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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. CLYDE introduced the following bill; which was referred to the Committee
on _____

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Make Apportionment
5 Great Again Act” or the “MAGA Act”.

1 **SEC. 2. EXCLUSION OF NONCITIZENS FROM APPORTION-**
2 **MENT BASE.**

3 Section 22(a) of the Act entitled “An Act to provide
4 for the fifteenth and subsequent decennial censuses and
5 to provide for an apportionment of Representatives in
6 Congress”, approved June 18, 1929 (2 U.S.C. 2a(a)), is
7 amended by inserting after “not taxed” the following “and
8 individuals who are not citizens of the United States,”.

9 **SEC. 3. REVISED APPORTIONMENT EXCLUDING NONCITI-**
10 **ZENS.**

11 (a) MANDATORY REVISED APPORTIONMENT.—

12 (1) RECALCULATION.—

13 (A) IN GENERAL.—Except as provided by
14 subparagraph (B), not later than January 31,
15 2027, the Secretary of Commerce shall—

16 (i) to the maximum extent practicable,
17 revise the tabulation of total population by
18 States for the 2020 decennial census under
19 section 141(a) of title 13, United States
20 Code, for the purposes of the apporportion-
21 ment of Representatives in Congress
22 among the several States to include only
23 individuals who are citizens of the United
24 States, either by excluding individuals
25 whom official data and records indicate
26 with reasonable certainty are not citizens

1 of the United States or by including only
2 individuals whom official data and records
3 indicate with reasonable certainty are citi-
4 zens of the United States; and

5 (ii) report such revised tabulation to
6 total population by States to the President.

7 (B) EXTENSION.—The Secretary of Com-
8 merce may complete the revision and submit to
9 the President the report required by subpara-
10 graph (A) not later than March 31, 2027, if the
11 Secretary—

12 (i) determines that the Secretary can-
13 not complete such revision and so submit
14 such report by January 31, 2027, due to
15 limitations on the information available to
16 the Secretary; and

17 (ii) submits to Congress a notice of
18 such determination and the date by which
19 the Secretary expects to complete such re-
20 vision and so submit such report.

21 (2) REAPPORTIONMENT.—

22 (A) IN GENERAL.—Upon receiving the re-
23 port of the revised tabulation of total popu-
24 lation by States for the 2020 decennial census
25 required by paragraph (1)(A), the President

1 shall immediately transmit to Congress a state-
2 ment showing—

3 (i) the whole number of persons in
4 each State, excluding Indians not taxed
5 and individuals who are not citizens of the
6 United States, as ascertained under such
7 revised tabulation of total population by
8 States for the 2020 decennial census; and
9 (ii) based on such revised tabulation
10 of total population by States for the 2020
11 decennial census, the number of Represent-
12 atives to which each State would be enti-
13 tled under an apportionment of the then
14 existing number of Representatives by the
15 method known as the method of equal pro-
16 portions, no State to receive less than one
17 Member.

18 (B) TREATMENT.—A statement trans-
19 mitted to Congress by the President under sub-
20 paragraph (A) is, for the purposes of sub-
21 sections (b) and (c) of section 22 the Act enti-
22 tled “An Act to provide for the fifteenth and
23 subsequent decennial censuses and to provide
24 for an apportionment of Representatives in
25 Congress”, approved June 18, 1929 (2 U.S.C.

1 2a), deemed to be a statement required under
2 and in accordance with subsection (a) of such
3 section, except that any change in the number
4 of Representatives to which a State is entitled
5 pursuant to such statement may not be con-
6 strued as applying with respect to any Congress
7 for which the first regular session occurred
8 prior to the date of the enactment of this Act.

9 (b) USE OF OFFICIAL GOVERNMENT DATA AND
10 RECORDS.—

11 (1) IN GENERAL.—In carrying out subsection
12 (a), the Secretary of Commerce shall, without re-
13 quiring the repetition of a decennial census, use only
14 official data and records in the possession of the
15 Federal Government and State governments and
16 may apply statistical estimation, matching, and im-
17 putation methods to such official data and records.

18 (2) AGENCY COMPLIANCE.—The head of an Ex-
19 ecutive agency (as such term is defined in section
20 105 of title 5, United States Code) shall, upon the
21 request of the Secretary of Commerce and to the ex-
22 tent otherwise permitted by law, provide to the Sec-
23 retary such official data and records in the posses-
24 sion of such Executive agency as requested by the

1 Secretary for the purposes of carrying out subsection
2 (a).

3 (c) STATE COOPERATION.—Upon request of the Sec-
4 retary of Commerce, each State shall provide to the Sec-
5 retary, in a timely manner, such information as is nec-
6 essary to carry out subsection (a), including information
7 maintained by agencies of the State relating to citizenship,
8 immigration status, or eligibility for benefits provided by
9 the State or the Federal Government, to the extent per-
10 mitted by law.

11 (d) PRESUMPTION OF VALIDITY.—Any change in the
12 number of Representatives to which a State is entitled
13 pursuant to this section shall be presumed lawful. A court
14 may set aside such apportionment only upon a clear and
15 convincing showing that the Secretary of Commerce acted
16 in excess of statutory authority or in violation of an ex-
17 press Constitutional limitation.

18 (e) OFFICIAL DATA AND RECORDS DEFINED.—In
19 this section, the term “official data and records” means
20 data and records in the possession of the Federal Govern-
21 ment or a State government the accuracy of which has
22 been validated by the Federal Government or a State gov-
23 ernment.

1 **SEC. 4. CITIZENSHIP STATUS ON DECENNIAL CENSUS.**

2 Section 141 of title 13, United States Code, is
3 amended—

4 (1) by redesignating subsection (g) as sub-
5 section (h); and

6 (2) by inserting after subsection (f) the fol-
7 lowing:

8 “(g)(1) In conducting the 2030 decennial census and
9 each decennial census thereafter, the Secretary shall in-
10 clude in any questionnaire distributed or otherwise used
11 for the purpose of determining the total population by
12 States a checkbox or other similar option for the respond-
13 ent to indicate, for the respondent and for each of the
14 members of the household of the respondent, whether that
15 individual is—

16 “(A) a citizen of the United States;

17 “(B) a national of the United States but
18 not a citizen of the United States;

19 “(C) an alien lawfully residing in the
20 United States; or

21 “(D) an alien unlawfully residing in the
22 United States.

23 “(2) Not later than 120 days after completion
24 of a decennial census of the population under sub-
25 section (a), the Secretary shall make publicly avail-
26 able the number of persons per State, disaggregated

1 by each of the 4 categories described in subpara-
2 graphs (A) through (D) of paragraph (1), as tab-
3 ulated in accordance with this section.”.

4 **SEC. 5. EXPEDITED JUDICIAL REVIEW FOR CHALLENGES**

5 **TO THIS ACT.**

6 (a) COVERED ACTIONS.—Any covered action filed in
7 any Federal court shall be treated as an expedited matter.

8 (b) THREE-JUDGE DISTRICT COURT PANEL.—

9 (1) PANEL.—Upon filing a covered action, a
10 three-judge district court panel shall be convened in
11 accordance with section 2284 of title 28, United
12 States Code.

13 (2) EXPEDITED CONSIDERATION.—The panel
14 shall hear all covered actions on an expedited sched-
15 ule, including motions, briefs, and oral arguments.

16 (c) DIRECT APPEAL TO THE SUPREME COURT.—Any
17 judgment, order, or ruling of the three-judge panel in a
18 covered action shall be directly appealable to the Supreme
19 Court of the United States in accordance with section
20 1253 of title 28, United States Code, which may review
21 the case on an expedited basis.

22 (d) DEFINITIONS.—For purposes of this section, the
23 term “covered action” includes any civil proceeding arising
24 under, relating to, or challenging the validity, interpreta-
25 tion, or implementation of this Act, including administra-

1 tive, procedural, or executive actions taken pursuant to
2 this Act.

3 **SEC. 6. FEDERAL REMOVAL.**

4 (a) **FEDERAL JURISDICTION.**—The United States
5 district courts shall have original jurisdiction over any civil
6 action arising under, relating to, or challenging the imple-
7 mentation, enforcement, or validity of this Act.

8 (b) **REMOVAL FROM STATE COURT.**—Any civil action
9 filed in a State court asserting claims arising under, relat-
10 ing to, or challenging this Act may be removed to the ap-
11 propriate United States district court by the United States
12 or any officer charged with implementing this Act, in ac-
13 cordance with sections 1441 and 1446 of title 28, United
14 States Code.

15 (c) **ASSIGNMENT TO THREE-JUDGE PANEL.**—Upon
16 removal, the district court shall immediately assign the ac-
17 tion to a three-judge district court panel convened in ac-
18 cordance with section 2284 of title 28, United States
19 Code.