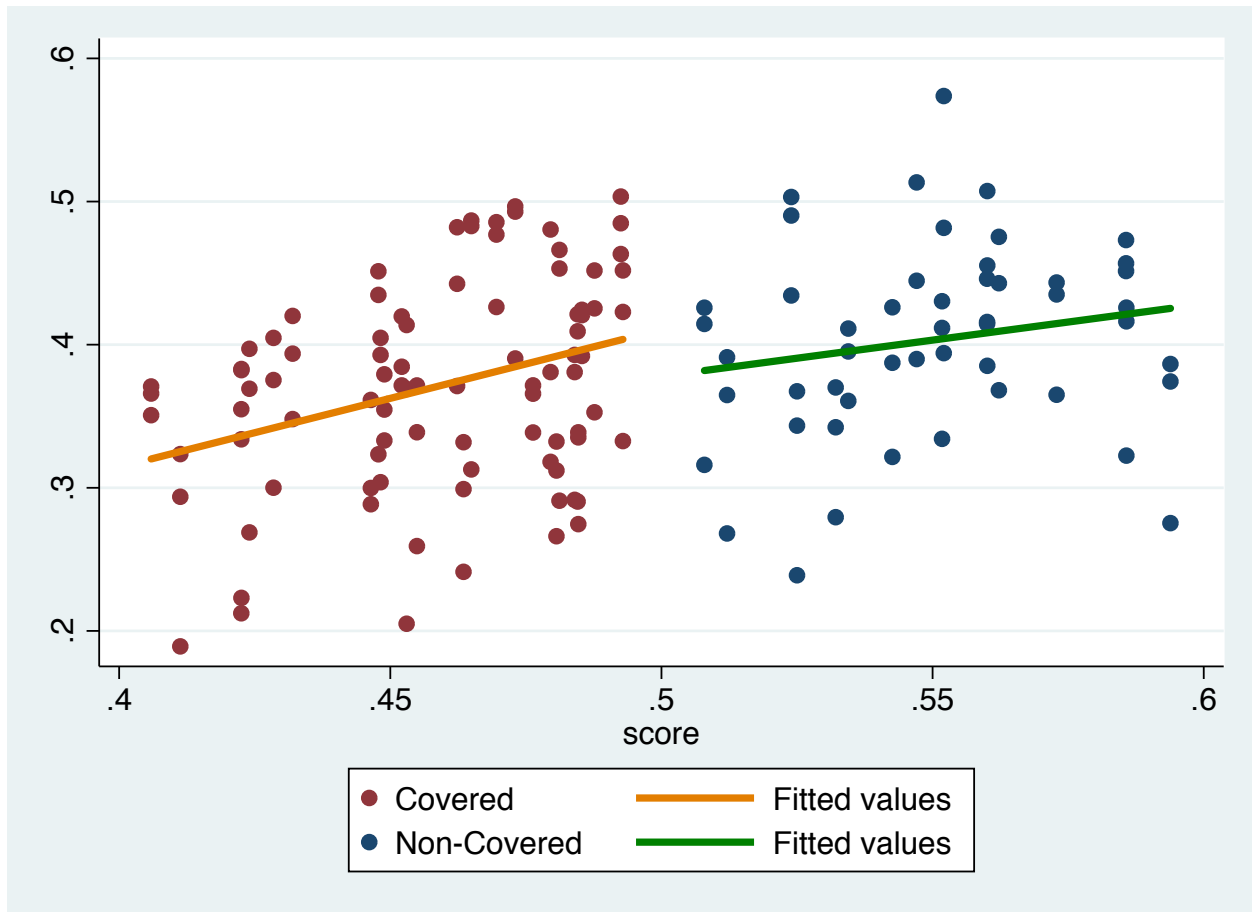
Table 7 provides estimates for local average treatment effects, calculated using local linear regressions on either side of the cutoff, within the default bandwidth.[38] Compared to the results for presidential election years, the findings on midterm turnout are less conclusive. I find only marginal effects for federal supervision of elections on black turnout and overall turnout; however, the local average treatment effects on white turnout are indeed significant. In all cases, the results are more dependent on the election years selected for testing.

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[38] In all cases, the bandwidth is between 6.9 percent and 9.2 percent around the cutoff.

Table 7
Midterm Turnout: Regression Discontinuity Estimates, 2002-2010

	Pooled: 2002-2010			Obama: 2010			Bush: 2002, 2006		
	N	Est.	(SE)	N	Est.	(SE)	N	Est.	(SE)
Overall Turnout	294	5.09	(3.28)	98	5.20**	(2.54)	196	4.97	(3.81)
Black Turnout	294	5.25	(3.29)	98	2.55	(4.34)	196	6.52**	(3.05)
White Turnout	294	5.89*	(3.21)	98	5.82*	(3.07)	196	5.89	(4.20)

* p<0.1; ** p<0.05; *** p<0.01

Note: Overall turnout in 2010 is estimated using total ballots cast in the U.S. Senate race, since that was the highest office on the ballot. There was no U.S. Senate race in North Carolina in 2006.

On the question of black turnout, when the three midterm election years are pooled (Row 2 in Table 7), Section 5 coverage led to black turnout 5.25 percentage points higher in marginally covered counties, compared to non-covered counties that just missed assignment to treatment. This treatment effect for black turnout just misses the conventional significance threshold at p<0.100 level, but the robust estimator is significant at that level. The LATE is not significant when looking only at the first Obama midterm election, but is significant when pooling the 2002 and 2006 elections (LATE of 6.52; p<0.050).

For midterm elections, as in presidential elections, whites turnout at significantly higher rates in marginally covered counties, relative to non-covered counties just above the 50 percent cutoff. Looking again at the results when the three midterm election years are pooled (Row 3 in Table 7), Section 5 coverage led to white turnout 5.89 percentage points higher in treated counties just below the cutoff, compared to counties that just escaped federal oversight. This treatment effect for white turnout is significant at the p<0.100 level. The results are similar for the 2010 elections (LATE of 5.82 percentage points; significant at p<0.100 level), though not significant when pooling the two midterm elections prior to President Obama's election.

Overall turnout for midterm elections is not statistically distinguishable in covered counties and non-covered counties, except during the 2010 midterm election. Isolating the 2010 election results, I find a LATE of 5.20 percentage points for overall turnout in marginally covered counties due to federal supervision under Section 5. This finding is significant at the p<0.050 level.

Compared to the findings on presidential turnout, the results provide less conclusive evidence that federal oversight of midterm elections in North Carolina substantially increased black, white, and overall turnout in marginally covered counties. The findings are more dependent on choices about which county-years to examine, and if or how to pool these observations. This may suggest that higher turnout elections are more dependent on the institutional influence of Section 5, and a more thorough analysis of this observation can be performed in future research. One potential extension of the current research is to examine the role of Section 5 in local or special elections non-concurrent with federal races, which

tend to produce lower turnout. Extending the analysis further before the year 2000 to incorporate additional midterm and presidential election years would also help determine if there is a more pronounced effect in presidential elections. However, voter turnout data by race does not exist in those earlier years, so the effects on overall turnout could only be observed. Still, pooling overall turnout figures over time using the regression discontinuity design is a potential project for future research.

Estimating the Impact of *Shelby* on Voter Turnout

The previous section provided strong evidence that federal supervision of elections was boosting both black and white voter turnout in North Carolina counties just prior to Section 5's suspension by the Supreme Court in 2013. Federal supervision was having its intended effect, securing minority participation in the franchise, but it was also having beneficial spillover effects on white voters, since white electoral participation in marginally covered counties was significantly higher than in marginally non-covered counties.

Did suspending Section 5 in 2013 have deleterious effects on voter turnout in the 2014 and 2016 general elections? Or was federal supervision of elections obsolete, as argued by many commentators, generally coming from right-of-center perspectives? While only two federal elections have taken place since the *Shelby* decision, this provides enough data to venture an initial assessment. Yet, because so few election data points are available after *Shelby*, this analysis turns to individual-level data rather than county-level data to assess whether removal of Section 5 affected turnout. This section uses a fixed effects model to determine whether a panel of registered voters in North Carolina were more or less likely to vote from 2012 to 2016, based on their location in a covered or non-covered jurisdiction.

These tests will estimate the effect of suspending federal oversight in covered counties by measuring changes in the likelihood of voting in newly uncovered counties, compared to changes in never-covered counties, which act as a control group. Note that 'treatment' in this approach is not federal supervision, but rather the removal of federal supervision.

Political and Legal Dynamics in North Carolina after *Shelby*

It is important to recall political and legal dynamics in North Carolina after the suspension of federal oversight, because it gives some expectation for changes in voting patterns, and suggests why we might expect to see substantial impacts on such patterns in the recent aftermath of the *Shelby* decision. In the wave election of 2010, Republicans took over both houses in the state legislature for the first time since 1898 (Wan 2016), and in 2012 Patrick McCrory won the governorship, creating unified Republican control. Immediately after *Shelby*, the legislature passed HB 589, initiating a strict voter ID requirement and rolling back a host of additional rules that made registration and voting easier and more convenient. For example, the law reduced early voting days, eliminated same-day registration, and ended out-of-precinct voting. State legislators were quite open about the fact that they waited until after *Shelby* to enact these laws, because such changes were unlikely to receive Section 5 preclearance from the DOJ (Chemtob 2016).

Nonetheless, the NAACP, The League of Women Voters, and the Southern Coalition for Social Justice challenged HB 589 in federal court on the grounds that it would disproportionately affect minority and poor voters, citing evidence that rolling back these voting rules would especially burden blacks (Graham 2016). The case was under consideration during the 2014 midterm elections. Though parts of HB 589 were originally suspended by the federal courts pending a decision on the merits of the case, the Supreme Court allowed the law to stand during the 2014 elections.[39] In April 2016, the District Court upheld the law. The majority opinion claimed that "there is significant, shameful past discrimination. In North Carolina's recent history, however, there is little official discrimination to consider" (Quoted in Graham 2016). Evidence that black voter turnout had actually increased from 2010 to 2014 was cited by the defendants as proof that the law was not discriminatory.

A federal appeals panel found evidence of the contrary, and struck down parts of the law,[40] saying that the lower court did not consider "the inextricable ink between race and politics in North Carolina" (Quoted in Wines and Blinder 2016). Republicans in the state house intended that law the affect "African Americans with almost surgical precision," wrote Judge Diana Gribbon Motz. Indeed, Republican state legislators had requested breakdowns of the use of early voting and same-day registration to craft "the most restrictive voting law North Carolina has seen since the era of Jim Crow" (Quoted in Wan 2016). In August 2016, the Federal Appeals Court struck down the North Carolina law. Republican Governor Patrick McCrory's emergency request to maintain HB 589 was unsuccessful after the Supreme Court, in a four to four tie, refused a stay, allowing the appeals' court decision to stand. Yet, although the appeals court found the law unconstitutional, no guidance was provided on how to reinstitute early voting. The decision-making shifted to the county election boards (controlled by Republicans), to decide the locations and hours of early voting and the number and locations of polling places. Under Section 5, these decisions would have required preclearance from the DOJ in the covered counties. So, while the voter ID portion of the law was not implemented by the state, county elections boards were permitted to decide how to proceed with early voting and make a number of other administrative decisions that would have formerly required preclearance. This shift represented a major, unplanned decentralization in North Carolina's elections procedures.

The context surrounding the election rules changes were swept up in even more partisan controversy after the executive director of the Republican Party in North Carolina wrote an email to party members, instructing them to encourage Republican election board members to "make party line changes to early voting" and to limit early voting. As reported in *The Daily Tarheel*, Mecklenburg County, the largest county in the state and one of the most diverse, cut the number of early voting polling places by 12 in the first week, and Guilford County, a heavily black county, only had one polling place open for the first week of early voting. Both counties opened additional polling places during the second week of early voting (McKinney

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[39] The voter identification requirements, which in 2015 were rewritten by the legislature to allow those without identification to complete a provisional ballot, were also in place during the March and June 2016 primary elections; however, same day registration and out-of-precinct voting were allowed to continue in these elections (Chemtob 2016).
[40] The appeals court struck down the voter ID requirements, the limits placed on early voting from 17 to 10 days, the elimination of same-day registration, the elimination of pre-registration for 16 and 17 year olds, and the out-of-precinct voting prohibition.

2016). The upshot of the *Shelby* decision in North Carolina was, at best, significant uncertainty surrounding voting laws and procedures during the 2014 and 2016 election cycles. At worst, minority and poor voters faced substantial new obstacles to exercising their right to vote. Perhaps even more problematic, many new obstacles may have been unobserved.

Analysis of Turnout using Individual-Level Data on Registrants

The analysis now turns to whether removal of Section 5 coverage had any effect on individual voter turnout. In particular, I assess whether being in a newly uncovered county had any correlation with the likelihood that a voter turned out in 2016, holding other factors constant. For the presidential ballot in November 2016, statewide turnout among registered voters was 68.3 percent.[41] The turnout rate among registered voters was lower in the formerly covered counties (65.6 percent), compared to counties that were never covered by Section 5 (69.6 percent). A basic pairwise comparison of proportions shows this difference is statistically significant (p<=0.010). Presidential turnout in the formerly covered counties dipped from 2012 to 2016 by about two percentage points, while turnout in the never-covered counties was nearly identical.

To assess the independent effect of removing federal supervision of elections under Section 5, I constructed a panel using North Carolina's individual-level voter file, and included all registrants for the 2012 and 2016 elections, along with an indication of whether they voted. Because North Carolina collects and reports demographic characteristics of their registrants, we have unusually rich data in this panel, including race, ethnicity, sex, age, party affiliation, and address for each individual in the panel. The dependent variable of interest is dichotomous—whether a registrant voted in the election (coded as '1'), or did not vote (coded as '0'). The independent variable of interest is also dichotomous, indicating whether an individual is registered in a former Section 5 county—that is, they reside in a newly uncovered county. Those individuals are coded as 1. Individuals registered in a county that was never covered are coded as 0. Roughly 15 percent of registered voters in 2012 dropped out of the panel by 2016, either because they died, moved out of North Carolina, or let their registration lapse due to inactivity. This attrition leaves 11.32 million observations for 5.66 million registrants (one observation for each election: 2012 and 2016).

The fixed-effect model is an appropriate approach for studying this panel of individual registrants in North Carolina. A fixed effect model leverages the panel structure of the data— that we have repeated observations on the same subjects—and essentially treats individuals as their own controls by looking only at within-subject variation over time. An advantage of a fixed-effect model is that it controls for unobserved heterogeneity among individuals when that heterogeneity is constant over time and associated with the dependent variable, thus addressing omitted variable bias. This feature is especially helpful when analyzing individual voters, who have many time-invariant characteristics that might influence their decision to vote, but that are impossible to observe, difficult to observe, or difficult to measure, such as their family history and upbringing, their religious tradition, their race and ethnicity, their

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[41] In 2016, overall turnout (total ballots cast) among registered voters in the state was 68.98 percent, according to the NCSBOE (2016).

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education level, their sex, and their political affiliation. Fixed effects models do not control for time-variant independent variables, such as income or employment status, but can be included in the model if such information is available.

The fixed-effect regression is implemented using a linear probability model fitted with ordinary least squares. The alternative approach would be to use a logistic model; however, since most registrants always vote or never vote, there is no variation on the dependent variable for most registrants. A logistic regression drops these observations, which in effect limits the analysis to registrants who skipped voting in one of the two elections. Since we are interested in estimating the effect of removing Section 5 coverage on the likelihood of turning out for all North Carolina registrants, rather than for only casual voters, a linear probability model is well-suited to the research question.

Results

Table 8 reports estimates for all registered voters, with and without covariates, and Table 9 reports estimates for black registered voters only, with and without covariates. For a simple robustness check, Table 10 report the results from population-averaged models among all registered voters in the panel, with and without covariates; Table 11 reports results for black registrants in the panel, with and without covariates. The results are consistent across model specifications and registrant populations. Individual registrants in newly uncovered jurisdictions had statistically significant and substantially lower likelihoods of voting than individuals in always uncovered jurisdictions. Among registrants overall, individuals in newly uncovered counties were 6.1 percent less likely to vote than their peers, using a model with no covariates, or were 5.4 percent less likely to vote than their peers, after introducing a county-level control variable for per capita income. These results are highly statistically significant ($p<=0.001$).

Table 8
Fixed Effects Model, Newly Uncovered in 2016 Presidential Election (All Registered Voters)

	All Registered Voters			All Registered Voters, Covariates		
	N	Est.	(SE)	N	Est.	(SE)
Newly Uncovered	11,317,414	-.0612***	.0003	11,317,414	-.0538***	.0003
Income				11,317,414	-.1462***	.0021

*p<0.1; ** p<0.05; *** p<0.01*

Table 9
Fixed Effects Model, Newly Uncovered in 2016 Presidential Election (Black Registered Voters)

	Black Registered Voters			Black Registered Voters, Covariates		
	N	Est.	(SE)	N	Est.	(SE)
Newly Uncovered	2,556,743	-.1085***	.0006	2,556,743	-.0947***	.0006
Income				2,556,743	-.2840***	.0054

*p<0.1; ** p<0.05; *** p<0.01*

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Table 10
Table 10
Population Average Model, Newly Uncovered in 2016 Presidential Election (All Registered Voters)

	All Registered Voters			All Registered Voters, Covariates		
	N	Est.	(SE)	N	Est.	(SE)
Newly Uncovered	11,317,414	-.0606***	.0003	11,300,480	-.0672***	.0003
Income					-.0575***	.0015
Black					.0220***	.0005
Hispanic					-.0831***	.0013
Female					.0271***	.0003
Republican					.0526***	.0004
Other Party					-.0356***	.0004
Age					.0004***	.0000
College					.4031***	.0041

*p<0.1; ** p<0.05; *** p<0.01*

Table 11
Population Average Model, Newly Uncovered in 2016 Presidential Election (Black Registered Voters)

	Black Registered Voters			Black Registered Voters, Covariates		
	N	Est.	(SE)	N	Est.	(SE)
Newly Uncovered	2,556,743	-.0971***	.0005	2,552,429	-.1059***	.0006
Income					-.1221***	.0031
Hispanic					-.0578***	.0062
Female					.0995***	.0007
Republican					-.1661***	.0024
Other Party					-.0841***	.0011
Age					.0038 ***	.0000
College					.3273 ***	.0089

*p<0.1; ** p<0.05; *** p<0.01*

The effects were more pronounced for black registrants. Among black registrants, individuals in newly uncovered counties were 10.8 percent less likely to vote than their peers in counties that were never covered by Section 5, using a model with no covariates. After introducing a county-level control variable for per capita income, the effect declines slightly to 9.5 percent lower probability than voters in never covered counties. A population average model including covariates shows consistent results, with a 10.6 percent decline in the likelihood of turning out. These results are also highly statistically significant (p<=0.001).

When comparing white voters' likelihood of turning out to vote in the newly uncovered counties, differences are not as large. Among white registrants, individuals in newly uncovered counties were 4.0 percent less likely to vote than their peers in counties that were never covered by Section 5, using a fixed effects model with no covariates; when a county-level income covariate is added the effect dips to 3.3 percent less likely. The population average model with covariates also shows a difference that is not as pronounced as it was

among black voters—white voters in newly uncovered counties were 5.0 percent less likely to vote than those in counties that were never covered by Section 5. The results among white registrants are also highly statistically significant at p<=0.001.

The findings indicate that the removal of Section 5 coverage had a large downward effect on voter turnout in North Carolina in 2016, especially for blacks. The flurry of changes to voting rules between the *Shelby* decision and the 2016 election evidently had disproportionate effects on voters in covered jurisdictions. One can gauge potential impact on the election's results by looking at the implications on black turnout, since we know that blacks reliably vote for Democratic candidates. In 2016, there were approximately 708,000 black registrants in counties formerly covered by Section 5, of whom approximately 450,000 voted, or 63.6 percent. If the probability of a registrant to turn out in a newly covered jurisdiction was depressed by approximately 10 percent, that implies that around 50,000 black votes went 'missing' in the 2016 election due to the suspension of federal election oversight. While this only represents about one percent of the total votes cast in North Carolina in 2016, 50,000 votes were still about 30 percent of the margin separating Donald Trump and Hillary Clinton in the presidential race, and was about 10 times the margin in the unusually-close and highly-contested governor's race. The suspension of Section 5 coverage therefore had a clearly observable and meaningful influence on the results of the 2016 elections in North Carolina.

Chapter 3: Voter Access: Registration and Precincts in North Carolina

Registration requirements have been described by political scientists and other observers of American politics as the single greatest barrier to voting and participating in American democracy (e.g. Powell 1986; Wolfinger and Rosenstone 1980). It is the central mechanism used to regulate access to the ballot box; understanding the scope and operation of that mechanism is essential for understanding democratic governance in the United States. Prior to the passage of the Voting Rights Act of 1965, state and local governments throughout the country excluded blacks from participating in elections by keeping them off of the voter rolls. Poll taxes and literacy tests are notable examples of discriminatory institutions, but many, many other mechanisms were employed to prevent blacks and other marginalized groups from registering. These additional mechanisms of disenfranchisement ranged from restrictions on the days and hours people could register to instances of force and violence.

The major achievement of the VRA was significantly improving voter registration, especially for previously disenfranchised blacks. According to data from the National Commission on Civil Rights, fewer than four in 10 blacks (37.5%) were registered in North Carolina in 1960.[42] While this figure is far greater than the seven percent of blacks registered in Mississippi that year, blacks were still systematically excluded from the democratic process in North Carolina. The percentage of blacks registered varied markedly across jurisdictions, with fewer than 20 percent of the black voting age population registered in nearly a quarter of the state's counties. The impact of the VRA on voting in North Carolina cannot be fully understood without unpacking its effect on registration and access to the ballot box.

Section 5 coverage was the primary enforcement mechanism of the VRA; from 1965 to 2013, covered jurisdictions were required to "preclear" any voting changes, ranging from moving a polling place to redistricting, before a change was implemented. A coverage formula, based on voter turnout and registration in the 1964 presidential election, assigned states and local jurisdictions to this federal oversight. Jurisdictions with a literacy test in place, and less than 50 percent turnout of the voting age population, or less than 50 percent of the voting age population registered in 1964, became covered. North Carolina landed in a special coverage status as a result: the state as a whole had a turnout rate higher than 50 percent, but because a literacy test was employed statewide, the Census Bureau was tasked with determining the coverage status county by county. Consequently, 39 counties became covered under Section 5, and 61 counties were not. All other covered jurisdictions in the South were entire states, with the exception of Florida, which had six counties covered under the 1972 extension of the law. North Carolina's status as a partially covered state provides for a unique opportunity to examine the independent effect of Section 5 on voter access. Limiting the study to North

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[42] These figures are likely overestimated given that voter rolls were not systematically purged (Fleer 1968) prior to a standardization of the process in the aftermath of the VRA's passage.

Carolina allows for an examination of the provision without state-level factors that confound comparisons across states, which has been the traditional method of studying the impact of the Section 5 provision.

In particular, this chapter looks at how Section 5 of the VRA impacted two measures of voter access. The data examined are yearly data from 1966 to 2016. Different subsets of that time period are examined depending on the research question. North Carolina is unique in that it is one of the few states that has collected voter registration by race since 1965. These detailed time-series data present an opportunity to conduct a number of statistical tests that will reveal how Section 5 impacted political participation among black and white voters in particular, from the beginning to the end of the provision's enforcement.

The first measure of access examined is registration. I employ a number of statistical tests to determine the extent to which Section 5 impacted registration in North Carolina's covered versus non-covered jurisdictions across the time period of implementation. First, I provide an overview of voter registration trends from 1966 to 2016. Second, I conduct an analysis using a regression discontinuity design (RDD), which shows that Section 5 had a local average treatment effect (LATE) on black registration in the marginally covered counties almost immediately following the Act's passage. Section 5 coverage increased registration rates an additional 12.8 percentage points in the treated counties near the 50 percent coverage threshold, relative to the untreated counties near the threshold, in the 1966 and 1970 midterm elections, and 23.2 percentage points in the 1968 and 1972 presidential elections. Similar to the findings on black voter *turnout*, the treatment effect persisted through the last full year of coverage in 2012. From 2008 to 2012, black registration was 11.4 percentage points higher in marginally covered versus marginally non-covered counties. There is also a LATE on white registration, though initially following the Act's passage the treatment had the opposite effect, with white registration lower in the marginally covered counties. However, by the latest years of Section 5 coverage, white registration rates were higher in the marginally covered counties; the treatment effect in the latest years is larger for blacks. Finally, time-series cross-sectional regression analyses show that Section 5 had a positive, statistically significant, and enduring effect on both black and white registration rates over time, increasing black registration rates by about 0.51 percentage points per year and white registration rates by about 0.18 percentage points per year.

The second indicator of voter access examined is a precinct metric, which is a calculation of the number of precincts in each county per 10,000 adults of voting age, in presidential and midterm elections from 1966 to 2016. This measure is also a proxy for polling places per county, because one precinct corresponds to one polling place in North Carolina (North Carolina State Board of Elections 2016). Precincts refer to a subdivision of a county, an actual physical boundary where voters are grouped to vote. Polling places refer to the precise location within a precinct boundary where voters must go to cast their ballot on election day. The precinct measure is relevant to access because the number of precincts is one gauge of the ease of voting (Brady and McNulty 2011). As evidenced in the current study, as well as other research on the topic, the number of accessible polling places affects voter turnout (Gimpel and Schuknecht 2003).

In 1966, the newly covered counties, in turn, had fewer precincts per 10,000 persons of voting age than in non-covered counties, yet over time, the precinct rate converged and were nearly equal by 2012. At the same time, with an increasing population, the precinct rate declined across all of the counties from 1966 to 2016. Unlike registration and turnout, however, RDD analyses show there is no LATE on the precinct rate in the marginally covered versus non-covered jurisdictions in the early or late periods of Section 5 implementation. Still, the time-series cross-sectional regression analysis suggests that Section 5 coverage did have a small, but statistically significant, effect on the *average* precinct rate *across all of the covered counties* over time, increasing the precinct rate per 10,000 by 0.03 in each year.

A separate analysis of registration is important because of the rich data collected by race in North Carolina. As indicated in the preceding chapters, county-level turnout figures by race are only available in North Carolina from 2002 to 2016; official county-level voter registration data by race is available beginning in 1966. Voter registration data can therefore help paint a fuller picture of how Section 5 impacted black political participation *over time*. A detailed analysis of precincts, moreover, offers an insight into one of the institutional mechanisms that made Section 5 successful. Taken together, these analyses provide additional evidence of the lasting effect of Section 5 in improving outcomes for blacks. Further, the analysis also indicates that the VRA was still having a positive effect in the immediate years prior to *Shelby*, despite marked increases in black registration rates across the board.

Background

In October 2016, the United States hit a new milestone—registration topped 200 million people for the first time in the country's history. The Pew Research Center (2016) predicted that the 2016 general election would be the most racially diverse in the nation's history (Goldmacher 2016). In North Carolina, nearly 89 percent of the voting age population was registered, including approximately 91.5 percent of blacks;[43] it is obvious that this is a significant increase since 1960 and almost unimaginable prior to the passage of the VRA. Nearly 70 percent of registered voters in the state cast a ballot in the presidential election, with more than 4.7 million ballots cast; the turnout rate among registered blacks was 63.3 percent, down from a high point of 76.6 percent in the 2008 presidential election of Barack Obama. Still, particularly in presidential elections, once an individual is registered, they are more likely to vote than not (Erikson 1981). Without automatic registration in the United States, or election-day registration in North Carolina,[44] registration creates a steep hurdle

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[43] Registration figures may be inflated due to the slow purging of voter rolls when people die, move, or otherwise become ineligible (United States Election Administration & Voting Survey 2004). At least in recent years, North Carolina has one of the most efficient and up-to-date roll maintenance operation, and the state's registration data is accessible to the public. The overall trend and increase in voter registration among blacks is significant since 1966.

[44] While voters must register 25 days before an election in North Carolina, the state also has same-day registration, which was originally passed in 2008 and gutted in 2013 in the aftermath of the *Shelby* ruling by a Republican-dominated state government. Same day registration allows voters to register during the early voting period, which begins 19 days before an election, but ends three days before the election. Same-day registration was in place from 2008 to 2013, but was stripped for the 2014 midterm election while it was under litigation; it was reinstated in 2016 after federal courts struck down the restrictive legislation citing discriminatory intent. A divided Supreme Court let the federal court decision stand.

voters must overcome to participate in the political process. It is thus very important to understand how citizens interact with registration, and under what circumstances the registration process becomes an intolerable barrier to participation in American democracy.

As a result of the VRA, black registration rates have improved substantially across the South; after the National Voter Registration Act of 1993, registration rolls expanded even more. Yet, despite currently very high registration rates among blacks in North Carolina, the role of the VRA should not be taken for granted. The state has sought to roll back key legislation expanding access to the state's voters in the aftermath of *Shelby*; it is thus clear that institutions can again be changed to impact the franchise negatively. Not only can these types of changes alter the outcomes of elections, they can undermine progress seen after nearly 50 years of successful voting rights protections.

While the VRA eliminated the greatest legal barriers to blacks registering and voting, extensive reports in the aftermath of the VRA's passage showed evidence of a number of new mechanisms used to restrict blacks' access to the polls. In 1975, the National Commission on Civil Rights thoroughly documented that blacks continued to face hurdles to registering: inconvenient places and times to register were common, registration sites were sometimes openly intimidating, and untrained—or hostile—staff were in charge of the registration procedures. Further, polling places were moved at the last minute, or were inadequate and hard to reach. While many of these issues are today less common, there is ample evidence that states are looking to restrict voter access in the aftermath of *Shelby*. Indeed, North Carolina itself has been at the center of this controversy.

Prior to the VRA's reauthorization in 2006, the United States Commission on Civil Rights—an independent and bipartisan agency—produced a briefing report to Congress about whether there was a continued need for Section 5. The Commission's experts agreed that the VRA in general was effective in securing vast improvements in voting rights since 1965, but disagreed on the role of Section 5 in those advancements, as well as whether an extension of the provision was necessary (United States Commission on Civil Rights 2006; hereafter USCCR). Ultimately, the Commission concluded that Congress should examine the history of discrimination since the VRA's enactment, assess changes that have "occurred in both covered and non-covered jurisdictions," develop records of voting discrimination in covered and non-covered jurisdictions, and consider amendments to the coverage formula (USCCR 2006).

In summing up various testimonies in support and opposition of the VRA, the U.S. Commission on Civil Rights summarized testimony of Jon M. Greenbaum:

> "The VRA has had a significant impact on minority participation in elections. Much of the Act's success could be contributed to Section 5 in particular…[yet] despite progress, there remain present-day examples in which people in power manipulate processes or change rules to their benefit, often at the expense of minority voters. This is why…Section 5 remains necessary and why Congress should create a record on the existence of voting discrimination today" (USCCR 2006, 7).

On the other hand, in a summary of testimony by Abigail Thernstrom the report reads:

> "…History is pertinent to the question of the reauthorization of preclearance. A further extension of Section 5 perpetuates extraordinary federal oversight over states and counties, a significant number of which were not disfranchising voters (as the term "disfranchising" is commonly understood) in 1965, no less in 1975. Moreover…black participation rates are today very high in the South—and high levels of registration and turnout today surely cannot be attributed to preclearance. Lastly, reauthorization perpetuates patterns of enforcement resting on arguably unfortunate assumptions about race and representation—assumptions that most Americans object to, survey data suggest" (USCCR 2006, 55).

Ultimately, this last reauthorization of Section 5 passed with near universal support, garnering 390 yea to 33 nay votes in the House, and with unanimous support in the Senate. President George W. Bush thereafter signed the VRA into law. Despite discussion of updating the coverage formula, it remained unchanged. Of course, as discussed in the prior chapters of this dissertation, *Shelby County v. Holder* forever shifted the trajectory of voting rights protections by halting Section 5 coverage in 2013; Justice Roberts' reasoning in that decision tracked with Abigail Thernstrom's assessment of the VRA's enforcement provision. The assertion that preclearance was no longer operating to prevent discrimination in the Act's latest years, and/or to improve black participation, is a notion that is tested in this chapter.

State and local governments across the country, regardless of former coverage status, have found ways to facilitate or hinder access to the franchise, including through registration procedures and other means. Registration procedures, moreover, have recently begun to evolve with the addition of same-day, election day, and early voting registration procedures throughout the United States. However, in some cases, reforms to make registering easier have been rolled back in the states, such as in North Carolina. Restrictive laws, such as residency requirements, closing dates, and other criteria for registering, such as felon restrictions and voter ID, continue to vary significantly across states and local jurisdictions, regardless of former coverage status. The DOJ was charged with monitoring registration requirements and procedures in the covered counties, and all changes to these institutions had to be precleared before instituted.

Precincts, moreover, are an example of a mechanism that can be used to impact access. Jurisdictions can relocate, strategically place, or eliminate polling places, as well as redraw precinct boundaries. While often benign acts, these procedures can also make it harder for minorities and other vulnerable populations to vote. Section 5 of the VRA directly addressed the issue of precincts and polling sites by reviewing and regulating *any* changes to these institutions in the covered counties, including their placement and elimination.

To what extent did the VRA contribute to the expansion of registration rates from 1966 through 2012? And how did oversight impact one institution that regulates access and was under the purview of Section 5—precincts? Similar to the preceding chapters, this analysis isolates the independent effect of the VRA on key outcome variables during the entire timespan of Section 5 coverage. The analysis again focuses on North Carolina alone, and uses

the county, where elections are administered, as the unit of observation, in order to eliminate state-level variables outside of Section 5 coverage that confound explanations of political participation. Given the state's unique status as partially covered—with 39 counties originally covered and 61 non-covered—this variation in coverage status can again be used to isolate the independent effect of Section 5 on these two additional measures that are fundamental elements of the franchise.

Access to the Vote

The Voting Rights Act of 1965 tore down the most egregious barriers to voter participation, and Section 5 in particular put the weight of the federal government behind enforcing voter protections. The provision was far-reaching in its scope and methods of oversight, and was controversial because of its selective application. Blacks' and other minorities' access to the ballot box was forever changed by the joint protections of Section 2 and Section 5. Still, while the advancements were vast, access was not perfect in the first years after the Act's passage, nor has it been free of issues since those early years.

A United States Commission on Civil Rights Report in 1968 documented a significant number of mechanisms in place to obstruct political participation among blacks and other minorities, even after the VRA's passage (USCCR 1968). These included but were not limited to inadequate and untrained registrar staff, polling places located far from black populations, and new efforts to dilute the black vote by creating at-large election systems. A commission report ten years after the Act's passage, furthermore, documented additional barriers to registration, including the times and places of registration, untrained registration personnel, and purging and reregistration. The report specifically cited a "lack of interest and of affirmative attempts to register voters on the part of county registrars" (USCCR 1968, 70). Registrars instituted restrictive registration times, did not have enough minority registration personnel, purged voter rolls, and lacked voter registration information and enough places to register, especially in rural counties (USCCR 1975). In many cases, the report detailed, the same white registrars—who were largely influenced by party officials—were in charge as before the VRA was passed; many just did not show up during registration hours, and even worse, were openly hostile to minorities.

Barriers to the act of voting were documented as well, including: inadequate polling place locations, conditions, and workers; long lines at polling places; ballots denied to minorities; illiterate voters improperly assisted; and irregularities with absentee ballots. On the issue of polling places in particular, blacks reported they were required to vote in white areas or "clubs," while the opposite was not always the case (USCCR 1975). Blacks were also frequently assigned the wrong polling place, and turned away on election day. The DOJ, as a result, became concerned about polling place locations and objected to several changes in the first ten years of the VRA. For example, objections were made in Mississippi and Louisiana when efforts were made to move poll sites too far away for blacks to reach (USCCR 1975). The commission's 10-year report emphasized:

"Whenever changes in polling place locations are made, voters accustomed to voting at a particular place are burdened. This is especially true for minority voters who may already be hesitant about voting. When a polling place change is not publicized, many voters go to the wrong place to vote. Told to go somewhere else, many see it as a runaround and may not vote at all. Most states covered by the Voting Rights Act have minimal provisions for notifying voters of polling place changes. Alabama and Virginia provide for publishing changes in newspapers. Posting changes in several locations is required in Alabama and Georgia. North Carolina county election boards may use either of these methods" (USCCR 1975, 107).

The report went on to say that "counties frequently do only the minimum the law requires" (USCCR 1975, 108).

More recent reports on voting rights in North Carolina also document problems with voter access across the state including intimidation, misinformation, and deterrence (Earls, Wynes, and Quatrucci 2008). A report by the National Commission on Voting Rights (2006) explains a number of more recent examples of voter suppression in North Carolina. Anecdotal evidence includes accounts of a registration drive for minority college students being prohibited, and a sheriff in one county threatening to knock on all of the doors of the Latino voters registered in one county to verify whether they were citizens.

The prior chapters discussed the literature on voter registration as it relates to the two-step process of voting. This chapter's discussion of registration focuses on the current state of the literature on voter access, to grasp the extent to which voters continue to face barriers, despite a swell in the number of registrants since the VRA's passage. A contingent of researchers has focused on mechanisms that undermine voter access—both intentionally and unintentionally. Of late, this literature is focused on new, "second generation" methods of limiting access, such as voter ID, and the rollback of some of the more "liberalized" voter registration laws, instituted by some states in the 1990s and 2000s.

Some recent modes of discrimination, moreover, are more overt. Bositis (2006) notes that polling places are still moved in black precincts more often; police cars are stationed near black polling places; supplies at polling places are inadequate; polling places lack functioning machines; and voting sites lack staff and/or equipment. In addition, "ballot security" efforts, which include often intimidating efforts to suppress political participation—such as disseminating misleading information—have been implemented by a number of actors (Weiser and Agraharkar 2010). Others have examined felon disenfranchisement, finding that there is a permanent exclusion of up to 30 percent of black men in states like Alabama and Florida (Manza and Uggen 2008).

In 1980, Wolfinger and Rosenstone famously noted that it is more difficult to register than to vote. As few state or local governments consider eliminating registration entirely, policymakers have instead focused on making registration easier (or harder). Research has shown that costs of voting are reduced through more accessible registration procedures, such as registering at DMVs or other government agencies, absentee voting, election day registration, and same-day registration. Election day registration is "one continuous act" of

voting (Wolfinger, Highton, and Mullin 2005, 3), providing an opportunity for voters to register at the last moment when interest is the highest. Allowing people to register as they cast a ballot is one effort to integrate more mobile populations, who are impacted by restrictive closing dates.

Election day registration, moreover, has a significant effect on turnout. Summarizing previous election day registration research, Burden et al. (2014) explain that overall turnout increases three to seven percentage points in presidential elections when election day registration is an option. Early voting, which has been used in North Carolina since 2008 (and was a major part of the state's recent controversy surrounding its rollback) allows voters to register and vote "without excuse" at early voting sites or by absentee during a specified period before election day, and has also been associated with higher turnout, though its effects may be limited (Gronke, Galanes-Rosenbaum, and Miller 2007). Same-day registration, a more popular reform among states, allows people to register and vote in a single act prior to election day. Burden et al. (2014) show that when it is coupled with early voting, it helps prevent declines in turnout caused by early voting, which they find takes away from election day turnout.

A new generation of research focuses on such reforms to relax the registration process. And at the same time, new methodologies are used to understand the process of registering itself. For example, using Google search data on "voter registration" of 80 million Americans, Street et al. (2015) model that three to four million additional voters would have registered had the voter registration period been extended to election day. The Burden et al. (2014) study referenced above, moreover, conducted both aggregate *and* individual-level statistical analyses of voter turnout in 2004 and 2008 presidential elections using the Current Population Study to show that election day registration has a consistently positive effect on turnout, but early voting is associated with lower turnout when it is implemented by itself. Micro-level research has also expanded as researchers can now geocode addresses using GIS and individual-level voter files to understand registration and other forms of access.

Beyond registration, another feature of access to the ballot box is the actual physical location voters are assigned to cast their ballot. Research on polling places has more recently taken shape as scholars use these new methods described above, such as geocoding and GIS software to measure distances to polls, showing that commuting time matters for turnout (Haspel and Knotts 2005). Brady and McNulty (2011) use the natural experiment of consolidation of voter precincts in the 2003 California recall election to study how changing polling places influences voter turnout. They find that turnout decreased by 1.85 percentage points and that polling place turnout dropped 3.03 percentage points alone due to the precinct consolidation. The authors explain that higher information costs associated with finding a new polling place, as well as risk aversion costs surrounding the uncertainty of the new polling place location, drove the dip in turnout. There was a partisan effect to the polling place changes because Democratic voters were more sensitive to the consolidation (Brady and McNulty 2011). Ultimately, more extensive manipulation of polling places could affect the outcomes of elections.

Another way policymakers have sought to expand polling place access is by increasing their availability prior to election day, as well as creating more flexible polling sites. Stein and Vonnahme (2012) review the literature on non-precinct voting and explain that in-person early voting, mail-in voting, and election day vote centers are more convenient, and thus we should expect their availability to increase turnout. However, research on the topic is modest and mostly shows that new voting location options just help those who are already likely to vote (Berinsky 2005; Neeley and Richardson 2001). It is up to parties (Leighley 2001) and candidates (Patterson and Caldeira 1983) to mobilize voters to use these alternative means of voting. Stein and Vonnahme (2008), however, do find that Election Day vote centers increase turnout.

An additional feature of the literature examines the placement of polling sites. This is important given that there is a lot of discretion among local elections boards on the number and locations of voting sites. In North Carolina, non-covered elections boards had more discretion than covered county elections boards in this regard. Berger, Meredith, and Wheeler (2008) show that the location of a polling place (such as a religious site) has an independent effect on whether and how an individual casts a ballot. In Gimpel and Schuknecht's (2003) study of three Maryland counties, the researchers find that ease of access to a polling place is positively related to turnout. The metrics examined are distance and impedance to one's polling place—measured in time and the effort of the commute. Dyck and Gimpel (2005) and Gimpel, Dyck, and Shaw (2006) connected location to voting method, using regression methodologies to assess voters' decisions on how to cast their ballot. They tested in person on election day, in-person early, and absentee voting based on proximity to polling places. People who live in greater proximity to early voting sites, they find, are more likely to use the resource.

Section 5 of the VRA was a mechanism to regulate registration procedures, precincts, and polling places, among other important electoral institutions, in order to prevent their alteration from restricting minority access. In North Carolina, we have a case in which a large portion of the state's election rules were regulated by the federal government. Unless a change was a statewide endeavor, non-covered counties were far more unchecked than were covered counties. This chapter contributes to the literature on how institutions impact registration and polling places by analyzing a major feature of election oversight.

Data

This analysis uses a dataset I constructed of voter registration figures by race, the number of precincts, and a number of demographic covariates, in each of the North Carolina's 100 counties. Each year from 1966 through 2016 is represented in the dataset. One of the side effects of the enactment of the VRA was that many covered jurisdictions throughout the South began to collect voter registration data by race and other demographic characteristics. Race data was already collected in North Carolina, but the process became more centralized and led by the state; beforehand, voter rolls were largely kept up only by county registrars and the data was very inconsistent and unreliable (Fleer 1968). For example, a North Carolina Advisory Committee report published in 1961 explained that voter rolls in some

counties had not been purged for decades, and that "over half of the counties reported more white registrants than there are white adults residing in the counties!" (North Carolina Advisory Committee 1960, 4). Before the VRA, even party data was difficult to come by or inconsistently collected in some places, including in North Carolina (Fleer 1968).

For this reason, the current analysis of voter registration data over time begins in 1966, when the state standardized its voter registration data collection. The North Carolina State Board of Elections began to produce yearly reports of county-level registration figures by race and party at that time, along with the number of precincts per county. Beginning the analysis in the year after the VRA was passed means a pre-post analysis, or difference in difference assessment, of its effect on registration and precincts, cannot be performed. Rather, this study will focus on the following: 1) trends in registration and precinct rates over time, 2) a regression discontinuity analysis to determine whether Section 5 had a treatment effect on registration rates and precincts in marginal counties, 3) a time-series regression analysis to quantify the effect of treatment from 1972 to 2012, and 4) the effect of Section 5 submissions on registration in the covered counties.

The primary outcome variables of interest in the current study are 1) percentage of black registrants among the black voting age population, 2) percentage of white registrants among the white voting age population, and 3) the number of precincts per 10,000 people of voting age. The percentage of black registrants is calculated by dividing the total number of black registrants by the total number of blacks age 18 and older in a county. White registration rates are calculated identically but using the white voting age population. All voting age population data are based on reports from the decennial Census. Overall voting age population data for intercensal years were generated by the North Carolina Budget and Management Agency, and were obtained through "Log Into North Carolina (LINC)," a data distribution site of the state's Budget and Management Agency. Voting age population data by race were interpolated using a standard linear interpolation method. The precinct metric was calculated by dividing the total number of precincts per county by the voting age population, and multiplying by 10,000. As mentioned above, this metric is also a one-to-one indicator of the number of polling places per county, as every precinct contains a single polling place in North Carolina.

For the vast majority of years, the registration figures included in this dataset are from October of each year.[45] Registration counts are the official North Carolina State Board of Elections (NCSBOE) figures, and were obtained from LINC for the years 1970 through 2016. Registration figures for 1966 through 1969 were collected by special request from the NCSBOE. Registration data for white, black, Democratic, Republican, and third party and unaffiliated voters—are available yearly for the entire time period of the study. Party data are used as control variables in some of the precinct rate models. Hispanic voter registration data was not collected at the county-level by the state until 2004. Some of the findings below do incorporate analyses of Hispanic voter registration, but these are not central to the paper given the incomplete data. Hispanics did not become more than five percent of the state's

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[45] Exceptions include the following: Data for 1981 is from May, in 1979 is from September, 1975 from November, and 1970, 1971, and 2001 from December because reports from October were not available (North Carolina State Board of Elections; Accessed 2016).

population until 2002, but the group's share of the population has steadily increased since that time. In 1970, Hispanics made up less than one percent of the state's population, and by 2004 they comprised 6.4 percent of the state's population.

Since 1966, the NCSBOE has documented the number of precincts per county. These data are also official NCSBOE figures, and were gathered from LINC for the years 1970 to 2006, and 2012 through 2016. Data from 2007 through 2011 were obtained from election results files on the NCSBOE public ftp site. Precinct counts per county for the years 1966 through 1969 were also collected through a special request from the NCSBOE.

This precinct metric might be considered a proxy for access to the ballot box, because it could signify how easy it is to get to the actual physical location of a polling place and cast a ballot (Brady and McNulty 2011), thus reducing the cost of voting (Downs 1957). Recent research by *insightus*, released in 2015, showed that while the number of early voting sites in North Carolina increased modestly by three new sites from 2012 to 2014, the locations of about a third of the polling places had actually changed in the aftermath of *Shelby*. The researchers calculated that "the average black voter's distance increased by a quarter of a mile," whereas white voters' distance increased by only 26 feet (Busa 2015, 1).[46] This is significant because in the covered counties prior to 2014, any polling place change would have required preclearance from the DOJ. Further, a report by the Leadership Conference Education Fund (2016) found that more than 800 polling places had been shut down throughout the South after the *Shelby* decision in counties previously covered under Section 5. The data in this current study shows that North Carolina had 52 fewer precincts in 2016 than in 2012.

Data for Specific Analyses

RDD: In the regression discontinuity analysis, the score variable, as discussed in the previous chapter, is used as the forcing variable to indicate treatment of Section 5. This is the turnout rate in the 1964 presidential election, as determined by the United States Census Bureau. The score variable is continuous, ranging from 0 to 100. Counties below 50 were assigned the treatment of coverage, and counties at 50 or above were non-covered, or not assigned to treatment.

Time-series cross-sectional analysis: For the time-series analysis, the primary independent variable of interest is Section 5 coverage, coded as a '1' for each year a county was covered, and '0' for each year a county was not covered. This variable is interacted with time t to assess the effect of Section 5 across the time period.

A number of demographic covariates are also included in this dataset, and are identical to the variables used in the previous chapters on voter turnout. The percentage of college educated adults in a county, percentage of blacks, percentage of Hispanics, percentage urban, percentage over age 65, and the percentage of the county that are government employees

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[46] The *insightus* (2015) study used the voter addresses and races of more than six million voters in the state, obtained from the NCSBOE to calculate the distance to early voting sites. Addresses to these sites were obtained from the Voting Information project data feed. The study is significant because of the volume of observations and the methods used to calculate the actual distance to the polls was novel.

are all based on decennial Census figures and are linearly interpolated when necessary. All variables except age were logged to normalize the distribution. Annual per capita income by county is from the Bureau of Economic Analysis. That variable was adjusted to 2015 dollars and a log transformation was employed to normalize it.

All told, the dataset is a complete set of yearly registration and precinct figures from the first year of the VRA's implementation in 1966, through its entire lifespan of implementation until 2013, as well as through the most recent general election in 2016. Because the intent of the Act was to increase participation of black Americans in elections, and because it immediately eliminated several of the most egregious barriers to participation, we should expect to see rapid increases in the black registration rates across covered jurisdictions in the early years.

Registration

As of 2016, blacks made up 22.0 percent of the population in the state of North Carolina, 21.2 percent of the voting age population, and 22.2 percent of the state's registrants. Whites comprised 68.5 percent of the state's population, 70.5 percent of the voting age population, and 69.3 percent of registrants in the state. The population in the formerly covered counties was nearly 3.5 million people—33.9 percent of the state's total population. In 1966, the proportion of the population residing in the covered jurisdictions was 41.5 percent. Just over half of the black population—54.5 percent—lived in the covered counties in 1966, as well as 37.1 percent of the white population. As a result of demographic changes, in 2012, the last year of Section 5 coverage, less than half of the state's black population lived in the covered counties (47.3%). The covered counties comprised 30.4 percent of the state's white population in 2012. Figure 13 below plots the percentage of the state's black population by coverage status over time, showing that the two lines cross in the early 2000s, at which point there are fewer blacks residing in the covered counties.

Figure 13
Percentage of Black Population by Coverage Status[47] 1970-2016
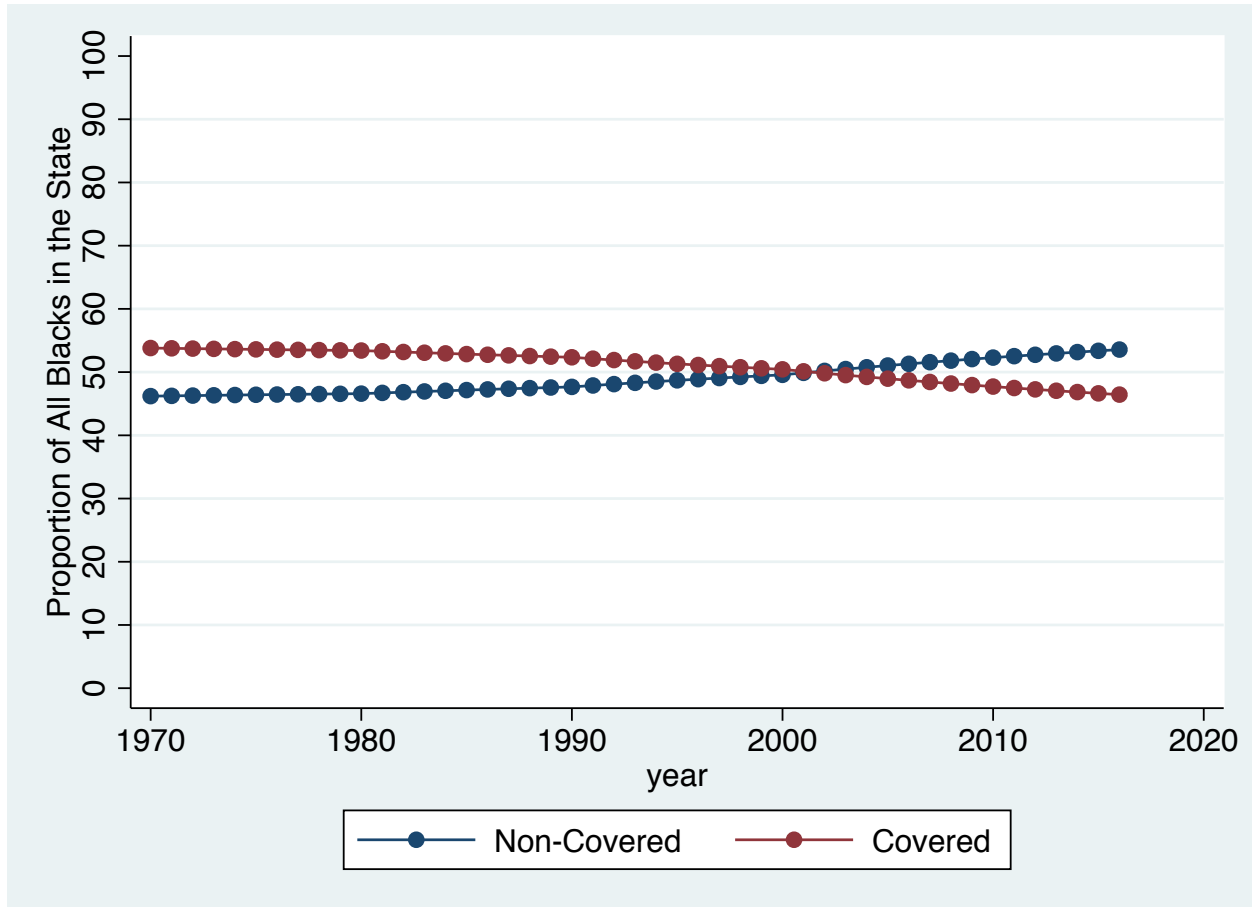

There are two very clear trends observed in the voter registration data over time, which are presented in Figure 14. First, overall voter registration rates, that is, the percentage of the voting age population registered, rose markedly from 1966 to their peak in the time series, 2012. Registration in the state was 68.8 percent in 1966 and by 2012 it was 89.9 percent. Registration dipped in 2016 to 88.5 percent. Registration was fairly consistent from the 1970's through the early part of the 1980's, rose sharply in 1984, and increased sharply again from 1996 to 2000 after the implementation of the National Voter Registration Act (NVRA), which created opportunities for people to register at DMVs and other government agencies. From 1994 to 2000, the registration rate in North Carolina spiked from 66.9 percent to 84.2 percent. Registration rose again somewhat after the implementation of same-day registration in 2008.

Second, as expected, there is a gap in registration between the non-covered and covered counties in the early period just after the VRA was passed; the gap narrows over time, but covered counties never surpass the non-covered counties through the time period. Nearly

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[47] Section 5 coverage ended in 2013. This graph represents the formerly covered counties as covered counties from 2013-2016 for comparison.

76 percent of the voting age population in the non-covered counties was registered in 1966, compared to nearly 58 percent in the covered counties. Then, the covered counties began to catch up, and by the 1984 presidential election the gap in registration had reached 10 percentage points for the first time (75 percent non-covered, 65 percent covered). Registration rates had narrowed to a difference of seven percentage points by 2000, and by 2012, the difference was three percentage points. Still, at no point in time do overall voter registration rates in the covered counties exceed those in the non-covered counties. In 2016, the difference between the formerly covered and the always non-covered counties was close to three percentage points.

Figure 14
Percentage of Voting Age Population Registered in North Carolina's Non-Covered and Covered Counties 1970 to 2016[48]
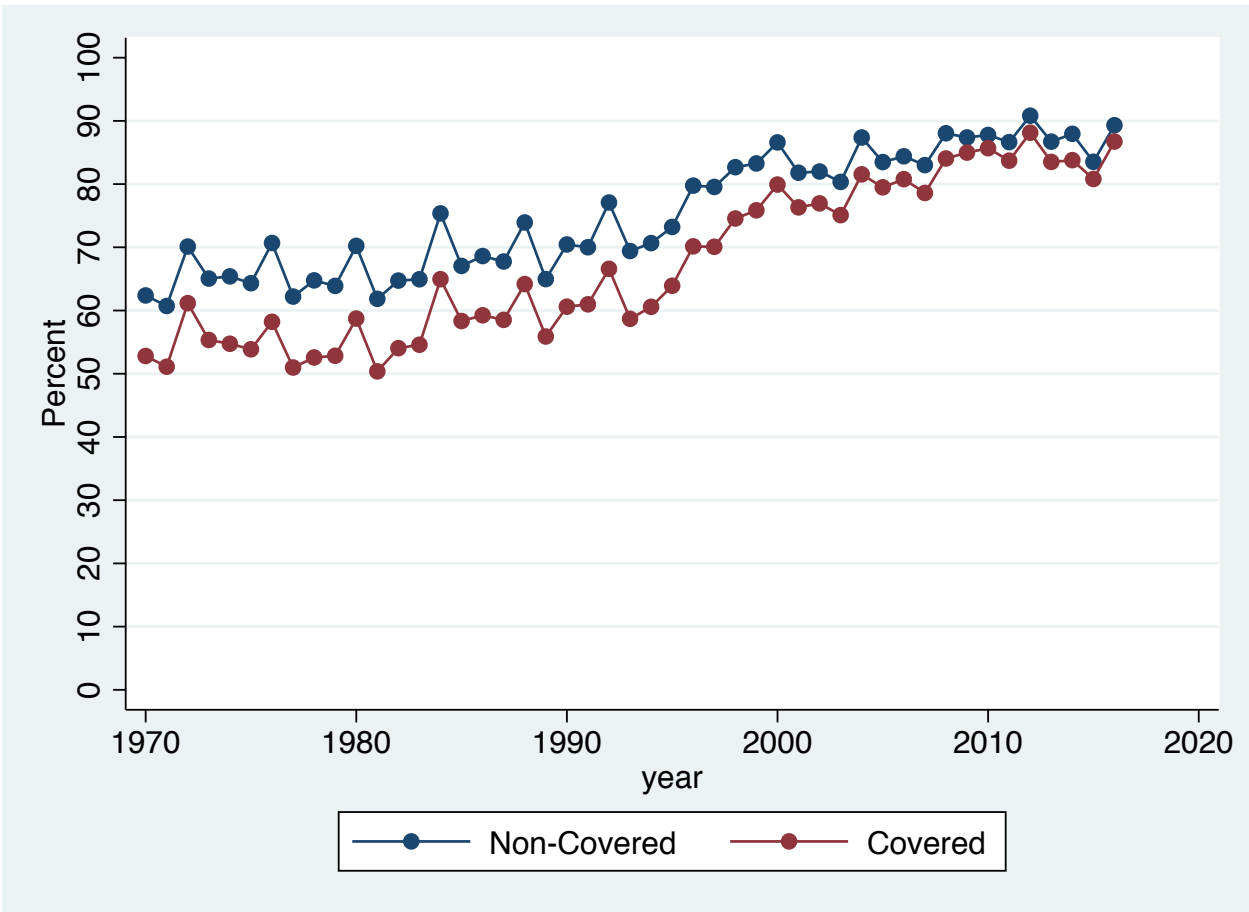

These two overarching trends largely tell the story of black registration rates as well, with some nuances. The percentage of the black voting age population registered to vote in the state was 50 percent in 1966; by 1970, it ticked up to 52 percent. Registration among blacks across both sets of counties increased markedly in the aftermath of the NVRA: overall black registration rose from 56.2 percent in 1996 to 80.5 percent in 2000. Black registration

[48] Counties were not covered starting in 2013. Previously covered counties are graphed as "covered" from 2013-2016 for illustrative purposes.

peaked in 2012 at 95.2 percent. The percentage of blacks registered dropped in 2014, to 92.5 percent; the percentage of the black voting age population registered in 2016 was nearly identical to 2014, at 92.4 percent. In 1966, the proportion of blacks registered was less than their share of the voting age population in 88 of North Carolina's 100 counties—38 of the 39 covered counties, and 50 of the 60 non-covered counties. By 2012, dramatic improvements across the board in registration among blacks meant that in far fewer counties blacks comprised a smaller share of registrants than their proportion of the population. Still, in the last year of coverage before *Shelby*, 30 counties had smaller shares of black registration compared to their population; interestingly, only eight of those counties were covered, and 22 were non-covered.

As shown in Figure 15 below, white registration exceeded black registration until 2009, the year after Barack Obama was elected president. In the aftermath of the election of the country's first black president, the proportion of the black voting age population registered surpassed the proportion of the white voting age population registered for the first time in the state's history. Registration among blacks in the *covered* counties surpassed registration among whites for the first time in 2008. Black registration rates surpassed white registration rates in the non-covered counties three years later, in 2011, the year before President Obama would be on the ballot for the second time.

Figure 15
Percentage of Blacks and Whites Registered in North Carolina 1970-2016
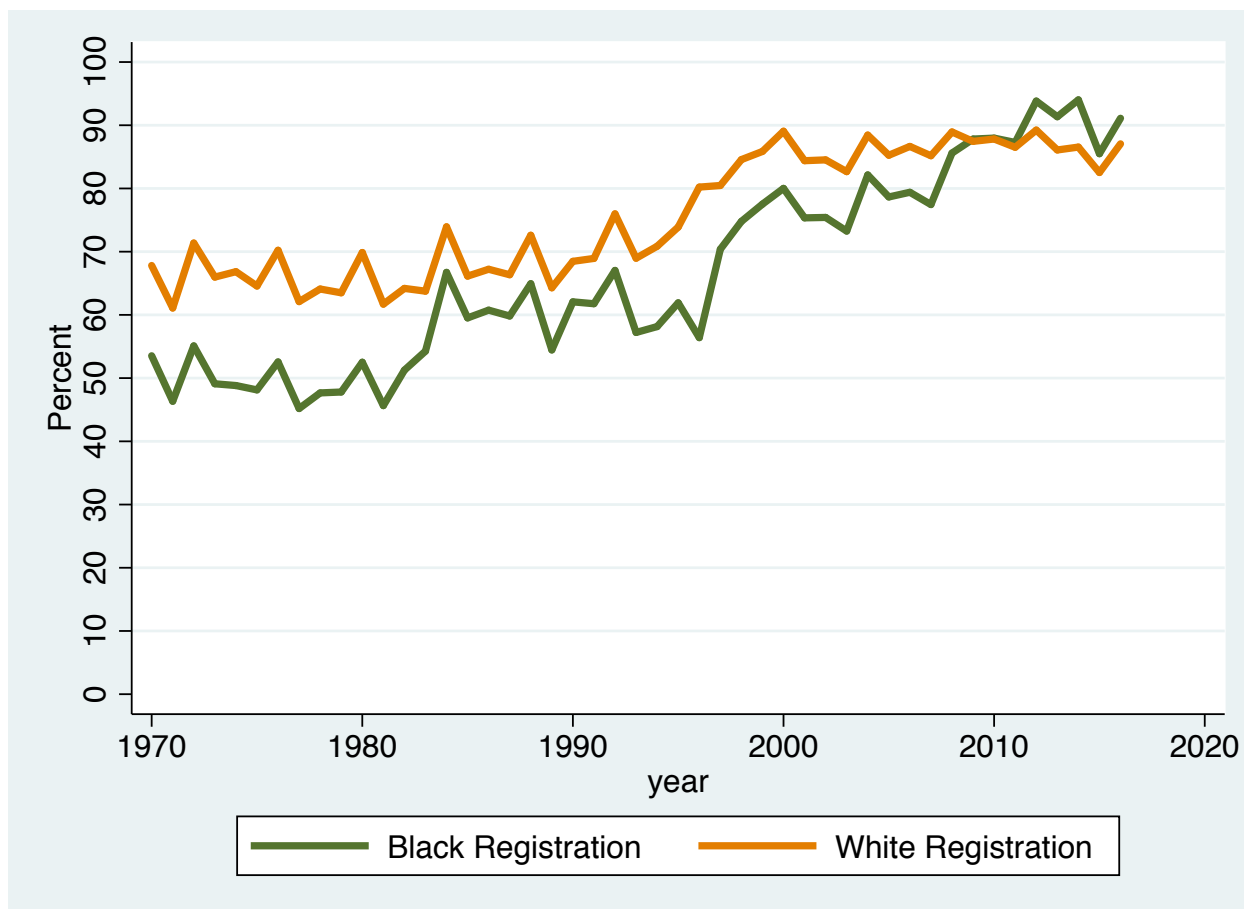
Similar to the overall registration trend, black registration rates in the covered counties have remained lower than black registration rates in the non-covered counties throughout the time period, though the gap in registration has narrowed sharply since the VRA's passage. In the first year after the VRA was passed—1966—registration among blacks in the covered counties stood at 42.1 percent, while in the non-covered counties 58.8 percent of blacks were registered, reflecting a near 17-point gap in registration, as shown in Figure 16 below. By 1970, registration rates had converged across the two sets of counties, with the percentage of blacks registered in the non-covered counties dropping to 54.5 percent and the percentage in the covered counties rising to 49.8 percent. The percentage-point difference in registration between the two sets of counties ranged from five to seven percentage points until 2000, when it dropped to about four percentage points. By 2012, the difference in black registration in the covered counties was two percentage points lower than in the non-covered counties; in 2016, after coverage was removed, the differences held steady at about two percentage points.

Figure 16
Percent of Black VAP Registered in North Carolina's Non-Covered and Covered Counties
**1970 to 2016[49]**
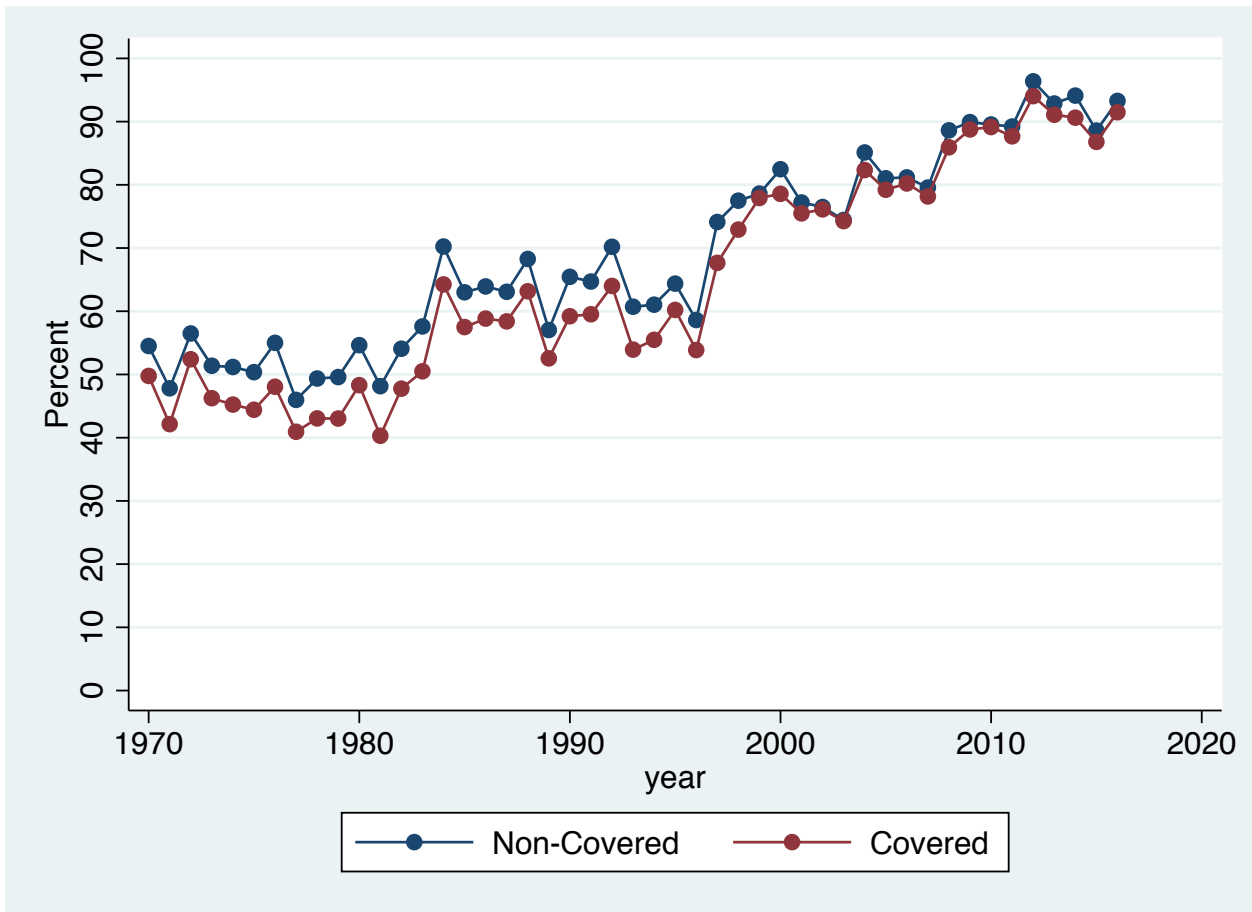
Of course, in the 1960s, white registration rates were much higher rate than black registration rates. In 1966, 74.3 percent of the white voting age population was registered to vote. Like the percentage of blacks registered, the percentage of whites registered increased over time, with a particular spike in the aftermath of the NVRA: by 2000, 89 percent of the white voting age population was registered. A similar proportion was registered in 2012, and in 2016 registration dipped to 87 percent. Interestingly, despite a much higher percentage of whites registered compared to blacks overall, there was a gap in registration between whites in covered versus non-covered counties in 1966: 65.3 percent were registered in the covered counties and 79.4 percent were registered in the non-covered counties. This gap in registration (14 percentage points), is only slightly smaller than the gap in registration among blacks in the covered versus non-covered counties in 1966 (17

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[49] Counties were not covered starting in 2013. Previously covered counties are graphed as "covered" from 2013-2016 for illustrative purposes.

percentage points). Figure 17 below plots the percentage of the white voting age population registered across the time series.

Figure 17
Percent White VAP Registered in North Carolina's Non-Covered and Covered Counties
1970 to 2016[50]
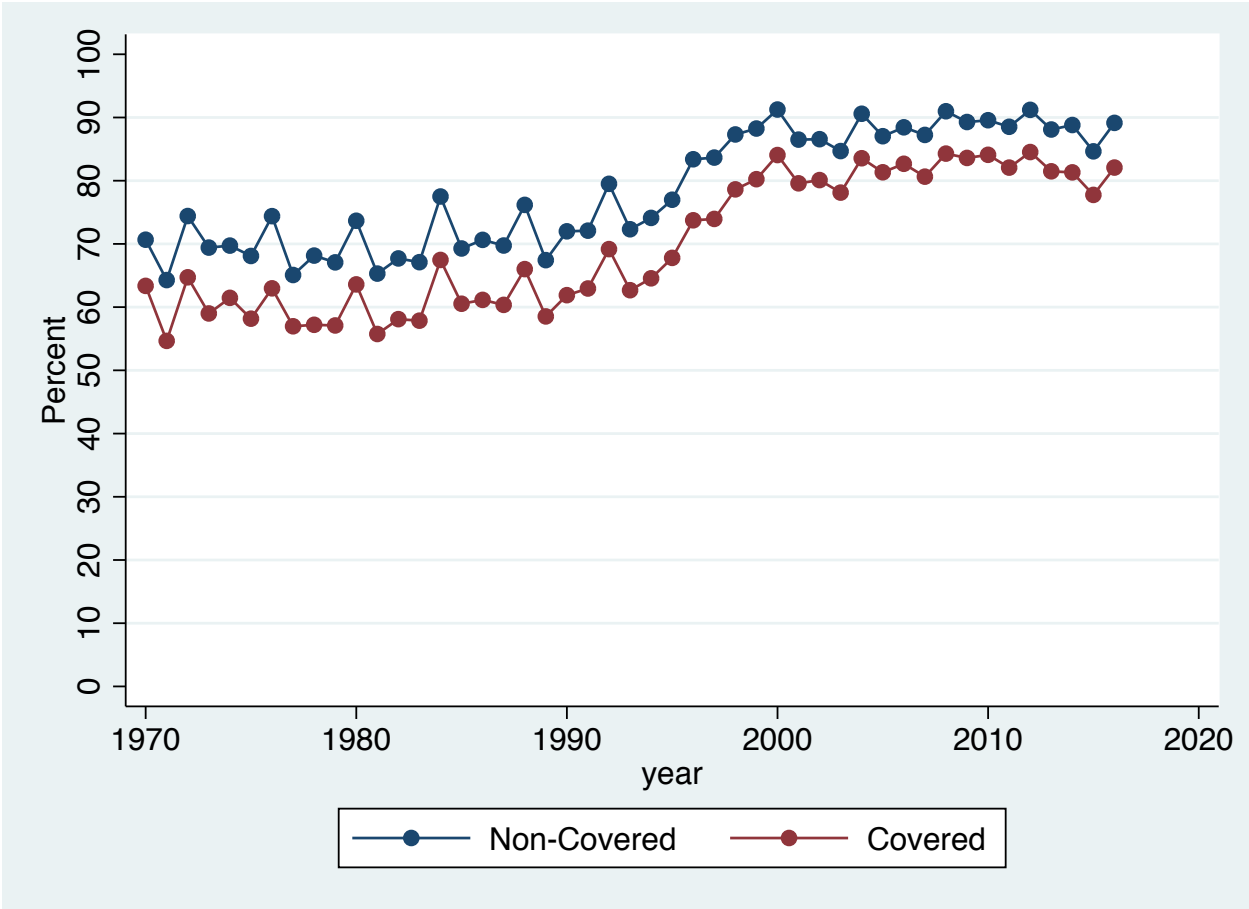
The registration gap narrowed among whites across the two sets of counties, and in 1970, 63.3 percent of whites of voting age were registered in the covered counties compared to 70.1 percent in the non-covered counties. Thereafter, registration rates widened again to up to 10 percentage points; by 2000, the difference was seven percentage points. In 2012, white registration was still seven percentage points higher in the non-covered counties than in the covered counties. In 2016, the difference remained the same: 89.1 percent of whites in the non-covered counties were registered compared to 82.1 percent in the covered counties. At no point across the time period did the gap in registration among whites across the two sets of counties narrow to less than five percentage points.

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[50] Counties were not covered starting in 2013. Previously covered counties are graphed as "covered" from 2013-2016 for illustrative purposes.

Regression Discontinuity: Registration in Marginally Covered Versus Marginally Non-Covered Counties

This section conducts a regression discontinuity analysis to determine if there was a treatment effect of Section 5 coverage in both the early period of the VRA's implementation and in the period just prior to the *Shelby* decision. Regression discontinuity design (RDD) is a procedure for estimating a treatment effect where subjects are assigned to treatment or control groups based on a certain threshold or cutoff in a continuous assignment variable. Subjects scoring on one side of the cutoff receive treatment, while those scoring on the other side do not. RDD hinges on the assumption that observations just above or just below this arbitrary cutoff should not, on average, differ on any independent variables except for the treatment itself. Under this assumption, RDD approximates an experimental design—close to this arbitrary cutoff, assignment to treatment is essentially random. RDD looks for a discontinuity in the outcome variable at the cutoff score, and estimates a local average treatment effect (LATE) that quantifies the impact of the intervention on the treatment group in a narrow bandwidth around the cutoff, using parametric or non-parametric methods. By focusing on observations assigned to treatment in a near-random fashion, RDD addresses concerns about unobserved confounding variables or selection bias.

As discussed in the prior chapter, the ingredients for a "sharp" regression discontinuity design are present in the case of Section 5 coverage in North Carolina, because we know the precise mechanism for assignment to treatment. Counties were scored on a continuous variable—their voter turnout in the 1964 presidential election—and were then assigned to treatment if they fell below the cutoff score of 50 percent turnout. Counties scoring at or above 50 percent turnout in the 1964 presidential election were not assigned to treatment.

The outcome variables of interest are the percentage of the black voting age population registered to vote, and the percentage of the white voting age population registered to vote. There is no doubt that registration rates improved markedly after the passage of the VRA, yet the assignment to "treatment" might be considered arbitrary—Congress could have selected a cutoff of 45 percent or 55 percent, for example. Regression discontinuity will tell us whether treated observations around the cutoff improve over and above untreated observations around the coverage threshold. This will indicate not only that the assignment to coverage could have been arbitrary, but that coverage itself has an *independent effect* on registration. Registration in counties marginally non-covered would have improved more *had they been covered*. There is no risk that counties could manipulate their scores their assignment to treatment. In 1964, counties could not have known that 1964 presidential turnout would be used for the cutoff in the 1965 Act.

Indeed, a LATE is observed for marginally covered counties in the years just after Section 5 took effect, as shown in Table 12. In the first two midterm election years—1966 and 1970—registration rates of voting age blacks were *already* 12.8 percentage points higher in counties that marginally received Section 5 coverage compared to those that did not. This finding is significant at $p<0.050$. For the first two presidential elections, the treatment effect is even more stark: counties marginally receiving treatment had black registration rates 23.2

percentage points higher than those that were near the cutoff but did not receive Section 5 coverage; this finding is highly significant at p<=0.000.

One problem with looking at the treatment effect prior to 1970 is that the test is potentially a proxy for the suspension of literacy tests in Section 5 counties, which happened immediately. Alternatively, the non-covered counties maintained the literacy test until they were suspended nationwide in 1970. Figures 18 through 20 below show discontinuities in the black registration rates between covered and non-covered counties near the threshold, across different time periods in the 1960s and 1970s. Each dot represents a county-year observation.

Figure 18
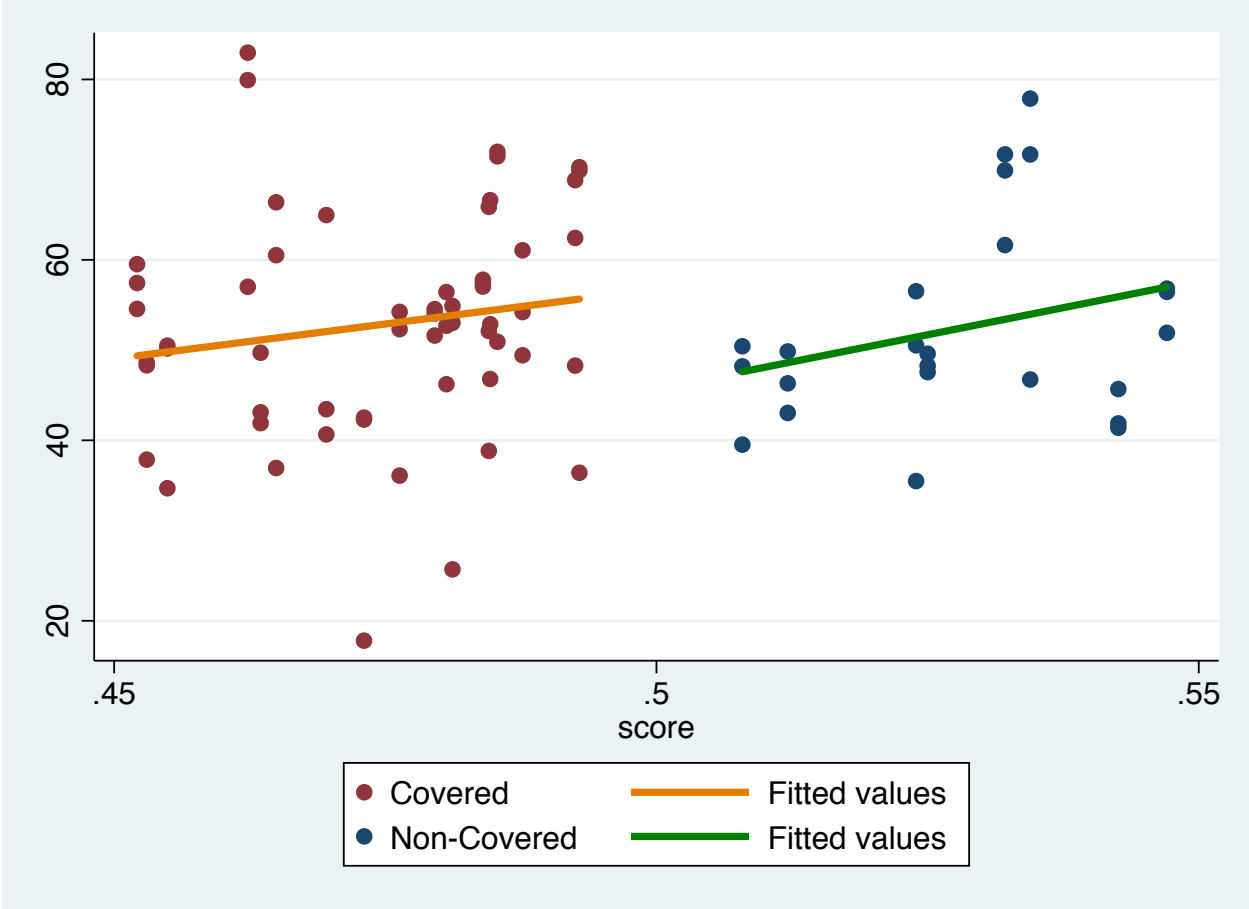**Percent Black Registration in Covered and Non-Covered Counties Near the Coverage Threshold**
1966-1970

Figure 19
Percent Black Registration in Covered and Non-Covered Counties Near the Coverage Threshold
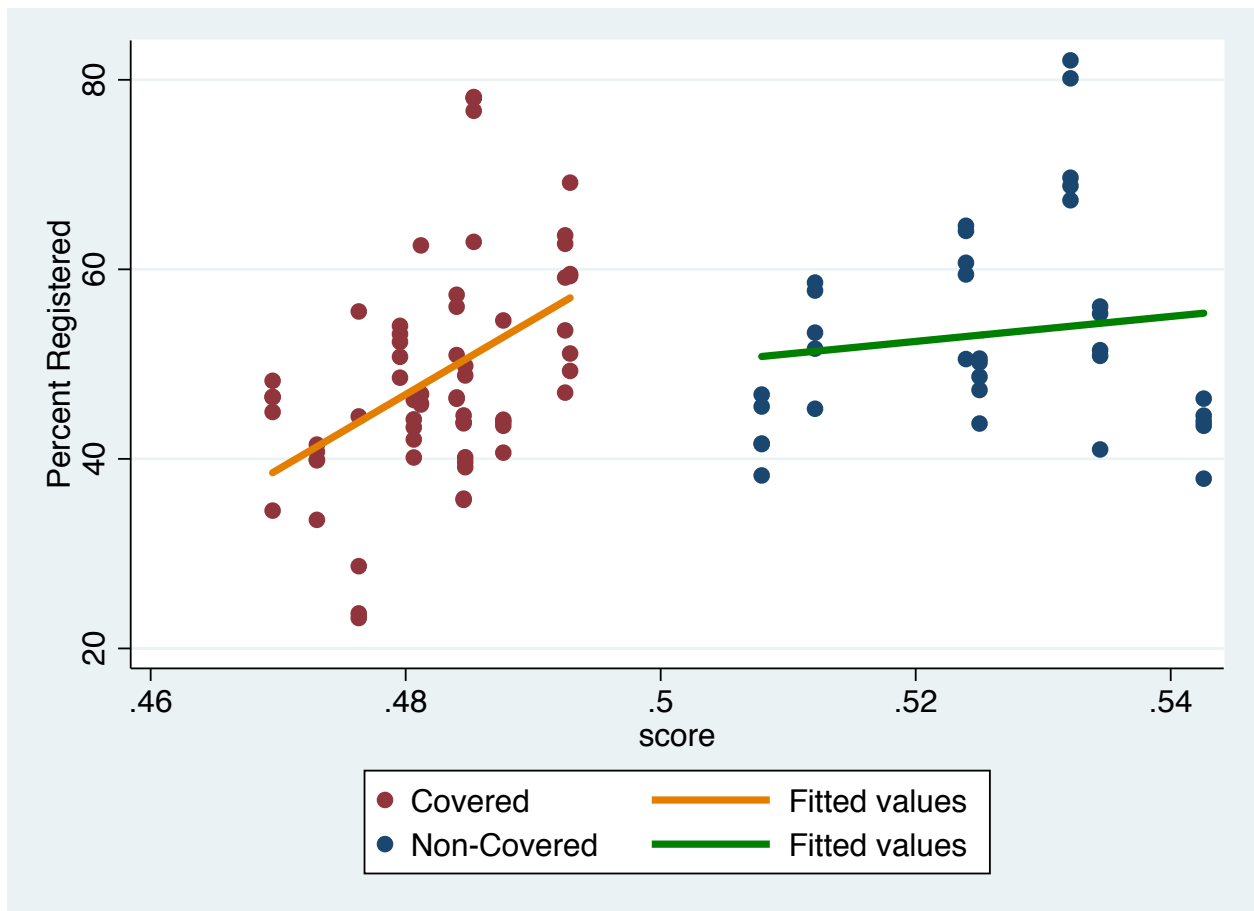**1971-1975**

Figure 20
Percent Black Registration in Covered and Non-Covered Counties Near the Coverage Threshold
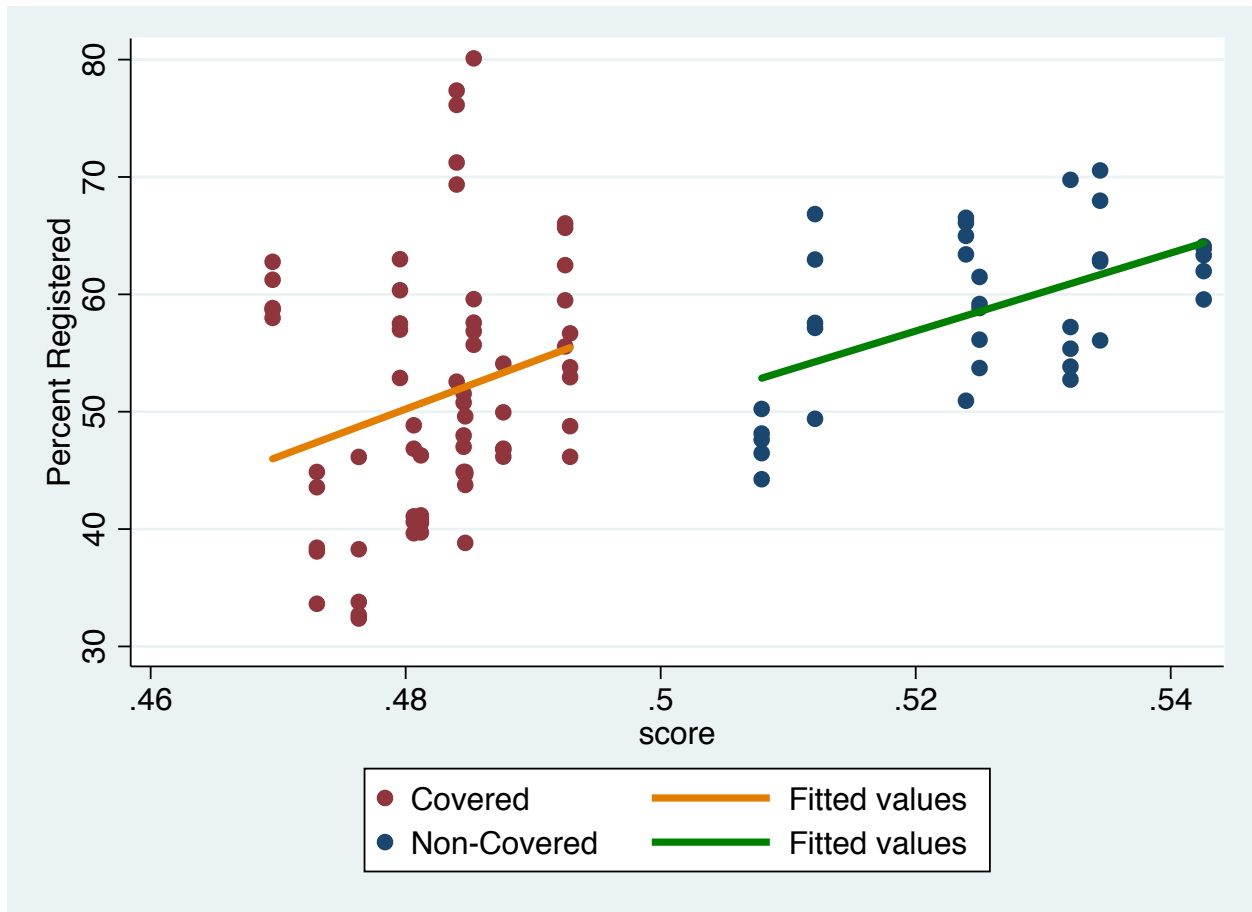**1976-1980**

Table 13 shows the RD estimates of pooling three subsequent time periods starting in 1966. Pooling the five years in the immediate aftermath of the literacy test suspension—1971 through 1975, nevertheless, a treatment effect is also observed: black registration in the marginally covered counties was 13.0 percentage points higher than registration in the marginally non-covered counties, significant at $p < 0.050$. Further, the effect remains from 1976 to 1980 as well, with black registration 15.1 percentage points higher in covered counties around the cutoff compared to those non-covered and near the cutoff ($p < 0.050$). Another feature of isolating this analysis to North Carolina is that we can also rule out federal examiners as explanatory variables for increasing registration rates. Federal examiners were tasked with registering blacks in many covered jurisdictions throughout the South immediately after the VRA's passage, but were never sent to North Carolina. Therefore, these findings strongly suggest that Section 5 alone improved outcomes in the marginally covered counties when compared to the marginally non-covered counties.

As shown in Tables 12 and 13, the regression discontinuity tests were also run for white registration to compare rates in marginally covered to non-covered counties. While Section 5 was meant to address discrimination towards black voters, we may see a treatment effect

on white registration as well. Recall that Section 5 was put in place to oversee election changes across the covered counties, where the original assignment to treatment was based on overall voter turnout of the voting age population in 1964. Election rule changes presumably have some effect on all voters in a given county, not just minorities. On the other hand, as discussed in the time trends above, white registration rates were already quite high across the state in 1966. And while a gap in registration rates existed between whites in covered versus non-covered counties, the difference was not as large as the difference in black registration rates across the two sets of counties. Moreover, from the years 1966 to 1970, the analysis is largely testing the immediate suspension of the literacy tests in the covered counties, whereas the literacy test was not suspended in the non-covered counties until 1970. If the literacy test was mostly utilized to disenfranchise black voters, we may not see a treatment effect of Section 5, because white voters were much less affected by the literacy test to begin with.

In the first years of coverage, the data shows that there was a treatment effect for white voters, though in the opposite direction. In fact, white registration rates in the marginally covered counties were 21.7 percentage points lower than in the covered counties near the cutoff from 1966 through 1970. Registration rates among whites were lower in the marginally covered counties in the 1976 to 1980-time period as well, though the difference is smaller, at 11.4 percentage points. Whites were less likely to be registered in the covered counties until the 1992 to 1996-time period, when the sign of the coefficient reverses and white registration rates in the covered counties near the threshold are higher than in the marginally non-covered counties near the threshold, though the effect is not yet significant. One explanation for the switch may be the implementation of the NVRA in 1995, which added many poorer voters to the rolls due to the expansion of locations where people could register, including DMVs. Though, the current research does not test that theory directly. Another question is why the treatment effect in the early years is reversed for whites, or rather, why white registration rates in the marginally covered counties was lower. One explanation might be that voter registration rolls were inflated prior to the passage of the VRA, and inflated figures were most likely attributable to extra white registrants. As voter rolls were purged following the VRA's passage as election administration became more routinized and centralized, white registration rates may have become more stable, particularly in covered counties because they were the worst performing places to begin with. More research on this feature of the data is needed, however, to pinpoint the precise mechanism at work.

Table 12
Voter Registration: Regression Discontinuity Estimates 1966-1972

	Midterm: 1966 & 1970			Presidential: 1968 & 1972		
	N	Est.	(SE)	N	Est.	(SE)
Total Registration	196	-10.72**	(5.38)	196	.035	(4.81)
Black Registration	192	12.75**	(5.38)	192	23.16***	(5.95)
White Registration	193	-26.68**	(10.98)	193	-12.26**	(4.07)

*p<0.1; ** p<0.05; *** p<0.01*

Table 13
Voter Registration: Regression Discontinuity Estimates 1966-1980

	Pooled Yearly: 1966 to 1970			Pooled Yearly: 1971-1975			Pooled Yearly: 1976-1980		
	N	Est.	(SE)	N	Est.	(SE)	N	Est.	(SE)
Total Registration	293	-7.50*	(4.47)	490	-5.46**	(2.73)	490	-5.13**	(2.36)
Black Registration	290	18.58***	(5.15)	490	13.01**	(5.56)	490	15.10**	(6.77)
White Registration	291	-21.69**	(7.41)	490	-11.35***	(3.99)	490	-9.51***	(2.93)

*p<0.1; ** p<0.05; *** p<0.01*

Was there a Section 5 local average treatment effect in the last years leading up to the *Shelby* decision? Figures 21 and 22 below show discontinuities near the cutoff for treatment for total registration and black registration rates, respectively. The results are laid out subsequently in Table 14. Looking at the five years leading up to the *Shelby* decision—from 2008 through 2012—black registration was 11.4 percentage points higher in the marginally covered counties than in the marginally non-covered counties, with significance at p<0.010. This is close to the original effect size observed in the 1966 to 1970 midterm elections just after the VRA's passage. For black registration, when the dates are isolated to the presidential election years 2008 and 2012—the effect drops to 10.5 percentage points with significance at p<0.100. There are also LATEs for total registration across the time period and when isolating presidential and midterm elections. Pooling 2008 to 2012, registration is 10.40 percentage points higher in marginally covered counties than marginally non-covered counties near the cutoff, significant at p<0.010. In presidential and midterm years only, the LATE drops to 9.3 percentage points (p<0.050) and 7.3 percentage points (p<0.100), respectively.

Figure 21
Percent Total Registration in Covered and Non-Covered Counties Near the Coverage Threshold
2008 to 2012
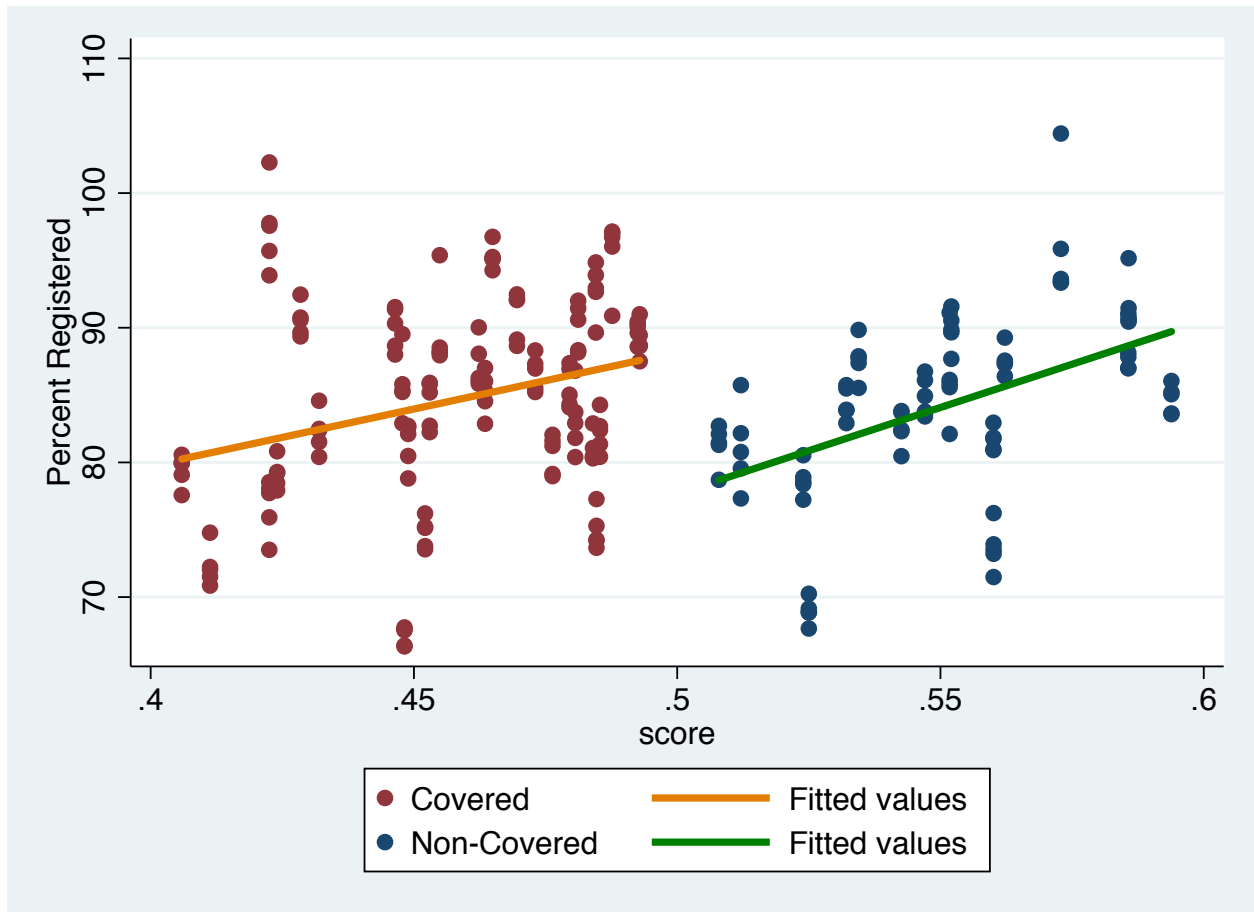
Figure 22
Percent Black Registration in Covered and Non-Covered Counties Near the Coverage Threshold
2008 to 2012
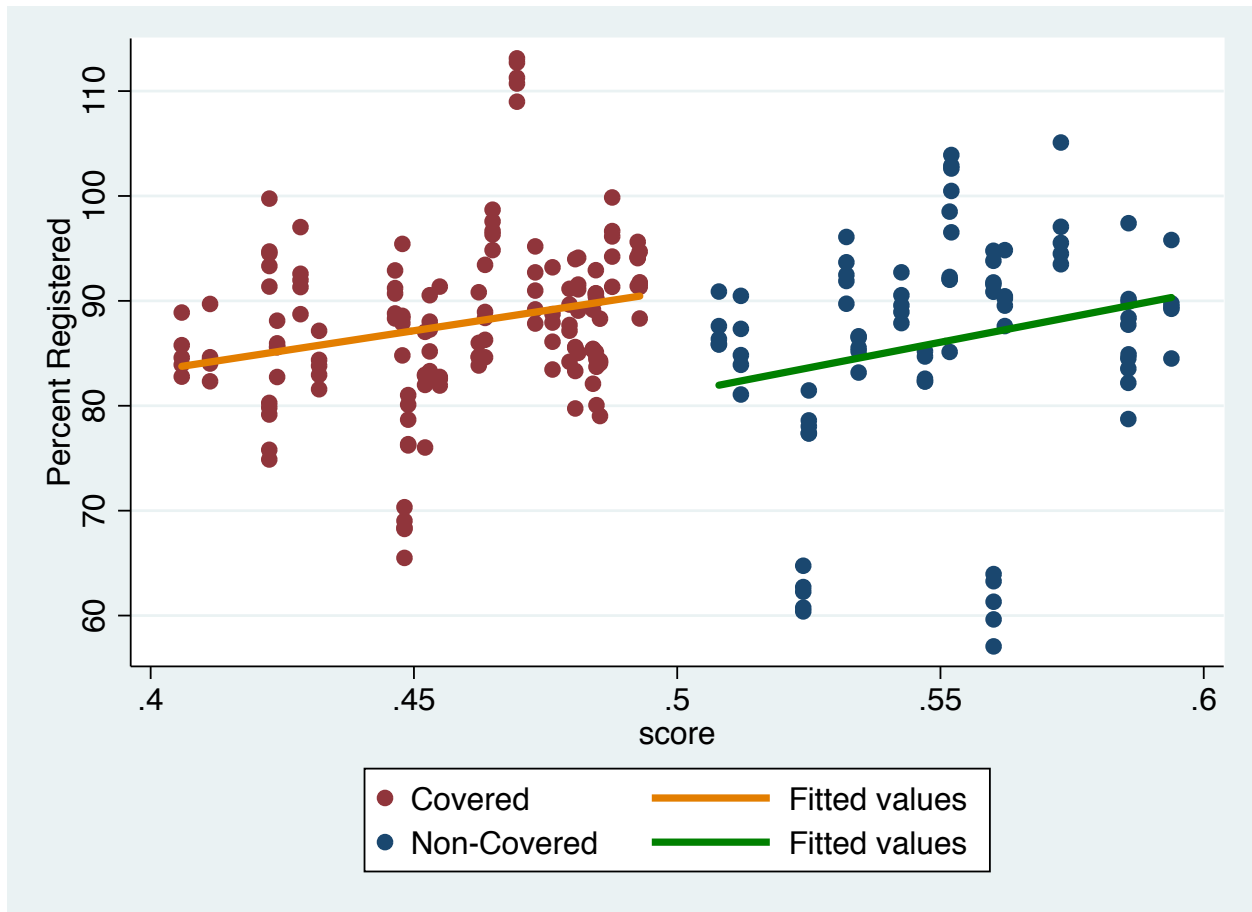
Note: When outliers are dropped from the analysis the findings do not change

As observed in the RD analysis of the early years, the treatment effect for white registration was in the opposite direction. And indeed, white registration was lower in the covered counties. Additional analyses pooling different time periods from the 1980s through the early 2000s show that over time, the difference between white registration rates in the marginally covered and the marginally non-covered counties was narrowing, even prior to the NVRA. The sign of the coefficient switches in the 1992 to 1996-time period, yet the results were not significant. However, by the five years before Section 5 was nullified by the Supreme Court, a positive treatment effect is apparent and is statistically significant. From 2008 to 2012, white registration rates in the marginally covered counties were 7.8

percentage points higher than in the marginally non-covered counties; the finding is significant at p<0.010.[51]

As mentioned, the findings related to white registration require additional research. Results suggest that while initial electoral changes and oversight of the DOJ did not work to directly improve registration rates among whites, there was a positive treatment effect by the end of the Section 5 enforcement period. Efforts to improve access for black voters in the covered counties may have had spillover effects, albeit smaller and slower working, that improved access for whites as well, accumulating over time. Alternatively, this finding could be a question of resources. The covered counties had nationwide attention and DOJ monitoring, and perhaps NAACP and other organizational efforts to register black voters. Another explanation might be that inflated white registration that occurred before the passage of the VRA was purged from the system beginning in the late 1960s. These findings might also signal that the racial politics in these counties was changing, and white voters were less inclined to participate in this new state of affairs, and perhaps even some degree of white flight took place.

Table 14
Total, Black, and White Voter Registration: Regression Discontinuity Estimates 2008 to 2012

	Pooled Yearly, 2008-2012			Presidential: 2008 & 2012			Midterm: 2006 & 2010		
	N	Est.	(SE)	N	Est.	(SE)	N	Est.	(SE)
Total Registration	490	10.40***	(2.39)	196	9.27**	(3.74)	196	7.27*	(4.01)
Black Registration	490	11.36***	(4.07)	171	10.47*	(6.31)	171	7.16	(6.14)
White Registration	490	7.76***	(2.65)	196	7.20*	(3.86)	196	5.84	(3.66)

*$p<0.1$; ** $p<0.05$; *** $p<0.01$

Still, taken together, the results presented show Section 5 treatment effects on black registration rates during the years after the Act's initial passage, the last general election year in which preclearance was applied, as well as the years leading up to *Shelby*. The findings also indicate treatment effects for total registration in the latest years of coverage, once whites in the marginally covered counties are positively impacted by Section 5 treatment. While this does not explain what will happen in the aftermath of Section 5's removal, it does strongly suggest that the provision still mattered after nearly 50 years of implementation, even despite marked improvements in registration rates, especially among blacks, across the board.

Time-Series Cross-Section Analysis: Registration and Section 5

The regression discontinuity analysis established that there was a local average treatment effect for Section 5 coverage for black registration in both the early and late periods of

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[51] RD analyses were also conducted to determine whether there was a treatment effect for Hispanic registration. The NCSBOE did not report Hispanic registration figures until 2004. While the coefficients suggest that registration rates for Hispanics were higher in the marginally covered versus non-covered counties from 2004 to 2008 and 2008 to 2012, the results are not statistically significant.

coverage. For white registration, there LATE was not positive until the five years immediately prior to Section 5's suspension. The analysis now turns to examining the effect of Section 5 coverage *over time* to understand the extent to which the preclearance provision improved registration rates during enforcement of Section 5. These analyses use yearly data for North Carolina's 100 counties, from 1972 to 2016. First, I will assess how key demographic variables—absent a Section 5 coverage control—impact black and white registration rates. These models are estimated from 1972 through 2016. Then, I will add in Section 5 coverage and its interaction with time to assess the total impact across the core years of the provision's implementation.

The regression results are presented in Table 15 below. First, a two-way fixed effects model is estimated, with a number of demographic covariates that are key variables in the literature on voter participation. The covariates were also included in the time-series regressions in the prior chapter in which voter turnout was the dependent variable. The results follow findings in the prior chapter on turnout: income and education are strongly associated with registration rates among blacks. Urban and age over 65 covariates are not statistically significant, but government employment is negatively associated with percentage of black registrants. Adding in a control for presidential election years, we can see that, not surprisingly, registration increases more than 4.0 percentage points in presidential election years compared to non-presidential election years.

Two conventional models are used to estimate the effect of Section 5. Namely, a generalized estimating equation or "population averaged" model and a pooled OLS time-series—cross-section with panel corrected standard errors.[52] In addition to the coverage and time interaction, this model includes the demographic controls discussed above, as well as a control for presidential election years.

With the addition of the coverage and coverage and time interaction terms, we observe a positive and statistically significant effect over time. Specifically, while in 1972 coverage is associated with a lower percentage of black registrants compared to the non-covered counties (about 5.5 percentage points difference), over time, coverage improves the percentage of black registrants, on average, by 0.51 percentage points per year through 2012 in the population average model. By 1983, coverage is associated with a higher percentage of registration among blacks when compared to black registration in the non-covered counties, holding all else equal. The finding is statistically significant at p<0.000. The pooled OLS regression model yields nearly identical results, with coverage and time improving the registration rate among blacks by 0.66 percentage points per year through 2012, also significant at p<0.000. This indicates that the effect of coverage was not only apparent in the early and late period as evidenced by the regression discontinuity results, but was also durable over time.

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[52] The preferred statistical approach in political science, given a dataset like this, is to use a fixed-effects model. However, since Section 5 coverage for North Carolina counties is time invariant over this period, a fixed-effects model will not produce coefficients and standard errors on the dependent variable of interest.

Table 15
Yearly Black Registration in North Carolina 1972-2012

Variables	Demographics, Fixed Effects	Coverage and Demographics, Population Average	Coverage and Demographics, Pooled OLS
Black (Log)	-1.371	-1.350	3.088**
	(7.000)	(0.871)	(1.237)
Income (Log)	35.743***	28.401***	20.460***
	(5.384)	(2.402)	(5.943)
Urban Pop	-1.318	-1.062**	-2.056*
	(1.082)	(0.476)	(1.043)
Coll. Grads (Log)	15.383***	11.863***	2.112
	(3.869)	(1.500)	(3.199)
Pop Over 65	-0.454	-0.361**	0.838***
	(0.497)	(0.161)	(0.285)
Gov Emp (Log)	-21.403***	-19.147***	-4.742
	(5.533)	(1.657)	(3.015)
Pres. Elect. Yr.	4.597***	4.546***	4.519***
	(0.327)	(0.424)	(0.344)
Covered		-5.527*	-16.864***
		(2.822)	(2.867)
Coverage*Time		0.509***	0.657***
		(0.031)	(0.079)
Constant	-276.769***	-203.413***	-151.662***
	(59.005)	(22.003)	(56.706)
R^2	0.41		0.32
N	4,081	4,081	4,081

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

The analysis will now examine the effect of Section 5 coverage on white registration; the results are presented in Table 16 below. When the percentage of white registrants is examined as an outcome variable in a basic two-way fixed-effects model, college education, income, and the size of the black population positively predict registration rates among whites, and are highly significant.[53] Presidential election years, on average, are reflective of 4.7 percentage points higher registration relative to non-presidential election years and off-years.

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[53] The logged percent Hispanic, moreover, is also significant, though the effect size is small: a 10-percentage point increase in the Hispanic population is associated with a 0.18 percentage point increase in white registration, significant at p<0.001.

Table 16
Yearly White Registration in North Carolina 1972-2012

Variables	Demographics, Fixed Effects	Coverage and Demographics, Population Average	Coverage and Demographics, Pooled OLS
Black (Log)	6.092***	1.726***	-1.097**
	(2.292)	(0.592)	(0.550)
Income (Log)	29.079***	25.621***	4.005
	(3.530)	(1.364)	(4.609)
Urban Pop	1.414*	0.987***	-2.431***
	(0.817)	(0.283)	(0.533)
Coll. Grad (Log)	8.192***	5.790***	8.333***
	(2.555)	(0.866)	(2.415)
Pop Over 65	-0.852***	-0.610***	0.585***
	(0.289)	(0.095)	(0.177)
Gov. Emp. (Log)	-10.745***	-9.494***	-3.279
	(2.855)	(1.002)	(2.533)
Pres. Elect. Year	4.676***	4.653***	4.746***
	(0.114)	(0.237)	(0.120)
Covered		-9.135***	-6.805***
		(2.198)	(1.910)
Coverage*Time		0.181***	0.283***
		(0.017)	(0.062)
Constant	-225.160***	-176.012***	25.719
	(33.293)	(12.570)	(43.905)
R2	0.51		0.47
N	4,081	4,081	4,081

*$p<0.1$; ** $p<0.05$; *** $p<0.01$

The population average regression model shows that coverage interacted with time is associated with higher percentages of registration among whites, holding demographic variables and presidential election years constant. However, the effect size is smaller than when compared to the coefficient in the black registration model. Each additional year of coverage is associated with a 0.18 percentage-point increase in white registration rates in the covered counties, a more modest yearly increase. The pooled OLS model indicates that coverage and time are associated with a 0.28 percentage point increase each year, significant at $p<0.000$.

Unlike the black registration results, however, the joint association of coverage by time never translates into higher white registration rates in the covered counties, all else equal. This finding suggests that while Section 5 was meant to improve black voters' access to the ballot, and over time it was successful at doing so, a side effect was also an increase in access among whites. Of course, white registration was much higher than black registration across the two sets of counties to begin with. And while researchers have shown that whites were also affected by the use of literacy tests (Alt 1994; Key 1949), even poor whites were not systematically discriminated against—and excluded from—the franchise to the extent blacks were. These more modest effects among whites are also observed in the regression discontinuity results, which show a local average treatment effect in the marginally covered counties, when comparing them to marginally non-covered counties on the dimension of registration, only in the latest years of coverage.
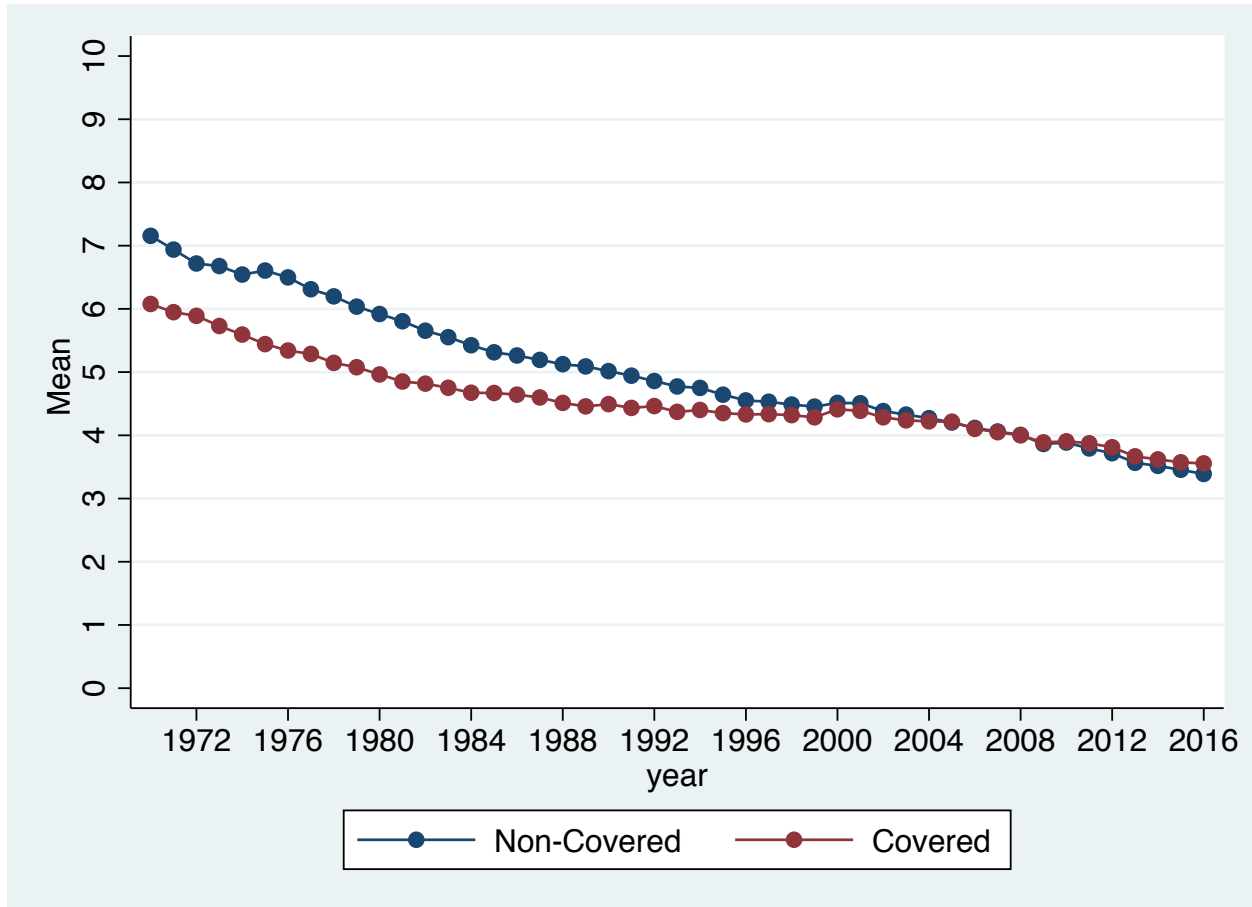
Precincts

In the present analysis, precincts will be examined as an outcome variable, in order to understand how Section 5 coverage influenced the number of precincts at the county-level, if at all. Central to the purview of Section 5 coverage was the requirement that counties submit requests for preclearance if they intended to alter precincts or change polling places—either moving, adding, or eliminating them. Indeed, a plurality of Section 5 submissions over time were related to precincts and polling places. According to the Department of Justice, from 1965 to 2013, 126,751 polling place changes, and 68,093 precinct changes were submitted, comprising 35 percent of all submissions over the entire period of preclearance. Assessing how the VRA impacts the precinct metric over time will quantify the impact federal oversight had on this particular measure of access, if any. Further, as the prior analyses present strong evidence that Section 5 affected county-level participation (turnout and registration), this analysis is examining its impact on a specific electoral institution.

Two clear trends emerge when looking at data on the number of precincts in North Carolina over time; the time-trend graph is presented in Figure 23 below. First, the number of precincts per 10,000 persons of voting age has dropped significantly over time. Another way to interpret the trend is that the number of precincts established did not keep up with population growth. Second, there was a clear gap in the precinct rate between the covered and non-covered counties, with the former yielding fewer precincts per 10,000 than the latter. For example, in 1966, the first year data is available for the number of precincts per county, there were 7.7 precincts per 10,000 persons of voting age population across all counties in North Carolina. Interestingly, there were, on average, fewer in the covered counties (7.1) than in the non-covered counties (8.2). These differences narrowed over time, even as the absolute number of precincts dropped.

By 2000, there were nearly identical precinct rates in the covered (4.4) and non-covered (4.5) counties. In 2009, the precinct rate in the covered counties surpassed the non-covered counties for the first time; in 2012, there were 3.8 precincts per 10,000 people of voting age in the covered counties and 3.7 in the non-covered counties. In 2016, the precinct rate in the covered counties was 3.6 and in the non-covered counties the rate was 3.4. The difference from 2012 to 2016 reflects a drop from 949 to 932 precincts in the covered counties and 1,807 to 1,772 precincts in the non-covered counties.

Figure 23
Mean Precincts Per 10,000 VAP In Non-Covered and Covered Jurisdictions 1970-2016

Limiting the data to majority black counties,[54] there is a similar decline in the number of precincts per 10,000 persons of voting age over time. Yet, there are two steep drops in the precinct rate throughout the time period—one in 1980 and one in 2010, with a downward trend through the end of the time period in 2016. In 1966, the precinct rate in majority black counties was 9.9; by 2016 there were 6.0 precincts per 10,000 persons of voting age in the majority black counties.

Interestingly, the precinct rates are higher in the majority black counties than the state average throughout the time period. Still, this analysis does not account for the proximity of these precincts for black voters, and therefore cannot draw direct conclusions about blacks' access to the polls, as measured in distance, in North Carolina. The analyses that follow, however, can reveal whether Section 5 coverage was associated with more precincts for all voters, whether its effect changed over time, as well as how demographics are associated with precinct rates.

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[54] There were seven majority black counties in 1966, making up 7.6 percent of blacks in North Carolina. In 2016 there were nine majority black counties comprising 7.1 percent of the black population in the state.

Precincts: Regression Discontinuity

A regression discontinuity design is used to test whether there is a local average treatment effect of Section 5 on the number of precincts in the marginally covered counties versus the marginally non-covered counties. The idea is that, along with voter registration, Section 5 may have worked to improve access via expanding the ease of voting through greater availability of polling places. This metric is relevant to this study of access because it is in fact one of the electoral changes that required preclearance from the DOJ before implementation. The question is whether marginally covered counties—that is, those close to the 50 percent threshold for coverage in 1964—performed better on this metric than the marginally non-covered counties.

The regression discontinuity results using precincts per 10,000 voting age persons as the outcome variable are largely null. While the RD results for black registration, and in the prior chapter, overall turnout, as well as black and white turnout, indicate a local average treatment effect for marginally covered counties on these measures, the results for the precincts measure are not statistically significant. An examination of precinct levels in the first three presidential elections after the passage of the VRA, in 1968, 1972, and 1976, shows that the precinct rate was actually lower in the marginally covered counties (2.28 fewer precincts per 10,000 voting age people), though again, the result is not statistically significant. Looking at the first three midterm elections yields a statistically significant result, but the treatment effect is negative: counties marginally covered had a lower precinct rate than those marginally covered in 1966, 1970, and 1974.

One explanation for this finding is that the submission process was not fully clear or followed by the covered jurisdictions until years after the *Allen* decision in 1969. If submissions are a key predictor of the precinct rate, then an effect may not show up until later after the submission process was more routine. Alternatively, precincts may not have been a focus on among county registrars as a means to improve access. Still, in the first three elections after the submission process picked up, results are also null, and remain so up until the end of the time period of coverage—in presidential election years 2004 through 2012 and midterm election years 2002, 2006, and 2010. Yet, although there is not a LATE, this does not mean that Section 5 did not play any role in shaping the precinct rate across the covered jurisdictions relative to the non-covered jurisdictions. The analysis that follows tests the relationship between Section 5 coverage and the precinct rate *over time* to understand the extent to which coverage status impacted this measure of access.

Precincts: Time-Series Cross-Sectional Analysis

This section uses time-series cross-sectional regression analysis to 1) examine the demographic determinants of the precinct rate across North Carolina's 100 counties over time, and 2) isolate the independent effect of Section 5 of the VRA on the precinct rate. The first model, shown in Table 17, assesses how demographics relate to the precinct rates from 1972 to 2012. I again examine three models. First, a fixed-effects model with demographic indicators. Then, adding in a Section 5 coverage and a Section 5 coverage and time interaction term, I estimate two additional models—a generalized estimating equation or

"population averaged" model and a pooled OLS time-series—cross-section with panel corrected standard errors.[55]

The demographics-only fixed effects model indicates that in addition to a significant finding on college education, there are marginal associations between the black population, urban population, and the government employee population and the precinct rate. For example, a 10 percent increase in the black population is associated with an increase of 0.14 precincts per 10,000 people of voting age, significant at $p<0.100$. Since this is yearly data, the number of precincts include those for odd years, when only municipal and special elections are held. Therefore, a subsequent model adds in a dummy variable for midterm and presidential election years. The precinct metric is marginally predicted by midterm or presidential election years, which are higher turnout election years. Marginal significance of this variable is not entirely surprising given that the aggregate data indicate that the number of precincts by county decreases slowly over time, rather than fluctuates from election to election. In addition, including the percentage of Democrats registered to vote as a predictor variable does not affect the model much, and although the coefficient is positive, the results are insignificant. The logged percentage of Hispanics in a county has no effect as well, though the coefficient is negative.

The analysis will now turn to examining the relationship between Section 5 coverage over time and the precinct rate. Section 5 coverage is a dummy variable indicating whether a county is covered '1' or non-covered '0'. An interaction with time is also included. Again, to examine how Section 5 impacted the precinct rate over time, a population average model is estimated, rather than a fixed-effects model. The population average model includes demographic covariates, a control for midterm and presidential election years, and the coverage and time interaction.

Findings on the impact of the Section 5 coverage on the precinct rate are more mixed than on registration rates. The results are presented in Table 17 below. The population average and pooled OLS models each show, consistent with the plot of the mean precinct rate over time (in Figure 23 above), that coverage is associated with approximately two fewer precincts per 10,000 adults of voting age. However, the models diverge when examining the time interaction. In the population-average model, there is a positive and statistically significant effect at $p<0.000$. Meaning that in each year since 1972, the effect of being covered is that there are, on average, 0.03 more precincts per 10,000 adults of voting age compared to non-covered counties even as the rate was decreasing overall. While the effect is statistically significant and improves the precinct rate in the covered counties over time, the effect is small, and therefore coverage is still associated with fewer precincts at the end of the time period—the precinct deficit never switches to positive. On the other hand, while the coefficient in the pooled OLS model is positive, it does not reach standard significance levels.

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[55] Again, the preferred statistical approach in political science, given a dataset like this, is to use a fixed-effects model. However, since Section 5 coverage for North Carolina counties is time invariant over this period, a fixed-effects model will not produce coefficients and standard errors on the dependent variable of interest.

Table 17
The Precinct Rate in North Carolina 1972-2012

Variables	Demographics, Fixed Effects	Coverage and Demographics, Population Average	Coverage and Demographics, Pooled OLS
Black Pop (Log)	1.680*	1.150***	0.429*
	(0.983)	(0.106)	(0.248)
Income (Log)	0.847	0.325	-5.002***
	(0.808)	(0.223)	(0.968)
Urban Population	-0.597	-0.600***	-1.317***
	(0.361)	(0.047)	(0.191)
Coll. Grads (Log)	-2.777***	-3.008***	0.225
	(0.630)	(0.143)	(0.549)
Pop. Over 65	-0.012	0.001	0.083
	(0.081)	(0.016)	(0.054)
Gov. Emp. (Log)	-1.226*	-1.012***	0.632
	(0.693)	(0.168)	(0.521)
Pres. Elect. Year	0.018	0.016	0.069***
	(0.017)	(0.039)	(0.017)
Covered		-2.136***	-1.808***
		(0.448)	(0.663)
Coverage*Time		0.026***	0.008
		(0.003)	(0.013)
Constant	3.374	10.612***	57.910***
	(7.979)	(2.074)	(9.077)
R^2	0.58		0.60
N	4,081	4,081	4,081

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

The regression results above indicate that although Section 5 counties started out with fewer precincts than the non-covered counties, one regression model shows that coverage was on average associated with improvements in the precinct rate over time. At the same time, the precinct rate across counties decreased over time. A drop in the precinct rate may mostly be a side effect of a growing population and lack of resources on the part of the state and county governments to increase the number of precincts with a growing pool of voters. Still, there is some evidence that coverage did make a difference, perhaps slowing the rate of decrease in counties subjected to preclearance.

Chapter 4: Section 5 Submissions, Registration, and Precincts Per Capita

This chapter examines the mechanism behind Section 5 enforcement, the preclearance process specifically. Using information generated from the original reports of the Department of Justice, I constructed an original dataset of Section 5 submissions from 1970 to 2013 and use regression analysis to assess the extent to which county-level submissions shaped registration and access in the covered counties. This chapter explores the relationship between oversight and access in the covered counties.

Assessing the relationship between Section 5 submissions and participation can help determine whether the preclearance process was a successful policy to protect minorities' access to the ballot box. The Section 5 submission process, or preclearance, required counties to request formal approval from the Department of Justice (DOJ) to make any electoral changes. The types of changes requiring preclearance were broadly defined and ranged from moving polling places to redistricting.

As mentioned previously, the volume of requests over the lifetime of Section 5 was vast—from 1965 to 2013, the DOJ received 556,268 submissions, with the bulk of submissions occurring after 1982. Thousands of preclearance submissions were received each year. Overall, more than 1,100 submissions were objected to by the DOJ. Objections were concentrated in the "black belt" of covered states as well as majority-minority counties (The National Commission on the Voting Rights Act 2006). Submissions from North Carolina counties totaled 2,387; these submissions included over 5,500 specific change requests.[56] North Carolina received 53 county-level objections from 1971 through 2012.

There is scant research connecting Section 5 submission data and the outcomes they were meant to influence. Few researchers have analyzed Section 5 submission data beyond summarizing objections, withdrawals, and "more information requests" to provide basic trends over time in the volume of submissions and Section 5 activity, and to explain the legal basis for objections to requests. There is an extensive literature among legal scholars on the deterrent effect of Section 5, but such research rarely quantifies this effect using statistical analysis.

This chapter takes a preliminary step toward quantifying the extent to which this activity, and interaction with this oversight mechanism, shapes access, as measured by registration and precinct rates. How does submission activity relate to outcomes of access in the covered jurisdictions? To date, few studies have examined the relationship between submissions and voter participation and access, and as of this writing I have found none that examine whether submissions were predictors of voter turnout, registration, or the number of precincts per

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[56] This figure is based on submission coding from a FOIA request document I received from the Department of Justice.

capita. To conduct this analysis, I adapt the time-series cross-sectional regression models in the previous chapters which compared covered and non-covered jurisdictions. This chapter looks at variation within covered counties—unpacking the independent variable of interest.

From an administrative standpoint, the Section 5 submission process became highly routinized over the nearly 50 years of preclearance enforcement. Each request was mandated to include 1) an explicit description of the voting change, 2) the date the change would be implemented, and 3) a statement of how the change would affect minorities in the jurisdiction. Submissions were required to demonstrate that the proposed change did not discriminate on account of race, or place an undue burden on minority voters. A submission letter could include multiple proposed changes, but each change had to be addressed individually in the letter. Lawyers, analysts, and other staff in the Voting Section would then examine each request to determine whether it would discriminate against minorities. Voting Section staff would verify with minority leaders in the community that the change was not discriminatory, as well as analyze jurisdiction-level statistics to that effect. Jurisdictions were given a letter of preclearance once a change was approved. Requests to make changes were also made public. Objections to the proposed changes were recorded if the Attorney General found that a jurisdiction's change would violate voting rights on the basis of race. Objections prevented a discriminatory change before they were implemented.

This initial assessment of the link between Section 5 submissions and voter outcomes suggests there is an association between a county's volume of submission activity and improved access, measured by county registration rates and the number of precincts per capita. In particular, an analysis of Section 5 submissions indicates that more individual requests to change electoral institutions, or specific actions, are positively associated with black registration, but not a higher rate of white registration. Each additional action is associated, on average, with a 0.12 percentage point increase in black registration. The number of actions sent to the Department of Justice (DOJ) from the covered counties—as well as polling place submissions specifically—also had a positive impact on the precinct metric; each additional action request resulted in an increase in the number of precincts per 10,000 persons of voting age of 0.010. Each additional polling place request, specifically, increased the precinct rate by 0.062 per 10,000 voters. This suggests that "active" counties in North Carolina were reformist counties. Higher numbers of submissions are an indication for better trends in minority voting and access.

Background

Ball, Krane, and Lauth (1981) noted that a major limitation to the Section 5 submission process was its "voluntary" nature. That is, the DOJ had no means to verify that all election changes in the covered jurisdictions were submitted for preclearance. Despite the fact that the submission process depended on the covered jurisdictions to initiate the preclearance process, it remained the primary means of enforcement of the VRA in North Carolina's covered counties. As mentioned, federal examiners and observers did not play a significant role in enforcing Section 5 in North Carolina. Quantifying the effect of the submission process

is thus important for understanding how Section 5 improved voter turnout, registration, and the precinct rate across covered counties in the state.

The reality that some jurisdictions did not comply with the law, that is, some jurisdictions did not seek preclearance for voting changes, means that the number of changes made in covered jurisdictions that were not precleared is simply unknown (The National Commission on the Voting Rights Act 2006). A Government Accountability Office report from 1978 indicated that from 1970 to 1974, 15 electoral changes had been implemented by the state of North Carolina without a request for preclearance (Government Accountability Office 1978, 86). The Federal Bureau of Investigation (FBI), moreover, identified a number of election changes at the county level in North Carolina that had not been sent to the DOJ for preclearance (Government Accountability Office 1978, 86). If an unsubmitted change was identified, a letter was sent to a jurisdiction, which was then given 30 days to respond with a formal request. However, in many cases jurisdictions either did not respond or did not comply with the 30-day time limit (Government Accountability Office 1978, 86). The report also states that the DOJ and the FBI did not record the number of instances of noncompliance that were followed by requests for a formal submission from the covered jurisdiction. At the time, minority stakeholders were critical of the lack of follow-up for non-compliance.

Days and Guinier (1984) described this problem as resulting from a lack of funding from Congress to compile election changes. Therefore, without systematically building a dataset of changes in the covered jurisdictions that were not precleared, it is unknown how compliant jurisdictions were with Section 5. What is ascertainable from the submission data used in the current study, however, is that certain jurisdictions in North Carolina made far more submissions than others. While the current research cannot determine if jurisdictions were more compliant with the law as a result, this can reveal which jurisdictions were more "active." That is, counties with frequent submissions had more occasions where their decisions to make electoral changes were 1) made public because of the preclearance process, 2) scrutinized by lawyers and civil rights analysts at the Department of Justice, and 3) scrutinized by independent observers such as civil rights activists and other stakeholders.

Indeed, observers of Section 5 have argued that the number of submissions increased over time because jurisdictions made the calculation that submitting plans and being compliant was less costly than implementing non-compliant voting rules that would then be challenged in court (Middlemass 2015). Section 5, at some level, deterred jurisdictions from making changes without preclearance. At the same time, while the data analyzed in this section is rich, it is not meant to draw causal claims, but to instead illustrate the relationship between the Section 5 submission process and the electoral institutions it was meant to protect.

Linking Oversight to Outcomes

While the constitutionality of Section 5 and its effectiveness as a deterrent of disenfranchisement have been hotly debated and assessed since the passage of the VRA,[57]

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[57] For debates on constitutionality, see, for example Issacharoff 2007 or Winke 2003. For debates on the deterrent effect of Section 5, see, for example, McCrary, Seaman, and Vallely 2006, Pitts 2003, Posner 2006, or Tokaji 2005.

quantitative research on Section 5 submissions specifically is scarce. As mentioned, one issue with quantifying submission data is the conundrum that submissions are actually "voluntary" in the sense that the volume of changes that have been made and not precleared in the covered counties is unknown. Ball, Krane, and Lauth (1981) explain how the submission process is based on "compromised compliance": since the DOJ had to rely on voluntary submissions, it did not have the resources or the scope to systematically deal with jurisdictions that failed to request preclearance for election changes. This creates a problem with the analysis because the measure of compliance is incomplete.

Objection letters issued by the DOJ have been a central focus of researchers seeking to understand how the DOJ used Section 5 to prevent jurisdictions from establishing discriminatory electoral institutions. McCrary, Seaman, and Vallely (2006) catalogue the types of institutions objected to, as well as the legal basis for objection letters from 1965 through 1999. The research shows that at-large elections were objected to more often in the initial decade following the Act's passage (McCrary, Seaman, and Vallely 2006, 275). Districting plans, moreover, were objected to more often in subsequent decades (McCrary, Seaman, and Vallely 2006, 275). The research, furthermore, shows that over time, objections were increasingly issued on the legal basis of discriminatory intent of a jurisdiction; at the same time, objections were less often issued on the legal basis of the retrogression standard—that is, based on whether minorities become worse off than if the election change did not happen. While this research is an important step in describing and understanding patterns of Section 5 enforcement over time, it does not connect district-level political participation to that process.

One of the most extensive attempts to quantify Section 5 submissions is research by Fraga and Ocampo (2006). The authors argue that only looking at Section 5 objections "may miss other ways that the DOJ influences jurisdictions to comply with the VRA" (Fraga and Ocampo 2006, 49). The researchers take on a more complete range of DOJ enforcement mechanisms beyond objections to fill the gap in understanding the role Section 5 played in deterrence. Specifically, more information requests (MIRs) are examined from 1982 to 2005 by change type, jurisdiction, and year. Looking at the aggregate statistics over time by categories, they determine that MIRs had a deterrent effect and resulted in greater compliance. MIRs were issued at a far higher rate than objections, did not always precede the issuance of an objection, and deterred more changes. This research also greatly improved our understanding of Section 5 enforcement, but again did not connect enforcement to voter participation.

Meanwhile, Kousser (2015), is one of the first researchers to combine outcome measures with Section 5 submission data. The author examines Section 5 objections, submissions, Section 2 lawsuits, as well as demographic variables, to present the geography of legal cases and Section 5 actions. Kousser shows that voting discrimination was still a problem Congress needed to remedy in 2006 when the VRA was last renewed, and that discrimination was still centered in the covered jurisdictions. Section 5 coverage, moreover, was a highly successful means to remedy voter discrimination: infringements on voting rights nearly always occurred in covered jurisdictions and were concentrated in the South and Southwest. This finding suggests that the formula designating Section 5 coverage adequately identified the

most discriminatory jurisdictions, and the submission process remained necessary to deter discrimination.

The current study contributes to this literature on the effect of the Section 5 submission process. Namely, it examines whether there is a link between the number and type of submissions and two key measures of access, voter registration rates and precincts per capita. This provides insights into the impact of federal oversight of state and local elections. Results show that the number of Section 5 actions was associated with better access to the franchise among covered counties.

Data

The dataset includes all Section 5 preclearance submissions from the entire lifespan of submission activity. Through a Freedom of Information (FOIA) request, I obtained all of the Section 5 submission requests from 1970 through 2013, by jurisdiction, in North Carolina. The request returned 1,238 pages of Section 5 submissions from jurisdictions in the state, generated from the Voting Section's Submission Tracking and Processing System (STAPS). Each entry includes an individual submission number, the county name, the type of change(s) requested, a description of the change(s), dates of action—including the submission date and response date—and whether an objection was issued.

For the present analysis, I coded each submission individually, creating a submission count. I also coded each individual change request by county and year, which I label "actions." An action is a count of each type of institutional change requested *within* a single submission. Actions refer to a count variable of the number of specific voting changes requested from an individual jurisdiction, by county and year. This differs from the total submission numbers, which can include multiple election changes. For example, an individual submission may request 1) moving a polling place, 2) annexing a portion of land, and 3) consolidating precincts. In this instance, only one submission is coded, but three actions are coded. Actions are a better measure of activity levels because many actions are often included in a single submission.

In all, the FOIA document I obtained includes 2,418 unique submission numbers encompassing 5,562 individual change requests, or actions, from North Carolina's covered counties. Twenty different types of actions are identified, ranging from annexations and incorporations, to registration procedures to polling place changes. These correspond to the official designations the DOJ used to classify submissions. The full list and number of changes over the entire time period in North Carolina is included in Table 18 below. Polling place actions plus precinct actions comprise the bulk of electoral changes over time, followed by election laws, annexations, special election procedures, and voter registration procedures.

Table 18
Electoral Changes in North Carolina: Total Actions by Type 1970-2013

Action Type	Total
Annexation	440
Bilingual Procedures	1
Candidate Qualifications	15
Consolidation or Division of Political Units	6
Districting Plan	131
Election Law	930
Form of Government	25
Implementation Schedule	39
Incorporation	4
Method of Election	153
Nominating Procedures	0
Political Activity	0
Polling Place	1,830
Precinct	825
Primary Election Date Change	4
Reregistration or Voter Purge	13
Special Election Procedures	208
Voter Registration Procedures	184
Voting Methods	167
Miscellaneous	219

Results

This section conducts an analysis of the extent to which the number of Section 5 submissions from the covered counties is associated with the dependent variables of interest: registration and precincts per capita.[58] Examining the submission process itself is a crucial step toward unpacking the mechanism of enforcement, and understanding the treatment effect of Section 5 observed in the prior chapters.

The predictor variable, which I label "actions," is included in the models as the primary independent variable of interest for this analysis. The mean number of county-level submissions and actions from 1970 to 2013 are presented in Figure 24 and 25 below, respectively.

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[58] It is important to note that state-level submissions from North Carolina are not included in the analysis, because those affected every county in the state. The purpose here is to examine the variation in submissions within covered counties to understand the county-level outcome variables of interest.

Figure 24
Mean Number of County-Level Section 5 Submissions in North Carolina 1970 to 2013
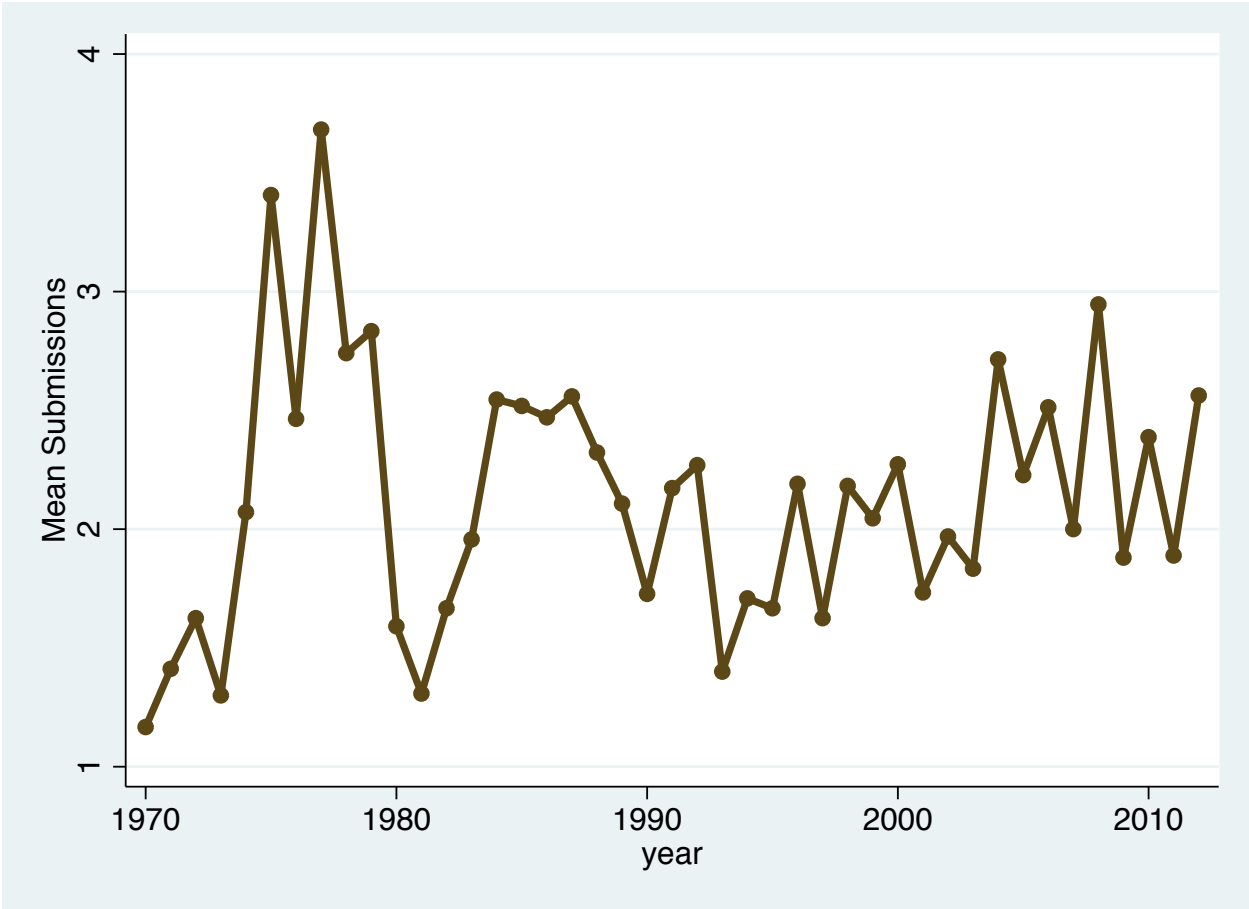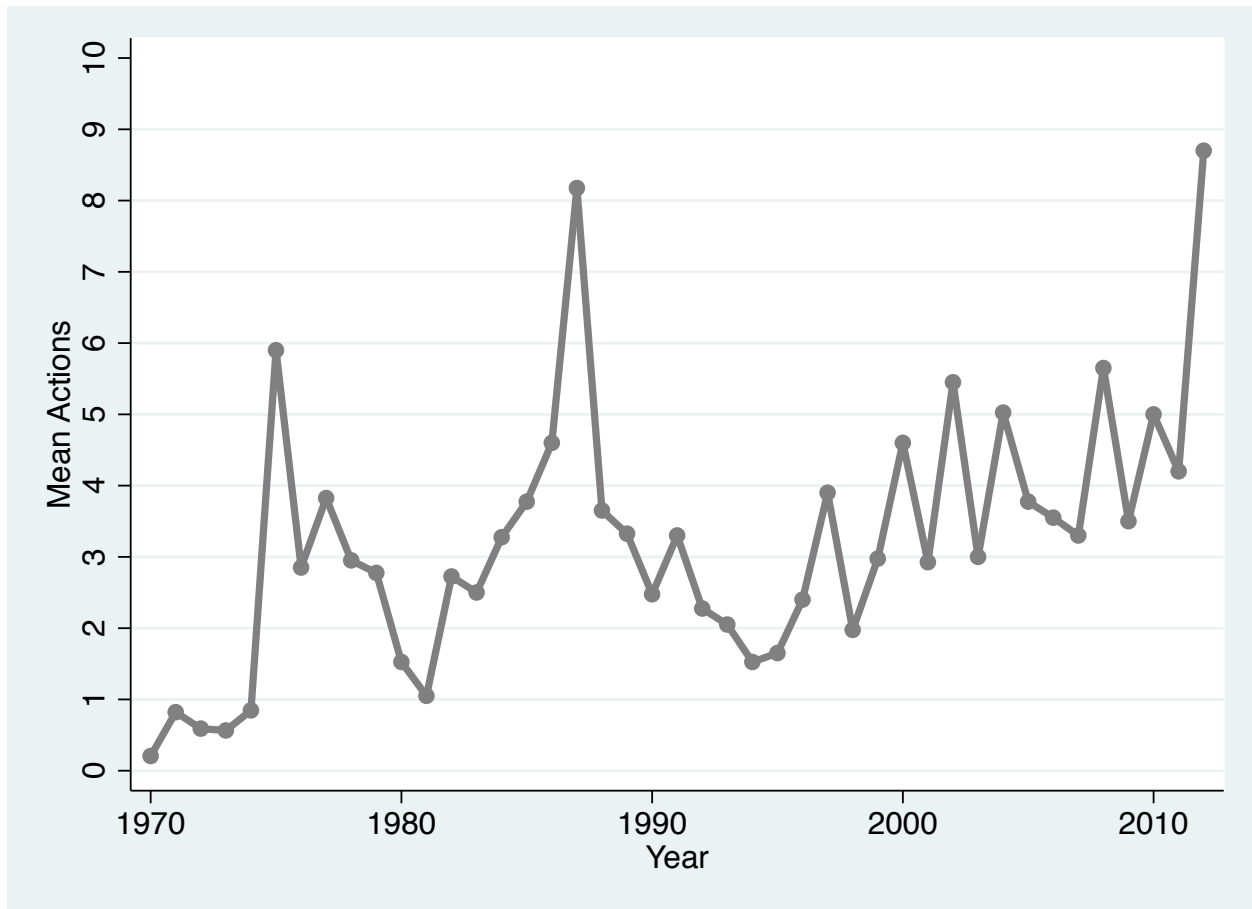
Figure 25
Mean Number of County-Level Section 5 Actions in North Carolina 1970 to 2013

The two figures show that the peaks and valleys of each roughly track with each other. In all, from 1972 through 2012, there were 2,387 distinct submission numbers and 5,522 "actions" submitted from North Carolina's covered counties, based on the raw reports provided by the Department of Justice. The mean number of actions by county increased from the 1970s through 1980s, dipped in the 1990s, and rose again through the years of coverage in the 2000s. From 1970 to 1979, the mean number of actions per county was 2.15, from 1980 to 1989 it was 3.46, from 1990 to 1999 it was 2.45, from 2000 to 2009 it was 4.08, and from 2010 to 2012 it was 5.97. A spike in the number of actions occurred in the aftermath of the *Allen v. State Board of Elections* decision in 1969; in that decision, the Supreme Court expanded the scope of Section 5 to include any change affecting voting, even "minor or indirect" (USDOJ 2015). Other spikes occur in years around reapportionment and congressional redistricting periods in 1983, 1992, 1998, and 2002, and after 2010, when many changes are made to electoral institutions as a result of the redrawing of district lines (Fraga and Ocampo 2006), as well as in presidential election years, more consistently after 1992.

In addition to examining the overall count of actions, the analysis below assesses the two individual action types in particular—polling place and precinct change requests—to

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determine if there is an association between those submission types and the number of precincts per capita. These action types are categorized based on definitions used by the DOJ to classify submissions. Across all covered counties throughout the United States, polling place changes were the most frequently submitted request over time, comprising nearly a quarter of all submissions. Nationwide, the submissions relating to precincts and polling places numbered near 200,000, making up more than a third of all submissions.

Precincts and polling places clearly are election features, which, in the covered jurisdictions at least, were frequently moved or changed. As documented in United States Commission on Civil Rights reports in the 1960s and 1970s, as well as more contemporary research, the quantities and qualities of polling places impacts voter turnout (Brady and McNulty 2011; Gimple and Dyck 2005). As a practical matter, fewer precincts per person can reduce access by lengthening the distance to reach a polling place, packing more people into one voting site and increasing wait times, or making the process more intimidating for minority voters.

Throughout the time period, every covered county in North Carolina made a Section 5 submission. However, across counties, there is quite a bit of variation in the number of submissions, and total actions, sent to the DOJ. Table 19 summarizes the total and mean number of actions over time across the covered jurisdictions, in addition to the sum and mean number of the combined precinct and polling place actions specifically. The figures are ranked by the county's black population.

Table 19
Section 5 Covered Counties: Black Population and Preclearance Actions Summary 1970 to 2013

County	Black Population (Percent)	Actions (Total)	Actions (Annual Average)	Precinct and Polling Place Actions (Total)	Precinct and Polling Place Actions (Annual Average)
Bertie	60.58%	65	1.51	19	0.44
Northampton	59.74	57	1.33	32	0.74
Hertford	57.4	57	1.33	26	0.6
Edgecombe	53.99	198	4.6	43	1
Halifax	49.89	184	4.28	87	2.02
Anson	47.46	67	1.56	43	1
Vance	46.06	75	1.74	28	0.65
Washington	45.96	49	1.14	13	0.3
Martin	44.54	75	1.74	19	0.44
Gates	44.49	44	1.02	19	0.44
Greene	42.59	63	1.47	32	0.74
Hoke	40.32	67	1.56	19	0.44
Caswell	39.76	76	1.77	25	0.58
Lenoir	38.96	139	3.23	60	1.4
Granville	38.84	100	2.33	52	1.21
Chowan	38.5	77	1.79	19	0.44
Wilson	37.99	199	4.63	54	1.26
Bladen	37.79	96	2.23	37	0.86
Pasquotank	37.74	67	1.56	42	0.98
Scotland	36.17	50	1.16	24	0.56
Franklin	34.53	106	2.47	60	1.4
Pitt	34.14	228	5.3	122	2.84
Nash	33.97	122	2.84	67	1.56
Perquimans	32.66	56	1.3	4	0.09
Wayne	32.33	186	4.33	92	2.14
Cumberland	32.1	363	8.44	224	5.21
Beaufort	30.02	114	2.65	71	1.65
Person	29.7	70	1.63	22	0.51
Guilford	27.4	518	12.05	387	9.00
Craven	25.06	156	3.63	55	1.28
Robeson	24.95	162	3.77	70	1.63
Camden	24.34	18	0.42	4	0.09
Harnett	22.54	127	2.95	62	1.44
Lee	21.53	119	2.77	59	1.37
Cleveland	20.81	210	4.88	143	3.33
Rockingham	19.92	116	2.7	87	2.02
Onslow	18.33	134	3.12	56	1.3
Union	14.92	710	16.51	247	5.74
Gaston	13.29	165	3.84	104	2.42
Jackson[59]	1.79	77	2.03	26	0.68
Total (Annual Avg.)		5,562	(3.24)	2,655	(1.55)

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[59] Jackson County was covered under the language minority extension of the Act in 1975.

One interesting finding is that there is evidently little relationship between the racial diversity of a county and the number of actions submitted to the DOJ. A basic correlation between a county's proportion of the population that is black and actions is -0.15; the correlation between precinct and polling place submissions and the percentage black is -0.14. Moreover, a county's total population does not correlate with total actions (0.32) or precinct and polling place actions (0.36). Indeed, Table 19 above shows that the three heaviest black covered counties ranked close to the bottom of the list in terms of total actions and precinct and polling place change requests, specifically. Union County, which is about 15 percent black, submitted the most change requests, followed by Guilford County, which is 27 percent black. Camden and Gates Counties were the least active, with a black population of 24 and 45 percent, respectively. A scatterplot in Figure 26 below shows the relationship between total actions and black population.

Figure 26
Scatterplot of Black Population and Total Section 5 Actions, County-Years
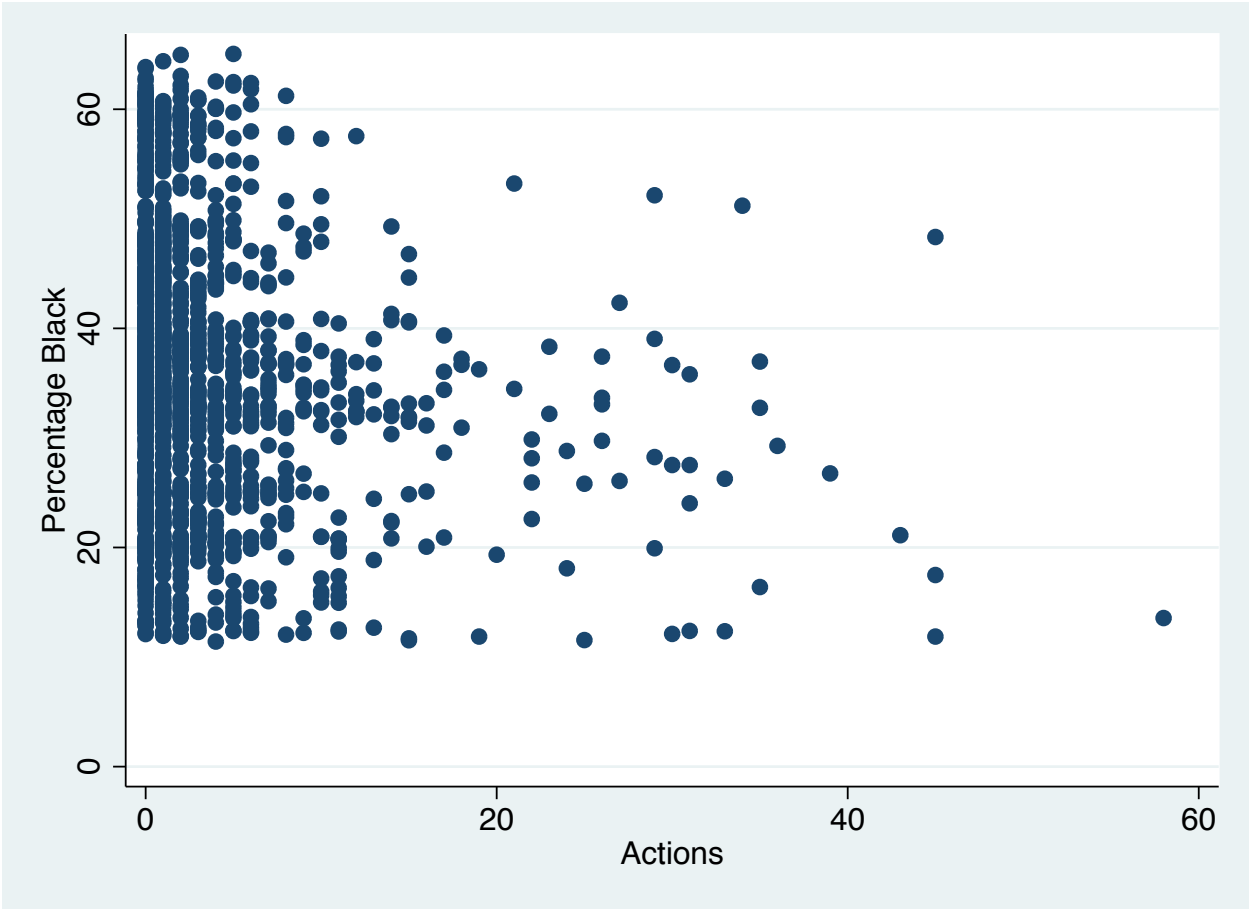
Polling place and precinct requests, in particular, also vary across the covered counties, ranging from a mean of .09 such actions per year in Camden County (24 percent black) and Perquimans County (33 percent black), to a mean of 9.0 polling place or precinct actions per year in Guilford County (27 percent black). In all, there were a total of 1,830 requests to

change a polling place and 825 requests to alter precincts over the time period, summing to 2,655. The mean polling place and precinct action rate was 1.6 per county annually.

Section 5 Actions and Registration by Race

The first set of regressions below examines the effect of the number of Section 5 actions on voter registration rates of both blacks and whites over time. The comparison of black and white registration rates is relevant, because fundamental to making a Section 5 requests was that the submitting jurisdiction should demonstrate that a particular change would not hinder access or place an undue burden on account of race. A county also had to justify the request to make a change. Therefore, the act of a jurisdiction going through this process was meant to ensure that blacks were not disproportionately affected by an institutional change. If a county is more active, and has more changes precleared, then perhaps voting rights protections are better maintained in such counties. A positive relationship between actions and black registration, but perhaps not for whites, may thus be observed.

Table 20 presents regression results where the percentage of the black voting age population registered to vote is the dependent variable, and includes demographic controls as well as the action variable as a predictor. The logged population size of a county is controlled for in the model as well, in order to account for the fact that larger counties may make more submissions. Estimating a population average model, we observe consistent results on demographic dimensions with the registration and precinct time series models in the previous chapters, which included all counties in the state. Age, education, percent black, and income are, on average, positively associated with black registration. Government employment and urban variables have negative signs on the coefficients and are statistically significant. Not surprisingly, presidential contests boost registration. The key predictor variable—actions—shows an increase in one action is associated with a rise in black registration, on average, by about 0.11 percentage points, significant at $p<0.010$. While the effect size is small, it is still notable that more activity with the Department of Justice is related to higher registration rates among blacks. A parallel fixed-effects model yields similar results.

When an identical model is estimated with the percentage of the white voting age population registered to vote as the outcome variable, however, the results are not statistically distinguishable from zero. While the coefficient on the actions variable is positive— suggesting more active counties results in higher white registration rates on average—the p-value exceeds 0.100. Again, a fixed-effects model yields similar results.

Table 20
Section 5 Actions and North Carolina's Covered Jurisdictions 1972 to 2012[60]

Variables	Black Registration	White Registration
Total County Population (Log)	19.517***	13.451***
	(2.524)	(1.978)
Per Capita Income (Log)	32.546***	27.662***
	(3.306)	(2.509)
Percent Black Population (Log)	11.133***	10.191***
	(2.810)	(2.181)
Urban Population	-1.778**	-0.959
	(0.877)	(0.615)
College Graduates (Log)	7.565***	2.877
	(2.474)	(1.893)
Population Over 65	2.222***	0.335
	(0.312)	(0.239)
Gov. Employment (Log)	-16.653***	-11.490***
	(2.309)	(1.771)
Presidential Election Year	4.439***	4.628***
	(0.536)	(0.404)
Actions	0.105***	0.032
	(0.037)	(0.028)
N	1,619	1,637

* *p*<0.1; ** *p*<0.05; *** *p*<0.01

To test the frequency idea further, I ran the models using a dummy for actions instead of a count variable, where '0' was coded as no action and '1' was coded as any action. The estimates for the dummy variable coefficient were not statistically different from zero, suggesting that moving from no actions to any actions at all was not related to improvements in black registration. Taken together, the results suggest that more *frequent* demonstrated compliance with the law was associated with higher registration rates among blacks.

Section 5 Actions and Precincts

Next, I examine the relationship between the number of precincts per 10,000 adults of voting age and county-level preclearance activity over time. Precincts per 10,000 persons of voting age is the outcome variable; demographic covariates, as well as a control for presidential election years, are included in a population average model, along with the action count variable as a predictor. In Table 21 below, consistent results are observed when compared to the basic demographic regression models, with the proportion of the black population positively related to the precinct rate and the logged percentage of college graduates negatively associated. The results show a positive and statistically significant effect: for each additional action, a county's precinct rate increases by 0.01 precincts per 10,000 adults of voting age. The finding is statistically significant at p<0.010.

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[60] Each model was also run separately with submission counts as the independent variable and the findings were null.

Table 21

Precincts: Section 5 Total Actions and North Carolina's Covered Jurisdictions 1972 to 2012[61]

Variables	Demographics Only	Actions and Demographics
Total Population (Log)	-2.433***	-2.552***
	(0.264)	(0.267)
Per Capita Income (Log)	0.539*	0.613**
	(0.312)	(0.312)
Black Population (Log)	3.232***	3.239***
	(0.286)	(0.286)
Urban Population	0.018	0.014
	(0.077)	(0.077)
College Graduates (Log)	-0.562**	-0.565**
	(0.241)	(0.240)
Population Over 65	-0.125***	-0.130***
	(0.030)	(0.030)
Government Employment (Log)	-1.526***	-1.528***
	(0.228)	(0.227)
Presidential Election Year	0.027	0.023
	(0.050)	(0.050)
Actions		0.010***
		(0.003)
N	1,637	1,637

* p<0.1; ** p<0.05; *** p<0.01

Next, what is the direct relationship between requests to make changes to precincts and polling places specifically on the actual precinct rate? Recall that in North Carolina, there is a one-to-one ratio of precincts to polling places. Precincts refer to the actual physical boundary voters reside in, and the polling place refers to the physical location where a voter casts their ballot. I estimate the effect using a population average regression model. The first model below includes count variables for precincts and polling places, as well as demographic covariates and a control for presidential election years, while the second model adds the remaining most frequent change request types, as done in the registration models above.

The results are presented in Table 22 below. Here, a larger effect size is observed: for each additional polling place change request, the precinct rate goes up, on average, by 0.062 precincts per 10,000 adults of voting age. This result is statistically significant at p<0.000. On the other hand, there is a negative relationship between the precinct change variable and the precinct rate per 10,000, though the results are marginally significant at p<0.100. The reason for the discrepancy may be that precinct changes tend to be consolidations and the redrawing of boundaries, whereas polling place changes include adding or moving a voting site. The data suggest that the frequency of these qualitatively different change types matter for the ultimate precinct rate. A fixed-effects model produces nearly identical results.

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[61] A separate model with submission counts as an independent variable was also run and the findings were null.

Table 22
Precinct Rate: Section 5 Precinct and Polling Place Requests and North Carolina's Covered Jurisdictions

Variables	Precincts and Polling Places
Total County Population (Log)	-2.541***
	(0.262)
Per Capita Income (Log)	0.576*
	(0.307)
Percent Black Population (Log)	3.101***
	(0.284)
Urban Population	0.020
	(0.076)
College Graduates (Log)	-0.628***
	(0.238)
Population Over 65	-0.123***
	(0.030)
Government Employment	-1.478***
	(0.224)
Presidential Election Year	0.018
	(0.049)
Precincts	-0.032*
	(0.018)
Polling Places	0.062***
	(0.014)
N	1,637

* $p<0.1$; ** $p<0.05$; *** $p<0.01$

While this chapter presents only a preliminary assessment, the findings strongly suggest that Section 5 compliance is associated with improved access to the ballot box for all voters, but most significantly for blacks. The analysis is an initial step in understanding the key administrative feature of Section 5 enforcement. Demonstrated compliance with the law—as measured in the frequency of Section 5 change requests, or actions—is associated with improved access to the ballot box.

Future research to address issues of the causal process of enforcement, as well as the order of compliance—whether there are other variables instigating additional actions from some jurisdictions and not others, for example—would be useful understand the associations revealed above. Such research might include incorporating additional institutional-level or contextual control variables to rule out other confounding factors that might explain the relationship between action levels and outcomes. Examples of such data might be county-level fiscal resources dedicated to elections, a county's capacity to submit change requests (such as the number of staff dedicated to the process), and the number of minority elected officials in a county. The latter could be an indicator of whether elites pushed compliance with the Section 5 preclearance process. Extending the analysis beyond North Carolina to understand patterns of submissions after an objection has been issued might also reveal key differences in action levels across jurisdictions.

Chapter 5: Conclusions

For nearly 50 years, Section 5 of the Voting Rights Act was a means for the federal Department of Justice to oversee electoral institutions in the covered jurisdictions. The purpose of this provision of the law was to thwart historically discriminatory jurisdictions from impeding blacks' and other minorities' ability to exercise the franchise. The VRA resulted in a vast expansion of political participation for millions of disenfranchised black Americans. In the case of North Carolina, the coverage formula meant that a substantially different institutional arrangement regulated elections among 39 of 100 counties over the lifetime of Section 5; these 39 counties were designated covered as a result of having less than 50 percent voter turnout in the 1964 presidential election, and were required to submit all electoral changes to the DOJ before implementation. Sixty of the state's counties were not required to do so. The findings in the current study shows that Section 5 coverage status significantly impacted the trajectories of voter participation at the county level in North Carolina from 1965 onward.

With the *Shelby County v. Holder* decision in 2013, federal oversight of elections in North Carolina's 39 covered counties ended, as the Supreme Court invalidated Section 5. This dissertation began by questioning Justice Robert's assertion in the majority opinion of that decision—that statistics from 40 years ago were not a sufficient justification for the continuing need of Section 5. The current study examines Justice Robert's statement from a number of angles. Results show the impact of Section 5 in the short-term versus long-term, on behavior and institutions, and on the political participation of black, and white, North Carolinians. Further, by examining the covered counties' preclearance requests to make electoral changes, the study also assesses an important mechanism behind compliance with the VRA. And ultimately, the research scrutinizes the consequences of Section 5's removal after nearly 50 years of enforcement. Leveraging North Carolina's unique status as a partially covered state, this dissertation digs deeper than other studies of the VRA's topline-level effects. Indeed, Section 5 shaped electoral outcomes, after accounting for a number of confounding institutional and socioeconomic variables.

Given North Carolina's unique context, several novel means of examining time-series data on voter participation and institutions was possible. The results tell a story that Section 5 was crucial for the expansion and maintenance of the franchise in the state. The provision was having an effect on voter turnout and registration in the initial, interim, and latest time periods of implementation. In the years directly after 1965, Section 5 coverage independently led to a spike in presidential turnout of about 10.9 percentage points—and midterm turnout of about 14.4 percentage points—in the covered counties. These findings are over and above predicted improvements due to statewide or national turnout trends. Over the subsequent decades, Section 5 was associated with the convergence of voter participation rates in covered and non-covered counties. In covered counties, overall voter

turnout increased at a rate of about 0.32 percentage points per year, and black registration rates increased more than 0.50 percentage points per year, holding other variables constant.

The study also provides evidence that Section 5 directly caused these improvements in turnout and registration. Using a regression discontinuity design (RDD), which approximates experimental research, findings indicate that marginally covered counties—those near the original threshold for coverage based on 1964 presidential turnout—outperformed marginally non-covered counties on multiple dimensions and at statistically significant levels. In the years leading up to the *Shelby* decision, black turnout was higher in marginally covered than in marginally non-covered counties, as was black registration in the earliest and latest years of the Act. Indeed, black voter turnout was approximately 9.1 percentage points higher in marginally covered counties than marginally non-covered counties in presidential elections, and 6.5 percentage points higher in midterm election years 2002 and 2006. From 1966 to 1970, black registration was 18.6 percentage points higher in the marginally covered versus marginally non-covered counties; from 2008 through 2012, black registration was 11.4 percentage points higher.

Section 5 also had an impact on the number of precincts (polling places) available to voters over the time period. In 1966, covered counties had fewer precincts per 10,000 voters than non-covered counties—7.1 versus 8.2. However, these rates converged over time and by 2000 were nearly identical. In each year since 1972, coverage is associated with an increase of .026 precincts per 10,000 voters. So not only did Section 5 have positive impacts on black political participation, but there is evidence it shaped the development of electoral institutions as well, expanding voters' access to the polls.

An additional element of the study's findings is the spillover effects federal oversight had on improving voter participation among white voters as well. While the intent of the law was to secure the franchise for blacks and other minorities, the results of the current research provide evidence that, in some cases, Section 5 coverage also increased white registration and turnout. Between 1972 and 2012, coverage was associated with between a 0.18 to 0.30 percentage point increase in white registration each year, depending on the regression model. This effect size is smaller than observed for increases in black registration but still highly statistically significant.

Tests performed to determine the causal driver of increases in white participation in the covered counties also point to Section 5. The regression discontinuity test shows that while in the earliest years of the Act white registration rates were greater in marginally non-covered than covered counties, by 2008-2012, white registration was 7.8 percentage points higher in marginally covered counties. In presidential election years 2004, 2008, and 2012, white turnout was 5.3 percentage points higher in marginally covered counties. In the 2010 midterm election, turnout was 5.8 percentage points greater in covered counties just above the coverage threshold.

Collectively, these findings suggest that the institutional improvements resulting from Section 5 went beyond racial considerations—oversight, systematic justifications for changing electoral institutions, and ultimately, greater access, benefitted most voters.

Because whites comprise a majority of voters in North Carolina, Section 5's positive impact on this groups' participation levels also means that in several of the statistical tests run, Section 5 increased political participation among all North Carolina voters.

Why was Section 5 successful at improving voter access? To begin to answer this question, this dissertation uses an original dataset of 2,387 county-level Section 5 submissions in North Carolina, spanning 1970 through 2013. The results show that compliance with the law mattered: the frequency of requests to make electoral changes are positively associated with registration and precinct rates in the covered jurisdictions. Each "action," or specific request to change an election rule or institution, made by a jurisdiction, is associated with a 0.11 percentage point increase in black registration and 0.01 additional precincts per 10,000 voters, holding other variables constant. Each Section 5 submission was reviewed by DOJ professional staff and was transparent, allowing for the scrutiny of the public, as well as minority elected officials and other stakeholders. The results suggest that going through the submission process itself led to improved electoral outcomes in the covered jurisdictions.

Finally, what are the consequences of ending Section 5 of the VRA? Due to the fact that the *Shelby* decision suspended coverage as recently as 2013, there are few election "data points" to examine the effect of the Supreme Court's decision. However, an initial assessment is possible by turning to individual-, rather than county-level, data. Using North Carolina's voter history file of 5.66 million registered voters, I tested differences in the propensity to vote in the 2012 versus the 2016 presidential election. Suspending Section 5 coverage depressed turnout among registered voters in newly uncovered counties. Blacks in newly uncovered counties were 10.8 percent less likely to vote than in counties never covered at all under Section 5. Among registrants overall, voters were 6.1 percent less likely to vote in newly uncovered counties. These findings are highly statistically significant. Ultimately, the suspension of Section 5 could very well effect election outcomes: a 10 percent drop in turnout among blacks translates to about 50,000 voters in the state—30 percent of the margin separating Donald Trump and Hillary Clinton in the presidential race in North Carolina, and 10 times the margin in the highly contested governor's race.

In 2017 and beyond, the stakes for voting rights are high. In the aftermath of *Shelby*, many states have rolled back laws that were meant to ease access to the vote, and implemented new rules to restrict the franchise. Further, President Trump recently established a voting commission by executive order, dubbed the "voter fraud" commission, in order to identify "vulnerabilities…that could lead to improper registrations and improper voting" (quoted in Berman and Wagner 2017). President Trump has asserted that he lost the popular vote in the 2016 election to Hillary Clinton due to voter fraud, a claim for which there is no evidence to support. President Trump's commission has sought detailed data on registrants from all 50 states. As of this writing, 44 states (Berman and Wagner 2017) refused the request for data, at least in part, due to privacy concerns, uncertainty about the purpose of the data, and claims of states' rights. Critics of the commission are seriously alarmed about it leading to more voting restrictions and an expansion of voter ID.

In addition, in an ongoing case directly related to the VRA, the DOJ recently sided with Texas in a major reversal on the state's voter ID case. The Obama Administration had previously

argued that voter ID was established in the state to discriminate against minorities and had blocked the requirement from taking effect. All of this is taking place while efforts in Congress are stalled to reestablish and strengthen the original Voting Rights Act, even despite some bipartisan support to restore the law.

Even with Congress's inability to overcome gridlock to reaffirm voting rights protections, and an executive branch actively and openly seeking to limit such rights, the implications of this research are as important as ever. Section 5 was having its intended effect right up to its suspension in 2013. Yet, it is important to note that at no point did voter turnout or registration rates in the covered counties meet or exceed voter turnout or registration rates in the non-covered counties. In other words, disparities still existed in the aggregate, and while the gap in turnout and registration was narrowing—largely because of Section 5— outcomes were still uneven. Coverage clearly had a positive impact on voter access and outcomes. And it was the centralization of election oversight that went a long way to improve voter participation. On top of coverage, compliance with that oversight also mattered for the Act's success. Taken together, the great impact coverage, centralization, and compliance had on elections in North Carolina can inform policymakers' work at the federal, state, and county levels of government to expand voting rights protections across the United States, regardless of specific histories of discrimination.

Future Research

The current study opens up several opportunities for a future research agenda related to Section 5 of the Voting Rights Act.

Representation. I first began this research project with the idea that I would also examine Section 5's relationship to increases in black elected officials in North Carolina. While I have individually coded each black elected official by county from 1969 through 1994, I am working on obtaining data from 1994 and later in order to conduct additional analysis on the effect of Section 5 on black representation.

The Effect of *Shelby*. Second, a major research agenda is to expand the analysis and continue to track the effect of Section 5's suspension. I plan to maintain data collection for the time-series county-level dataset in order to better understand the implications of the suspension of Section 5. As more elections occur in a post-*Shelby* environment, we can begin to assess the extent to which political participation was depressed as a result of the removal of preclearance by examining the longer-term trend. Further, the individual-level findings of the voter panel can be bolstered by merging in more micro-level economic variables as controls—such as income by census tract. Moreover, the voter panel includes data back several election cycles. This data can be leveraged for a number of research questions on the effect of additional institutions on voter participation. For example, the Election Administration & Voting Survey, conducted by the United States Election Assistance Commission, collects unique data on voting machines, wait times, polling places, the number of poll workers, and several other features of election administration. Such data might be

combined with the voter panel—or the county-level dataset—to better understand trends pre-and post-*Shelby*.

Further, the voter panel can also be used to determine the effect of Section 5 at the precinct level. This type of analysis might be done as a robustness check on the current results: covered and non-covered precincts in many cases border each other and contain similar demographic characteristics. Did voter turnout and registration diverge at the precinct level as well? And what in particular are the trends in the majority black precincts?

Another opportunity with the voter panel is the ability to examine changes in the propensity to vote from prior presidential elections to the 2016 election among Latino and Asian-American registrants. The current research was limited to white and black turnout, but a future research endeavor might expand the analysis to Latino and Asian-American voters as well.

Partisanship and Crossover Voting. The county-level dataset I constructed also can be used to understand crossover voting—that is, the extent to which voters are willing to vote for candidates of the opposing party, or of a different race, in covered versus non-covered jurisdictions. Ansolabehere, Persily, and Stewart III (2012) conducted such a study on covered versus non-covered jurisdictions for the 2004 and 2008 presidential elections, using data from all covered jurisdictions. This type of study would speak to the literature on race and institutional development, whether federal oversight affected election outcomes from a party politics perspective, and would also shed light on minority voters' ability to elect preferred candidates.

Qualitative Research. The evidence that outcomes diverged across the covered versus non-covered jurisdictions would be better understood by incorporating qualitative research on how election changes took place in the non-covered counties. I am interested in the idea of collecting data on electoral changes that were implemented without Section 5 compliance, as well as changes that occurred in the non-covered jurisdictions. Such an endeavor would require researching county election boards' public actions and interviewing registrars and other election officials. A study of this kind might be limited to a handful of counties, but with careful case selection could yield interesting findings on the volume of election changes that actually take place at the level of government where elections are administered. More work is needed to track down existing datasets or catalogues of election law changes in jurisdictions never covered under Section 5.

Case Studies Beyond North Carolina. The current study was isolated to North Carolina in order to single out Section 5's impact on voter participation and access absent confounding variables that are present at the state level. North Carolina's status as partially covered made county-level comparisons possible. However, the conclusions drawn in this study are somewhat limited because only one state was examined. Future research could leverage the current research design, however, in at least a few other states, such as Florida, or outside of the South, such as California, New York, or South Dakota.

Moreover, in addition to the North Carolina submission requests, I also obtained submission requests for counties and jurisdictions in Virginia from 1970 through 2013. The analysis in the current study conducted among North Carolina's covered counties could thus be replicated using Virginia as a case study to assess the relationship between the volume of Section 5 actions and voter outcomes. Although the state of Virginia was covered as a whole under Section 5, several counties have since "bailed out" of coverage under the law's bailout provision. Bailout allowed covered jurisdictions to opt out of coverage by proving that the jurisdiction had not conducted any voting discrimination, had complied with Section 5, did not have any DOJ objections to voting changes, and was not under litigation related to voting rights, among several other requirements. Twenty-three of Virginia's 95 counties bailed out between 1965 and 2013. A time-series analysis comparing bailout to non-bailout counties could assess whether voter participation, or measures of voting institutions, saw substantive changes after oversight was removed. Did voter participation in bailout counties decline, stay the same, or increase with the removal of Section 5 oversight?

Public Opinion and Trust. Because my research interests always revert to public opinion and surveys, I think it would be useful to understand whether opinions concerning how elections are conducted, trust in electoral institutions, and/or trust in local, state, and national government and elected officials, diverged based on Section 5 coverage status. Such a project might use the American National Elections Study or the General Social Survey to gauge trust. Why would trust and Section 5 matter? As policymakers seek to craft legislation that addresses voting rights in the aftermath of *Shelby*, it would be important to know how voters perceive electoral institutions, depending on whether the federal government is involved in overseeing those institutions, or not. This could directly speak to the types of voter protections the public may lend their support, especially in light of Russian interference in the 2016 presidential election, and historically low trust in the government in Washington (Pew Research 2017).

Bibliography

Abramson, Paul R., and John H. Aldrich. 1982. The decline of electoral participation in America. *American Political Science Review* 76 (3): 502-521.

Allen v. State Board of Elections, 393 U.S. 544 (1969) No. 3.

Alt, James. 1994. Race and voter registration in the south before and after the voting rights act. In *Quiet Revolution in the South: The Impact of the Voting Rights Act.* Princeton University Press.

Alvarez, R. Michael, Delia Bailey, and Jonathan N. Katz. 2008. The effect of voter identification laws on turnout. *California Institute of Technology Social Science Working Paper*, no. 1267R.

Ambrosius, Joshua D. 2016. Blue city... Red city? A comparison of competing theories of core county outcomes in US presidential elections, 2000-2012. *Journal of Urban Affairs* 38 (2): 169-195.

American Civil Liberties Union. 2017. A history of the Voting Rights Act. https://www.aclu.org/timelines/history-voting-rights-act. Accessed July 2017.

Ansolabehere, Stephen and David M. Konisky. 2006. The introduction of voter registration and its effect on turnout. *Political Analysis* 14 (1): 83-100.

Ansolabehere, Stephen, Nathaniel Persily, and Charles Stewart III. 2012. Regional differences in racial polarization in the 2012 presidential election: Implications for the constitutionality of section 5 of the voting rights act. *Harvard Law Review Forum* 126:205.

Barreto, Matt A., Gary M. Segura, and Nathan D. Woods. 2004. The mobilizing effect of majority-minority districts on Latino turnout. *American Political Science Review* 98 (1): 65-75.

Berger, Jonah, Marc Meredith, and S. Christian Wheeler. 2008. Contextual priming: Where people vote affects how they vote. *Proceedings of the National Academy of Sciences* 105 (26): 8846-8849.

Berman, Mark, and John Wagner. 2017. Why almost every state is fully or partially rebuffing Trump's election commission. *The Washington Post*, July 5.

Billingsley, Gloria J., and Sylvester Murray. 2015. Redistributing power in Mississippi: The reversal of section 4 of the voting rights act. *Ralph Bunche Journal of Public Affairs* 4 (1, Article 5).

Blais, André. 2000. *To Vote or Not to Vote?: The Merits and Limits of Rational Choice Theory.* University of Pittsburgh Press.

Blanding, David, and Shane Grannum. 2015. Who bails: A multivariate analysis of bailouts under section 4 of the voting rights act. *JCR & Econ. Dev.* 28:1.

Bobo, Lawrence, and Franklin D. Gilliam, Jr. 1990. Race, sociopolitical participation, and black empowerment. *The American Political Science Review* 84 (2): pp. 377-393.

Bositis, David A. 2006. *Voting Rights and Minority Representation: Redistricting, 1992-2002.* University Press of America.

Brennan Center. 2016. "Voting Laws Roundup 2016." (accessed April 18, 2016).

Brians, Craig Leonard, and Bernard Grofman. 2001. Election day registration's effect on U.S. Voter turnout. *Social Science Quarterly* 82 (1): 170-183.

Brown-Dean, Khalilah, Zoltan Hajnal, Christina R. Rivers, and Ismail K. White. 2014. *50 Years of the Voting Rights Act: The State of Race in Politics.* Joint Center for Political and Economic Studies.

Browning, Rufus P., Dale Rogers Marshall, and David H. Tabb. 1984. *Protest Is Not Enough: The Struggle of Blacks and Hispanics for Equality in Urban Politics.*

Bullock, Charles S., and Ronald Keith Gaddie. 2006. An assessment of voting rights progress in North Carolina Project on Fair Representation. American Enterprise Institute.

Bullock, Charles S., and Ronald Keith Gaddie. 2007. Good intentions and bad social science meet in the renewal of Voting Rights Act. *Geo. JL & Pub. Policy* 5:1.

Bullock, Charles S., and Ronald Keith Gaddie. 2009. *Triumph of Voting Rights in the South.* Norman: University of Oklahoma Press.

Bullock, Charles S., Ronald Keith Gaddie, and Justin J. Wert. 2016. *The Rise and Fall of the Voting Rights Act.* University of Oklahoma Press.

Busa, William. 2015. North Carolina's shell game of electoral apartheid: How the Board of Elections shoved black voters away from the ballot box in 2014. *insightus* (accessed November 23, 2015).

Calonico, S., M. D. Cattaneo, and R. Titiunik. 2014. rdrobust: An R package for robust inference in regression-discontinuity designs. Working Paper, University of Michigan. http://www-personal.umich.edu/~cattaneo/papers/Calonico-Cattaneo-Titiunik_2014_Rpkg.pdf.

Calonico, S., M. D. Cattaneo, and R. Titiunik. Forthcoming. Robust nonparametric confidence intervals for regression-discontinuity designs. Econometrica. http://www-personal.umich.edu/~cattaneo/papers/Calonico-Cattaneo-Titiunik_2014_ECMA.pdf.

Cameron, Charles, David Epstein, and Sharyn O'Halloran. 1996. Do majority-minority districts maximize substantive black representation in congress? *The American Political Science Review* 90 (4): 794-812.

Campbell, Angus, Philip E. Converse, Warren E. Miller, and Donald E. Stokes. 1960. *The American Voter.* Chicago: The University of Chicago Press.

Card, David, and Alan B. Krueger. 1994. Minimum wages and employment: A case study of the fast-food industry in New Jersey and Pennsylvania. *The American Economic Review* 84 (4): 772-793.

Cascio, Elizabeth U., and Ebonya Washington. 2013. Valuing the vote: The redistribution of voting rights and state funds following the voting rights act of 1965. *The Quarterly Journal of Economics* 129 (1): 379-433.

Caughey, Devin, and Jasjeet S. Sekhon. 2011. Elections and the regression discontinuity design: Lessons from close U.S. house races, 1942-2008. *Political Analysis* 19 (4): 385-408.

Chemtob, Danielle. 2016. A brief overview of North Carolina's tumultuous voting rights history. *The Daily Tarheel*, August 29.

Chen, Ming Hsu, and Taeku Lee. 2013. Reimagining democratic inclusion: Asian Americans and the voting rights act. *UC Irvine Law Review* 3 (2).

Citrin, Jack, Donald P. Green, and Morris Levy. 2014. The effects of voter ID notification on voter turnout: Results from a large-scale field experiment. *Election Law Journal* 13 (2): 228-242.

Cobb, Rachael V., D. James Greiner, and Kevin M. Quinn. 2012. Can voter ID laws be administered in a race-neutral manner? Evidence from the city of Boston in 2008. *Quarterly Journal of Political Science* 7:1-33.

Cox, Gary W. 2015. Electoral rules, mobilization, and turnout. *Annual Review of Political Science* 18:49-68.

CQ Voting and Elections Collection. 1952-2012. North Carolina Presidential Returns, by County, Congressional Quarterly. CQ Press, SAGE Publications. Accessed 2016.

CQ Voting and Elections Collection. 1952-2012. North Carolina Senate Returns, by County, Congressional Quarterly. CQ Press, SAGE Publications. Accessed 2016.

Davidson, Chandler. 1994. *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990.* Princeton University Press.

Days, Drew and Lani Guinier. 1984. Enforcement of section 5 of the voting rights act. In *Minority Vote Dilution* 167-180.

Donovan, Todd, Caroline J. Tolbert, and Daniel A. Smith. 2009. Political engagement, mobilization, and direct democracy. *Public Opinion Quarterly* 73 (1): 98.

Downs, Anthony. 1957. *An Economic Theory of Democracy.* New York: Harper.

Dyck, Joshua J., and James G. Gimpel. 2005. Distance, turnout, and the convenience of voting. *Social Science Quarterly* 86 (3): 531-548.

Earls, Anita S., Emily Wynes, and LeeAnne Quatrucci. 2008. *Voting Rights in North Carolina, 1982-2006.* Los Angeles: University of Southern California, Gould School of Law.

Erikson, Robert S. 1981. Why do people vote? Because they are registered. *American Politics Quarterly* 9 (3): 259-276.

Erikson, Robert S., and Lorraine C Minnite. 2009. Modeling problems in the voter identification-voter turnout debate. *Election Law Journal* 8 (2): 85-101.

Federal Appeals Court Strikes Down North Carolina Voter ID Requirement. *The New York Times*, July 29.

Fleer, Jack D. 1968. *North Carolina Politics: An Introduction.* Chapel Hill: The University of North Carolina Press.

Fleer, Jack D. 1994. *North Carolina Government & Politics.* Lincoln: University of Nebraska Press.

Fraga, Bernard L and Julie Lee Merseth. 2016. Examining the causal impact of the voting rights act language minority provisions. *Journal of Race, Ethnicity, and Politics* 1 (1): 31-59.

Fraga, Luis Ricardo and Maria Lizet Ocampo. 2006. More information requests and the deterrent effect of section 5 of the voting rights act. In *Voting Rights Act Reauthorization of 2006: Perspectives on Democracy, Participation, and Power.* Berkeley Public Policy Press.

Garmann, Sebastian. 2017. The effect of a reduction in the opening hours of polling stations on turnout. *Public Choice* 171 (1-2): 99-117.

Gay, Claudine. 2001. The effect of black congressional representation on political participation. *American Political Science Review* 95 (3): 589-602.

Gimpel, James G and Jason E Schuknecht. 2003. Political participation and the accessibility of the ballot box. *Political Geography* 22 (5): 471-488.

Gimpel, James G, Joshua J Dyck, and Daron R Shaw. 2004. Registrants, voters, and turnout variability across neighborhoods. *Political Behavior* 26 (4): 343-375.

Goldmacher, Shane. 2016. America hits new landmark: 200 million registered voters.

Politico, October 19.

Graham, David A. 2016. Why a Judge Ruled North Carolina's Voter ID Law Constitutional. *The Atlantic,* April 26.

Griffith, Benjamin E. 2016. *America Votes!: Challenges to Modern Election Law and Voting Rights.* Chicago, IL: American Bar Association.

Grofman, Bernard and Chandler Davidson. 1992. *Controversies in Minority Voting: The Voting Rights Act in Perspective.* Brookings Institution Press.

Grofman, Bernard and Chandler Davidson. 2011. *Controversies in Minority Voting: The Voting Rights Act in Perspective.* Brookings Institution Press.

Grofman, Bernard and Lisa Handley. 1991. The impact of the voting rights act on black representation in southern state legislatures. *Legislative Studies Quarterly* 16 (1): 111-128.

Guinier, L. 1991. The triumph of tokenism: The voting rights act and the theory of black electoral success. *Michigan Law Review* 89 (5): 1077-1154.

Haines, Michael R., and Inter-University Consortium for Political and Social Research. Historical, Demographic, Economic, and Social Data: The United States, 1790-2002. ICPSR02896-v3. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2010-05-21. http://doi.org/10.3886/ICPSR02896.v3

Hajnal, Zoltan L and Paul G Lewis. 2003. Municipal institutions and voter turnout in local elections. *Urban Affairs Review* 38 (5): 645.

Hebert, J Gerald. 2006. An assessment of the bailout provisions of the voting rights act. *Voting Rights Act Reauthorization of 2006: Perspectives on Democracy, Participation, and Power.* Berkeley Public Policy Press.

Hedden, Herb. 1978. *An Analysis of Minority Voter Registration Statistics in North Carolina.* Raleigh: North Carolina Human Relations Council.

Hero, Rodney E., and Caroline J Tolbert. 1995. Latinos and substantive representation in the U.S. House of representatives: Direct, indirect, or nonexistent? *American Journal of Political Science* 39 (3): pp. 640-652. http://www.jstor.org/stable/2111648.

Highton, Benjamin. 2004. Voter registration and turnout in the United States. *Perspectives on Politics* 2 (03): 507-515.

Hood, M. V., and Charles S. Bullock III. 2012. Much ado about nothing? An empirical assessment of the Georgia voter identification statute. *State Politics & Policy Quarterly* 12 (4): 394-414.

Hopkins, Daniel J. 2009. Language access and initiative outcomes: Did the voting rights act

influence support for bilingual education? In *4th Annual Conference on Empirical Legal Studies, Los Angeles, CA.*

Hopkins, Daniel J. 2011. Translating into votes: The electoral impacts of Spanish-language ballots. *American Journal of Political Science* 55 (4): 814-830.

Inter-University Consortium for Political and Social Research. General Election Data for the United States, 1950-1990. ICPSR00013-v2. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2013-11-22. http://doi.org/10.3886/ICPSR00013.v2

Jacobson, Gary C. 1987. The marginals never vanished: Incumbency and competition in elections to the US house of representatives, 1952-82. *American Journal of Political Science*126-141.

Jones-Correa, Michael. 2005. Language provisions under the voting rights act: How effective are they? *Social Science Quarterly* 86 (3): 549-564.

Joyner, Irving. 2016. African American political participation in North Carolina: An illusion or political progress. *Wake Forest JL & Pol'y* 6:85.

Katz, Ellen D. 2006. Not like the south? Regional variation and political participation through the lens of Section 2.

Keech, William R and Michael P Sistrom. 1994. North Carolina. In *Quiet Revolution in the South: The Impact of the Voting Rights Act 1965-1990.*

Keech, William R. 1968. *The Impact of Negro Voting: The Role of the Vote in the Quest for Equality.* Rand McNally.

Kelley Jr., Stanley, Richard E. Ayres, and William G. Bowen. 1967. Registration and voting: Putting first things first. *American Political Science Review* 61 (02): 359-379.

Kennedy, Randall. 2015. Old Poison, New Battles. The Ongoing Struggle for Voting Rights. *Harper's Magazine,* August.

Kimball, David C., and Joseph Anthony. 2016. Voter participation with ranked choice voting in the United States. In *Annual Meeting of the American Political Science Association.* Philadelphia*.*

Knack, Stephen, and James White. 2000. Election-day registration and turnout inequality. *Political Behavior* 22 (1): 29-44.

Kousser, J Morgan. 1991. *The Voting Rights Act and the Two Reconstructions.* University of Georgia Press.

Kousser, J Morgan. 2015. Do the facts of voting rights support Chief Justice Roberts's opinion in *Shelby County? Transatlantica*, 1, Forthcoming.

Kousser, Thad and Megan Mullin. 2007. Does voting by mail increase participation? Using matching to analyze a natural experiment. *Political Analysis* 15 (4): 428.

Larocca, Roger and John S. Klemanski. 2011. US state election reform and turnout in presidential elections. *State Politics & Policy Quarterly* 11 (1): 76-101.

Lee, David S. 2008. Randomized experiments from non-random selection in US house elections. *Journal of Econometrics* 142 (2): 675-697.

Lien, Pei-te, Dianne M. Pinderhughes, Carol Hardy-Fanta, and Christine M. Sierra. 2007. The voting rights act and the election of nonwhite officials. *PS: Political Science & Politics* 40 (3): 489-494.

Liu, Baodong. 2001. The positive effect of black density on white crossover voting: Reconsidering social interaction theory. *Social Science Quarterly* 82 (3): 602-615.

Lopez, Tomas. 2014. Shelby County: One year later. *Brennan Center for Justice*.

Lublin, David, and Cheryl Lampkin. 2006. Racial redistricting and the election of African American county supervisors in Mississippi. In *Voting Rights Act Reauthorization of 2006*: 27-46.

MacCoon, John P. 1979. The enforcement of the preclearance requirement of Section 5 of the voting rights act of 1965. *Catholic University Law Review* 29:107.

Martinez, Michael D. 2013. Why is voter turnout so low, and why should we care? In *The Oxford Handbook of American Elections and Political Behavior.* Ed. Jan E Leighley. New York: Oxford University Press.

McDonald, Michael P, and Samuel L Popkin. 2001. The myth of the vanishing voter. *American Political Science Review* 95 (4): 963-974.

McKinney, Davis. 2016. North Carolina criticized for potential voter suppression. *The Daily Tarheel*, November 22.

McLaughlin, Mike, Rob Buschmann, Roberto Obando, Tim Saintsing, Margaret Smith, and Trip Stallings. 2003. Improving voter participation and accuracy in North Carolina's elections. *North Carolina Insight*.

Michelson, Melissa R. 2003. Getting out the Latino vote: How door-to-door canvassing influences voter turnout in rural central California. *Political Behavior* 25 (3): 247-263.

Middlemass, Keesha M. 2015. The need to resurrect Section 5 of the Voting Rights Act of 1965. *JCR & Econ. Dev.* 28:61.

Miles, Thomas J. 2004. Felon disenfranchisement and voter turnout. *The Journal of Legal Studies* 33 (1): 85-129.

Minnesota Population Center. National Historical Geographic Information System: Version 2.0. Minneapolis, MN: University of Minnesota 2011. https://www.nhgis.org/

National Commission on the Voting Rights Act. 2006. Highlights of hearings. A Supplement to: *Protecting Minority Voters: The Voting Rights Act at Work, 1982-2005*. The National Commission on the Voting Rights Act.

National Commission on Voting Rights. 2014. *Protecting minority voters: Our work is not done.*

North Carolina Advisory. 1962. *Equal Protection of the Laws in North Carolina: Report of the North Carolina Advisory Committee to the United States Commission on Civil Rights.* Washington, D.C.: U.S. G.P.O.

North Carolina State Agency Data: Office of the Governor. Voting Age Population Estimates. 1970-2016. Log Into North Carolina [distributor]. Accessed March 2017.

North Carolina State Agency Data: State Board of Elections. 1970-2016. Voter Registration Data. Log Into North Carolina [distributor]. Accessed March 2017.

North Carolina State Agency Data: State Board of Elections. 1970-2016. Precinct Data. Log Into North Carolina [distributor]. Accessed March 2017.

North Carolina State Board of Elections. 2016. Official Returns. Extracted from NCSBOE website. www.ncsboe.gov. Accessed 2017.

North Carolina State Board of Elections. 2017. Voter History File. Accessed March 2017.

North Carolina State Board of Elections. 1970-2016. Official Election Returns. Extracted from Log Into North Carolina. Accessed 2016.

North Carolina State Board of Elections. 1996-2016. Official Election Returns. Extracted from North Carolina State Board of Elections website. www.ncsboe.gov. Accessed 2016.

Parkin, Michael, and Frances Zlotnick. 2014. The Voting Rights Act and Latino voter registration: Symbolic assistance for English-speaking Latinos. *Hispanic Journal of Behavioral Sciences* 36 (1): 48-63.

Patterson, Samuel C, and Gregory A. Caldeira. 1983. Getting out the vote: Participation in gubernatorial elections. *American Political Science Review* 77 (3): 675-689.

Posner, Mark A. 2006. The real story behind the justice department's implementation of section 5 of the VRA: Vigorous enforcement, as intended by congress. *Duke Journal of Constitutional Law & Public Policy* 1:79.

Preuhs, Robert R. 2006. The conditional effects of minority descriptive representation: Black legislators and policy influence in the American states. *Journal of Politics* 68 (3): 585-599.

Riker, William H., and Peter C. Ordeshook. 1968. A theory of the calculus of voting. *American Political Science Review* 62 (1): 25-42.

Rocha, Rene R. 2009. Electoral structure and minority representation in the US. *Election Reform Agenda Conference, Iowa City*.

Rocha, Rene R., and Tetsuya Matsubayashi. 2014. The politics of race and voter ID laws in the states the return of Jim Crow? *Political Research Quarterly* 67 (3): 666-679.

Rogowski, Jon C and Sophie Schuit. 2016. Democratic legitimacy and the Voting Rights Act. In *Annual Meeting of the Midwest Political Science Association, Chicago, IL.*

Rosenstone, Steven J. and Raymond E. Wolfinger. 1978. The effect of registration laws on voter turnout. *The American Political Science Review* 72 (1): 22-45.

Santos, Fernanda. 2016. Angry Arizona Voters Demand: Why Such Long Lines at Polling Sites? *The New York Times*, March 24.

Sass, Tim R., and Bobby J. Pittman Jr. 2000. The changing impact of electoral structure on black representation in the south, 1970-1996. *Public Choice* 104:369-388.

Schuit, Sophie and Jon C Rogowski. 2016. Race, representation, and the Voting Rights Act. *American Journal of Political Science* 61(3): 513-526.

Schwartz, John. 2013. Between the Lines of the Voting Rights Act Opinion. *The New York Times*, June 25.

Shah, Paru R., Melissa J. Marschall, and Anirudh V. S. Ruhil. 2013. Are we there yet? The voting rights act and black representation on city councils, 1981–2006. *The Journal of Politics* 75 (4): 993-1008.

Shelby County v. Holder, 570 U.S. __, 2013 WL 3184629 (U.S. June 25, 2013) (No. 12-96).

Stein, Robert M., and Greg Vonnahme. 2008. Engaging the unengaged voter: Vote centers and voter turnout. *The Journal of Politics* 70 (2): 487-497.

Stewart III, Charles H. 2009. Racial differences in election administration. VTP Working Paper #82. Caltech/MIT Voting Technology Project.

Stewart III, Charles. 2010. Election administration in New Jersey and Virginia gubernatorial elections. January 14. *Electionline.org*.

Street, Alex, Thomas A Murray, John Blitzer, and Rajan S Patel. 2015. Estimating voter registration deadline effects with web search data. *Political Analysis* 23 (2): 225-241.

Suitts, Steve. 1981. Blacks in the political arithmetic after Mobile: A case study of North Carolina. In *The Right to Vote*. New York: The Rockefeller Foundation.

The National Commission on the Voting Rights Act. 2006. Protecting minority voters: The Voting Rights Act at work 1982-2005.

Thompson, Joel A. 1986. The Voting Rights Act in North Carolina: An evaluation. *Publius: The Journal of Federalism* 16 (4): 139.

Thornburg v. Gingles, 478 U.S. 30 (1986).

Timpone, Richard J. 1995. Mass mobilization or government intervention? The growth of black registration in the south. *The Journal of Politics* 57 (2): 425-442.

Timpone, Richard J. 1997. The voting rights act and electoral empowerment: The case of Mississippi. *Social Science Quarterly* 78 (1): 177-185.

Timpone, Richard J. 1998. Structure, behavior, and voter turnout in the United States. *American Political Science Review* 92 (1): 145-158.

Tucker, Will, and Cassie Miller. 2017. Systematic voter suppression — not 'voter fraud' — is the real cause for concern Southern Poverty Law Center.

U.S. Bureau of Economic Analysis. Personal Income Summary: Personal Income, Population, Per Capita Personal Income. 1969-2015. U.S. Department of Commerce. Accessed March 2017.

U.S. Census Bureau. 1984. *Current Population Survey*.

U.S. Census Bureau. 1968. *Current Population Reports Population Estimates. Estimates of the Population of Counties July 1, 1966.* P-25, No. 401-450.

U.S. Census Bureau. Decennial Census of Population and Housing. Years 1950, 1960, 1970, 1980, 1990, 2000, and 2010.

U.S. Commission on Civil Rights. "Voting Rights Enforcement & Reauthorization." 2006. The Department of Justice's Record of Enforcing the Temporary Voting Rights Act Provisions.

U.S. Commission on Civil Rights. 1959. *Report of the United States Commission on Civil Rights, 1959.*

U.S. Commission on Civil Rights. 1981. *The Voting Rights Act: Unfulfilled Goals.*

U.S. Commission on Civil Rights. 2006. Reauthorization of the Temporary Provisions of the Voting Rights Act: An Examination of the Act's Section 5 Preclearance Provision.

U.S. Commission on Civil Rights. United. 1975. *The Voting Rights Act: Ten Years After: A Report of the United States Commission on Civil Rights.* Washington: U.S. Government Printing Office.

U.S. Commission on Civil Rights. *Voting and Voter Registration in North Carolina, 1960.* 1961.

Voting and Voter Registration in North Carolina, 1960 United States Commission on Civil Rights. North Carolina Advisory Committee.

U.S. Department of Justice. 2013. Freedom of Information Act Request. 16-00151-F. Civil Rights Division, United States Department of Justice. Request received January 2017.

U.S. Department of Justice. 2015. Voting Section. https://www.justice.gov/crt/voting-section (last updated August 6, 2015). Last accessed July 15, 2017.

Underhill, Wendy. 2016. Voter Identification Requirements. Voter ID Laws. *National Conference of State Legislatures.* Accessed March 30, 2017.

Verba, Sidney, Kay Lehman Schlozman, and Henry E Brady. 1995. *Voice and Equality: Civic Voluntarism in American Politics.* Harvard University Press.

Wake County. v. United States, No. 1198-66 (D.D.C. Jan. 23, 1967).

Wan, William. 2016. Inside the Republican creation of the North Carolina voting bill dubbed the 'monster' law, September 2.

Wolfinger, Raymond E., Benjamin Highton, and Megan Mullin. 2005. How post-registration laws affect the turnout of citizens registered to vote. *State Politics & Policy Quarterly* 5 (1): 1-23.

Wright, Gerald C. 1977. Contextual models of electoral behavior: The southern Wallace vote. *American Political Science Review* 71 (2): 497-508.