

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DEMOCRACY NORTH CAROLINA; *et al.*,

*Plaintiffs,*

v.

FRANCIS X. DE LUCA, in his official  
capacity as CHAIR OF THE STATE  
BOARD OF ELECTIONS, *et al.*,

*Defendants.*

**Case No. 1:23-CV-878**

**DEFENDANTS' JOINT PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

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Intervenor-Defendants Philip E. Berger, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and Destin C. Hall, in his official capacity as Speaker of the North Carolina House of Representatives (“Legislative Defendants”) and Defendants the North Carolina State Board of Elections (“State Board”) and its Members, in their official capacities, jointly submit the following proposed findings of fact and conclusions of law:

### **FINDINGS OF FACT**

#### **I. North Carolina’s System of Voting.**

1. North Carolina’s entire system of voting provides numerous opportunities and multiple ways for qualified residents to register and vote. *See, e.g.* ¶¶2-10.

2. In order to vote in North Carolina, an individual must be registered. N.C. Const. art. VI, §3; N.C. Gen. Stat. §§163-54, 163-82.1. In order to register, an individual must be qualified. N.C. Gen. Stat. §163-55. Under North Carolina law, an individual is “qualified” to vote if he or she is: (1) a United States Citizen; (2) will be at least 18 years old on or before the date of the next general election, with certain exceptions for 16 and 17 year-olds who preregister to vote; (3) not currently serving a sentence for a felony; and (4) resides in the county in which the applicant intends to register and will have lived at the voting residence for the last 30 days prior to the election the registrant is trying to vote in. N.C. Gen. Stat. §§163-55, 163-57, 163-82.1. By filling out and signing a voter registration application form, applicants must attest under penalty of perjury that they are qualified to vote. *See* N.C. Gen. Stat. §163-82.4. [Vol. III Tr. 647:16-17].

3. Qualified individuals may utilize any of the following three ways to register to vote year-round: (1) submitting a paper form in person at the county board of elections in the appropriate county where the registrant resides or at a variety of other state agencies (including the Department of Motor Vehicles (“DMV”) and local government facilities; (2) through the DMV online portal; or (3) submitting a completed voter application form via facsimile, email, or through the mail to the applicable county board of elections (collectively, “Traditional Registration Methods”). N.C. Gen. Stat. §§163-82.1, 163-82.3; 163-82.6, 163-82.20–163-82.23. [SBEDX001; Vol. IV Tr. 624:24-625:23]. If a qualified individual wishes to vote in a specific election, Traditional Registration Methods may be used up to 25 days prior to that particular election. N.C. Gen. Stat. §163-82.6(d). [Vol. III Tr. 624:24-625:3; 644:8-11].

4. Upon receiving a voter registration application through Traditional Registration Methods, the county board of elections makes a preliminary determination of whether the applicant is qualified to vote at the address given on the application, subject to a two-card mailing system to verify the address. N.C. Gen. Stat. §163-82.7(a). [Vol. III Tr. 649:20-652:10].

5. The two-card mail verification<sup>1</sup> system for Traditional Registration Methods is not challenged in this lawsuit and was unchanged by S.B. 747, but provides context for the issues in this case and proceeds as follows:

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<sup>1</sup> Only non-forwardable verification mailers are relevant to this litigation. [Vol. II Tr. 264:9-14; 265:4-8]. Confirmation mailers, which are required under list maintenance and national change of address laws, are separate and distinct mailers with entirely different processes in the State Board’s voter registration system. N.C. Gen. Stat. §163-82.14(d)

- a. The county board of elections sends out a non-forwardable verification mailer card to the address provided in the application. N.C. Gen. Stat. §163-82.7(c). [Vol. III Tr. 651:12-16]. If the first mail verification card is not returned as undeliverable within a 15-day window, then the voter is registered to vote. N.C. Gen. Stat. §163-82.7(d)-(e). [Vol. III Tr. 651:17-652:1].
  - b. If the first mailer is returned as undeliverable within the 15-day window, then a second non-forwardable verification mailer card is sent to the address provided in the application. N.C. Gen. Stat. §163-82.7(e). [Vol. III Tr. 652:2-10]. If the second mail verification card is not returned as undeliverable within a second 15-day window, then the voter is registered to vote. N.C. Gen. Stat. §§163-82.7(e), 163-166.16. [Vol. IV Tr. 675:13-19].
  - c. But if that second mailer is returned as undeliverable within the second 15-day window, there is no cure process, the application is denied, and the person is not registered to vote. N.C. Gen. Stat. §163-82.7(f). [Vol. IV Tr. 673:23-674:5].
6. Once registered, voters may choose to vote by mail-in absentee ballot, by in-person early voting at any site in their county, or on election day at their assigned precinct. N.C. Gen. Stat. §§163-166.35(d), 163-166.40(b). [Vol. III Tr. 634:2-637:16]. North Carolina offers a 17-day early voting period up to the Saturday before Election Day. N.C. Gen. Stat. §§163-166.35(d), 163-166.40(b). [Vol. III Tr. 635:13-636:4].

7. North Carolina offers no excuse absentee voting by mail available to all registered voters.<sup>2</sup> N.C. Gen. Stat. § 163-226(a). [Vol. III Tr. 364:9-15]. Absentee ballots, which may be requested using a paper form or online, are available 60 days prior to Election Day in general elections and 50 days prior to the date of any other election, except municipal elections in which case absentee ballots are available 30 days beforehand. *Id.*, §§163-227.10(a), 163-230.3. [Vol. III Tr. 634:15-24]. North Carolina’s absentee ballot system relies almost exclusively on United States Postal Service (“USPS”) mail. [Vol. III Tr. 634:9-15].

8. North Carolina law also provides various accommodations for voters who need assistance. For example, during early voting and on election day, voters who are unable to enter the voting place and vote without assistance due to age or disability are allowed to vote curbside from their vehicle. N.C. Gen. Stat. §163-166.9. Voters who require assistance inside the polling place are also permitted to request and receive help. N.C. Gen. Stat. §163-166.8. Voters who are blind or visually impaired and wish to vote by absentee ballot have access to an accessible absentee voting system. *See* North Carolina Absentee Ballot Portal, <https://votebymail.ncsbe.gov/app/home>, last visited November 20, 2025; N.C. Gen. Stat. §163-230.2(e1).

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<sup>2</sup> To vote absentee, a North Carolina voter must submit a request with two forms of personal identifying information (including date of birth and at least one of the following: driver’s license, NC DMV ID number, or social security number) within a statutorily defined number of days, up to two weeks before election day. N.C. Gen. Stat. § 163-230.2. [Vol. III Tr. 634:9-35:12]. The voter need not submit an actual reason (or “excuse”) to vote absentee. [Vol. III Tr. 634:9-22].

9. North Carolina has approximately 2,600 polling places open from 6:30 a.m. to 7:30 p.m. on Election Day. N.C. Gen. Stat. § 163-166.01. [Vol. III Tr. 636:13-17]. Voters may utilize the State Board’s online Voter Search to find their polling place and their sample ballot. *See* <https://vt.ncsbe.gov/RegLkup/>, last visited November 5, 2025.

10. Should a voter, among other reasons, fail to provide all of the required information necessary to complete their registration before presenting to vote, the voter may still vote by provisional ballot during early voting or on election day. [SBEDX009]. Provisional ballots are researched between election day and the third business day after the election, which is the date by which provisional ballots must be counted. N.C. Gen. Stat. § 163-182.2(a)(4); [Vol. III Tr. 640:8-642:2]. County boards initiate cure procedures for a variety of issues throughout the 10-day county canvass period, like those for absentee ballots, photo ID, and same-day registration, each of which have varying deadlines. N.C. Gen. Stat. §§163-82.4(f); 163-230.1. [Vol. III 642:13-643:8].

## **II. Same-Day Registration in North Carolina.**

11. For qualified individuals who do not use the Traditional Registration Methods to register at least 25 days prior to an election, North Carolina offers a failsafe: same-day registration (“SDR”) during the early voting period. [Vol. III Tr. 636:5-8]. North Carolina is one of 23 states and Washington D.C. that permit SDR—either during early voting or on election day. [LDTX125 at p.16].

12. During the four November general elections between 2016-2022, a total of approximately 296,859 new voters utilized SDR. [JX031]. Of those new registrants, 291,822 were verified, and 5,037 failed mail verification under the two-mailer system in

place prior to S.B. 747. [JX031]. This means that approximately 1.697% of same-day registrants who utilized the SDR process during early voting in the 2016, 2018, 2020, and 2022 general elections failed mail verification. [JX031]. In other words, approximately 98-99% of same-day registrants were verified in the 2016-2022 general elections in North Carolina. [JX031].

13. When a person attempts to same-day register at an early voting site, county board staff are directed to provide them with a “Notice to Same-Day Registrants,” which sets forth all the necessary steps required for them to register and vote. [SBEDX0050]. This notice explains that while a mailing address is an optional field in a voter application, it is very important for same-day registrants to provide a mailing address that will receive mail if the registrant does not receive mail at his or her residential address. [SBEDX050 at p.1].

14. North Carolina’s SDR statutory scheme has always required an additional step for same-day registrants that registrants using Traditional Registration Methods do not have to provide: proof of residence. [Vol. III Tr. 432:13-24, 614:23-615:3]. Acceptable identification for proof of residence is a copy of a “HAVA document” listing the individual’s name and current address, which includes a current utility bill, a current bank statement, a current government check, a current paycheck, any other current government document, or a current document issued from the institution who issued the photo identification shown by the voter pursuant to N.C. Gen. Stat. §§ 163-166.16 and 163-82.6B. [JX002 at p.5; JX061 (Numbered Memo 2023-05, describing different forms of

acceptable HAVA documents); Vol. IV Tr. 683:4-27 (describing the difference between a HAVA document and a HAVA ID)].<sup>3</sup>

15. SDR in North Carolina has always used mail verification. *See* 2007 N.C. Sess. Law 253. Before S.B. 747, same-day registrants were subject to a two-mailer system to verify the same-day registrant's address in a manner similar to the process used with Traditional Voter Registration Methods:

- a. Within two business days of the qualified individual's SDR application, the county board of elections would research the voter and make a preliminary determination of whether the individual is qualified to vote. [JX029 at p.4 (N.C. Gen. Stat. §163-82.6A)].
- b. If the preliminary determination was that the voter was qualified, then the traditional voter registration two-mailer system set forth in N.C. Gen. Stat. § 163-82.7 commenced. [JX029 at p.4 (N.C. Gen. Stat. §163-82.6A)].
- c. The same-day registrant's retrievable<sup>4</sup> ballot would remain in the count unless the applicant failed the second-mail verification before county canvass. If the second-mail verification was returned as undeliverable before county canvass, by statute the associated ballot may be challenged and

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<sup>3</sup> Plaintiffs admit that while some nuanced changes were made to the definition of acceptable proof of residence documents in S.B. 747, which wrote the photo ID requirement into the SDR statutory text, there is no substantive change in appropriate HAVA documents. [Vol. V Tr. 1037:2-21]. Plaintiffs do not seem to challenge this part of the SDR statutory scheme. Instead, the evidence presented at trial confirmed that Plaintiffs' claims are limited to the undeliverable mail provision in §10.(a) of S.B. 747. [Vol. V Tr. 1038:6-10; 1037:2-8].

<sup>4</sup> SDR ballots have always been retrievable, but were previously referred to as retrievable absentee ballots. [JX029 at p.4 (N.C. Gen. Stat. §163-82.6A(c))].

removed from the count.<sup>5</sup> N.C. Gen. Stat. § 163-82.7(g)(2) [JX029 at p.4 (N.C. Gen. Stat. §163-82.6A)].

16. The State Board has long recognized that address verification by mail for same-day registrants has unique timing challenges that are otherwise not at issue for Traditional Registration Methods. [JX029 (Numbered Memo 2016-15) at p.3 (“The State Board of Elections is keenly aware that a number of same-day registrants fail mail verification after the county has completed its canvass[.]”).]. Indeed, following the 2022 November general election, constituents and third-party groups voiced concerns to the General Assembly about the lack of time to properly research voter registration applications during the busy county canvass period. [Vol. III Tr. 413:12-16, 449:20-22, 454:9-20].

### **III. The Legislative History of S.B. 747 Demonstrates That the Bill Drafting Process Functioned as Intended.**

17. The political power in the state of North Carolina resides in the people and is exercised through their elected officials in the General Assembly. *Harper v. Hall*, 384 N.C. 292, 323, 886 S.E.2d 393, 414 (2023) (citations omitted). As such, constituent communications and services are a large part of legislative work. [See, e.g. Vol. III Tr. 461:15-462:3, 468:18-469:10]. Indeed, members of the General Assembly are held

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<sup>5</sup> For several years leading up to S.B. 747, the State Board interpreted an injunction issued in 2018 in separate litigation as prohibiting the county boards from using the challenge process in Article 8 of Chapter 163 of the North Carolina General Statutes to challenge a same-day registrant’s ballot. [Vol. IV Tr. 692:15-694:17]. As a result, there was no ballot challenge procedure in place in 2022, and all same-day registrants’ votes were counted in the 2022 primary and general elections, even if those individuals failed mail verification before the close of county canvass. [Vol. IV Tr. 693:23-694:17].

accountable by their constituents through frequent elections. *Harper*, 384 N.C. at 322, 886 S.E.2d at 414 (quotations omitted); *see also State v. Berger*, 368 N.C. 633, 653, 653, 781 S.E.2d 248, 261 (2016) (Newby, J., concurring in part and dissenting in part) (“Lawmakers represent the particular interests of their particular constituents[.]”). Because of this, statutes passed by the General Assembly are entitled to a presumption of good faith. *N. Carolina State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 303 (4th Cir. 2020) (citing *Abbott v. Perez*, 585 U.S. 579, 603 (2018)).

18. Plaintiffs here claim that that S.B. 747 was unduly influenced by alleged age-based animus from two third parties. Defendants deny Plaintiffs’ claims and assert that the bill drafting process for S.B. 747 functioned as intended and that only the North Carolina State Board of Elections, not the third parties Plaintiffs point to, primarily influenced the final draft.

**A. Initial Drafting of S.B. 747 in the Senate.**

19. Following the 2022 midterm elections, in early 2023, Senator Warren Daniel and the co-chairs of the Senate Elections and Redistricting Committee (Senators Ralph Hise, Jr. and Paul Newton), received over 75 policy recommendations from concerned constituents and several election advocacy groups. [Vol. III Tr. 413:12-16, 449:20-22]. In an effort to hear out constituent and public concerns, Senator Daniel met or spoke with a variety of constituents and individuals to address perceived issues regarding election administration and integrity in early 2023. [Vol. III Tr. 454:9-20].

20. One of those groups was the North Carolina Election Integrity Team (“NCEIT”), led by James (“Jim”) Womack. [Vol. III Tr. 413:17-21]. The NCEIT group sent

15 different “recommendations” to Senator Daniel’s office purportedly on behalf of Cleta Mitchell of the Conservative Partnership Institute, beginning in January 2023. [JX039 at pp.25-30]. One of those recommendations was to “eliminate same-day registration during early voting” in North Carolina. [JX039 at p.26]. Though the materials referenced Cleta Mitchell, Senator Daniel testified that he did not know much about Mitchell at the time he received the recommendations, was unfamiliar with the Conservative Partnership Institute, and was otherwise unfamiliar with Mitchell’s work in the 2020 presidential election and beyond. [Vol. III Tr. 417:3-418:1].

21. On May 24, 2023, Senator Daniel and his co-chairs of the Senate Elections Committee met with Womack and Mitchell. [Vol. III Tr. 422:16-21]. In that meeting, the same 15 concepts for legislative recommendations were shared, including to “[e]liminate same-day registration (SDRs) during early voting- or at least require SDRs be issued provisional ballots so that addresses can be verified and challenges permitted prior to canvass.” [JX042 at p.17; *id.* at pp.16-21]. Mitchell did not recall any detailed discussions about SDR specifically. [Vol. II Tr. 198:8-24; 200:15-25]. As Mitchell explained, if she had been asked about changes to SDR, she would have argued for its complete elimination, a concept with which Womack wholeheartedly agreed. [Vol. III Tr. 200:15-25; 550:15-25, 555:2-4].

22. The May 24, 2023, meeting was the only meeting that Mitchell or Womack ever had with Senators about S.B. 747. [Vol. II Tr. 184:14-22; Vol. III Tr. 568:6-8]. In fact, Mitchell’s single meeting with Senator Daniel was her “one and only” time going to Raleigh to speak with legislators. [Vol. II Tr. 180:16-24].

23. Senator Daniel did not perceive any anti-age animus against young voters from Womack or Mitchell during the May 24, 2023, meeting, and no statements made during that meeting or in the corresponding slide show presentation [JX042] impacted Senator Daniel's decision on how to address SDR in S.B. 747. [Vol. III Tr. 453:19-454:8].

24. Instead, for the initial drafting process for S.B. 747, Senator Daniel filtered through the 75 recommendations of several different constituents and organizations and, in consultation with lawyers and staff, decided that votes cast by same-day registrants should be provisional. [Vol. III Tr. 423:18-25].

25. The first draft of S.B. 747 was introduced in the North Carolina Senate on June 1, 2023, with Senators Ralph Hise, Jr., Paul Newton, and Warren Daniel as the primary sponsors. [D.E. 174 at ¶8 (citing JX001 at p.1, JX013)]. Part VII of this draft addressed SDR, and provided that all same-day registrants vote by provisional ballot. [JX013 at p.10]. Senator Daniel testified that he did not consider the proposed change to SDR to be a major piece of the overall bill. [Vol. III Tr. 432:3-12].

26. Senator Daniel flatly and credibly denied including the provisional ballot concept in S.B. 747 simply because Womack advocated for it as a fallback provision in the event the legislature did not fully eliminate SDR.<sup>6</sup> [Vol. III Tr. 423:18-25]. Indeed, more than one election constituent or organization made the same recommendation to Senator Daniel. [Vol. III Tr. 427:2-7]. For example, Senator Daniel considered input from "Major Dave" (Dave Getz). [Vol. III Tr. 454:14-20]. Plaintiffs failed to offer any evidence of age-

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<sup>6</sup> Mitchell vehemently disclaimed proposing the alternative of making SDR votes provisional. [Vol. II Tr. 200:11-25]. This is supported by Womack's testimony. [Vol. III Tr. 555:2-8].

related animus that Getz (or anyone else) had against college students or any other demographic group. [Vol. III Tr. 454:21-23].

27. In fact, consistent with issues raised by the State Board in Numbered Memo 2016-15 [JX029 at p.3], Senator Daniel's main concern with the pre-S.B. 747 statutory scheme was the timing of the second mail verification card for same-day registrants in relation to county canvass. [Vol. III Tr. 436:21-25; 451:10-22]. Senator Daniel testified that he was concerned with the short window between early voting and county canvass to verify that a voter was a resident of the precinct where they claim to reside. [Vol. III Tr. 436:21-25; 451:10-22]. When, under the pre-S.B. 747 scheme, a second mail verification card was returned as undeliverable after county canvass, an unregistered voter's vote would count and effectively "cancel out the vote of a validly registered voter" in a way that "could potentially impact close elections." [Vol. III Tr. 452:8-13]. Senator Daniel explained that that this impacts confidence in North Carolina elections for those constituents that were aware of the issue. [Vol. III Tr. 452:8-17].

28. On June 14 and 15, 2023, the Senate Redistricting and Elections Committee held properly noticed debates on the first draft of S.B. 747. [JX014; JX015].

29. On June 15, 2023, the Senate Redistricting and Elections Committee reported a favorable Senate Committee Substitute S747 PCS35291-BK-31. [D.E. 174 at ¶9 (citing JX012; JX001 at p.9)]. In this proposal, same-day registrants would only vote by provisional ballot if their address on their photo ID did not match the address on their HAVA document, or if the photo ID lacked an address, then a document from the institution issuing the photo ID showed the same address on their HAVA document. [JX012 at pp.2-

3]. The proposal further provided that same-day registrants who voted provisionally then had the opportunity to ensure their ballot was counted by returning to the county board of elections with certain documentation prior to the close of business on the last business day before county canvass. [JX012 at pp.2-3]. In sum, Senator Daniel was concerned that unregistered voters were voting, and their ballots could not be removed if they failed mail verification after county canvass. [Vol. III Tr. 452:8-17].

30. S.B. 747 was debated on the Senate floor on June 21, 2023, where ten amendments were offered, and three were adopted. [JX001 at pp.8-9]. The Senate version of S.B. 747 was passed on June 21, 2023, with a regular message sent to the House on June 22, 2023. [JX001 at p.8].

31. Senator Daniel testified that there were no irregularities in the Senate piece of the legislative process. [Vol. III Tr. 450:1-14].

**B. Drafting of the Proposed Committee Substitute for S.B. 747 in the House.**

32. On June 22, 2023, S.B. 747 was received by the North Carolina House of Representatives, with Representative Paul Grey Mills, Jr.<sup>7</sup> primarily handling its progress through the House. [D.E. 174 at ¶10 (citing JX001 at p.8); Tr. 460:1-10]. Representative Mills was unaware of, and did not participate in, the process the bill took in the Senate. [Vol. III Tr. 469:25-470:7, 524:6-8].

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<sup>7</sup> Mills was a member of the North Carolina House through December 2024 and served as Chair of the House Elections Committee during the times relevant to this litigation. [Vol. III Tr. 459:22-460:10].

33. Once the bill crossed over to the House, Representative Mills worked with non-partisan central staff, the Speaker's staff, and the State Board to craft a proposed committee substitute. [Vol. III Tr. 513:6-514:2; 524:9-525:4]. Indeed, Representative Mills testified, and State Board general counsel Paul Cox<sup>8</sup> confirmed, that Representative Mills and his team worked closely with the State Board and valued their opinion on whether or not S.B. 747 was workable in its June 23 form. [Vol. III Tr. 514:3-20, 613:15-19, 607:11-23].

34. Representative Mills shared many of the same concerns with the timing of the second mail verification card for same-day registrants and the potential for votes from unregistered persons being counted in close elections as Senator Daniel. [Vol. III Tr. 452:8-13; 473:7-15; 474:17-475:5; 525:13-526:6]. For example, Representative Mills testified that people were concerned that given the short time involved in SDR, that votes may have been counted that should not have been because people were not registered properly. [Vol. III Tr. 473:7-15]. Broadly speaking, Representative Mills testified that there was a lot of interest in election laws and election integrity in the 2023-2024 legislative session, and many people expressed concerns with improper votes<sup>9</sup> being counted. [Vol. III Tr. 473:7-

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<sup>8</sup> Cox served as general counsel to the State Board for the 2022-2024 primary and general elections and was the State Board's general counsel for all times relevant to this litigation. [Tr. 591:22-592:10]. As of the date of this filing, Cox is no longer the general counsel for the State Board.

<sup>9</sup> Representative Mills and Senator Daniel were asked several questions regarding whether they had evidence of voter fraud at trial. [Vol. II Tr. 431:16-432:2; 463: 22-25]. But neither said that voter fraud, in a legal sense, was the basis for S.B. 747. [See, e.g. Vol. II. Tr. 451:10-25] Instead, it was concerns with timing and the potential improper counting of unregistered persons' ballots. [Vol. II. Tr. 451:10-25; 473:22-474:20]. Notably, Representative Mills indicated that while he believed voter fraud was probably present, but rare, he thought "mistakes are more common." [Vol. II Tr. 463: 22-25]. Whether mistake or intentional, Director Tsujii testified that he had encountered a scenario in 2020 where a voter who resided in Forsyth County had initially registered in Forsyth

15]. However, after the State Board shared potential concerns with the administrability of the provisional ballot system in the Senate version, Representative Mills and his team took those concerns seriously and ultimately agreed with their suggestions. [Vol. III Tr. 519:14-520:4; 526:8-527:6].

35. On July 3, 2023, Cox sent suggestions for the latest draft of S.B. 747 to Representative Mills and staff working on the proposed committee substitute. [PX093 at p.1]. Cox explained that the State Board, in attempting to address the legislature's concerns, "drafted language which would directly address what we understand to be the problem: same-day registrants who fail mail verification." [PX093 at p.2]. Cox then suggested that under the State Board's proposal, "the registrant would get one verification mailing and, if that is returned by the day before canvass, the county board would be instructed to retrieve and discount the ballot." [PX093 at p.2]. Cox and Representative Mills both testified that this language was incorporated into S.B. 747 and remained in the final draft. [Vol. III Tr. 453:6-10; 517:8-9].

36. As explained by Cox, the concept of a one verification mailing system "directly address[es] the population that fails mail verification, which is a fairly small population of same-day registrants (1-2% . . .)[.]" [PX093 at p.2]. Cox testified that other advantages of the one verification mailing system, as opposed to provisional ballots for same-day registrants, included: (1) a familiar system for the county boards and poll workers

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and voted in Forsyth in 2020, but then moved to Durham County to attend school, and used SDR in Durham County to again register and vote. [Vol. II Tr. 92:9-21]. This highlights the purpose of verification, because as Representative Mills testified "you've got to be registered to vote" and "you need to live in the district." [Vol. II Tr. 474:6-12].

to administer; (2) shortening “the verification period so that the county board [can] determine address verification for all registrants by the canvass”; and (3) streamlining “the process to discount a ballot for a registrant who fails mail verification” and otherwise avoid the need for a county board to challenge the ballot.<sup>10</sup> Both Cox and Representative Mills confirmed at trial that the change to one verification mailing was a good and workable idea that was incorporated into the House proposed committee substitute, replacing the provisional ballot language from the Senate version of the bill. [Vol. III Tr. 516:20-517:25; 519:14-520:9; JX058 at p.5 (“This proposal is much more workable than what it would replace.”)].

37. On August 13, 2023, Cox sent additional suggestions, concerns, and clarifications to staff working with Representative Mills on the House proposed committee substitute. [JX058]. The only suggestion Cox shared for the SDR provision involved changes to the “HAVA document” proof of residence requirements in subsection (e)(6) of §10.(a). [JX058 at pp.5-6]. No concerns were raised about mail verification or other requirements in §10.(a). [JX058 at pp.5-6; Vol. III Tr. 528:12-17]. Representative Mills testified that while he did not adopt Cox’s proposed language on subsection (e)(6) verbatim, the enacted version of (e)(6) incorporated Cox’s general idea in a broader way. [Vol. III Tr. 528:21-529:21].

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<sup>10</sup> As explained *supra* footnote 5, the State Board had interpreted a court order in separate litigation to prohibit challenges to SDR ballots by the county boards at canvass absent individualized knowledge.

38. On August 15, 2023, the House Committee on Election Law & Campaign Finance held a properly noticed committee hearing on the proposed house committee substitute of S.B. 747. [JX001 at p.8]. Representative Mills testified that the Committee heard “a lot of amendments” during that hearing, and debate was not limited in any way. [Vol. III Tr. 531:13-21]. In fact, Representative Mills had to get permission for the Committee to run overtime, resulting in an “extra-long committee meeting” that day. [Vol. III Tr. 531:13-23].

39. Ultimately, the House Committee on Election Law & Campaign Finance Reform reported a favorable House Committee Substitute S747 PCS45363-BK-37 on August 15, 2023. [D.E. 174 at ¶11 (citing JX005; JX001 at p.8)]. In adopting the committee substitute, the General Assembly removed the provisional ballot language from the Senate version and adopted the one-mailer verification system recommended by the State Board. [Vol. III Tr. 520:5-9; JX002]. Representative Mills testified that all legislative processes were followed. [Vol. III Tr. 532:9-16].

40. S.B. 747 was ratified by the General Assembly on August 17, 2023. [D.E. 174 at ¶12 (citing JX001 at p.8)]. Shortly thereafter, on August 24, 2023, Governor Cooper vetoed S.B. 747. [D.E. 174 at ¶13 (citing JX001 at p.5)]. S.B. 747 became law on October 10, 2023, when the General Assembly overrode the Governor’s veto. [D.E. 174 at ¶41 (citing N.C. Sess. Law 2023-140; JX002; JX001 at pp.4-5)].

41. Senator Daniel and Representative Mills credibly testified that in drafting and voting for the bill, the SDR provision of S.B. 747, as enacted, was never intended to target young voters or college students, however defined. [Vol. III Tr. 431:16-18, 456:10-

22, 531:4-9]. When brought up by other members in the June 15, 2023, Senate Committee hearing, Senator Daniel speculated that he thought “most college freshmen probably would remain registered in their home of residence and would vote absentee there.” [Vol. III Tr. 444:6-12]. Indeed, that’s what Senator Daniel’s own children did throughout their entire college careers. [Vol. III Tr. 444:12-13].

42. Senator Daniel and Representative Mills also credibly and repeatedly testified that at no point throughout the course of the S.B. 747 legislative process, did they request or review any age-based demographic data pertaining to who in North Carolina uses SDR. [Vol. III Tr. 445:1-3, 447:2-8, 456:23-457:3, 521:4-11, 522:6-13].

**C. Mitchell and Womack Had No Influence in the Drafting Of, and Were Unhappy With, the Undeliverable Mail Provision Plaintiffs Challenge Here.**

43. With no direct evidence of discriminatory intent from the actual decision makers in the bill drafting process (or any member of the North Carolina General Assembly), Plaintiffs’ remaining claims in this case rest on attributing the alleged discriminatory animus of two third-parties, Mitchell and Womack, onto the General Assembly in its passing of the undeliverable mail provision in §10.(a) of S.B. 747 (the “UMP”).

44. Plaintiffs point to a few podcasts created by Mitchell and her statements at a Republican National Committee donor retreat in Tennessee as circumstantial evidence of Mitchell’s discriminatory intent that should be imputed to the General Assembly. But Plaintiffs wholly fail to connect the dots on either point. Neither Senator Daniel nor

Representative Mills were familiar with Mitchell, let alone her podcasts. [Vol. III Tr. 417:3-12; 530:2-6]. And while Plaintiffs established elected officials from other states were present at the RNC donor retreat in Tennessee, Plaintiffs failed to establish that any member of the North Carolina General Assembly was present for, or even aware of, Mitchell's recorded statements. [Vol. II Tr. 184:23-185:15; 187:25-188:3].

45. The factual record shows that Mitchell and Womack's interactions with the General Assembly on S.B. 747 were limited in time and scope. Though Womack sent several emails to Senator Daniel and Representative Mills, most went unanswered. [PX096, PX088, PX089, JX040]. Mitchell and Womack had a single meeting on May 24, 2023, with Senator Daniel and Senate staff where proposed election law changes were discussed broadly. [Vol. II Tr. 180:16-19; 184:14-17; Vol. III Tr. 420:12-24]. At the time of the meeting, neither Womack nor Mitchell had any understanding of the rate at which different age groups used SDR. [Vol. II Tr. 200:4-7; Vol. III Tr. 588:9-18]. Senator Daniel did not follow up with Mitchell or Womack to ask for their input or otherwise update them during the legislative process. [Vol. II Tr. 201:17-202:4; Vol. III Tr. 590:12-17].

46. On the House side, Representative Mills never met with or spoke to Mitchell at all. [Vol. III 530:2-6]. Representative Mills recalled one meeting with Womack in early 2023, but testified that whenever that meeting was, it was short and not about S.B. 747. [Vol. III Tr. 484:8-13; 487:5-8; 530:7-15]. Indeed, Representative Mills did not discuss S.B. 747 with Womack whatsoever. [Vol. III Tr. 530:12-15].

47. Neither Senator Daniel nor Representative Mills sought assistance from Womack or Mitchell in drafting S.B. 747. [Vol. II Tr. 201:17-202:4; Vol. III Tr. 590:12-17].

This is true even though both Womack and Mitchell offered help and stood “ready” to assist if asked. [Vol. II Tr. 188:13-21; JX043]. Neither Mitchell nor Womack felt as though the General Assembly, even the few members either of them met with, were particularly responsive or attentive to their concerns. [Vol. II Tr. 201:17-202:4; Vol. III Tr. 564:7-15]. Womack confirmed that no one from the General Assembly ever promised or committed to adopting any of NCEIT’s proposals. [Vol. III Tr. 574:11-23].

48. Mitchell and Womack both repeatedly and credibly explained that they completely disapproved of, and were unhappy with, the UMP. [Vol. II Tr. 201:17-202:8; Vol. III Tr. 590:18-20]. In Womack’s words, he and NCEIT “didn’t get anything” of what they asked for when it came to S.B. 747’s changes to SDR. [Vol. III Tr. 590:12-17]. Mitchell confirmed that if anyone in the General Assembly had asked her about the UMP, she would have strongly advocated against it. [Vol. II Tr. 201:17-202:4]. Simply put, neither of the individuals Plaintiffs blame for the UMP were involved with drafting language for or approved of the challenged UMP provision. [Vol. II Tr. 201:9-202:8; Vol. III Tr. 590:18-20].

49. Plaintiffs’ attempts to tie Representative Mills to Womack and Mitchell fail for several reasons. First, Representative Mills credibly testified that he has never met with Mitchell, either about S.B. 747 or otherwise. [Vol. III Tr. 530:2-6]. Second, the fallback provisional ballots language suggested by Womack to Representative Mills and other House members in February and March of 2023 never made it into the House version of S.B. 747, and did not influence Representative Mills’ change to the UMP in any way. [Vol. III Tr. 478:8-481:15, 530:12-15]. Third, Representative Mills met with Womack one time

in early 2023, well before he began working on S.B. 747. [Vol. III Tr. 484:8-13]. In fact, evidence presented at trial showed that Representative Mills received notice that NCEIT, and Womack in particular, felt that Representative Mills was avoiding or not receptive to their work. [PX091; Vol. III Tr. 494:25-496:17]. And Representative Mills credibly testified that the revisions to §10.(a) of S.B. 747 were not made because of, and were not influenced by, NCEIT or the Election Integrity Network.<sup>11</sup> [Vol. III Tr. 530:12-23 JX032; JX058]. Rather, Rep. Mills credibly testified that the revisions were made in consultation with the State Board. [Vol. III Tr. 530:12-23 JX032; JX058].

50. To the extent that Plaintiffs attempt to tie other bills that included proposals by NCEIT into S.B. 747, the factual record shows that none of those bills passed and, therefore, do not reflect the will of the General Assembly. [Vol. III Tr. 490:24-493:6 (H.B. 485); Vol. III Tr. 502:2-503:2 (H.B. 770); Vol. III Tr. 506:23-25 (H.B. 772)]. Furthermore, each of those bills were filed well before work began in the House on S.B. 747 once it crossed over in late June 2023. [Vol. III Tr. 532:17-534:17]. Representative Mills credibly testified that neither the cast-vote records nor the poll observer bill changes that NCEIT suggested in March 2023 made it into S.B. 747, and a comparison of the enacted version of S.B. 747 with NCEIT's draft language confirms his testimony. [Vol. III Tr. 509:17-18; 512:11-15; *Compare* PX096 at pp.6-12 with JX002 at pp.2-4 (poll observers) and PX011

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<sup>11</sup> As the Supreme Court described in *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 689 (2021), “[t]he ‘cat’s paw’ theory has no application to legislative bodies. The theory rests on the agency relationship that exists between an employer and supervisor, but the legislators who vote to adopt a bill are not the agents of the bill’s sponsor or proponents.” *Id.* Indeed, while “legislators have a duty to exercise their judgment and to represent their constituents[,]” the Court explained that “[i]t is insulting to suggest that they are mere dupes or tools.” *Id.* at 689-90.

(Cast Vote Records) *with* JX002]. For example, NCEIT advocated for approximately 19 specific activities to be permissible poll observer activities, like the ability to photograph, videotape, and otherwise record conversations between the observer and chief judge, judges, or poll workers while voting has commenced. [PX096 at pp.7-8]. But S.B. 747 sets forth only 6 permissible activities for poll observers and only allows for the taking of photographs inside the voting place before voting begins or after voting has concluded. [JX002 at p.3]. Furthermore, S.B. 747 does not address cast vote records whatsoever. [JX002].

51. At best, Plaintiffs offered some evidence that NCEIT influenced draft bills, H.B. 770 and H.B. 772, introduced by Representative Ted Davis, Jr. in March of 2023. But that is irrelevant for the claims in this case because neither H.B. 770 nor H.B. 772 were passed, and the specifics of those bills did not make it into the final versions of S.B. 747. Plaintiffs cannot challenge something that did not become law, so it is unclear how exactly this applies to the legality of S.B. 747, particularly the UMP challenged by Plaintiffs. The record shows that the General Assembly did not endorse or enact the proposals of NCEIT, as Plaintiffs claim.

52. After weighing the evidence, this Court finds that Plaintiffs' claims of influence by Mitchell and/or Womack are unsupported by the evidence. Instead, the enacted version of §10.(a) of S.B. 747 that Plaintiffs challenge here reflects a robust legislative process that in large part relied on and adopted sound advice on election administration from the State Board.

#### **IV. Plaintiffs' Remaining Claims in This Case & Current State of the Law.**

53. Plaintiffs filed this case on October 10, 2023, alleging that the UMP violates voters' procedural due process rights (Count I), creates an undue burden on the right to vote (Count II), and discriminates against young voters on the basis of age under the Twenty-Sixth Amendment (Count III). [D.E. 1 at ¶¶94-118].

54. After Plaintiffs voluntarily dismissed Count I, the only remaining claims presented at trial were the undue burden claim (Count II) and age-based discrimination under the Twenty-Sixth Amendment (Count III). [D.E. 133].

##### **A. Parties to This Action.**

55. Plaintiff the North Carolina Black Alliance (“NCBA”) primarily works with Black communities and constituent organizations on a wide array of topics and issues. [Vol. I Tr. 53:15-54:1]. Summarizing its expansive mission, NCBA executive director Marcus Bass described the organization as concerned with a “myriad of issues from environmental justice to economic justice.” [Vol. I Tr. 28:16-18, 53:1-10]. NCBA does not have individual members, rather, it chooses to act as an intermediary for other organizations or groups, sometimes operating behind the scenes rather than on the forefront. [Vol. I Tr. 51:7-52:13, 55:2-24].

56. While NCBA has a broad interest in “voting rights,” a phrase it defines as the “process by which a person is able to or restricted from voting,” the organization only challenged a discrete portion of S.B. 747 here, rather than other aspects of North Carolina’s voting statutes. [Vol. I Tr. 56:6-8, 57:8-13, 63:21-66:12]. For example, NCBA considers

the entire practice of using mail to verify voter qualifications is improper, but they did not challenge its use for anyone beyond a narrow subset of SDR registrants. [Vol. I Tr. 64:19-66:12].

57. Like the other plaintiff organizations in this matter, Democracy North Carolina (“Democracy NC”) has an admittedly broad focus in North Carolina. [Vol. II Tr. 369:7-10; 369:14-16; 369:17-370:3]. As Democracy NC recognizes, it has successfully advocated for expanding North Carolina’s number of early voting days—North Carolina’s number of early voting days has steadily increased, and the state has maintained voting practices, including early voting and SDR, which other states do not offer. [Vol. II Tr. 370:4-14]. Democracy NC’s advocacy efforts were also successful as to S.B. 747. [Vol. II Tr. 370:15-371:3]. Specifically, Democracy NC publicly opposed early drafts of S.B. 747 which made SDR ballots provisional, encouraging its supporters to voice their opposition to the practice. [Vol. II Tr. 370:15-24]. Democracy NC admitted it was aware that the provisional ballot language was struck from the final version of S.B. 747. [Vol. II Tr. 370:25-371:3].

58. Although Democracy NC admitted that S.B. 747’s changes to SDR affect all eligible North Carolina voters, it only chose to challenge the provision as it relates to a narrow subset of “youth” or college voters. [Vol. II Tr. 371:4-7]. Democracy NC embraces and promotes definitions of youth voters as those aged 18 to 35. [Vol. II Tr. 373:14-374:5].

59. Plaintiff the League of Women Voters of North Carolina (“LWVNC”) defines its core mission as to “empower voters and defend democracy.” [Vol. II Tr. 339:7-10]. The organization has three levels, national headquarters in Washington D.C., the statewide

LWVNC, and 14 local leagues. [Vol. II Tr. 338:9-19]. When an individual becomes a member of one of the local leagues, he or she also becomes a member of LWVNC and the national organization. [Vol. II Tr. 339:3-6].

60. LWVNC works to empower voters and defend democracy through informing voters as to the issues on the ballot and how to vote. [Vol. II Tr. 339:13-15]. As to the issues, LWVNC has over 20 policy positions that set guidelines and goals for the local leagues, which cover topics like redistricting and campaign finance, environmental protection, public education, fiscal policies, childcare, and early childhood education, as well as elder care and criminal justice. [JX056]. LWVNC, as the state-level organization, is responsible for providing training and resources to the 14 local leagues to help empower the local leagues to facilitate getting their members active in the community. [Vol. II Tr. 339:23-340:6].

61. Defendant the State Board is the agency responsible for the administration of election laws in North Carolina. Defendants Francis X. De Luca, as Chair of the State Board; Stacy “Four” Eggers IV, Jeff Carmon, Siobhan O’Duffy Millen, and Robert Rucho, as Members of the State Board; and Sam Hayes, as Executive Director of the State Board, are all sued in their respective official capacities.

62. Legislative Defendants are Philip E. Berger, President Pro Tempore of the North Carolian Seante, and Destin C. Hall, Speaker of the North Carolina House. Legislative Defendants have intervened in their official capacities pursuant to Fed. R. Civ. P. 42(a). *See* N.C. Gen. Stat. §1-72.2(a).

**B. *Voto Latino* Consent Judgment & Numbered Memo 2023-05.**

63. Around the same time the present case was filed, two parallel suits were brought by different plaintiffs in cases captioned, *Voto Latino v. Hirsch*, Case No. 1:23-cv-861 (M.D.N.C. 2023) (“*Voto Latino*”) and *Democratic National Committee v. Hirsch*, Case No. 1:23-cv-862 (M.D.N.C. 2023) (“*DNC*”). On January 21, 2024, this Court entered a preliminary injunction order in those consolidated cases that enjoined the State Board from using the UMP to remove the ballots of SDR applicants who had their mail verification returned as undeliverable before the close of business the day before county canvass, without first providing the voters notice and an opportunity to be heard. *Voto Latino v. Hirsch*, 712 F. Supp. 3d 637, 683 (M.D.N.C. 2024).

64. As a result, the State Board issued an updated<sup>12</sup> Numbered Memo 2023-05 on January 29, 2024, to establish a notice and cure process for SDR registrants for the 2024 elections. [JX062]. Thus, for the 2024 primary and general elections, the one-verification mailer system was put into effect with a notice and cure. [Vol. III Tr. 680:6-16].

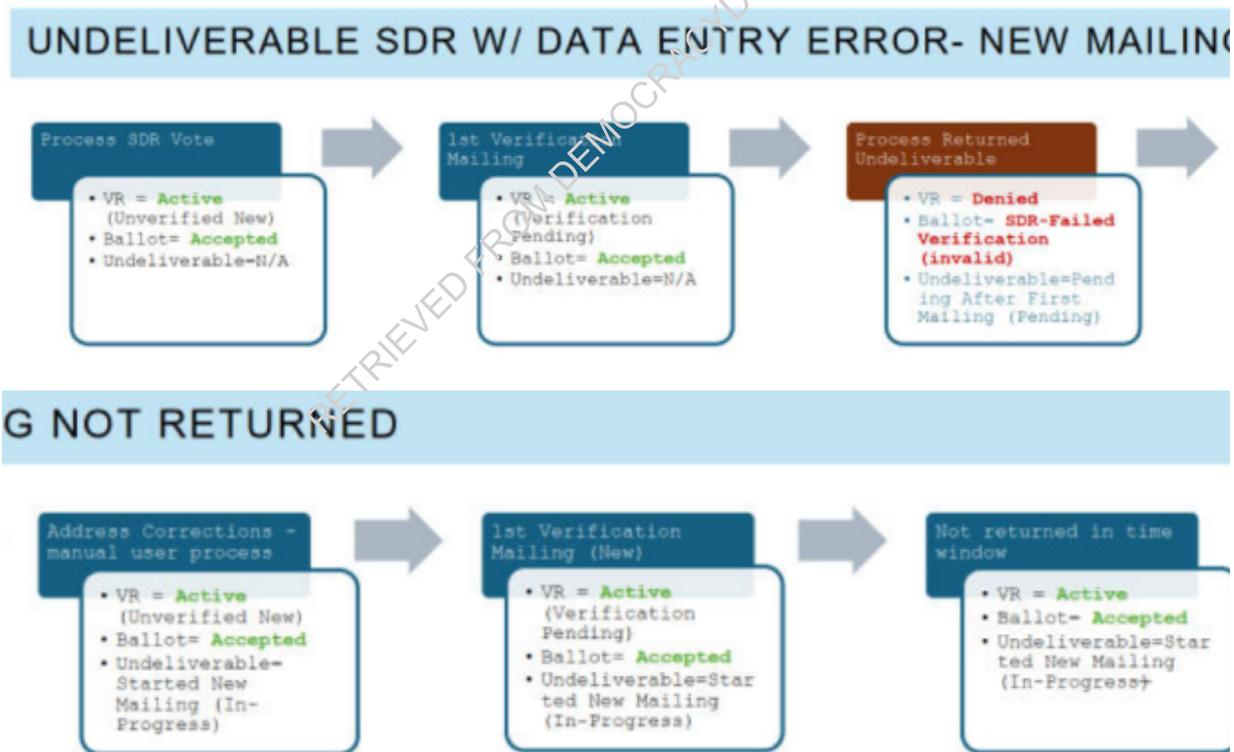
65. Under this system, SDR requires that a single non-forwardable verification mailer is sent to the mailing address on the same-day registrant’s application. If this mailer is not returned as undeliverable, then the voter is registered, and their ballot remains in the count. [JX061; JX055].

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<sup>12</sup> On December 8, 2023, the State Board issued the first iteration of Numbered Memo 2023-05, which gave instructions to the 100-county board of elections on implementing the UMP. [JX063]. However, that version of Numbered Memo 2023-05 was never actually used in an election.

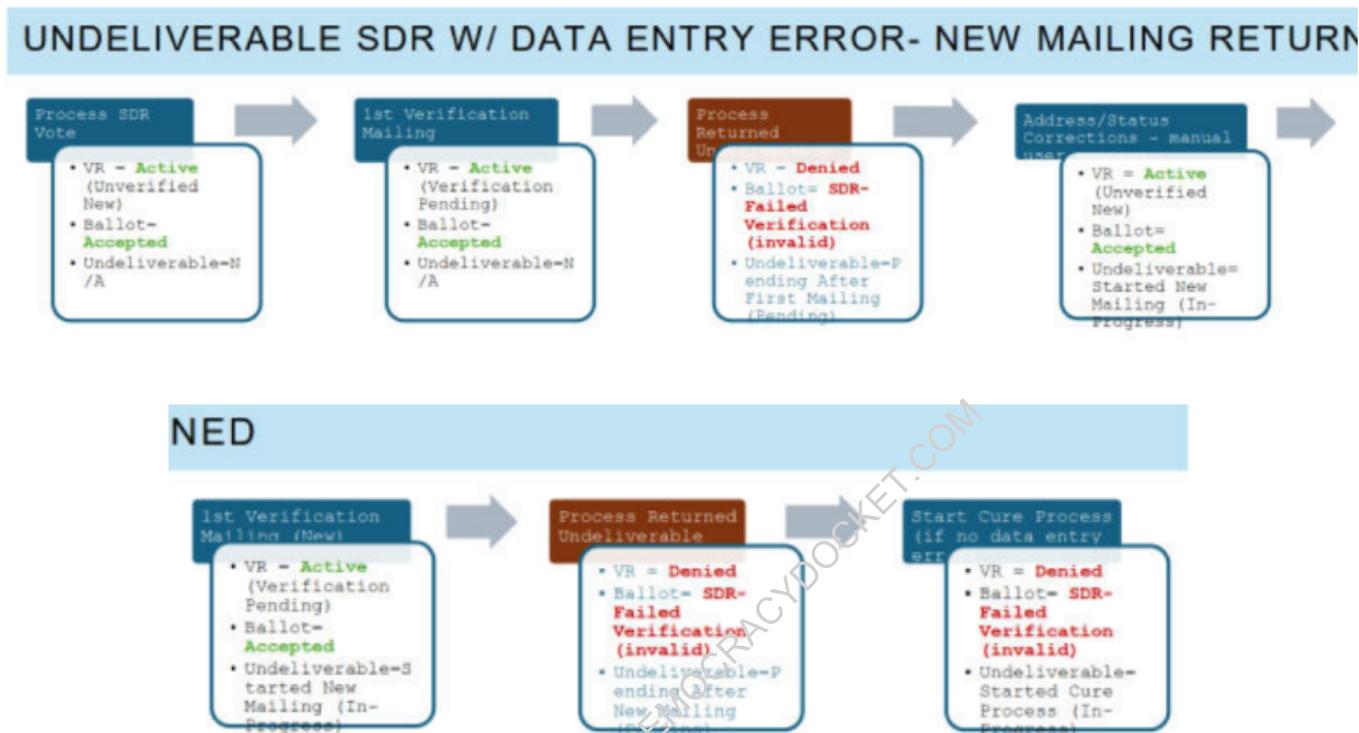
66. If the first mailer is returned as undeliverable before the close of business two days before county canvass, county board staff initiate the multi-step notice and cure process [JX061; Vol. IV Tr. 689:7-12], which requires county board staff to take the following steps:

- a. Check for address errors and if errors are found, restart the process with a new first mailing. [JX061 at p.6 (Section 4(2)(a)); Vol. IV Tr. 689:7-12]. The following flowchart shows how this process unfolds in the State Board’s Statewide Election Information Management System (“SEIMS”) if a data entry error is found, and the new mailing is not returned as undeliverable:



[JX055 at p.1; JX061 at p.6 (Section 4(2)(a))].].

The following process applies if a data entry error is found, and the new mailing is returned undeliverable within the fifteen-day window:



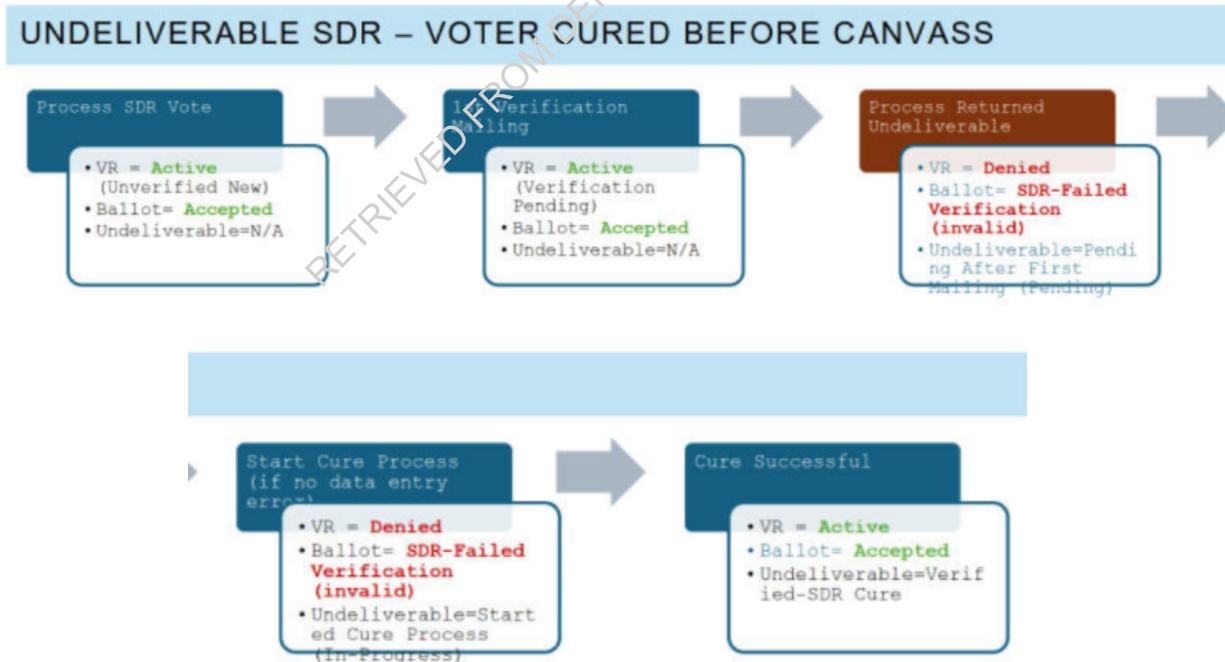
[JX055 at p.1; JX061 at pp.6-7].

- b. If no error is found, a cure notice is sent to the registrant within one business day of receiving the undeliverable verification card. [JX061 at p.7 (Section 4(2)(b)(i)); JX061 at pp. 12-13; Vol. IV. Tr. 718:10-720:4; SBEDX0051].
- c. County board staff must also call the registrant if the registrant provided a phone number of their registration form. [JX061 at p. 7 (Section 4(2)(b)(i)); Vol. IV Tr. 689:17-20].
- d. The registrant may cure their registration by providing a second HAVA document no later than 5 p.m. on the day before county canvass. [JX061 at p. 7 (Section 4(2)(b)(i)); Vol. IV Tr. 689:17-20]. This document can be

provided as a copy via email, scanned or photographed, fax, mail, or in-person delivery. [JX061 at pp.7-8, 12-13; Vol. IV. Tr. 718:10-720:4; SBEDX0051].

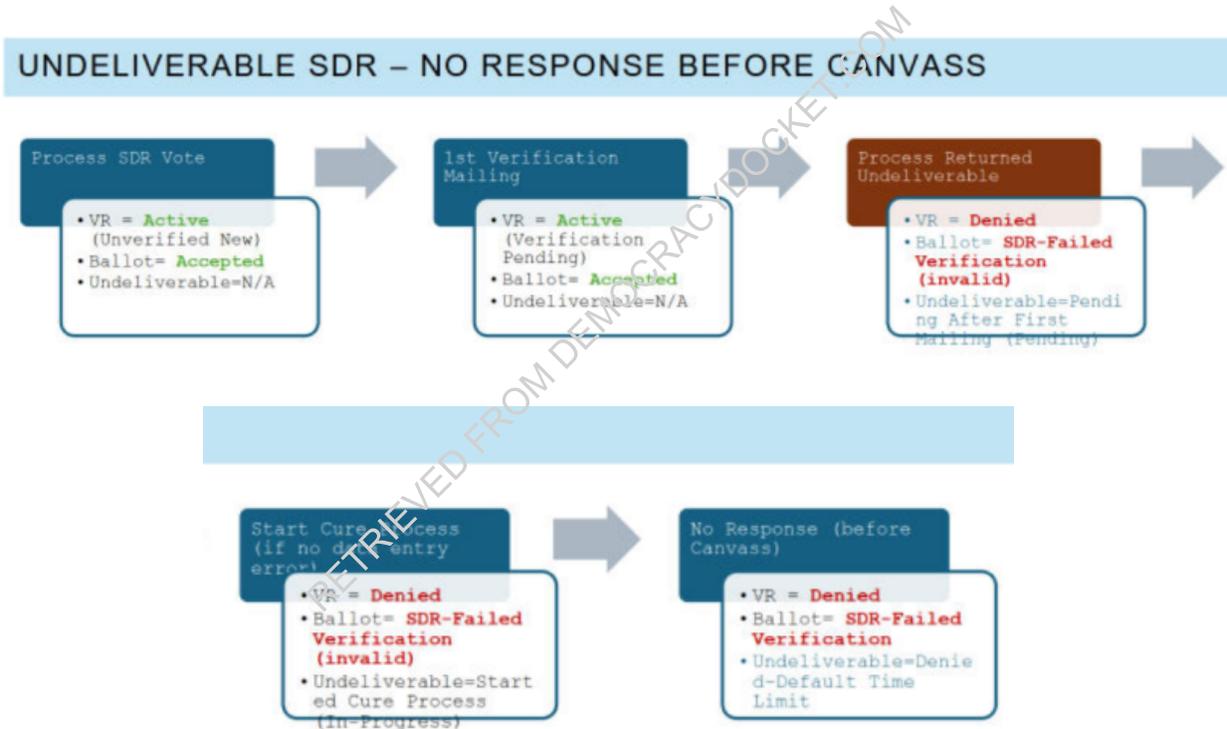
- e. The registrant may also appear in person at the county canvass meeting to verify their address. [JX061 at p.7; Vol. IV Tr. 625:25-626:7]. The county board shall take their testimony under oath and must consider any documentation offered by the registrant. [JX061 at p.7].
- f. If the registrant provides a copy of a HAVA document, they have cured, are registered, and their ballot remains in the official count. [JX061 at pp.7-8].

The following internal process applies for a voter that has cured before canvass:



[JX055 at p.2; JX061 at pp.7-8].

g. If the registrant does not provide a copy of a HAVA document by the deadline, does not appear at the county canvass, or appears but the county board does not find the voter resides at the address claimed, then the registrant has not cured, is not registered, their ballot is retrieved, and the vote is removed from the official count. [JX061 at pp.8-9 (Section 4(2)(b)(iv)). The following internal process applies to a voter that does not cure before county canvass:



[JX055 at p.2; JX061 at pp.8-9].

67. If, on the other hand, the verification card is not returned as undeliverable by the close of business two days before canvass, the voter's ballot remains in the official count. [JX061 at pp.8-9]. The following internal process applies in this situation:



[JX055 at p.1].

68. It is undisputed that the notice and cure process set forth updated Numbered Memo 2023-05 [JX062] was implemented by the State Board and used by the State’s county boards of election in the 2024 primary and general elections, and that the counties complied to the best of their ability—perfection, while always desired, is not the required standard here. [Vol. IV Tr. 709:8-710:3; SBEDX053]. *See also Fusaro v. Cogan*, 930 F.3d 241, 261 (4th Cir. 2019) (“[A] state is not constitutionally required to eliminate every logistical barrier in administering its regulatory regime for elections.”).

69. The version of Numbered Memo 2023-05 used in the 2024 primary and general elections expired on March 9, 2025 pursuant to N.C. Gen. Stat. §163-22.2. But earlier this year, the parties to the parallel *Voto Latino* and *DNC* litigation jointly moved for a consent judgment to make the preliminary injunction order permanent and instill a formal notice and cure process into the administration of the UMP, which this Court granted on April 28, 2025 (hereinafter the “Consent Judgment”). [D.E. 125-1].

70. In pertinent part, the Consent Judgment permanently enjoins the State Board “from utilizing the procedures of N.C. Gen. Stat. § 163-82.6B(d) to remove from the official count the votes of the ballot of any voter who has provided contact information in the registration process and whose first notice required under N.C. Gen. Stat. § 163-82.7(c)

is returned by the Postal Service as undeliverable before the close of business on the second business day before the county canvass, without first providing such voter notice and an opportunity to be heard.” [D.E. 125-1 at p.7].

71. The Consent Judgment further requires that the notice to a same-day registrant whose mailer had been returned as undeliverable be sent “via U.S. mail and, if the voter provided additional contact information, by telephone and email, within one business day of receiving the undeliverable mail notice.” [D.E. 125-1 at p.7]. Upon receipt of the notice, the voter may then “remedy the address verification failure with documentation submitted in person, by mail, by email, or by fax” so long as the documentation is “received by 5 p.m. on the day before county canvass” or is received in person at the applicable county canvass meeting. [D.E. 125-1 at p.8].

72. However, if the first verification card is returned by the Postal Service as undeliverable after 5 p.m. two days before the applicable county canvass, then the voter’s vote remains in the count, but they are not registered (if at all) until a later date. [D.E. 125-1 at p.8]. Numbered Memo 2023-05 was updated again on July 21, 2025, to reflect the Consent Judgment. [JX061].

73. This Consent Judgment is the law of the land, under which elections must be conducted moving forward. As such, Plaintiffs have conceded that to prevail on their undue burden claim, they must prove that S.B. 747, and the current law with the Consent Judgment, causes undue burden on the right to vote. [D.E. 151 at 71:3-16]. On the other hand, Plaintiffs’ intent-based Twenty-Sixth Amendment claim focuses solely on the legislative process of the UMP.

## **V. Young Voters in North Carolina.**

74. Plaintiffs defined their proposed class of “young voters” as those “within the 18 to 25 age group.” [D.E. 1 at ¶29, n.3]. The weight of the evidence shows this is an arbitrary choice, and that this “class” does not have the hallmarks of a defined class, and even if it did, would not be entitled to categorization as a suspect class. *See* COL ¶¶76-82. [Vol. IV Tr. 800:16-19]. In fact, Plaintiff organizations themselves, define “young” voters in a manner that is not consistent with the definition of class Plaintiffs’ use in this lawsuit. *See* FOF ¶58. Plaintiffs’ own expert Dr. Jacob Grumbach did not cite to a single scholarly source classifying young voters as those aged 18-25. [PX176 at pp.7-9 (analyzing Cooperative Election Study (CES) and General Social Survey (GSS) data originally categorized as 18-29); Vol. IV Tr. 748:10-15, 799:4-6]. As such, Plaintiffs have not shown that those aged 18-25 are a protected class of voter. But even if they have, the greater weight of the evidence shows that voters ages 18-25 in North Carolina have the same opportunities and multiple ways to register and vote as all other voters in North Carolina. And these opportunities were not hindered or impeded by S.B. 747 in any way.

### **A. College Student Voting in North Carolina.**

75. Despite the fact that not all North Carolinians aged 18-25 are in college, or that not all college students are between the ages of 18-25, Plaintiffs chose to focus much of their evidentiary presentation on college students. Even though Plaintiffs could have defined “young voters” as college voters and chose not to, the Court considers Plaintiffs evidence regarding college student voting. However, Plaintiffs’ attempts to present evidence that college students face increased barriers to register and vote in North Carolina

because of S.B. 747 fall flat. The evidence presented at trial establishes that S.B. 747 does not provide a barrier to college students registering and voting in North Carolina as student voters may use any form of registering or voting available in North Carolina. [Vol. IV Tr. 812:20-813:5]. Moreover, students may register using their parents address or their on-campus address, depending on whether they intend to reside after graduation. [Vol. IV Tr. 808:7-18]. And if students choose to register at their on-campus address, the State Board encourages the county boards of election across North Carolina to partner with colleges and universities to actively resolve issues that might arise during the registration and voting process for college students. [Vol. IV Tr. 684:1-7, 684:24-685:6].

76. The testimony of Tim Tsujii, the Director of Elections for the Forsyth County Board of Elections since 2016<sup>13</sup>, explained how the process works in Forsyth County. While there are at least six colleges or universities in Forsyth County, four of those institutions have on-campus student housing: Wake Forest, Winston-Salem State University, UNC School of the Arts, and Salem College. [Vol. I Tr. 84:18-85:8]. Since at least 2020, the Forsyth County Board of Elections has “either retrieved or received on-campus student rosters to assist [the county board] with the same-day registration process.” [Vol. I Tr. 85:3-17]. Director Tsujii further testified that while not explicitly required by law, the State Board recommended that county boards of elections request student rosters as a best practice. [Vol. I Tr. 85:7-10]. All the schools that have student rosters in Forsyth

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<sup>13</sup> Director Tsujii explained that his role as Director involves overseeing the administration and conduct of elections in Forsyth County, and to serve as the liaison for the County Board of Elections with the State Board and county government. [Vol. I Tr. 82:17-23].

County provided those rosters to the Forsyth County Board of Elections for the 2024 primary and general elections. [Vol. I Tr. 105:18-21].

77. The Forsyth County Board of Elections also communicates with the local universities and colleges for residence hall address information purposes. [Vol. I Tr. 85:9-17]. Other county boards of election with major universities similarly work with universities to obtain address information for student residence halls. [*See, e.g.* JX038 at pp.2-5 (providing address standards for on-campus student voter registration at NCSU, Meredith College, Shaw University, St. Augustine's College, William Peace University, and Southeastern Baptist Theological Seminary)].

78. While student rosters can be used to assist the county board in ascertaining whether a dorm address might be incorrect, Director Tsujii testified that is ultimately up to the voter, who signs under penalty of perjury that the information they provided on their registration application is correct, to provide all necessary and correct information on his or her registration form. [Vol. I Tr. 86:25-87:7; SBEDX001 (voter application form); SBEDX050 (Notice to Same-Day Registrants)]. That said, proper addressing for colleges in Forsyth County is part of the training manual provided to poll workers and precinct officials. [JX049; Vol. I Tr. 89:1-10]. The Forsyth County Board of Elections also provides documents on its website to assist college students that live on-campus by providing information on proper formatting for residential addresses when registering and specifically explaining that college students may vote either at their college address or at home. [JX050; Vol. I Tr. 90:9-18]

79. Director Tsujii also testified that all poll workers and precinct officials receive training on the SDR process, which includes a scenario related to college addresses or college students that may reside on-campus. [Vol. I Tr. 87:22-88:11]. Poll workers or precinct officials in Cumberland and New Hanover Counties receive similar trainings from their county boards of election. [D.E. 156-4 at p.32 (Amaro 30(b)(6) of Cumberland County Board of Elections Deposition Designations at 31:14-33:1); D.E. 156-7 at pp.34-35 (Hunter-Havens 30(b)(6) of New Hanover County Board of Elections Deposition Designations at 33:9-34:8)]. Evidence presented at trial showed that other counties with universities and colleges that offer on-campus housing similarly request and/or receive student rosters under this process. [Vol. I Tr. 105:22-106:7 (testimony regarding Guilford County obtaining student rosters); D.E. 156-7 at pp.40-48 (Hunter-Havens 30(b)(6) New Hanover County Board of Elections Deposition Designations at 39:10-42:3, 43:6-47:25)].

**B. U.S. Postal Service Mail on College Campuses.**

80. Noticeably absent from the evidence presented at trial was testimony from college officials or on-campus voters showing any issues with receiving mail verification cards during the 2024 elections. *See infra* FOF ¶¶157-58.

81. Instead, Plaintiffs offered several hypothetical reasons that mail on college campuses or in multi-unit housing might come back as undeliverable (like the voter not living at the address or the address cannot receive mail, postal error, clerical mistake, a full or damaged mailbox, etc.), but presented no credible evidence that a better system exists. [Vol. III Tr. 448:3-17, 630:8-17].

82. Moreover, non-forwardable verification mailers have long been a feature of the process for voter registration in North Carolina, including registering to vote through Traditional Registration Methods and when voters move within the same county but need to update the address on their voter registration. *See* N.C. Gen. Stat. §163-82.7 (mail verification process for applicants using Traditional Registration Methods); N.C. Gen. Stat. §163-82.15 (mail verification process for voters who remain in the same county but update their address when voting in person); N.C. Gen. Stat. §163-82.16 (change of name); N.C. Gen. Stat. §163-82.17(b) (change of party affiliation). Non-forwardable mail verification has also been a part of the SDR statutory scheme since its inception in 2007. 2007 N.C. Sess. Law 253.

83. In an attempt to show that mail verification is somehow unreliable, Plaintiffs presented testimony from Timothy Greene, a former USPS worker testifying in his personal capacity. Greene retired in 2018, six years before S.B. 747's changes to SDR mail verification were used in any election cycle. [Vol. II Tr. 316:7-10, 334:4-6]. Simply put, Greene has no firsthand experience of how the SDR mail verification process worked during the 2024 general election and offers no insight into the post-S.B. 747 election regime. [Vol. II Tr. 333:22-334:3]. Greene admitted that he never delivered mail to a college or university during his career and cannot speak to that issue. [Vol. II Tr. 334:7-10]. And while Greene testified to his interpretation of notations on a selection of undelivered mail shown to him by Plaintiffs' counsel—notably, from a county Greene never worked in—he later admitted that his testimony was based entirely on speculation. [Vol. II Tr. 334:18-25]. Taken as a whole, Greene's testimony provides the Court very little relevant insight as to

the practices and procedures at issue in this case. [Vol. II Tr. 333:25-334:10]. The Court credits the sole relevant testimony Greene provided from his personal experiences: that official election mail, including mail verification cards, receive First-Class, priority treatment. [Vol. II Tr. 335:5-336:18]. The Court disregards the rest of Greene's testimony as irrelevant to the issues at hand.

84. The factual record in this case shows that instead of ignoring potential USPS mail issues, the State Board worked directly with the USPS during the 2024 election. [Vol. I Tr. 116:9-25]. In addition, the State Board worked with the USPS to resolve an issue in Watauga County that could have impacted a handful of voters. [Vol. IV Tr. 632:23-633:6]. In Watauga County, a group of same-day registrants' verification cards were returned as undeliverable to the Watauga County Board of Elections, but county board staff could not figure out why the cards were returned as undeliverable because they were properly addressed. [Vol. IV Tr. 632:23-633:6]. The Watauga County Board of Elections contacted the local postmaster, who confirmed that the cards were addressed correctly. [Vol. IV Tr. 632:23-633:6]. The State Board then escalated the issue, first to the regional representative with the USPS then to the general counsel of the USPS in Washington, D.C. [Vol. IV Tr. 632:23-633:6]. Cox testified that the national USPS representatives quickly responded that the undeliverable cards had been mislabeled at a processing facility. [Vol. IV Tr. 632:23-633:6]. Thus, the issue was collaboratively and efficiently resolved.

85. Legislative Defendants' expert Dr. Andrew Taylor credibly reported that according to a report by the Office of Inspector General, only roughly 4.3% of all mail is undelivered. [Vol. IV Tr. 814:17-815:3]. Roughly 23% of the 4.3% of the undelivered mail

was a function of USPS error. [Vol. IV Tr. 815:3-4]. Taking that all together, an estimated 99% of all mail is either delivered or is undelivered as a function of user error. Only approximately 1% of undeliverable mail results from USPS error. [Vol. IV Tr. 814:17-815:9].

86. Furthermore, Dr. Taylor found that eight states conduct their elections entirely by mail, which is certainly not a sign that the USPS is unreliable. [Vol. IV Tr. 815:21-816:3]. Indeed, Plaintiff Democracy NC encourages people to vote by mail, which as Dr. Taylor noted, is inconsistent with their purported concerns about the mail in this litigation. [Vol. IV Tr. 815:21-816:3].

### **C. Plaintiffs' Work on College Campuses.**

87. NCBA's efforts are largely limited to North Carolina's Historically Black Colleges and Universities ("HBCU"). [Vol. I Tr. 58:4-9]. In fact, NCBA only has an active presence on a small selection of North Carolina's college and university campuses. [Vol. I Tr. 58:10-14]. NCBA's admitted focus on HBCU campuses is driven by its view that these locations have higher concentrations of "first time voters" generally. [Vol. I Tr. 58:15-59:3].

88. NCBA publishes a selection of voter registration guides, tailored to student registration for a limited number of HBCU campuses. [JX023; Vol. I Tr. 59:17-22]. NCBA only provides these guides for HBCUs—the organization does not provide any similar resources for non-HBCUs. [JX023; Vol. I Tr. 59:23-60:9].

89. Democracy NC provided testimony from Lucas Seijo, regarding his claimed knowledge of S.B. 747's purported effects on "youth" voters. But admitted his experience is limited to just five of North Carolina's one-hundred counties. [Vol. III Tr. 404:1-11]. Mr.

Seijo conceded that much of what he does for Democracy NC involving voter registration advice mirrors the information the State Board already provides to county boards and voters. [Vol. III Tr. 405:4-19]. Mr. Seijo's testimony provides the Court very little insight into any statewide impacts from S.B. 747 on "youth" or college voters, or what harm or resources Democracy NC allegedly incurred due to the UMP. [Vol. III Tr. 404:9-11].

90. Jennifer Rubin, President of League of Women Voters of North Carolina ("LWVNC"), testified that the LWVNC works with college students "to help them understand the process" of voting and claimed that LWVNC "do[es] a lot of voter registration on college campuses." [Vol. II Tr. 339:16-22]. But on cross-examination, Rubin admitted that the organization did not have information dedicated to student voting on its flagship Vote411 website until after she was questioned about the scope of LWVNC's work with college students in her deposition in this case, which occurred *after* the 2024 elections. [Vol. II Tr. 350:1-351:21; 355:4-7]. Furthermore, Rubin admitted that LWVNC relies on its local leagues (which are separate entities with their own separate boards) to perform voter registration drives on college campuses and otherwise tailor information on voting to college students. [Vol. II 352:13-353:8; PX162 (repost of content originally posted by League of Women Voters of Wake County)]. Given these admissions, the Court gives little weight to Rubin's testimony and finds that it fails to provide any insight into organizational harm LWVNC claims resulted from S.B. 747.

91. Even after S.B. 747, all three organizational plaintiffs continue to work and organize on campuses across the state. [Vol. I Tr. 44:19-47:11 (NCBA); Vol. II Tr. 343:4-10 (LWVNC); Vol. II Tr. 360:18-361:4, 371:21-24 (Democracy NC)]. While

acknowledging that the State Board maintains a reliable public website with the most up to date educational information for voters [Vol. II Tr. 357:7-9; 374:20-375:1; Vol. I Tr. 69:1-4], all three organizations also produce voter guides for various election cycles, which must be manually updated by members and/or volunteers. [Vol. I Tr. 63:3-6 (NCBA); Vol. II Tr. 349:1-20 (LWVNC); Vol II Tr. 372:11-21 (Democracy NC)]. However, notably absent from the record is any evidence that any of the organizational Plaintiffs updated their voter guides to reflect the notice and cure process set forth in Numbered Memo 2023-05 for the 2024 primary or general elections. In fact, LWVNC admitted that it did not update its flagship Vote411 website to include information on the notice and cure process for same-day registrants in the 2024 primary or general elections, despite continuously directing voters, including college students to the Vote411 website. [Vol. II Tr. 349:21-25].

92. If anything, the evidence presented at trial shows that these organizations sometimes provided voters, including those on college campuses, with incomplete information about the same-day registration and voting process.

**D. Voting for 18–25-Year-Olds.**

93. Plaintiffs allege that North Carolinians aged 18-25 in North Carolina make a cognizable and cohesive class of voters. [D.E. 1 at ¶¶ 29-30, n.3]. To support this contention, Plaintiffs point to the reports and testimony of their expert Dr. Jacob Grumbach.

94. Dr. Grumbach is a tenured associate professor of public policy at UC Berkeley, with a master's and Ph.D. in political science from UC Berkeley. [Vol. IV Tr. 721:14-17, 722:14-19]. Before joining UC Berkeley's faculty in 2023, Dr. Grumbach was an associate professor of political science at the University of Washington. [Vol. IV Tr.

722:20-723:2]. Pursuant to the parties' Joint Stipulations [D.E. 174 at ¶5], Dr. Grumbach was tendered as an expert in political science and public policy, U.S. politics, the study of age in U.S. politics, quantitative methodology, and the study of state-level election administration methods and policies. [Vol. IV Tr. 724:12-17].

95. Dr. Grumbach ultimately concluded that “S.B. 747 reduces the political incorporation and participation of young Americans in elections.” [Vol. IV Tr. 725:22-726:3]. However, that conclusion is not based on analysis limited to young voters in North Carolina, nor is it truly limited to young voters ages 18-25. [Vol. IV Tr. 747:18-748:9]. Indeed, Dr. Grumbach did not speak with any current or former members of the North Carolina General Assembly in preparing his reports in this case and testified that his analysis did not look at the motives of North Carolina legislators. [Vol. IV Tr. 748:20-749:6]. Dr. Grumbach also did not speak with any North Carolina voters or conduct any polls of North Carolinians in drafting his report and forming his opinions in this case. [Vol. IV Tr. 749:7-16]. Though Dr. Grumbach's research and opinions on young Americans is thorough and peer-reviewed, it has limited relevance to this case because it fails to address the actual population at issue here: voters aged 18-25 *in North Carolina*.

96. Nevertheless, Dr. Grumbach claims that young Americans, purportedly defined as citizens ages 18-25, are a coherent political group because they “have distinct political preferences that are detectable and measurable, and political/elected officials treat them as a cohesive and coherent political community.” [Vol. IV Tr. 727:14-16]. But Dr. Grumbach's own reports do not consistently define young Americans as 18-25 and fail to show that 18–25-year-olds are cohesive in their political preferences for several reasons.

97. First, Dr. Grumbach did not explicitly define what he meant by “young Americans” in his opening expert report and used a variety of sources throughout that define young voters differently. [PX176 at pp.7-9 (analyzing Cooperative Election Study (CES) and General Social Survey (GSS) data); Vol. IV Tr. 748:10-15, 799:4-6]. Dr. Grumbach’s own academic works also use a variety of definitions of young voters. [Vol. IV Tr. 779:15-21; 759:7-11]. Only in his rebuttal report did Dr. Grumbach define “young Americans” as those ages 18-25, without any scholarly sources to back up that definition. [Vol. IV Tr. 748:10-13]. In fact, the 18-25 age range is different than the datasets on political preferences Dr. Grumbach used to create the analysis he performed in this case, which use an 18-29 age cohort. [LDTX125 at p.5 (explaining that CES and GES use an 18–29-year-old age cohort)]. This shows the arbitrary nature of what Plaintiffs consider to be “young” voters. [Vol. IV Tr. 800:16-19].

98. Second, despite admitting that the datasets he used already had age-based birth year data, Dr. Grumbach chose to reorganize the data based on generation and often groups Millennial and Gen Z generations together in his analysis of political attitudes across generational cohorts—a grouping that spans a total of 32 years<sup>14</sup> and is four times larger than the 8 year age span of Plaintiffs’ defined class of young voters here. [Vol. IV Tr. 769:23-770:18; PX176 at ¶18 (“Millennials and Gen Z Americans, by contrast, tend to focus most on climate change and student debt.”); ¶30 (describing the political attitudes

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<sup>14</sup> In 2024, the first elections after S.B. 747 was passed, Millennials would have been between the ages of 28 and 43, and Gen Z would have been between the ages of 12 and 27. [Vol. IV Tr. 770:19-770:12]. A range of individuals aged 12-43 years is an extraordinary broad, further suggesting that Plaintiffs’ definition of young voters is arbitrary.

and beliefs of Millennials and Gen Z as distinct from Gen X, Baby Boomers, and the Silent Generation); ¶30 (“Millennials and Gen Z are large generations whose members are increasingly eligible to vote.”)].

99. Third, Dr. Grumbach uses an overbroad definition of generational polarization, similar to his definition of racial polarization that the Northern District of Illinois found to be overbroad and unhelpful. *See McConchie v. Scholz*, 577 F. Supp. 3d 842, 862 (N.D. Ill. 2021).<sup>15</sup> Specifically, Dr. Grumbach defined generational polarization in his initial report as “when the political attitudes of generational cohorts diverge.” [PX176 at p.4]. It is substantial generational polarization, Dr. Grumbach opines, that provides motive for older age groups in elected office to exclude or reduce the political participation of younger Americans. [Vol. IV Tr. 728:11-17].

100. But a closer look at Dr. Grumbach’s analysis reveals that even if generational polarization exists, it is not substantial. For example, Figure 1, which is originally from an analysis by Kevin Munger, shows that the political priorities across generational cohorts

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<sup>15</sup> Plaintiffs’ counsel objected to the question “Dr. Grumbach, do you recall if the court credited your definition of polarization in that case?” on the grounds of hearsay, and offered to submit to the Court “a couple of relevant cases to consider.” [Vol. IV Tr. 757:18-758:3]. Though other issues were raised in post-trial briefing, the referenced cases were never submitted nor shared with counsel for Defendants. Nevertheless, this line of questioning did not call for hearsay. Instead, the line of questioning was proper impeachment evidence that speaks directly to Dr. Grumbach’s credibility and his obfuscation of prior courts discrediting his expert opinions. This is simply not offered nor used to prove the truth of the matter asserted. Dr. Grumbach opened the door to questions about his opinions on polarized voting patterns by referencing “patterns in vote choice that are observable across age groups” and his other work frequently analyzing polarization in voting patterns as a basis for his opinion that generational polarization is substantial. [Vol. IV Tr. 755:20-756:18]. *See Fussman v. Novartis Pharmaceuticals Corp.*, No. 1:06CV149, 2011 WL 5836928, \*6 (M.D.N.C. 2011) (holding expert witness opened the door to testimony by volunteering information that was then subject to impeachment).

are not that different. In the word cloud based on interviews of 1,500 respondents, an unknown number of which were from North Carolina, Gen Z and Millennials share the same concerns about “climate change,” the economy, and education. [Vol. IV Tr. 755:23-754:8 PX176 at p.6]. And while the Silent Generation (those born between 1928 and 1945) also share concerns about “finance[es]” and “education,” Dr. Grumbach testified that those top concerns are somehow distinct from the Millennial and Gen Z categories, and because those top concerns did not totally match, the differences contribute to his opinion that generational polarization is substantial. [Vol. IV Tr. 711:1-756:7, PX176 at p.13]. But this is nothing but semantics and provides no insight on the political preferences of 18–25-year-olds in North Carolina specifically.

101. Dr. Grumbach also claimed that his opinion that generational polarization is substantial was based on the broader public opinion analysis he did in his report, as well as literature he cited and patterns in vote choice that he had previously observed across age groups. [Vol. IV Tr. 756:2-7]. However, Dr. Grumbach’s public opinion analysis suffered from design flaws (discussed below), and while Dr. Grumbach frequently performs ecological inference analyses to infer individual-level estimates by age in his other academic and expert work, he did not perform any such analysis in this case. [Vol. IV Tr. 756:8-14].

102. As to Dr. Grumbach’s broader public opinion analysis, Figures 2 and 3 of PX176, is flawed. For example, Dr. Grumbach explained that Figures 2 and 3 are estimates of group averages of agreeance or dis-agreeance with survey questions from the 2022 CES and GES national surveys, and that he chose which questions to use based on what he

thought were important policy and cultural issues facing the nation. [Vol. IV Tr. 760:5-24, 761:9-13, 764:3-9]. But instead of choosing a shared problem that spans multiple generations in Figure 1, like the economy, which the CES covers, Dr. Grumbach chose only to include the topics of race, abortion, the environment, and criminal justice. [Vol. IV Tr. 764:11-13]. By choosing to analyze only issues that Dr. Grumbach knew were different amongst generations, Dr. Grumbach overinflated his findings on generational polarization.

103. Furthermore, despite admitting that he knew the CES dataset he used in Figure 2 is a national survey, Dr. Grumbach did not report the sample size for North Carolina—likely because the sample size for North Carolinians only made up approximately 3.33% of respondents. [Vol. IV Tr. 762:14-763:3]. Dr. Grumbach also admitted that he did not disclose any margins of error for his estimates in Figures 2 and 3 and did not perform a T-Test to determine whether any purported differences across generations were statistically significant. [Vol. IV Tr. 760:5-24, 761:9-13, 766:20-767:1]. Aside from the relevance of this analysis, it also calls into question its reliability.

104. The Court finds that Dr. Grumbach's testimony and reports fail to establish that voters ages 18-25 are a cohesive political community, and certainly not in North Carolina specifically. At best, Dr. Grumbach's analyses show that different generations disagree on some issues, but any disagreement is not substantial. The Court declines to credit Dr. Grumbach's generational polarization analysis as it is not relevant to the issues present in this case regarding North Carolina voters aged 18-25.

105. Legislative Defendants' expert, Dr. Andrew Taylor, credibly showed that Plaintiffs' purported class of 18–25-year-old North Carolinians is arbitrary. [Vol. IV Tr.

800:16-19]. Dr. Taylor is a tenured professor of political science at North Carolina State University (NCSU). [LDTX126]. Before joining NCSU's faculty, he received a B.A. in American studies from the University of Kent at Canterbury in the United Kingdom, a master's in government from Lehigh University, and a Ph.D. in political science from the University of Connecticut. [Vol. IV Tr. 793:5-20]. Dr. Taylor served as chair of the political science department at NCSU from 2006 to 2010 and was president of the North Carolina Political Science Association from 2012-2013. [Vol. IV Tr. 793:21-794:4]. Dr. Taylor has taught several classes covering North Carolina politics and voting, as well as comparative state and national laws. [Vol. IV Tr. 794:5-14]. Dr. Taylor has published extensively in a wide variety of peer reviewed publications, including on topics covering state legislatures and governors, and North Carolian voting and elections. [Vol. IV Tr. 794:20-795:9]. Dr. Taylor's testimony has never been excluded by any court. [Vol. IV Tr. 795:13-14].

106. Pursuant to Rule 702 and the Joint Stipulations, Legislative Defendants tendered Dr. Taylor as an expert in political science with an emphasis on North Carolina politics, voting, and elections, North Carolina political history, and comparative state and national laws, politics, and policies. [D.E. 174 at ¶6; Vol. IV Tr. 795:15-21]. In preparing his report in this case, Dr. Taylor performed a comparative analysis to determine how the Plaintiffs' proposed class of young voters in North Carolina fare compared to the group's treatment in other states in the United States. [Vol. IV Tr. 796:12-20]. This comparative methodology has been credited previously in a voting rights case. [Vol. IV Tr. 796:21-23]. Dr. Taylor's comparative methodology differs from Dr. Grumbach's analysis, which is

mainly focused on comparing young voters nationally to older voters. [Vol. IV Tr. 797:2-11].

107. Dr. Taylor testified that Plaintiffs' class of 18-25 is arbitrary when looking at the broader context of young voters.<sup>16</sup> [Vol. IV Tr. 800:16-90]. For example, because the Twenty-Sixth Amendment effectively franchised voters ages 18, 19, and 20, new voters could be defined as those enfranchised by the Twenty-Sixth Amendment—individuals aged 18–20-year-olds. [Vol. IIV Tr. 798:8-16]. Dr. Taylor also highlighted commercial survey research outfits like Gallup or the New York Times, as well as highly regarded sources like the Census, which use the age ranges 18-24 or 18-29 to define young voters. [Vol. IV Tr. 798:19-799:3]. While the lower limit of 18-year-olds is the same, the top limit of what constitutes a young voter has a wide variety of different categorizations, both in the realm of political science and across Dr. Grumbach's expert reports. [Vol. IV Tr. 798:22-3]. Dr. Taylor further testified that while there has been some research to suggest that there may be some form of age identity for young voters, it is weak compared to the age identity of older voters. [Vol. IV Tr. 799:8-800:5]. This Court finds Dr. Taylor credible, and that Plaintiffs' 18–25-year-old designation of “young voters” in North Carolina is arbitrary.

108. In sum, this Court finds that Plaintiffs have failed to prove that North Carolinians ages 18-25 are a cohesive class entitled to heightened protection under the law. As explained *infra*, COL ¶¶78-83, Plaintiffs are unable to define a cognizable, protected

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<sup>16</sup> Dr. Taylor testified that he was aware that one of the age bins used by the North Carolina State Board of Elections was 18-25, but that did not alter his conclusion that the 18–25-year-old designation is arbitrary. [Vol. IV Tr. 800:20-801:1].

class, and the *Arlington Heights* framework does not apply to Plaintiffs' Twenty-Sixth Amendment claim. *N. Carolina State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 303 (4th Cir. 2020); *Kimel v. Florida Bd. of Regents*, 528 U.S. 62, 63 (2000). But even assuming arguendo that *Arlington Heights* applies, Plaintiffs' factual showing fails to meet that burden.

## **VI. North Carolina Has Not Consistently or Historically Attempted to Restrain the Youth Vote.**

109. The testimony and reports of Dr. Taylor credibly show that North Carolina has not consistently or historically restrained the youth vote compared to other states. [Vol. IV Tr. 797:2-11]. In fact, North Carolina's voter turnout and registration rates by age show that young voters in the State have not been restrained—either before or after S.B. 747.

110. Dr. Taylor assessed voter turnout by age using data from the Center for Information and Research on Civil Learning and Engagement (“CIRCLE”) in the Tisch College at Tufts University. [Vol. IV Tr. 16-22]. As Dr. Taylor testified, that data showed that in recent election years, young voters (defined by CIRCLE as those ages 18-29) in North Carolina turned out to vote at a rate roughly even to or exceeding national benchmarks. [Vol. IV Tr. 801:23-25, 802:7-9]. For example, in 2014, 2018, and 2022, North Carolina ranked 11th, 25th, and 14th in the proportion of eligible voters ages 18-29 who turned out to vote. [Vol. IV Tr. 802:1-6]. For the 2020 general election, North Carolina ranked 10th out of the 40 states for which there were data. [LDTX125 at p.8].

111. At the time of Dr. Taylor's report, CIRCLE had not yet finalized its 2024 voter turnout data by age report. [Vol. IV Tr. 802:12-17]. However, Dr. Taylor testified that

preliminary 2024 CIRCLE data showed that turnout for voters ages 18-29 was highest in battleground states, including North Carolina, for the 2024 general election. [Vol. IV Tr. 802:18-21].

112. Dr. Taylor's analysis also shows that North Carolina's public colleges and universities are leaders in voter registration rates on campus. The North Carolina Campus Voting Challenge, organized by three nonprofit organizations, demonstrated that the registration rate at North Carolina campuses was greater than the national average by a fairly sizable margin in 2020 and 2022. [Vol. IV Tr. 804:16-21; LDTX125 at pp.9-10]. For example, in 2020, the registration rate at North Carolina colleges and universities was 89.5 percent, which exceeded the national average by 6.5%. [Vol. IV Tr. 805:9-19; LDTX125 at p.10]. Furthermore, The Fair Election Center's Campus Vote Project designated Appalachian State University, Durham Technical Community College, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina A&T, North Carolina Central University, North Carolina State University, UNC-Asheville, UNC-Chapel Hill, UNC Pembroke, and UNC-Greensboro as 2023-2024 "voter friendly" campuses. [LDTX125 at p.9].

113. Not only are North Carolina's public colleges and universities leaders in voter registration, but they are also leaders in on-campus polling places compared to other states. Indeed, Dr. Taylor credibly testified that 70% of University of North Carolina-System campuses had early voting places on campus for the 2020 and 2024 general elections. [Vol. IV Tr. 806:12-807:10]. Two major private universities in the state, Duke and Elon Universities, also hosted early voting polling places on campus in 2020 and 2024,

as well as a number of community colleges and high schools across the state. [LDTX125 at pp.11-12]. Contrary to Plaintiffs' counsel's representations<sup>17</sup> made on cross-examination, the various county boards of election have not closed or significantly limited on-campus polling places over the past decade. [Vol. IV Tr. 829:22-25]. As Dr. Taylor rightly noted, in several cases such closures must have been temporary because on-campus polling places have reopened, and the fact that 70% of UNC System campuses had early voting polling places on campus in 2020 and 2024 shows that any closures were not "significant." [Vol. IV Tr. 830:1-16; 853:8-14]. Moreover, one example offered by Plaintiffs' counsel was the temporary closure of NCSU's Talley Student Union, which was closed for renovations and could not serve as a polling place during construction. [Vol. IV Tr. 853:8-854:14].

114. On-campus early voting polling places provide unique opportunities for students and faculty to utilize SDR to register and vote on the same day—an opportunity that, as Dr. Taylor reported, is only available at all in 23 states and Washington D.C. [LDTX126 at p.16]. Indeed, Dr. Taylor testified that most states do not have any form of SDR. [Vol. IV Tr. 811:7-13].

115. While Dr. Taylor and Dr. Grumbach agree that implementation of SDR generally increases turnout in presidential general elections, Dr. Taylor credibly showed that only a very small minority of North Carolinians use SDR, regardless of age. [LDTX125 at p.15]. For example, data from the Election Assistance Commission's

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<sup>17</sup> At no time during his cross examination was Dr. Taylor ever shown a document substantiating the purported closures of early voting sites referenced by Plaintiffs' counsel as having been closed over the last decade. As such, the court cannot consider these representations as evidence.

Election Administration and Voting Survey revealed that in presidential elections held in 2008, 2012, 2016, and 2020, the average proportion of votes cast by persons using SDR was about 3%. [LDTX125 at p.15; Vol. IV Tr. 810:19-811:2]. In midterm elections, the number is even less. [Vol. IV Tr. 810:19-811:2].

116. The only actions by the North Carolina General Assembly that Dr. Grumbach cited in his opening report in attempt to show “a consistent pattern of actions disparately impacting young voters” were H.B. 589 (2013) and S.B. 824 (2018). [PX176 at p.14]. But neither of those laws were passed by the 2023 General Assembly and thus cannot be used as the basis to prove the intent of the 2023 General Assembly. *Raymond*, 981 F.3d at 304-05.

117. Dr. Grumbach also cited to other states’ laws on college student voter ID and bans of on-campus voting as “[r]ecent legislation at the state level” that has “sought to reduce voter turnout among young people.” [PX176 at p.14]. However, North Carolina has the exact opposite policies of the examples Dr. Grumbach cites: North Carolina allows certain student identification cards to be used as a valid voter ID, and North Carolina also does not ban polling places on college campuses. [Vol. IV Tr. 806:17-20, 808:25-809:2].

118. In fact, all Plaintiff organizations host voter registration drives on college campuses with no interference from the State—both before and after S.B. 747. [Vol. I Tr. 32:3-8, 45:8-11; Vol. II Tr. 339:16-22, 378:18-379:3, 386:2-3, 401:10-19; Vol. III Tr. 400:23-401:9]. NCBA goes a step further, and tracks data and information concerning incidents involving student voting on certain HBCU campuses. [Vol. I Tr. 60:15-18].

119. As Dr. Taylor shows, North Carolina has not historically attempted to restrain the youth vote for several additional reasons. First, North Carolina ratified the Twenty-Sixth Amendment on June 30, 1971, with twelve states either following or not ratifying the amendment at all. [LDTX125 at p.7]. Indeed, Dr. Taylor credibly testified that North Carolina's role was material to ratification because it was one of the first 38 states to ratify the amendment. When put before Congress that same year, not one member of the North Carolina delegation voted against it. [LDTX125 at p.7]. On cross examination, Plaintiffs attempted to impeach Dr. Taylor with references<sup>18</sup> to failed legislation in the North Carolina legislature to suggest that "North Carolina actually had a history of defeating legislation designed to lower the voting age." [Vol. IV Tr. 2-16]. Dr. Taylor explained that the fact that bills did not pass in 1951 and 1963 to lower the voting age, in and of itself, is not outcome determinative because Dr. Taylor "would look at that in context of other state legislatures as well to see whether they had also defeated legislation or refused to pass legislation like that . . . to be able to make the claim that North Carolina was unusual in that regard." [Vol. IV Tr. 824:6-25]. In fact, Dr. Taylor noted in his report that at the time the Twenty-Sixth Amendment was ratified in 1971, only three states permitted 18-year-olds to vote. [LDTX125 at pp.4-5]. Thus, it is hardly noteworthy that in the 20 years prior to the

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<sup>18</sup> At no time was Dr. Taylor actually given the name of the bills, nor was he ever shown the bill language itself to verify or assess Plaintiffs' representations on these points. Instead, Plaintiffs now request that the court judicially notice these bills [D.E. 183], which Defendants do not oppose so long as Plaintiffs are not offering them to prove their own interpretation of the bills. [D.E. 183 at pp.3-4 (citing *Ohio Valley Envtl. Coal. v. Aracoma Coal Co.*, 556 F.3d 177, 216 (4th Cir. 2009))].

ratification of the Twenty-Sixth Amendment, the North Carolina legislature allegedly twice decided to conform to national practice.

120. Additionally, Dr. Taylor credibly testified that unlike the majority of states, North Carolina's pre-registration process creates an additional opportunity for 16- and 17-year-olds (undisputedly new, first-time voters) to become automatically registered upon reaching the age of 18. [Vol. IV Tr. 806:2-8]. North Carolina is one of just 18 states (along with Washington D.C.) that permits the practice for 16-year-olds. [LDTX125 at p. 11].

121. Next, Dr. Taylor testified that North Carolina's 30-day residency requirement is on par with the federal norm. [Vol. IV Tr. 807:13-808:8]. While federal data shows that young people tend to move more than their older counterparts, Dr. Taylor noted that those students typically move in August or January/February and have time to utilize traditional voter registration methods before considering SDR as a backup. [Vol. IV Tr. 811:22-812:16]. This means that college students are not forced to use SDR. Indeed, college students can use any form of voter registration in North Carolina and are not otherwise limited by the durational residency requirements. [Vol. IV Tr. 811:22-813:5].

122. Lastly, Dr. Taylor testified that North Carolina does accept some college student IDs as permissible forms of voter ID. [Vol. IV Tr. 808:19-24]. Of the 21 states that require voter ID to cast a ballot, 6 of the 21 do not allow college student identifications. Thus, North Carolina is in the majority of states. [Vol. IV Tr. 808:25-809:6].

123. Throughout the cross-examination of Dr. Taylor, Plaintiffs attempted to impeach Dr. Taylor by asking questions about various bills, only by referencing the number, without actually showing Dr. Taylor the legislation. For example, Dr. Taylor was

asked whether he was aware that proposed House Bill 127 “made it illegal for third-party groups to use the State’s voter registration form to organize voter registration drives.” [Vol. IV Tr. 835:14-17]. As Dr. Taylor rightfully noted, bills are not laws and cannot make anything “illegal” until passed. [Vol. IV Tr. 834:12-836:1]. Similarly, even though Dr. Grumbach had just testified before Dr. Taylor that S.B. 824 was the implementing legislation for North Carolina’s voter ID amendment, counsel proceeded to represent that Senate Bill 824 “required a number of more involved requirements to permit student IDs to be used for voting.” [Vol. IV Tr. 832:20-833:10]. Plaintiffs also tried to tie evidence from racial gerrymandering cases to youth disenfranchisement, but Dr. Taylor correctly pointed out that changes in district lines might confuse students as to “which congressional district they were in maybe, but not with regards to how to vote.” [Vol. IV Tr. 833:12-834:4]. Plaintiffs’ errant attempts to impeach Dr. Taylor failed and the cross-examination is given little weight.

124. Furthermore, this Court wholly declines to consider testimony relating to the affirmative representations during cross examination of Dr. Taylor that Dr. Grumbach disaggregated data to show what percentage of North Carolinians who use same-day registration are young voters [Vol. IV Tr. 841:23-842:8], as the record is clear that Dr. Grumbach did no such thing in any of his expert reports, or in the Grumbach & Hill article that his report and trial testimony were largely based on. [Vol. IV Tr. 777:24-778:4; 852:16-20]. Dr. Taylor originally accepted the representation made by counsel as true, which was not fully corrected and contradicted by their own expert, though Dr. Taylor repeatedly stated that did not think that Dr. Grumbach disaggregated data in that way, which speaks

to Dr. Taylor's credibility as a professional and his honesty. On re-direct, Dr. Taylor testified that he did not have a specific recollection of Dr Grumbach disaggregating data to report SDR usage by age in North Carolina. [Vol. IV Tr. 852:16-21]. That testimony is correct, as mere hours earlier, Dr. Grumbach himself testified that he did not perform this analysis. [Vol. IV Tr. 777:25-778:4]

125. The Court credits the testimony of Dr. Taylor and finds that North Carolina has not historically or consistently tried to restrain the youth vote.

## **VII. S.B. 747 Does Not Have a Disparate Impact on Young Voters in North Carolina.**

126. In order to prove that S.B. 747's changes to the UMP disparately impact young voters aged 18-25 in North Carolina, Plaintiffs offered Dr. Kevin Quinn, who the parties stipulated is an expert in political science and political methodology with an emphasis on empirical legal studies and statistical methods for law and social science. [D.E. 174 at ¶4]. Dr. Quinn has a Ph.D in political science from Washington University in St. Louis and is currently a professor of political science at Emory University. [PX213]. Dr. Quinn is not a statistician, and Dr. Quinn admitted that he does not have much experience in disparate impact laws. [Vol. II Tr. 261:16-21]. Despite bearing the burden of proof, Dr. Quinn is the only expert<sup>19</sup> that Plaintiffs offered to prove that S.B. 747 has a

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<sup>19</sup> Dr. Grumbach admitted that his prior "Rock the Registration" study that he authored with Charlotte Hill only analyzed whether SDR states (defined as those with SDR during early voting and/or on Election Day) saw increased turnout of voters ages 18-24 after implementation of SDR compared to non-SDR states. [Vol. IV Tr. 779:7-12]. Dr. Grumbach did not disaggregate the data in his 2022 article down to North Carolina specifically and did not re-run his study for North Carolina voters ages 18-25 to answer the operative question for Plaintiffs' Twenty-Sixth Amendment claim. [Vol. IV Tr. 777:25-778:4; 779:13-780:2].

disparate impact on young voters in North Carolina. However, Dr. Quinn lacks substantial experience in this sort of analysis, and the previous work he did in this field was largely discredited for creating a misleading picture by attempting to turn small differences into a larger issue through mathematical manipulation. *Holmes v. Moore*, 384 N.C. 426, 454, 886 S.E.2d 120, 140-41 (2023). [Vol. II Tr. 262:6-17]. Dr. Quinn's work here is plagued with the same concerns. For example, Dr. Quinn's cumulative SDR totals were largely not confined to SDR registrants and create an overinflated description of the use of SDR by young voters in North Carolina. [PX180 at p.18 (Figure 4); PX180 at p.34 (Figure 10); Vol. II Tr. 273:19-274:12]. Dr. Quinn's analyses provide little value to the Court because Dr. Quinn failed to establish a baseline of failure rates under the pre-S.B. 747 statutory scheme and failed to break any 2024 failure rates down by age specifically. [Vol. V Tr. 904:21-905:8; PX180; PX182]. As such, the Court gives little weight to Dr. Quinn's analysis.

127. In response, Legislative Defendants offered Dr. Paul White, who the parties stipulated is an expert in the field of economic and applied statistical analysis, including disparate impact analysis. [D.E. 174 at ¶7]. Dr. White obtained both a master's degree and his Ph.D. from North Carolina State University in 1993, where he focused on labor economics and healthcare, with a minor in statistics. [Vol. IV Tr. 855:13-23]. Dr. White has decades of experience conducting disparate impact analysis and has testified in over 125 different matters utilizing similar data and analyses to this case.<sup>20</sup> [Vol. IV Tr. 855:24-856:14, 857:1-858:17; LDTX131]. Dr. White explained that disparate impact analyses look

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<sup>20</sup> Plaintiffs did not raise any case where Dr. White's previous testimony or methodologies have been called into question or were not credited by a Court.

at the representation of a particular protected class and compare that to their representation in a group as a whole to determine if there is a statistically significant difference between the two. [Vol. IV Tr. 856:7-14, 861:25-862:25]. For example, Dr. White testified that in the context of a workplace reduction in force, the analysis would look at the protected class at issue in the workforce (for example, older workers) and compare that to their representation of the workers who were actually laid off to see if there was a statistically significant difference between the two. [Vol. IV Tr. 856:7-14, 861:25-862:25]. Dr. White also has experience with disparate impact analyses in fair housing cases and a voting rights case. [Vol. IV Tr. 857:12-25]. Dr. White was an adjunct professor for six years at Florida State University, where he taught graduate courses in applied economics and research design. [Vol. IV Tr. 856:19-25]. Dr. White has spent decades in private practice as a statistician and is presently employed by Resolution Economics. [Vol. IV Tr. 857:1-11]. The Court finds Dr. White highly credible. Dr. White succinctly and credibly explained the statistical tests he employed, his data practices, and how he applied those statistical tests to the data at issue here. [Vol. IV Tr. 861:3-865:1]. Dr. Quinn did not raise concerns about Dr. White's data practices. [See generally PX184]. Moreover, Dr. White's analysis actually answers the relevant question before the Court: namely whether the UMP as altered by S.B. 747 causes a disparate impact on North Carolinians aged 18-25, as compared to the previous statutory scheme. [Vol. IV Tr. 863:10-19]. The Court credits Dr. White's analysis for the reasons further discussed herein.

128. Dr. Quinn and Dr. White's reports and opinions answer different questions. It is important to note at the outset that Dr. Quinn's work in this case suffered from flawed

data practices that call into question the reliability of his analyses. Indeed, Dr. Quinn himself testified that while preparing his rebuttal report to Dr. White's opening report in this case, "it became clear that there were individuals in these files that had sequences of verification steps that he did not think were possible." [Vol. II Tr. 225:8-226:22]. Dr. Quinn realized (only after criticisms from Dr. White) that several assumptions he made in drafting his original reports about the data files received from the State Board during discovery were incorrect, and as a result, he "changed how those files were merged together and deduplicated individuals who were showing up as duplicates prior to that." [Vol. II Tr. 227:8-228:10].

129. A comparison of Dr. Quinn's original opening report to his supplemental report shows drastic changes in numbers. [Vol. II Tr. 229:12-19, 294:9-14, 307:10-14; *Compare* PX180 with PX182]. Moreover, it is clear that Dr. Quinn corrected some, but not all, of his errors in his Supplemental Report. [Vol. V Tr. 918:18-21]. For example, Dr. Quinn's original report found that among individuals who live at high-density addresses (defined as addresses with more than 25 attempted voter registrations), "those who failed the first mailer are approximately 8 times more likely to reside at a college address[.]" [PX180 at ¶26; Vol. II Tr. 294:9-14]. But in his supplemental report, that number halved. [PX182 at ¶14]. Even with this correction, Dr. Quinn's high-density address analyses in both reports are highly suspect and not based on any principled methodologies. Dr. Quinn did not consult any local ordinances or cite any authorities to suggest that his definition of a high-density address ("general addresses that have more than 25 registration records over the 16 years covered in the 2010-2025 data"). [PX180, ¶119; PX182, ¶38; Vol. II Tr.

292:22-293:5]. Moreover, his definition necessarily includes 15 years of people who could have resided at that address, meaning that a two-bedroom single family home, with different students each year, could have met Dr. Quinn's definition of "high density." [PX180, ¶119; PX182, ¶38; Vol. II Tr. 292:13-21]. Not only does this definition lack common sense, but it also fails to support Plaintiffs' theories that multi-dwelling units fail mail verification at a higher rate.

130. Critically, Dr. Quinn's supplemental report updated several key numbers in his conclusions from his original report, further calling into question Dr. Quinn's methodologies and data practices. [Vol. II Tr. 277:25-278:4]. Instead of 60,000 North Carolina voters relying on the second mail verification step to successfully register to vote over the last 15 years [PX180 at ¶150], the supplemental report states it was only 45,000 total voters over the last 15 years [PX182 at ¶43]. The denominator in this calculation also substantially increased, resulting in a significant drop in percentage of those who successfully registered via the second mailer. Critically, Dr. Quinn's original analysis showed the proportion of same-day registrants relying on the second mailer was 55%, but his corrected analysis revealed it is actually 28%. [*Compare* Vol. II Tr. 277:11-276:1; PX180 at ¶102 (60,000 North Carolina voters relying on the second mail verification to successfully register to vote divided by 110,000 total second mailers sent) *with* Vol. II Tr. 278:5-11; PX182 at ¶21 (45,000 North Carolina voters relying on the second mail verification to successfully register to vote divided by 160,000 total second mailers sent)]. This means that the overwhelming majority of people who received the second mailer (115,000/160,000 or 72%) failed mail verification and did not become registered voters.

[*Id.*].<sup>21</sup> Similarly, Dr. Quinn originally reported that “nearly half of the individuals who were verified on a second mailer were youth voters, and, since 2010, the second mailer was responsible for over 26,000 verifications of youth voter registrations [PX180 at ¶152]. But Dr. Quinn’s supplemental report dropped that number to 20,000 verifications of youth voter registrations over the last 15 years, again a low number of cures based on the second mailer across the time period. [PX182 at ¶44].

131. Dr. White also found and credibly testified that Dr. Quinn’s analyses had numerous programming errors, including, but not limited to (1) duplicate records, (2) incorrect designation of age categories, (3) inclusion of some registrants younger than 18, and (4) attributing verifications in his analysis to dates occurring prior to a forwarding date or more than a year after the verification pending date. [Vol. V Tr. 9198:18-920:19; LDTX129, p.4]. Dr. White’s rebuttal report corrected the programming errors in Dr. Quinn’s Table 3, Table 5, Tables 7-12, and Tables 14-19 [Vol. V Tr. 920:20-924:9; LDTX129, pp.15-36 & Appx. V], each corrected number is lower than what Dr. Quinn reported, showing a systematic over-reporting of alleged impact for the vast majority of tables in Dr. Quinn’s opening expert report. [*Compare* LDTX129 at pp.15-36 & Appx. V *with* PX180 at pp.28, 30, 51-52, 54-59 *and* PX182 at pp.7, 9, 11-14].

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<sup>21</sup> Moreover, there is no indication in Dr. Quinn’s report or testimony that these percentages are limited to SDR, providing at best, marginal value to the Court on the data of the mail verification scheme in its entirety. Even if it were, fail rates are consistent with the current election scheme. *See Supra* FOF ¶130.

132. In contrast, Dr. Quinn did not testify to any concerns or issues with Dr. White's data practices or indicate that they were flawed in any way.<sup>22</sup> Dr. Quinn merely noted that he and Dr. White employed different methodologies to answer different questions in this case. [Vol. II Tr. 313:23-314:21].

133. Dr. White's testimony and reports in this case further illustrate the issues with Dr. Quinn's methodologies and data practices, and how the two issues combined create a misleading result. [LDTX129 at pp.1-3]. For example, Dr. White testified that Dr. Quinn did not compare the pre-S.B. 747 time period to the post-S.B. 747 time period to determine whether any trends are actually worse because of S.B. 747 as Plaintiffs claim. [Vol. V Tr. 902:2-11; 904:21-905:8]. In many of Dr. Quinn's tables, including his corrected Tables 7-10, Dr. Quinn calculates verification rates and denial rates by election year and age, but never together. [PX182 at p.7 (Table 7); PX182 at p.9 (Table 8); PX182 at p.11 (Table 9); PX182 at p.12 (Table 10)]. Dr. Quinn had the data to do so, but chose not to report the ultimate finding.

134. When Dr. Quinn does compare age groups, he fails to compare the relevant age band at issue (individuals aged 18-25) to the rest of the population (individuals 26 and over). [PX180 at p.22 (Figure 5); PX180 at p.23 (Figure 6); PX180 at p.27 (Table 1); PX180 at p.27 (Table 2); PX180 at p.28 (Table 3); PX180 at p.29 (Table 4); PX180 at p.30 (Table 5); PX180 at p.31 (Figure 9); PX180 at p.32 (Figure 10); PX180 at p.33 (Table 6); PX182

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<sup>22</sup> Despite originally criticizing Dr. White for purportedly including persons who registered to vote at the DMV during early voting in his analysis [Vol. II Tr. 224:5-15], Dr. Quinn ultimately acknowledged on cross examination that those registrants were not, in fact, in Dr. White's analysis because they would not have been eligible to vote in that election. [Vol. II Tr. 264:15-265:2].

at p.11 (Table 9); PX182 at p.12 (Table 10); PX182 at p.13 (Table 11); PX182 at p.14 (Table 12); PX182 at p.16 (Table 13); PX180 at p.51 (Table 14); PX180 at p.52 (Table 15)]. These age bins over age 25, bins 26-35, 36-45, 46-55, 56-65, and 66 and older are arbitrary. [PX180 at p.21]. Dr. Quinn admitted that he used six bins for his age categories, while the State Board uses four age bins to report voter demographics.<sup>23</sup> [Vol. II Tr. 279:8-16]. Moreover, by splitting the over-25 population up into 10-year age-bands Dr. Quinn creates misleading comparisons. Dr. Quinn claimed to implement these age-bands to make comparison “easier,” and criticized Dr. White’s dichotomous approach as coarse and “providing less information.” [Vol. II Tr. 213:1-214:11]. But in fact, breaking down his analysis by age obfuscated the ultimate question of whether voters under age 26 faced statistically significant outcomes compared to voters aged 26 and older. [Vol. V Tr. 903:20-904:6].

135. There are also concerns with Dr. Quinn’s methods for calculating age and for assigning voters to different age bins. Dr. Quinn’s opening report claimed to calculate age “as the year of an election minus year of birth” for all tables. [PX180 at p.21]. However, Dr. Quinn admitted that this was a typo that was not corrected in his supplemental report, and that his method for reporting the age of a voter is not uniform across different sections of his reports. [Vol. II Tr. 280:23-282:6]. However, Dr. Quinn testified that when he actually calculated age, he used year of birth minus election dates. [Vol. II Tr. 288:16-23]. This means that a voter born on January 1, 2006 is treated as the same age as someone born on

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<sup>23</sup> The State Board uses only four ranges: 18-25, 26-40, 41-65, and 66 and older. [PX180 at p.21].

December 31, 2006, which is importantly problematic because the first would be eligible to vote at the time of the November 2024 election and the second would not. [Vol. II Tr. 290:1-11]. Perhaps most puzzling, Dr. Quinn does not dispute that the data produced by the State Board had birth month and year available. [Vol. II Tr. 289:12-14]. In contrast, Dr. White calculated age using the birthday month data and assumed a birth date of the 15th of the month for maximum accuracy. [Vol. IV Tr. 875:19-876:5]. By refusing to use the birth month data, Dr. Quinn created age values riddled with up to a years' worth of error. [Vol. II Tr. 289:1-4] Moreover, for any pre-existing individuals with missing or obviously incorrect age data in the data provided, all "under 26" age bin numbers, Dr. Quinn nearly uniformly applied those individuals to the under 26 bin, creating potential data bias. [Vol. II Tr. 282:18-283:12; Vol. V Tr. 919:13-20].

136. This is not the first time Dr. Quinn's data practices and methodologies have been scrutinized by a court. Dr. Quinn testified and provided expert reports in the state-level voter ID case *Holmes v. Moore* and admitted that he understood the North Carolina Supreme Court had issues with his analysis. *Holmes v. Moore*, 384 N.C. 426, 454, 482, 886 S.E.2d 120, 140-41, 158 (2023). [Vol. II Tr. 262:6-22]. Dr. Quinn testified in this case that he understood the *Holmes* court's "issue was much more about the data issues and less about [his] methodology." [Vol. II Tr. 261:23-262:22]. But Dr. Quinn's understanding is demonstrably false. The North Carolina Supreme Court found Dr. Quinn's analysis "highly misleading" because he engaged in "manipulation of mathematical concepts" that "turn[ed] a difference 'small in absolute terms'" (there, a 2.14% difference) into "a distorted picture by dividing one percentage by another." *Holmes*, 384 N.C. at 454, 886 S.E.2d at 140-41.

Dr. Quinn employed the same mathematical manipulation to produce a highly misleading result in this case, making a small difference in absolute terms, look large.

137. Dr. Quinn first did this through his refusal to control, at any point, for the relevant population in this case. Plaintiffs only challenge mail verification as it pertains to SDR. [D.E. 1 at ¶73]. But hardly any of Dr. Quinn's analysis is limited to SDR. Nearly every figure or table he reported included data from all forms of voter registration or from voters who received a forwardable verification card. [PX180 at p.11 (Figure 1); Vol. II Tr. 267:21-24; PX180 at p.12 (Figure 2); PX180 at p.22 (Figure 5); Vol. II Tr. 283:24-25; PX180 at p.23 (Figure 6); Vol. II Tr. 284:11-12; PX180 at p.24 (Figure 7); Vol. II Tr. 285:19-20; PX180 at p.25 (Figure 8); PX180 at p.27 (Table 1); Vol. II Tr. 279:21-25; PX180 at p.27 (Table 2); PX182 at p.7 (Table 7); Vol. II Tr. 290:5-12; PX182 at p.9 (Table 8); Vol. II Tr. 290:24-291:9; PX182 at p.11 (Table 9), PX182 at p.12 (Table 10); PX182 at p.13 (Table 11); PX182 at p.14 (Table 12); PX182 at p.16 (Table 13)].

138. Dr. Quinn's choice to focus the majority of his report on mail verification occurring for all voter registration, and the inclusion of confirmation mailers which occur via forwardable mail is puzzling at best. First, Dr. Quinn acknowledged that he understood that mail verification occurred for both regular and same-day registrants, and that SDR is only available during the 17 day early voting period in North Carolina. [Vol II Tr. 263:18-264:14, 265:13]. In his opening expert report, Dr. Quinn made no attempt to limit his findings on mail verification failure rates to the relevant population of registrants who use same day registration during the early voting period pre-S.B. 747. [Vol. II Tr. 267:21-24, 273:19-274:7, 279:21-25, 283:24-25, 284:11-12, 285:19-20, 290:5-8, 290:24-291:5, 292:3-

4]. Second, while Dr. Quinn acknowledged that mail verification in general occurs by non-forwardable mail, and that the National Voting Rights Act (NVRA) uses confirmation mailers with forwarded mail, Dr. Quinn included forwarded mail in his analysis. [Vol. II Tr. 264:9-14, 265:4-13, 290:9-12, 291:6-9; PX182 at p.7 (Table 7); PX182at p.9 (Table 8); PX182 at p.11 (Table 9); PX182 at p.12 (Table 10); PX192 at p.13 (Table 11); PX182 at p.14 (Table 12); PX182 at p.16 (Table 13)]. Forwarded mail tells the Court nothing about SDR, which requires non-forwardable mail. [Vol. II 264:9-14; 265:4-8].

139. Moreover, although Dr. Quinn's Figures 4 and 10 purport to present data based on votes by same-day registrants, the reported numbers are misleading because they are cumulative. [PX180 at p.18 (Figure 4); PX180 at p.34 (Figure 10)]. In other words, they include voters who used SDR to register either at the election in question or at a prior election, and thus the figures capture voters who subsequently registered via other methods. (Vol. II Tr. 273:19-274:12; PX180). This does not tell the Court anything about SDR rates per election and creates a misleading picture of SDR rates over time.

140. Moreover, Dr. Quinn's data on early voting and SDR usage over time illustrates the cumulative effect of Dr. Quinn's data bias. In reality, the universe of same-day registrants, regardless of age, continues to be extraordinarily small. Comparing the number of same-day registrants who successfully registered to vote and voted on the same day between the 2016 November presidential election and 2024 November presidential election, reflects an increase of approximately 30,000 SDR voters. [PX180 at p.16 (Figure 3) & ¶51; Vol. II Tr. 271:4-11]. In proportion to the total votes cast in both elections, SDR voters were approximately 2% in 2016 and 2.2% in 2024. [PX180 at p.16 (Figure 3);

PX180 at p.18 (Figure 4); PX180 at ¶17; Vol. II Tr. 271:17-272:24]. A 0.2% increase in SDR usage over time is not a meaningful difference. But 2.2% is not what Quinn reported in Figure 4. Instead, he reports approximately 6% in 2024 because he considered status as a same-day registrant as cumulative—meaning the figure shows votes cast by voters in a given election who registered via SDR in that election or in an earlier election. [PX180 at p.17]. Furthermore, these numbers are merely descriptive, and do not account for variations in the number of early voting days in certain years.

141. Nor is the Court persuaded by Plaintiffs' claims that Dr. Quinn's descriptive statistics create an appropriate baseline. First as Dr. White testified, descriptive statistics is not an acceptable statistical technique for calculating disparate impact. [Vol. V Tr. 901:5-15]. But even Dr. Quinn's descriptive methods fail to prove that young people disproportionately use SDR in North Carolina. Dr. Quinn reports that approximately 30-40% of all same-day registrants are under the age of 26 [PX180 at p.30]. This means that between 60-70% of same-day registrants are ages 26 and older. By breaking up the relevant non-suspect class into smaller classes, Dr. Quinn makes the younger class look disadvantaged when it is not.

142. An example of this is found by aggregating the data Dr. Quinn reported in his Table 1, which shows that in reality, the total votes cast by young voters during early voting is merely a fraction of the overall total early voting votes cast from 2014 through 2024. [PX180 at p. 27; Vol. II Tr. 279-80]. Dr. Quinn's data on voter registration shows that young voters register at similar rates to other ages. [PX180, Figure 6, p.23; Vol II Tr. 284:13-285:8]. For example, Dr. Quinn's Figure 6 shows that the age bins 36-45 and 46-

55 converge around 15% of all registrants in each age group who registered and voted in the 2024 general election, while the under 26 category (the smallest in terms of number of years in the age bin) is at 13.36%. This difference of 1.64% is miniscule, and is an example of “exactly the kind of ‘highly misleading’ statistical transformation the Supreme Court of the United States has expressly disavowed.” *Holmes*, 384 N.C. at 454, 886 S.E.2d at 140-41. [PX180, Figure 6, p.23; Vol II Tr. 284:13-285:8].

143. Only Tables 14-18 in Dr. Quinn’s opening report, regarding the notice and cure data, actually limit the relevant population to SDR. [Vol. V. Tr. 904:21-905:8]. Dr. Quinn failed to report a single SDR specific figure or table studying the pre-S.B. 747 statutory scheme. [PX180; PX182]. As such, Dr. Quinn fails to establish a credible baseline to compare pre-and post-S.B. 747. Again, Plaintiffs have the burden of proof to show that the change in the UMP from S.B. 747 disproportionately impacts their defined class of young voters. Plaintiffs’ failure to adduce any evidence regarding the rates of failure specifically for SDR specific mail verification by age dooms their claims.

144. Only Legislative Defendants’ expert, Dr. White, answered the relevant question to Plaintiffs’ Twenty-Sixth Amendment claim: Whether the change from a two-mailer verification system to a one-mailer verification, as described in §10.(a) of S.B. 747, would have a disparate impact on young voters in North Carolina.

145. As Dr. White explained, a disparate impact analysis generally compares what is actually happening in the data to what would be expected to happen under a neutral process. [Vol. IV Tr. 861:25-862:6]. Relevant here, Dr. White’s first report looked at the data pre-S.B. 747 and post-S.B. 747 to see if the denial rates for younger voters are different

from older voters, and whether that difference between the two periods is statistically significant. [Vol. IV Tr. 863:10-19]. Dr. White credibly defines statistical significance as a way of testing to see if the differences between actual and expected outcomes is large enough to be considered not consistent with random chance. [Vol IV Tr. 866:20-24].

146. Dr. White began his analysis by defining the pertinent pool of persons for his comparison of the pre- and post-S.B. 747 periods. [Vol. IV Tr. 865:7-23]. Dr. White chose to exclude duplicates and remove records that were never sent a first mailing during the early voting period or who were never sent a second mailing. [Vol. IV 872:21-874:6]. Dr. White testified that he made these choices to limit the operative pool of registration records because Section 10.(a) of S.B. 747 removes only the second mailing and, therefore, would not have impacted persons who were verified on the first mailing from 2016 to 2024. [LDTX128 at p.10; Vol. IV Tr. 870:2-10].

147. After defining the relevant pool of registration applications, Dr. White conducted his statistical analysis of denial rates by age using the Fisher's Exact Test and the Mantel-Haenszel method for aggregation—both statistical tools commonly used and accepted for analyzing claims of disparate impact. [Vol. IV Tr. 863:20-24; PX128 at p.10]. Dr. White's analysis showed that across the 10 elections studied, when aggregating all election dates across all counties in North Carolina, there was no statistical significance in the difference between the actual and expected numbers of denials among registrants ages 18-25 who were sent the second mailing. [LDTX129, pp.10-12].

148. Dr. White also determined that when aggregating all counties within each election date, only two elections had statistically significant results, as shown by Appendix F to Dr. White’s opening report:

**By Election Across All Counties**

Age Comparison	Election	# Younger Group Pool	# Older Group Pool	# Younger Group Denied	# Older Group Denied	Younger Group Denied Rate	Older Group Denied Rate	Expected	Difference	2-Tailed Probability	Significant	Adverse To
Age 18-25 v 26+	3/15/2016	227	155	17	3	7.49%	1.94%	13.96	3.04	3.56%	Yes	26+
Age 18-25 v 26+	11/8/2016	726	1,095	35	58	4.82%	5.30%	29.12	5.88	16.72%	No	
Age 18-25 v 26+	5/8/2018	85	117	18	25	21.18%	21.37%	17.05	0.95	81.60%	No	
Age 18-25 v 26+	11/6/2018	443	535	96	101	21.67%	18.88%	87.92	8.08	11.92%	No	
Age 18-25 v 26+	3/3/2020	301	260	8	6	2.66%	2.31%	7.53	0.47	100.00%	No	
Age 18-25 v 26+	11/3/2020	302	673	15	52	4.97%	7.73%	22.97	-7.97	2.07%	Yes	18-25
Age 18-25 v 26+	5/17/2022	71	94	15	16	21.13%	17.02%	15.63	-0.63	80.42%	No	
Age 18-25 v 26+	11/8/2022	210	292	9	29	4.29%	9.93%	11.25	-2.25	34.50%	No	
Age 18-25 v 26+	3/5/2024	92	122	7	9	7.61%	7.38%	5.59	1.41	45.67%	No	
Age 18-25 v 26+	11/5/2024	614	742	54	62	8.79%	8.36%	47.66	6.34	14.06%	No	

[LDTX128 at p.91]. Dr. White explained that the “Expected” column represents the number of younger group denials after the second card that would have been expected to occur given their representation in the pool of younger voters. [Vol. IV Tr. 879:15-19]. For example, in the March 15, 2016 election, Dr. White expected to see approximately 14 denied registrations for those 18-25. [Vol. IV Tr. 879:20-22]. Compared to the 17 voters aged 18-25 that were actually denied after the second card in the fifth column, there’s a difference of 3.04—meaning there were three more denials after the second mailer for voters ages 18-25 than expected. [Vol. IV Tr. 879:22-8801:1]. That result was statistically significant. [Vol. IV Tr. 880:2-6; Vol. V Tr. 897:6-17]. The only other statistically significant result was for the 2020 general election, where the expected number of denied registrations after the second mailer for those 18-25 was approximately 23, but the actual number was 15—a difference of approximately 7.97 fewer denials after the second mailer than expected for 18–25-year-olds. [Vol. V Tr. 897:6-21]. No other elections were statistically significant or adverse to 18-25 year olds.

149. Moreover, Dr. White's analysis showed that prior to S.B. 747 the denial rate for same-day registrants ages 18-25 on the second verification mailer fluctuated and were not consistently higher or lower than non-youth denial rates, spanning a range of 2.66% to 21.67%. [Vol. V Tr. 895:23-896:4].

150. The Court finds Dr. White's testimony and reports provide a persuasive and credible baseline to establish failure rates for same day registrants under the statutory scheme in place before S.B. 747 took effect.

**VII. The Notice and Cure Process in Place for the 2024 Primary & General Elections Did Not Disparately Impact Young Voters in North Carolina.**

151. As described *supra* section IV(B), S.B. 747's change to a one-mailer verification system for same-day registrants included a notice-and-cure-process for the 2024 primary and general elections. Though 2024 was the first year that the notice and cure were in place, Dr. Quinn and Dr. White's analyses confirmed that turnout for young voters under the age of 26 actually increased in the 2024 general election in North Carolina compared to the 2020 general election. [Vol. II Tr. 285:21-25].

152. Indeed, Dr. Quinn's Figure 7 shows that more voters under the age of 26 turned out to vote in the 2024 general election than the 2020 general election in North Carolina. [Vol. II Tr. 285:21-25; PX180 at p.24 (Figure 7)]. However, in contrast to Plaintiffs attempts to show that young voters primarily and disproportionately use SDR to register and vote, Dr. Quinn's Table 3 also reveals that young SDR votes represented only 42,000 votes in the November 2024 election. [Vol. II Tr. 286:2-6; PX180 at p.28 (Table 3);

PX180 at ¶91]. This was only approximately 0.7% of the total votes in the November 2024 general election. [Vol. II Tr. 286:11-287:25].

153. Across both the 2024 primary and general elections, between 1,133 to 1,157<sup>24</sup> same-day registrants of all ages ultimately did not have their ballot counted. [JX062; D.E. 156-4, 35:25-36:4, 36:8-13]. Regardless of which number is used as the numerator (1,133 found in Dr. Quinn's Tables 16 or 18, or 1,157 found in Dr. White's Table 1), this equates to a total fail rate of approximately 0.84 or 0.85 % (using 136,420 as the denominator from Dr. Quinn's Tables 16 & 18) [PX180 at pp.54, 56; LDTX129 at p.40]. This is less than the SDR denial rate for each of the preceding general elections since 2016 utilizing the two-mailer system. [JX031; Vol. II Tr. 305:24-306:6].

154. But of course, the calculations in the paragraph above include all ages. Only Dr. White's analysis breaks these denials down by age and calculates statistical significance. Table 1 of Dr. White's Rebuttal report, below, reveals these numbers. [LDTX129 at p.40]. As shown by Table 1 below, the expected number of same-day registrants ages 18-25 with a successful outcome was 142.52 registrants, but the actual number of successful outcomes was 161<sup>25</sup> registrants:

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<sup>24</sup> These numbers are calculated from Tables 16 and 18 in Dr. Quinn's report [PX180 at pp. 54 & 56 (1,133 = (639+953) Total -459)] and Table 1 in Dr. White's Rebuttal Report (639+953) Total – (161+274) [LDTX129 at p.40]. The difference between the two numbers (approximately 22 ballots) is largely because of inconsistencies in coding by individual counties that Dr. Quinn and Dr. White treated in different ways. Notably, despite Plaintiffs attempted criticisms of Dr. White on cross examination regarding the way he chose to limit SDR relevant records as under-inclusive, Dr. White's numbers are the higher of the two. This strongly undermines any claim that Dr. White's SDR limiters resulted in an underinclusive data pool, but if it did, it shows that Dr. Quinn's data pool was even more flawed.

<sup>25</sup> This number includes same-day registrants for whom the county boards sent out the first mailing again because they identified an error in the address after the first mailer was returned. Including

**Table 1. Overall Age 18-25 Statistically Significant Outcomes for ‘Started New Mailing’ or ‘Started New Mailing or Verified - SDR Cure’**

Successful Outcome	Comparison Groups	# Younger Group Pool	# Older Group Pool	# Younger Group Successful Outcome	# Older Group Successful Outcome	Younger Group Successful Outcome Rate	Older Group Successful Outcome Rate	Expected	Difference	2-Tailed Probability	Significant
Started New Mailing	Age 18-25 v 26+	639	953	85	87	13.3%	9.1%	69.81	15.19	0.05%	Yes
Started New Mailing or Verified - SDR Cure	Age 18-25 v 26+	639	953	161	274	25.2%	28.8%	142.52	18.48	0.34%	Yes

[LDTX129 at p.40]. This means that 18.48 more same-day registrants ages 18-25 completed the notice and cure process than expected. This means that the notice and cure actually had a statistically significant **positive** outcome for voters aged 18-25. [Vol. V Tr. 930:19-22

155. Moreover, even with the potential errors in his data set, Dr. Quinn’s own numbers reaffirm that these rates are within the norm for the pre-747 scheme for all age ranges. As noted above, Dr. Quinn’s data shows that approximately 72% of people who received a second mail card (i.e. they failed the first mail card) in all age ranges were failing mail verification in the pre-S.B. 757 election scheme.<sup>26</sup> Here, it is apparent that the fail rate among those who also failed the first mail card, and then had the notice and cure applied in 2024, ranges from 71.2-74.8%. This is well within the range of failure rates of the second mail card in the pre-S.B. 747 statutory scheme (72%, *see* FOF ¶130). Indeed, there is simply

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this category—“Started New Mailing”—as a successful outcome is appropriate because it almost always leads to the counting of a ballot because it starts the notice and cure process all over again, and counts the ballot, when the new mailing is sent out. [Vol. IV Tr. 688:12-689:12; Vol. V Tr. 927:5-22].

<sup>26</sup> It appears these figures are not limited to SDR, but even if they were, the failure rates are clearly comparable.

no evidence that S.B. 747 creates a disparate impact on any class of voter, much less Plaintiffs' defined younger voters.

156. In sum, Dr. Quinn's claims that despite the increased turnout in 2024, the notice and cure process implemented in the 2024 primary and general elections was broadly ineffective, and was especially ineffective for youth voters, is contradicted by the data. Nor could this conclusion be reached because Dr. Quinn's report failed to include any fail rates broken down by age or election. Without this ability to compare, fail rates by age or election, let alone determine statistical significance before and after enactment of the UMP, Plaintiffs' expert analyses have no practical application to Plaintiffs' claims in this case and not helpful in determining whether the change in the law itself actually caused any harm to young voters.<sup>27</sup> In contrast, Dr. White not only reported rates broken down by age and election, he conducted tests of disparate impact and statistical significance, affirmatively disproving Plaintiffs' entire theory of the case.

157. Furthermore, Plaintiffs' claims of purported harm or an undue burden on young voters falls flat in light of the utter absence of testimony offering evidence of the experience from student voters themselves impacted by S.B. 747. Indeed, discovery was extended in this case and closed on April 4, 2025 [D.E. 106], but "Plaintiffs neither sought to preserve the testimony of their seven fact witnesses nor, apparently, confirmed their continued availability." [D.E. 180 at p.4]. This Court concluded that the belated disclosure

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<sup>27</sup> Though Dr. Grumbach claimed that North Carolina's form of SDR was more restrictive and is more likely to disenfranchise young voters, Dr. Grumbach admitted that he did not actually conduct any analysis to back up those opinions in this case. [Vol. IV Tr. 749:25-750:5].

of one purported voter, Jamiee Suwalkowski, was not substantially justified and excluded her testimony.

158. Plaintiffs proffered the testimony of Suwalkowski as purported “impeachment” testimony of deposition designations submitted in this case for the New Hanover County Board of Elections. But Plaintiffs failed to offer any case law in support of their position that a live witness can be produced at trial to impeach the credibility of witnesses who testified via deposition. Moreover, the testimony offered by Suwalkowski is not proper impeachment, because the questions asked of her do not align with the questions and answers designated from the deposition of Director Hunter-Havens. Moreover, Director Hunter-Havens was not available to confront this alleged impeachment evidence or offer an explanation due to the agreement between the parties to have her testify via deposition before Plaintiffs disclosed Suwalkowski as a potential witness. Plaintiffs’ attempt to shoehorn a fact witness in to support their case in chief under the guise of impeachment is inappropriate and contrary to the Rules of Evidence and precedent of this Court. The Court therefore finds the testimony of Suwalkowski was not proper impeachment evidence and declines to reconsider its exclusion.

159. In sum, Plaintiffs failed to present evidence to meet their burden under either of their remaining claims in this case.

## CONCLUSIONS OF LAW<sup>28</sup>

### **I. Introduction.**

1. The Court held a five-day bench trial in this matter beginning on October 20, 2025. [Minute Entry, July 22, 2025]. During this time, the Court received evidence from the parties concerning Plaintiffs' two remaining claims—first, whether the UMP of S.B. 747, as modified by the Consent Judgment, constitutes an undue burden on the right to vote in violation of the First and Fourteenth Amendments to the federal Constitution (hereinafter, the “Undue Burden Claim”); and second, whether the UMP of S.B. 747 was passed with discriminatory intent in violation of the Twenty-Sixth Amendment to the federal Constitution (hereinafter, the “Twenty-Sixth Amendment Claim”). [D.E. 133].

2. The parties agree that the “*Anderson-Burdick*” framework (*Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*, 504 U.S. 428 (1992)) govern the Undue Burden Claim. Applying the *Anderson-Burdick* framework requires the Court to balance the severity of the burden the operative challenged regulatory scheme places on the right to vote against the strength of the State’s interests in imposing the burden. *Burdick*, 504 U.S. at 434.

3. As noted by this Court throughout this litigation, the parties disagree about whether *Anderson-Burdick* or the “*Arlington Heights*” standard articulated in *Village of Arlington Heights v. Metropolitan Housing Development Corporation*, 429 U.S. 252

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<sup>28</sup> To the extent that any findings of fact set forth above are deemed to be conclusions of law, or to the extent that any of the conclusions are law are deemed to be findings of fact, the same shall be deemed conclusions of law or findings of fact, as the case may be.

(1977), governs the Twenty-Sixth Amendment Claim. [D.E. 63; D.E. 149 at p.6]. Specifically, Plaintiffs contend that their Twenty-Sixth Amendment Claim should be reviewed under *Arlington Heights*, while Defendants maintain that the same *Anderson-Burdick* standard should apply. If *Arlington Heights* applies to the Twenty-Sixth Amendment Claim, Plaintiffs would be required to demonstrate that a “discriminatory intent or purpose” was a “motivating factor” that led to the UMP’s enactment. *Arlington Heights*, 429 U.S. at 265.

4. Considering the purpose, text, and tradition of both standards, it is clear that *Anderson-Burdick* should control the Court’s analysis of both claims. Compare *N. Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204, 235 (4th Cir. 2016) with *Voto Latino v. Hirsch*, 712 F. Supp. 3d 637, 665 (M.D.N.C. 2024). However, regardless of the standard applied, Plaintiffs failed to carry their burden of proof.

5. But, even if this Court were to instead apply *Arlington Heights* to Plaintiffs’ Twenty-Sixth Amendment Claim, Plaintiffs still failed to meet their evidentiary burden at trial. Specifically, with no direct evidence that any members of the General Assembly sought to discriminate against young voters, Plaintiffs alleged that private citizens and advocacy organizations that espouse views Plaintiffs labeled as discriminatory against young voters influenced the UMP. It is important to note that while the third parties presented at trial evoked strongly held personal political views, this Court is not the forum to resolve whether those personal political views have merit. This Court’s jurisdiction is limited to addressing the legal challenges raised based on the evidence presented to the Court.

6. Turning to the *Arlington Heights* factors, Plaintiffs failed to prove that the UMP had a disparate impact on young voters in North Carolina, and Plaintiffs failed to show that North Carolina has consistently or historically attempted to restrain the youth vote. *See Arlington Heights*, 429 U.S. at 266–68. Likewise, Plaintiffs failed to identify credible evidence of a flawed or tainted legislative process leading to the enactment of the UMP. *Id.* Instead, Plaintiffs attempted to establish liability based on little more than conjecture, coupled with a selective offering of past legislation and third-party wishes which never became law. In both form and function, this is a request to penalize the General Assembly “because of who they were, instead of what they did.” *N. Carolina State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 304 (4th Cir. 2020) (declining to impute a prior legislature’s actions/words on the current legislature). The Supreme Court has squarely rejected the “cat’s paw” theory of liability as to legislative bodies because “legislators have a duty to exercise their judgment and to represent their constituents.” *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 689 (2021). Indeed, “[i]t is insulting to suggest that [legislators] are mere dupes or tools.” *Id.* at 689-90. Plaintiffs cannot substitute speculation for their burden of proof.

7. Evidence at trial confirmed that North Carolina has a multifaceted, comprehensive system for voter registration. Qualified individuals enjoy numerous avenues and opportunities to register to vote, both through Traditional Registration Methods and SDR during early voting, regardless of age. *See* FOF ¶¶1-16. Indeed, most states do not have SDR. [LDTX125 at p.16].

8. After careful consideration, the Court declines to find that the UMP is either an unconstitutional burden on the right to vote or that its passage violated the Twenty-Sixth Amendment. Accordingly, judgment in Defendants' favor on all remaining claims is proper.

## II. Applicable Legal Framework.

9. The Constitution endows states with the authority to regulate their own elections. *Anderson*, 460 U.S. at 788; *Burdick*, 504 U.S. at 433 (“Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections.”). Pursuant to this delegation, the Supreme Court routinely affirms a State’s chosen electoral scheme, even accepting that it may “inevitably affect[]—at least to some degree—the individual’s right to vote and his right to associate with others for political ends.” *Anderson*, 460 U.S. at 788. “Nevertheless, the state’s important regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions.” *Id.*

10. When asked to examine the alleged motivations behind a statute’s inception or its effect, courts “*must* afford the state legislature a presumption of good faith.” *Raymond*, 981 F.3d at 303 (citing *Abbott v. Perez*, 585 U.S. 579, 603 (2018)) (emphasis in original); *McGowan*, 366 U.S. at 425-26. Imputing bad faith upon a current legislature because of its predecessors’ actions ignores this directive, as “a legislature’s past acts do not condemn the acts of a later legislature[.]” *Raymond*, 981 F.3d at 298.

11. Similarly, it is well-settled that the personal views of a few legislators or third parties do not necessarily constitute the beliefs of the entire body. *See id.* at 307; *Cuyahoga Falls v. Buckeye Cmty. Hope Found.*, 538 U.S. 188, 195-96 (2003). This is especially true

when those views do not become law. *S.C. Educ. Ass'n v. Campbell*, 883 F.2d 1251, 1261-62 (4th Cir. 1989) (collecting cases).

12. At base, legislators are entitled to consider public input, *see* FOF ¶17, especially of constituents, without being deemed to endorse every alleged motivation behind it. Constitutional scrutiny focuses on governmental purpose—not the personal beliefs of some unelected advocates. *Cuyahoga Falls*, 538 U.S. at 195-96.

### **III. Plaintiffs' Undue Burden Claim Fails Under *Anderson-Burdick*.**

13. Under the *Anderson-Burdick* framework, heightened scrutiny applies only when a law imposes a severe burden on voting rights, in which case the law must be “narrowly drawn to advance a state interest of compelling importance.” *Burdick*, 504 U.S. at 434. In contrast, a non-discriminatory, globally applicable law will be upheld if justified by important state interests. *Libertarian Party of Va. v. Alcorn*, 826 F.3d 708, 716-17 (4th Cir. 2016).

14. *Anderson* clarifies that challenges to a state's election laws are not subject to a “litmus-paper test.” 460 U.S. at 789 (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)). Instead, a trial court must balance the burden of the law and its accompanying justifications:

“[A] court must resolve such a challenge by an analytical process that parallels its work in ordinary litigation. It must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those

interests; it also must consider the extent to which those interests make it necessary to burden the plaintiff's rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional.”

*Id.* (collecting cases). Following *Anderson*, the Supreme Court clarified that, although the right to vote is fundamental, a state's election laws are not typically subject to strict scrutiny. *Burdick*, 504 U.S. at 433.

15. Building off *Anderson*, the *Burdick* Court explained “the rigorousness of our inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens First and Fourteenth Amendment rights.” *Id.* at 434. If a restriction or regulation is “severe,” it must be “narrowly drawn to advance a state interest of compelling importance.” *Id.* (citation omitted), *see also* Section II(a) *infra*. In contrast, a non-discriminatory, globally applicable election law will be upheld when supported by a State's “important regulatory interests” in the regulation. *Id.* (citation omitted).

16. “The requirement that states articulate their asserted regulatory interests is not a high bar.” *Buscemi v. Bell*, 964 F.3d 252, 265 (4th Cir. 2020) (quotations and citation omitted). And in reviewing a challenged scheme, the trial court must look at the state's entire electoral system, not simply the provision in isolation. *See Luft v. Evers*, 963 F.3d 665, 671-72 (7th Cir. 2020) (citing *Burdick*, 504 U.S. at 433-34); *Pisano v. Strach*, 743 F.3d 927, 933 (4th Cir. 2014).

17. In summary, the driving consideration of *Anderson-Burdick* is not a one-size-fits-all approach. *See Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 359 (1997). Rather, it is incumbent upon the trial court to make “hard judgments,” weighing the facts

and evidence presented. *See Crawford v. Marion Cnty. Bd. of Elections*, 553 U.S. 181, 190 (2008).

18. Based upon the evidence presented, coupled with well-established precedent, the Court concludes that the UMP is not an unconstitutional burden on the right to vote—it is not a severe burden warranting strict scrutiny, and it is supported by legitimate and long-recognized state interests in electoral administration. As a result, Plaintiffs fail to carry their burden of proof on their Undue Burden Claim for the reasons stated below.

**A. The UMP and Cure Do Not Impose a Severe Burden on the Right to Vote in North Carolina.**

19. The first consideration required of *Anderson-Burdick* is an analysis of “the character and magnitude of the asserted injury to the [protected] rights . . . the plaintiffs seek to vindicate.” *Anderson*, 460 U.S. at 789. This initial inquiry requires an examination and determination as to the asserted burden’s severity or, in this case, lack thereof. *See Alcorn*, 826 F.3d at 713.

20. Both the evidence and precedent instruct that the character and magnitude of any burden created by the UMP is far from severe, rather it is, at most, a fairly modest burden that is due to a registrant’s chosen method of registration. This is not enough to conclude that the statute is an unconstitutional burden. *Crawford*, 553 U.S. at 197.

21. Plaintiffs did not establish that the UMP is a “severe” burden on the right to vote. As a result, they did not trigger the limited use of strict scrutiny which courts are rightly hesitant to apply. *See Burdick*, 504 U.S. at 432-33; *see also McDonald v. Bd. of Election Comm’rs of Chicago*, 394 U.S. 802, 807-08 (finding that there is no constitutional

right to vote by absentee ballot and examining Illinois' absentee voting system before concluding that it is designed to promote alternative poll access, not deny the exercise of the right to vote).

22. Although *Anderson-Burdick* rejects a “litmus-paper test” approach for measuring the degree of a statute’s burden, precedent has fleshed out an analytical framework with important guideposts, distinguishing the rare “severe” burdens commanding strict scrutiny and narrow tailoring, versus those which are merely a modest burden, supported by important regulatory interests. *Burdick*, 504 U.S. at 434.

23. Both the Supreme Court and the Fourth Circuit carefully and intentionally limit what burdens are “severe” and warrant strict scrutiny. *See Crawford*, 553 U.S. at 189-91; *see also Democracy N. Carolina v. N. Carolina State Bd. of Elections*, 476 F. Supp. 3d 158, 213 (M.D.N.C. 2020) (surveying cases). While the Supreme Court in *Crawford* clarified that there is no set rule for measuring severity, the Court added that the focus is on parity between the state’s justifications and the nature of the burden imposed. 553 U.S. at 189-91.

24. Yet even in largely deferring to the trial court’s judgment, *Crawford* noted that election regulations which are “irrelevant to [a] voter’s qualifications”<sup>29</sup> may be subject to strict scrutiny, while also confirming the “general rule that even handed restrictions that protect the integrity and reliability of the electoral process itself are not invidious.” *Id.* at

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<sup>29</sup> Election regulations that are irrelevant to a voter’s “qualifications” are not the same as the North Carolina statutory definition of what makes a voter “qualified.” For example, in *Harper v. Virginia Bd. of Elections*, 383 U.S. 663, 670 (1966), the regulation irrelevant to voter “qualifications” was a Virginia poll tax law.

189-90 (internal citations omitted). *See also Voto Latino*, 712 F. Supp. 3d at 668 (“Such ‘severe’ burdens are generally ‘invidiously’ discriminatory and may be ‘irrelevant to the voter’s qualifications.’”) (citation omitted).

25. Here, no party challenges the accepted fact that in order to cast a ballot in North Carolina, a person must be registered to vote. N.C. Const. art. VI, § 3(1). The UMP, by its very nature, is a method for confirming the address the applicant provides on the application form. N.C. Gen. Stat. § 163-82.7. This is not like the cases where the challenged regulation is “irrelevant to the voter’s qualifications.” *See Crawford*, 533 U.S. at 189-90 (citing *Harper v. Virginia Bd. of Elections*, 383 U.S. 663, 670 (1966)).

26. Additional case law has developed further guidance on what types of burdens are “severe” such that they warrant strict scrutiny. In *Greidinger v. Davis*, for example, the Fourth Circuit determined that a Virginia statute forcing a registrant to disclose their full social security number in order to register to vote and then allowing public access to voter records including social security numbers, was a severe burden on the right to vote. 988 F.2d 1344, 1354-55 (4th Cir. 1993). Critical to the Fourth Circuit’s rationale in *Greidinger* was the lack of a viable alternative to disclosure, coupled with the availability of less-restrictive means which Virginia could have taken to achieve its stated goals of election integrity and efficient administration. *Id.*

27. In examining other election statutes which were struck down under strict scrutiny, the Fourth Circuit in *Greidinger* observed that “[i]n each of these cases, the state law under attack prohibited an identified class of persons from voting.” *Id.* at 1349-50. (collecting cases) (emphasis added).

28. Plaintiffs do not uniformly identify such a class here. [*Compare* Vol. IV Tr. 727:14-16 (Dr. Grumbach, without scholarly support, defining citizens ages 18-25 as “young” voters) *and* D.E. 1 at ¶¶3, 30 (citing ages 18 to 25 as “young” voters) *with* Vol. I Tr. 59:4-10 (NCBA defining “youth voters” as those ages 18 to 30 and persons who are new voters in North Carolina regardless of age) *and* Vol. II. Tr. 373:21-25 (Democracy NC embracing and promoting definitions of “young” voters as those ages 18 to 35; *but see* Vol. IV Tr. 800:16-19 (Dr. Taylor explaining the arbitrariness of defining “young” voters as ages 18-25)].

29. In *Delaney v. Bartlett*, this Court struck down a North Carolina statute requiring a different number of signatures for unaffiliated candidates versus affiliated ones, determining the law to be an unconstitutionally severe burden on the right to vote. 370 F. Supp. 2d 373, 380-81 (M.D.N.C. 2004). As this Court explained, creating non-uniform restrictions which treat an identified class of voters differently than others not only creates a severe disparity, but it does not achieve or advance any cognizable interests. *Id.* at 382. While *Delaney* affirmed a state’s ability to potentially have differential treatments between groups, it cautioned that any varying degree of treatment must be “reasonable” and “similar in degree” to that imposed on other groups. *Id.* at 378.

30. Here, Plaintiffs did not show that the UMP is a severe burden on the right to vote like the burdens in *Greidinger* or *Delaney* because it is uniform and does not create disparities for an identified class of voters. Far from “invidious,” the UMP is a uniform mechanism to verify addresses provided by same-day registrants in the short time provided between the end of early voting and county canvass. [Vol. III Tr. 436:21-25, 451:10-22,

473:7-15, 474:17-475:5, 525:13-526:6]. This system, driven by cognizable election administration concerns aimed at correcting a well-known problem of verification card return timing, *see, e.g.*, [JX029], is the quintessential “evenhanded restriction[] that protect[s] the integrity and reliability of the electoral process itself.” *Crawford*, 553 U.S. at 189-90.

31. Even if Plaintiffs identify a consistent and cognizable class of voter, the UMP applies to all SDR voters with equal force, further affirming its evenhandedness and acceptability. *See Fusaro v. Cogan*, 930 F.3d 241, 261 (4th Cir. 2019) (identifying the “critical flaw” in statutes which failed the *Anderson-Burdick* balancing test to be either their lack of political neutrality or viewpoint neutrality, and noting that “other obviously illegitimate classifications, such as race,” would similarly fail strict scrutiny as those types of lines are presumptively unconstitutional); *see also Brnovich*, 594 U.S. at 671 (limited burden when numerous other voting methods were offered).

32. Ignoring legitimate administrative concerns, Plaintiffs label the UMP as a “severe” burden. Plaintiffs focus on the distinction between those who register outside of the SDR period—and are thus not subject to the UMP<sup>30</sup>—and those who register during SDR. [D.E. 1 at ¶110].<sup>31</sup> Plaintiffs argue that because the UMP may disqualify an SDR voter’s ballot via a single piece of undeliverable mail, then any burden created by the UMP system is the “severest.” *Id.* This burden, Plaintiffs explain, is tied to the alleged lack of a

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<sup>30</sup> As discussed *supra* FOF ¶¶4-5, traditional registration uses mail verification, but two mailers, instead of the single mailer and notice and cure process used for same day registrants.

<sup>31</sup> Notably, paragraph 110 of the Complaint is only time in Plaintiffs’ entire Complaint where they label the UMP a “severe” burden on the right to vote.

notice or opportunity to cure. *Id.* Plaintiffs conclude, without evidence, that such “barriers” “disproportionately affect young and student voters.” *Id.*

33. The evidence tells a different story. *See generally* FOF ¶¶126-50. Not only are “young” voters a fractional subset of all SDR users, but the UMP creates no discernable disparate impact on their ability to vote as compared to other age groups. *Id.* Additionally, Plaintiffs’ arguments ignore reality—evidence confirms that the notice and cure process, which was in place for the 2024 primary and general elections, worked as well as the two-mailer system it replaced. FOF ¶¶151-56.

34. In sum, Plaintiffs’ labels of “severity” carry little weight. These arguments ignore that both the Supreme Court and the Fourth Circuit uphold much more restrictive electoral schemes—including complete bans on write-ins on ballots, *Burdick*, 504 U.S. 428, and rules allowing one major political party to uniformly appear above the other on ballots, *Nelson v. Warner*, 12 F.4th 376 (4th Cir. 2021). Plaintiffs offer no admissible evidence to further their labeling of the UMP as a “severe” burden, especially as applied to SDR voters uniformly. Calling a burden “severe” is not enough to make it so. *See Crawford*, 553 U.S. at 208 (Scalia, J., concurring) (“Very few new election regulations improve everyone’s lot, so the potential allegations of severe burden are endless.”); *see also Feldman v. Arizona Sec’y of State’s Office*, 208 F. Supp. 3d 1074 (D. Ariz. 2016), *aff’d*, 840 F.3d 1057 (9th Cir. 2016) (citing *Crawford*, 553 U.S. at 200) (declining to adopt plaintiffs’ label of severity, especially when the plaintiffs made the “telling” decision to “not produce[] a single declaration from a voter who fits th[e] profile” of the group who was supposedly burdened).

35. Having concluded that the UMP is not a severe burden on the right to vote, the Court's analysis shifts to comparing any burden imposed by the statute, to countervailing state interests.<sup>32</sup> See *S.C. Green Party v. S.C. State Election Comm'n*, 612 F.3d 752, 759 (4th Cir. 2010).

**B. Defendants Identify Numerous Well-Recognized State Interests Supporting the UMP.**

36. After assessing the character and magnitude of Plaintiffs' asserted harm, the Court then must examine the State's asserted interests justifying the challenged statute. See *Anderson*, 460 U.S. at 789.

37. This step of the *Anderson-Burdick* analysis requires the Court to not only determine the legitimacy and strength of the interests, but to analyze the interplay between those interests and the burden imposed, if any. *Id.*

38. Importantly, in reviewing a challenged election statute, the Court must conduct a comprehensive analysis of the challenged system as a whole, including alternative options available to voters, as this will inform not only the state's interests in

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<sup>32</sup> Even if Plaintiffs had presented evidence indicating that the UMP is a severe burden on the right to vote, which they did not, this conclusion would remain the same. Severe burdens are not *per se* unlawful, rather, they must be narrowly tailored to achieve important state interests. See *Crawford*, 553 U.S. at 190; see also *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1354 (11th Cir. 2009) (affirming a district court's finding that a burden on voters was not severe when the record lacked "admissible and reliable evidence that quantifies the extent and burden imposed" by the challenged statute). As discussed in Section II(B), *infra*, the UMP protects important state interests in electoral administration, integrity, and finality. Further, it is narrowly tailored as it maintains a process for verifying SDR voter registration status and addresses in the short window between early voting and county canvass, while also implementing a system aimed at solving the well-known issues concerning delayed receipt of verification mailers. As a result, Plaintiffs' claims still fail even under strict scrutiny.

pursuing the challenged act, but also the extent of any burden. *See Brnovich*, 594 U.S. at 671.

39. At trial, the parties presented evidence from several fact witnesses, including the bill sponsors for S.B. 747 and the General Counsel for the State Board, all of whom confirmed not only the state's interests in efficient electoral administration and election finality, which are furthered by the UMP, but also the numerous options available to voters—including safeguards built into the UMP itself—mitigating any burden imposed.

**i. Important State Interests and Legislative Good Faith Outweigh Any Burden.**

40. The Court's analysis must begin with the presumption of legislative good faith and authority. *McGowan*, 366 U.S. at 425-26. From there, it must weigh the evidence presented, including the state's proffered interests. *Crawford*, 553 U.S. at 197 (finding that protecting confidence in electoral systems was a legitimate interest). While *Anderson-Burdick* is not formulaic, Fourth Circuit precedent is instructive as to the inadequacy of Plaintiffs' evidence and why Defendants' countervailing interests carry the day.

41. The Fourth Circuit has long recognized and reaffirmed a state's interest in efficient election administration and integrity. *See, e.g., Lee*, 843 F.3d at 595-98 (upholding Virginia's voter identification statute); *Nelson*, 12 F.4th at 389-90 (affirming a West Virginia ballot order statute which uniformly placed candidates for one party ahead of competing parties on the ballot); *Pisano*, 743 F.3d at 934-37 (agreeing that a North Carolina statute requiring different signature deadlines for third-party candidates was justified). In fact, at least one district court has found a statute which facially treated older voters

differently from younger voters to still not be an unconstitutional burden. *See New Georgia Project v. Raffensperger*, 484 F. Supp. 3d 1265, 1295-96 (N.D. Ga. 2020) (citing legitimate state interests in protecting certain groups of voters versus others).

42. During trial, Defendants presented evidence directly from S.B. 747's bill sponsors that the UMP was motivated by concerns regarding election finality and administrative concerns with SDR second address verification mailer arriving back at the county board after the close of county canvass, which resulted in voters who were ultimately not registered having their votes count. [Vol. III Tr. 436:21-25, 451:10-22, 473:7-15, 474:17-475:5; 525:13-526:6].

43. These concerns with SDR are nothing new—for nearly a decade the State Board has cautioned about the timing of SDR verification mailers. [JX029].

44. Additionally, numerous constituents and election advocacy groups raised concerns with this issue and others following the 2022 general election. [Vol. III Tr. 413:12-16, 449:20-22, 454:9-20, 473:7-15]. In fact, there was so much feedback regarding election integrity issues following the 2022 elections, that the Senate compiled a document of 75 recommendations from numerous constituents and groups to aid in drafting what ultimately became S.B. 747. [Vol. III Tr. 413:12-16].

45. The General Assembly listened to concerns from all sources, proposing legislation aimed at addressing the election administrability and integrity feedback received. [Vol. III Tr. 413:12-16, 449:20-22, 454:9-20, 473:7-15]. This process started in the Senate, which produced drafts of S.B. 747 that addressed the problems with late

returning second mailers by having all same day registrants vote a provisional ballot. [Vol III Tr. 422:25-423:3 439:21-440:3].

46. As the legislation progressed through the House it was subject to more debate and amendments, including an alteration of the UMP to the single mail system that was ultimately codified, at the suggestion of the State Board, who thought a single mailer system was more workable than the provisional ballot proposal. [Vol. III Tr. 514:3-20, 613:15-19, 607:11-23; PX093]. Prior to amending the bill, the House also heard from several advocacy groups including from Plaintiff Democracy NC who advocated against the UMP's early draft requiring SDR voters to cast a provisional ballot.<sup>33</sup> [Vol. II Tr. 370:15-371:3; Vol. III Tr. 453:11-14, 519:14-520:4, 526:8-527:6]. In short, the General Assembly listened and gave due consideration to these reasonable requests.

47. Taken as a whole, the UMP are buttressed by legitimate and long-established state interests. Considering its uniform applicability and the evidence establishing alternative means of voter registration, this statute falls well within those which the Fourth Circuit has upheld. *See, e.g. Lee*, 843 F.3d at 595-98; *Nelson*, 12 F.4th at 389-90; *Pisano*, 743 F.3d at 934-37.

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<sup>33</sup> Indeed, even if the provisional ballot language of the UMP's early drafts remained law, it is questionable that the practice would be an unconstitutional burden. *See Fair Fight Action, Inc. v. Raffensperger*, 634 F.Supp.3d 1128, 1204-05 (N.D. Ga. 2022) (citing *Crawford*, 553 U.S. at 197-98) ("The Court finds that casting a provisional ballot does not create a severe burden on the right to vote."). Nevertheless, it is undisputed that this provision never became law. [JX002].

**ii. North Carolina Provides Voters With Numerous Opportunities and Multiple Methods to Register to Vote.**

48. The Court cannot review the UMP in isolation, rather, it must analyze the challenged electoral scheme as it exists today. *Pisano*, 743 F.3d at 933. As it comes before the Court, this includes reviewing UMP alongside the notice and cure opportunity memorialized in the *Voto Latino* Consent Judgment<sup>34</sup> and Numbered Memo 2023-05. [JX061].

49. This standard also dictates that the Court consider the challenged scheme alongside the entirety of North Carolina's operative electoral statutes, including "the opportunities provided by a State's entire system of voting when assessing the burden imposed by a challenged provision." *Brnovich*, 594 U.S. at 671.

50. Here, SDR is a subset of the many registration and voting options and outlets North Carolina provides, including Traditional Registration Methods which allow registration any time other than the 25 days preceding an election, the 2,600 available Election Day polling places, curbside and no-excuse absentee voting, and several different cure processes. FOF ¶¶3-11.

51. Evidence confirmed that SDR voters represent a very small fraction of the state's voting populace, with "young" SDR voters being an even smaller percentage therein. FOF ¶¶17, 140-41. Considering the many registration options at a voter's disposal all year long, any burden created by the UMP is offset by the other opportunities provided to prospective voters. *See Brnovich*, 594 U.S. at 671.

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<sup>34</sup> *Voto Latino, et al. v. Alan Hirsch, et al.*, 1-23-cv-862, at D.E. 101 (M.D.N.C. Apr. 28, 2025).

52. Considering Plaintiffs' inability to identify a cognizable class subjected to particularized harm, *see supra* FOF ¶¶74, 108, alongside evidence indicating a functioning notice and cure process, this uniform statute is supported by well-established State interests, undercutting Plaintiffs' claimed harm. This conclusion is affirmed by the availability of other means of voter registration available in North Carolina. *Cf. Greidinger*, 988 F.2d at 1354-55; *see also Brnovich*, 594 U.S. at 671.

53. This comprehensive review is supported by precedent, all of which weighs in favor of upholding the UMP. For example, in *Brnovich*, the Supreme Court found Arizona's numerous opportunities to vote, including by mail and early voting for nearly a month preceding election day, to be especially persuasive in showing that any burden imposed on election day voters by the challenged law were, at most, modest. *Id.* at 678-79.

54. Similarly, North Carolina's system of voting provides multiple opportunities and for the public to register and vote. FOF ¶¶1-16. This is evident in North Carolina's election laws generally, *see* N.C. Gen. Stat. Ch. 163, and more specifically, in the Findings of Fact, *supra* FOF ¶¶1-16, detailing various aspects of the State's system of voting and voter registration through the testimony of State Board General Counsel Paul Cox.

55. Additionally, evidence affirmed that the notice and cure process provided for SDR registrants worked in the 2024 general election. FOF ¶¶151-56. This evidence established that both North Carolina's entire electoral scheme, and the UMP as implemented, provide voters with a considerable number of registration opportunities, coupled with procedural stopgaps aimed at minimizing any residual burden and allowing duly qualified voters the right to exercise their franchise.

56. At most, Plaintiffs merely allege what is at most a fairly modest burden that is due to a registrant's chosen method of registering to vote. But that is not sufficient to satisfy *Anderson-Burdick's* demands. *See Crawford*, 553 U.S. at 198.

**C. Comparing The State's Interests And Justifications In The UMP With Plaintiffs' Asserted Harm, The Statute Is, At Most, A Modest But Constitutional Burden.**

57. As discussed, Defendants presented numerous forms of evidence establishing that the UMP resulted from legitimate state interests regarding efficient election administration, finality, and integrity, and affirming public confidence in the state's election results. *See* FOF¶¶19, 27, 34, 36. Thus, the only remaining question is what, if any, burden do Plaintiffs establish the UMP creates on the right to vote. *See S.C. Green Party*, 612 F.3d at 759. Plaintiffs have failed to establish that the UMP imposed a burden sufficient to justify permanently enjoining the UMP.

58. Reviewing the totality of the evidence presented, Plaintiffs at most, established a mere modest burden on the rights to vote for the certain subset of persons who choose to use SDR over other available registration methods. But this is not enough to support invalidating the UMP. *See id.* (quoting *Timmons*, 520 U.S. at 359) (“When, as here, a statute places only a modest burden on [a constitutional] right[], ‘a State's important regulatory interests will usually be enough to justify its reasonable, nondiscriminatory restrictions.’”); *see also Crawford*, 553 U.S. at 198.

59. An initial indicator of Plaintiffs' failure of proof is the well-established fact that there is no constitutional right to vote by a particular method. *McDonald*, 394 U.S. at

807-08 (1969) (finding no constitutional right to vote by absentee ballot over other available methods).

60. Additionally, it is Plaintiffs' burden to prove the existence, nature, and extent of any undue burden on a qualified individual's right to vote. *See Anderson*, 460 U.S. at 788; *Burdick*, 504 U.S. at 434. Here, that evidence is sorely lacking.

61. Despite fulsome party discovery and numerous public records requests sent outside of this litigation, Plaintiffs failed to present a crucial piece of evidence necessary to carry their burden—evidence of any college student or “young” voters who were subjected to an undue burden on their right to vote through the rejection of their ballot in the 2024 general election due to the UMP's change from two mailers to one, much less a pattern of such evidence. Instead, all Plaintiffs offer the Court is a series of hypotheticals, asking the Court to consider “what-ifs” rather than the actual evidence of the statute and cure process in action. [Vol. I Tr. 71:24-72:25; Vol. II Tr. 367:17-368:15, 381:5-18; Vol. III Tr. 400:23-402:17].

62. The one witness Plaintiffs attempted to present—Jaimee Suwalkowski—was improperly disclosed, in violation of Federal Rule of Civil Procedure 26(a) and the Court's pretrial order. [D.E. 180 at pp.5-6 (citing D.E. 139 and *Intercollegiate Women's Lacross Coaches Ass'n v. Corrigan Sports Enterprises, Inc.*, 698 F. Supp. 3d. 814, 822 (M.D.N.C. 2023))].

63. Although Plaintiffs attempted to proffer Ms. Suwalkowski as an “impeachment” witness concerning the parties previously agreed-upon deposition designations for New Hanover County Board of Elections Director Susan Rae Hunter-

Havens, [D.E. 156-7], Ms. Suwalkowski's testimony was not proper impeachment, and should be rejected in its entirety. [See D.E. 190]. Indeed, Plaintiffs chose not to question Ms. Hunter-Havens on any particular student voter, even though they had the opportunity to do so during her deposition. Instead, Plaintiffs attempted to collaterally and belatedly attack Ms. Hunter-Havens' deposition testimony through thinly veiled claims of impeachment. In reality, Plaintiffs tried to offer Ms. Suwalkowski's testimony as substantive evidence in a back-door effort to furnish their *prima facie* case, having her testify about topics well outside of Director Hutner-Haven's testimony. This is not what impeachment testimony contemplates. See *Newsome v. Penske Truck Leasing Corp.*, 437, F. Supp. 2d 431, 433, 435 (D. Md. 2006). This effort does not supplant or cure any of Plaintiffs' evidentiary shortcomings.

64. Plaintiffs' failure to present admissible testimony from a single college student or "young" voter who was actually burdened by the UMP's change from two mailers to one in the 2024 general election is indicative of the fact that North Carolina provides all voters, including college students, multiple opportunities to register to vote. FOF ¶¶3-16. It also mandates a cure process for those who choose to register via SDR. [JX61]. And the evidence reveals that the cure process works. FOF ¶¶151-56.

65. In place of first-hand testimony from any affected voters who attempted to register to vote but could not under the current law, Plaintiffs instead offer their own anecdotal testimony. The usefulness of this testimony was undercut by Plaintiffs' own admissions that any relevant knowledge they had was limited. [Vol. II Tr. 382:13-19] (NCBA's "Youth Voter Engagement Program Associate," Gabrielle Martin, testifying that

the 2024 general election was her first time working with NCBA); [Vol. III Tr. 404:1-11] (Democracy N.C.'s "Eastern Regional Managing Coordinator," Lucas Seijo, confirming that his work is limited to five counties in eastern North Carolina).

66. Taken as a whole, this sort of evidence is insufficient to establish the burden Plaintiffs allege. *See Pierce v. Jacobsen*, 44 F.4th 853, 864 (9th Cir. 2022) (affirming the district court's finding that offering only conclusory speculation as to a statute's supposed effect, even from those who claimed firsthand experience with that effect, was insufficient to establish the type of burden alleged).

67. Plaintiffs present no cognizable evidence that the voters they purport to represent are somehow prohibited from utilizing other registration methods. [*See, e.g.*, Vol. I Tr. 70:12-71:4]. While Plaintiffs broadly assert that college voters are more likely to be burdened by the UMP due to their allegedly transient nature, [D.E. 1 at ¶2; PX176 at ¶42], they offer no evidence tending to confirm this assertion. These allegations do not establish any particularized harm or cognizable burden. *See Crawford*, 553 U.S. at 197 ("Burdens of that sort arising from life's vagaries, however, are neither so serious nor so frequent as to raise any question about the constitutionality [of a challenged practice].").

68. Coupled with the evidence confirming that county boards of election are, in fact, working with and advising all same-day registrants, including college students, on correct completion of their registration forms, [Vol. I Tr. 85:3-17, 105:18-21; D.E. 156-4 at 32:3-33:1; D.E. 156-6 at 14:20-15:3; D.E. 156-7 at 84:15-85:2, 129:24-130:21], it is clear that any burden created by the UMP is minimal and intensely situation-specific. This is far

from the sweeping burden Plaintiffs allege, and it is insufficient to overcome the countervailing state interests Defendants identify.

69. Plaintiffs' own testimony reveals any alleged harm to the organization appears to be unrelated to the alleged burden on voters from the UMP. Although Plaintiffs claim they are harmed because they update voter information, all three Plaintiff groups confirm that they update these same resources for any change to election law, every election cycle. [Vol. I Tr. 63:3-20; Vol. II Tr. 349:1-20, 372:18-21]. But even this information is oftentimes incomplete as, for example, the LWVNC chose not to update their "voter guides" or website in light of the Numbered Memo's cure process. [Vol. II Tr. 349:21-25]. This choice by Plaintiffs not to update information about the UMP appears to undermine Plaintiffs' allegation that the UMP imposes a risk of harm to voters.

70. Ultimately, Plaintiffs' testimony confirmed that the State Board and the county boards effectively minimize any burden on registrants: the State Board publishes comprehensive voter registration resources on its website, and each group readily admitted reliance on that publicly available information. [Vol. I Tr. 69:1-4; Vol. II Tr. 374:20-375:11; 356:25-357:9].

71. Thus, it is apparent that any burden placed on college or "young" voters attempting to use SDR is minimized by the State Board and county boards' outreach and administrative efforts to such a degree that Plaintiffs themselves admittedly publish incomplete information for voters, thus undermining their alleged concerns about the changes to the SDR process. *See Fair Fight Action, Inc.*, 634 F. Supp. 3d at 1205 (finding no unconstitutional burden when there was no evidence linking the denial of a voter's

franchise to the challenged practice); *see also Lee*, 843 F.3d at 596-97 (considering that all fact witnesses presented were either able to cast their ballot or did not demonstrate an inability to cure due to the challenged statute).

72. In sum, there is no evidence from which to conclude the UMP is a “severe” burden on the right of anyone to vote, let alone of the magnitude Plaintiffs allege. Even if the UMP’s change to a single-mailer system does burden an undefined subset of voters, there are sufficiently weighty and well-recognized countervailing state interests which justify and support the statute’s passage. *See, e.g., Crawford*, 553 U.S. at 194-97 (finding a legitimate interest in preventing voter fraud, even in the absence of evidence showing actual voter fraud occurring); *Lee*, 843 F.3d at 606-07 (same); *Nelson*, 12 F.4th at 382-83 (recognizing the state’s interest in efficient electoral administration, even in light of potential favoritism for one candidate group over another).

73. Considering this evidence, alongside the presumption of legislative good faith which must apply, Plaintiffs fail to establish that the UMP is an unconstitutional burden on the right to vote and, as a result, judgment for Defendants on the Twenty-Sixth Amendment Claim is proper.

#### **IV. Plaintiffs’ 26th Amendment Claim Fails Under Either *Anderson-Burdick* or *Arlington Heights*.**

74. Plaintiffs contend that their Twenty-Sixth Amendment Claim should be governed not by *Anderson-Burdick*, but by *Arlington Heights*.

75. Reviewing the history and purpose of both proffered standards, it is clear that *Anderson-Burdick* is the appropriate lens through which to review this election law challenge.

**A. *Anderson-Burdick* is the Proper Test for Plaintiffs' Twenty-Sixth Amendment Claim.**

76. While Plaintiffs agree that the *Anderson-Burdick* test applies to their second claim for relief, they argue that *Arlington Heights* should govern their Twenty-Sixth Amendment claim.

77. Although this Court has previously recognized that there is no consensus on the standard governing Twenty-Sixth Amendment claims, [D.E. 63 at p.26], the history and tradition underlying *Anderson-Burdick* and its progeny make it uniquely appropriate for the claims at bar. As this Court held in related litigation challenging the same statutory provision, “[c]ircuit courts have applied *Anderson-Burdick* to cases across the election litigation spectrum.” *Voto Latino*, 712 F. Supp. 3d at 665. This is one such case.

78. While *Anderson-Burdick* is typically applied to wide ranges of election law challenges to voting restrictions, *Voto Latino*, 712, F. Supp. 3d at 665 (collecting cases), the *Arlington Heights* standard which Plaintiffs advocate for concerning their Twenty-Sixth Amendment claim, is typically reserved for claims of discriminatory intent targeting a suspect class. *McCrory*, 831 F.3d at 220-21.

79. More specifically, *Arlington Heights* is limited to claims of discrimination affecting a cognizable, protected class, while *Anderson Burdick* is applied to a broader spectrum of election litigation. *Compare Voto Latino*, 712 F. Supp. 3d at 665; *with*

*McCrary*, 831 F.3d at 235 (distinguishing how the *Crawford* court used *Anderson-Burdick* to examine alleged burdens on a voter's rights in the absence of any "alleg[ation] [of] intentional racial discrimination."); *see also Raymond*, 981 F.3d at 303.

80. Here, even if Plaintiffs identified a cognizable class of "young" voters, it is well-accepted that age is not a suspect classification. *See Kimel v. Florida Bd. of Regents*, 528 U.S. 62, 63 (2000). As such, the underlying purpose of *Arlington Heights*, to root out intentionally discriminatory acts targeting protected classes, is inapposite to the claims presented in this case. *See, e.g., McCrary*, 831 F.3d at 235.

81. While Plaintiffs argue that a single case, *League of Women Voters of Florida, Inc., v. Detzner*, presents a growing "consensus" of courts applying *Arlington Heights* to Twenty-Sixth Amendment claims, *Detzner's* citations prove why this question is far from settled. 314 F. Supp. 3d 1205, 1221 (N.D. Fla. 2018) (citing *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896, 926 (W.D. Wis. 2016), which was largely overturned on appeal in *Luft*, 963 F.3d 665, and *Lee v. Va. State Bd. of Elections*, 188 F.Supp.3d 577, 609 (E.D. Va. 2016), where the Fourth Circuit was expressly skeptical of *Arlington Heights* as applied to the Twenty-Sixth Amendment).

82. In short, there is no settled standard governing Plaintiffs' Twenty-Sixth Amendment claims. However, the history and tradition of the *Anderson-Burdick* test reveals that it is the proper lens through which to analyze the evidence and arguments presented at trial as to both of Plaintiffs' remaining claims.

83. Even still, when viewed as a whole, nothing in the statutory language of S.B. 747 nor in the evidence satisfies Plaintiffs' burden, regardless of the standard applied. *See*

*Luft*, 963 F.3d at 671-72 (7th Cir. 2020) (citing *Burdick*, 504 U.S. at 433-34); *Pisano*, 743 F.3d at 933. This failure requires that judgment be entered for Defendants on all remaining claims.

**B. Even Under *Arlington-Heights* Plaintiffs’ Twenty-Sixth Amendment Claim Still Fails.**

84. For the same reasons Plaintiffs’ Undue Burden Claim fails under *Anderson-Burdick*, so too does Plaintiffs’ Twenty-Sixth Amendment Claim. Plaintiffs did not present any evidence sufficient to establish that the UMP is either a “severe” burden on the right to vote, nor can they overcome the legitimate state interests and presumption of legislative good faith.

85. However, even if this Court were to apply *Arlington Heights*, Plaintiffs’ Twenty-Sixth Amendment Claim still fails.

86. For a Plaintiff to succeed under *Arlington Heights*, they must establish that discriminatory motivations were a factor in the challenged law’s passage. *Id.* at 265-66. While discriminatory purpose does not need to be the sole or primary factor, the leading question is “did the legislature enact a law ‘because of,’ and not ‘in spite of,’ its discriminatory effect.” *McCrary*, 831 F.3d at 220-21. “This demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *United States v. Johnson*, 122 F. Supp. 3d 272, 356 (M.D.N.C. 2015) (quotations and citation omitted).

87. *Arlington Heights* offers a list of non-exhaustive factors which, according to the Fourth Circuit, are “probative of whether a decision-making body was motivated by a

discriminatory intent,” *Sylvia Dev. Corp. v. Calvert Cnty.*, 48 F.3d 810, 819 (4th Cir.1995), including:

(1) evidence of a “consistent pattern” of actions by the decision making body disparately impacting members of a particular class of persons; (2) historical background of the decision, which may take into account any history of discrimination by the decision making body or the jurisdiction it represents; (3) the specific sequence of events leading up to the particular decision being challenged, including any significant departures from normal procedures; and (4) contemporary statements by decisionmakers on the record or in minutes of their meetings.

*Id.*; *Raymond*, 981 F.3d at 303 (quotations omitted). Like *Anderson-Burdick*, *Arlington Heights* is not subject to a uniform approach. See *Arlington Heights*, 429 U.S at 267.

88. Heightened scrutiny applies only if an “invidious discriminatory purpose” was a motivating factor. *Arlington Heights*, 429 U.S. at 265-66. Mere “rancorous legislative history” is insufficient where the central facts show no discriminatory purpose. *South Carolina v. United States*, 898 F. Supp. 2d 30, 45 (D.D.C. 2012). Nor is disproportionate impact alone enough. *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896, 926 (W.D. Wis. 2016), *aff’d in part, vacated in part on other grounds*, *Luft*, 963 F.3d at 665. Instead, Plaintiffs must show that the law imposes burdens that voters cannot overcome with reasonable effort. *Id.*

89. “This demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *United States v. Johnson*, 122 F. Supp. 3d 272, 356 (M.D.N.C. 2015).

**i. There is No Direct Evidence of Legislative Discrimination Against “Young” Voters.**

90. As this Court determined in its July 21, 2025 Order, before trial, Plaintiffs had “not produced direct evidence that members of the General Assembly sought to discriminate against young voters[.]” [D.E. 149 at p.6]. Plaintiffs also failed to demonstrate any direct evidence of discrimination at trial. FOF ¶¶19-42. No such evidence exists. As a result, Plaintiffs are limited to whatever circumstantial evidence is available. *See Johnson*, 122 F. Supp. 3d at 356. But even that evidence is tellingly absent.

91. Plaintiffs concede the General Assembly sought to balance access with integrity in drafting the UMP. [D.E. 1 ¶¶82-84]. Their criticisms focus not on the legislative process itself, but on unsubstantiated theories of alleged influence by two third parties. [D.E. 1 ¶¶39-40]. But Plaintiffs themselves admit that the vast majority of these parties’ views never became law. [D.E. 149 at p.6].

92. Senator Daniel and Representative Mills both confirmed that they did not seek to discriminate against young voters in passing S.B. 747 or the UMP specifically. [Vol. III Tr. 431:16-18, 456:10-22, 531:4-9]. Neither viewed nor had any understanding of any age-related or demographic data concerning SDR usage. [Vol. III Tr. 445:1-3, 447:2-8, 456:23-457:3, 521:4-11, 522:6-13]. Simply put, the idea that this legislation would somehow disproportionately affect, or burden “young” voters never crossed their minds. [Vol. III Tr. 431:16-18, 456:10-22, 531:4-9].

93. Recognizing that the legislature did not seek to target any group of voters in passing S.B. 747, Plaintiffs instead turn to pinning the blame on third parties—Cleta

Mitchell and Jim Womack. But the evidence confirmed that Plaintiffs selected targeting of Ms. Mitchell and Mr. Womack is both over and under-inclusive.<sup>35</sup> In fact, Mitchell never met with Representative Mills, and Womack expressed disappointment at S.B. 747's final form. [Vol. II Tr. 201:17-202:8; Vol. III Tr. 590:18-20].

94. Plaintiffs' selectivity falters even further, considering that the sole piece of legislation they can point to as circumstantially tied to Womack never became law. [Vol. III Tr. 581:8-13]. In fact, the provisional ballot standard for SDR registrants which Plaintiffs attribute to Womack and Mitchell, was struck from S.B. 747 immediately upon the bill's progress to the House, due to suggestions by the State Board, that the provisional system would not be administratively workable, and advocacy work of groups like Plaintiff Democracy NC. [Vol. II Tr. 370:15-371:3; Vol. III Tr. 516:20-517:25, 519:14-520:9, 526:8-527:6; JX058 at p.5 ("This proposal is much more workable than what it would replace."); PX093 at p.2].

95. Both Mitchell and Womack independently confirmed that their goal was to eliminate SDR in its entirety. [Vol. II Tr. 200:15-25; Vol. III Tr. 550:15-25, 555:2-4]. And, as Mitchell testified, she completely disapproved of the provisional ballot language included in the UMP's early drafts. [Vol. II Tr. 200:15-25].

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<sup>35</sup> Plaintiffs do not dispute that the idea for the change from two mailers to one originated with the State Board after it became clear the General Assembly intended to address SDR mail verification in S.B. 747. FOF ¶¶35-36, 39. Notably absent in the record is any evidence that any member of the State Board or its staff, including Paul Cox who was in frequent communication with the House during its process in the summer of 2023, met with Ms. Mitchell or Mr. Womack.

96. Furthermore, *Brnovich* confirms that the identity of a proposal's originator is irrelevant where the legislative record shows it was enacted for legitimate reasons. 594 U.S. at 687–90.

97. In sum, it belies logic to impute supposed third party intent onto a legislature when the same third parties were unhappy with the challenged law, even describing it as “weak” and noting that they got “none” of what they wanted. [Vol. II Tr. 201:17-202:8; Vol. III Tr. 590:12-20].

98. Lacking direct evidence of intent, Plaintiffs attempt to liken the UMP to other instances in which third-party intent was imputed upon a legislative body. But the evidence and facts presented at trial reveal that this situation is far removed from those rare instances. *C.f. Mi Familia Vota v. Fontes*, 129 F.4th 691 (9th Cir. 2025) (several legislators expressly credited the third party with the passage of the challenged legislation); *Stout v. Jefferson Cnty. Bd. of Ed.*, 882 F.3d 988 (11th Cir. 2018) (third party's members became members of the governmental entity who passed the challenged legislation); *A Helping Hand, LLC v. Baltimore County*, 515 F.3d 356, 366 (4th Cir. 2008); *Grp. Home on Gibson Island, LLC v. Gibson Island Corp.*, 144 F.4th 522, 538 (4th Cir. 2025) (public comments by decisionmakers promising to take a certain action even if unlawful). The Court finds the record devoid of any evidence similar to the cases cited by Plaintiffs.

**ii. Even Assuming Plaintiffs Identify a Cognizable Class, There is No “Consistent Pattern” of the General Assembly Disparately Impacting “Young” Voters.**

99. As established, Plaintiffs fail to define a cognizable and consistent class definition for the “young” voters they claim are harmed. *Supra* COL ¶28. Even if there were some consensus as to the impacted class, Plaintiffs still fail to identify any evidence of the requisite harm alleged.

100. Throughout trial, Plaintiffs did not present any evidence of any “consistent pattern” of the General Assembly legislating in a manner which disproportionately impacts young voters, let alone in S.B. 747.

101. Although Plaintiffs claim “nearly 1/3” of same-day registrants are young voters [D.E. 1 ¶4], this figure is derived through the “sort of statistical manipulation” that courts routinely reject. *Brnovich*, 594 U.S. at 680-81 (2021); *Holmes v. Moore*, 886 S.E.2d 120, 140-41 (N.C. 2023) (discussing flaws in preliminary injunction expert Dr. Quinn’s analysis).

102. Data from Plaintiffs’ own expert, Dr. Quinn, shows that young SDR voters actually represent just 0.7% of the total 2024 general election vote. FOF ¶152. Although these figures are framed as evidence of disparate impact by Plaintiffs, they actually provide a “distorted picture” of what are, in absolute terms, only small differences. *Holmes*, 886 S.E.2d at 140-41. These arguments are insufficient to carry Plaintiffs’ burden. *Brnovich*, 594 U.S. at 680-81.

103. Competing evidence from Defendants' expert, Dr. Paul White provides the full picture. FOF ¶¶144-49 As the only expert to conduct a disparate impact analysis, Dr. White, demonstrated that the UMP creates no statistically significant impact on voters under age 26. *Id.* In fact, the denial rate for younger registrants receiving a second mailer is within a fraction of a percent compared to the denial rate for older registrants. FOF ¶149. As Dr. White explained, there was no statistical significance between the two sets of denial rates, further reinforcing the conclusion that the second mailer process did not systematically impact younger voters in any meaningful way. FOF ¶¶144-49.

104. Plaintiffs' arguments about young voters' reliance on SDR are speculative and unsupported by trial evidence. [*See, e.g.* Vol. II Tr. 382:13-19; Vol. III Tr. 404:1-11]. As a threshold matter, most states do not offer SDR, making North Carolina's electoral scheme a more accessible exception. [Vol. IV Tr. 811:7-13].

105. Additionally, most college students move well before SDR begins, undermining the claim that standard registration is inaccessible. [Vol. IV Tr. 811:22-812:16]. Plaintiffs did not offer any college voter to testify otherwise.

106. Plaintiffs also claim that young voters have "inflexible" schedules but provide no comparison to voters outside of their amorphously defined class.<sup>36</sup> Nor do Plaintiffs account for North Carolina's seventeen days of early voting, including weekends

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<sup>36</sup> The proposition that a college student, even one with a full courseload, has a schedule that is somehow as inflexible as an older adult working a forty-plus hour workweek, is questionable at best.

(when classes do not typically meet) and extended hours. N.C. Gen. Stat. §§163-166.35(d), 163-166.40(b).

107. Additionally, Plaintiffs failed to present any evidence establishing that the majority of 18–25-year-olds are somehow new to or lacking experience with the registration process. Indeed, North Carolina is one of just eighteen states that allows preregistration beginning at age 16. N.C. Gen. Stat. §§ 163-82.4(e)(2), 163-82.6(h). [Vol. I Tr. 57:11-58:3]. Likewise, Plaintiffs did not present any evidence to support the notion that the use of mail verification somehow disproportionately impacts young voters. The sole testimony Plaintiffs offered was speculative testimony from a former mail carrier, Timothy Greene, who retired six years before S.B. 747’s passage, and never serviced any college campus mail stops during his career. [Vol. II Tr. 316:7-10, 334:4-10].

108. Evidence establishes that North Carolina experienced an increase in youth voter turnout in 2024. [Vol. IV Tr. 804:1-6]. It therefore would defy logic to conclude that S.B. 747, in effect for the first time in 2024 was plagued with discriminatory intent, impact, or undue burden towards youth voters. This factor weighs in Defendants’ favor.

**iii. North Carolina’s History Reveals Consistent Efforts to Magnify Youth Voters, Not Discriminate Against Them.**

109. At trial, only Defendants presented evidence particular to North Carolina and its historical background legislating in favor of youth voters. [*Compare* Vol. IV Tr. 748:2-9, 750:6-13, 761:1-3, 785:8-12 (Dr. Grumbach admitting that his analyses and cited works were not specific to North Carolina) *with* Vol. IV Tr. 796:12-797:11 (Dr. Taylor explaining his report methodology with specific comparative analyses and focuses on North

Carolina)]. Plaintiffs, on the other hand, presented only generalized assertions without any particularized eye towards or study of North Carolina specifically, let alone on legislative intent. [Vol. IV Tr. 748:24-749:5].

110. Again, even assuming that “young” voters identify a cognizable class, a doubtful proposition, [Vol. IV Tr. 800:16-90], Defendants presented ample evidence that North Carolina’s history reflects a generous environment for youth voters.

111. For example, North Carolina was an early supporter of the federal government’s efforts to protect voting rights, including in its stance on ratifying the Twenty-Sixth Amendment. [LDTX125 at p.7; Vol. IV Tr. 824:2-25]. Similarly, North Carolina has seen a marked increase and growing trend in youth voter turnout due in large part to the high rate of UNC-system colleges having their own early voting sites or polling places (70%). [Vol. IV Tr. 806:25-807:5]. Additionally, third parties consistently recognize North Carolina’s colleges and universities for their efforts in promoting student voting. [LDTX125 at p.9]. As determined by the State Board, county boards may accept some university student identification cards to facilitate proper voter registration. [Vol. IV Tr. 808:19-24]. In addition, county boards using best practices, coordinate with universities and colleges to determine correct residential and mailing addresses. FOF ¶¶75-76.

112. All told, the evidence reflects a state with an established history and ongoing practice of providing numerous avenues of comprehensive support for young voters. [FOF ¶¶112-14, 120, 122].

113. Although Plaintiffs attempt to undermine this conclusion through introducing a selection of past legislation, asking for it to be “judicially noticed,” [D.E. 183], this request fails twice over. It certainly does not supplant Plaintiffs’ burden.

114. First, Plaintiffs admit that they could have introduced these bills through questioning Dr. Taylor, yet they chose not to. [Vol. V Tr. 980:3-981:25]. Similarly, Plaintiffs’ request is, at its core, an ask to infer intent on disputed matters of interpretation—the exact opposite of what judicial notice is intended for. *See Ohio Valley Env'tl. Coal. v. Aracoma Coal Co.*, 556 F.3d 177, 216 (4th Cir. 2009); *Waugh Chapel S., LLC v. United Food & Commercial Workers Union Local*, 728 F.3d 354, 360 (4th Cir. 2013) (stating that judicial notice must not “be used as an expedient for courts to consider ‘matters beyond the pleadings’ and thereby upset the procedural rights of litigants to present evidence on disputed matters.”).

115. The Fourth Circuit dictates that this Court should decline Plaintiffs’ invitation to assume the continuation of any discriminatory motives absent independent, corroborating evidence, even if some were shown to exist in the first instance. *Raymond*, 981 F.3d at 304-07.

116. Yet, even if this Court were to judicially notice these few bills, it does not alter the ultimate conclusion that Plaintiffs have not established a “historical background” sufficient to infer discriminatory intent. *See Arlington Heights*, 429 U.S. at 258-60. Specifically, various bills allegedly discriminating against young voters were never passed. FOF ¶¶116, 123. And even if Plaintiffs were able to marginally establish such a history, the magnitude of the other factors and evidence favors Defendants. *See id.* at 267-70.

**iii. The Sequence of Events Preceding the UMP in S.B. 747 Followed Normal Legislative Procedures.**

117. Evidence confirmed that the legislative process preceding the passage of S.B. 747 was quite typical. In fact, the statute featured robust debate in both chambers, coupled with amendments, constituent advocacy, and responsive legislators.

118. The testimony of experienced current and former legislators established that the legislative process as related to the SDR provisions of S.B. 747 were not truncated or procedurally unusual in any way. [Vol. III Tr. 455:9-15, 532:59-16]. If anything, the legislative process for S.B. 747 was expanded and robust, spanning several months with full debates in both the Senate and House, and several amendments offered by legislators of both parties, with some but not all amendments passing. [Vol. III Tr. 455:16-456:9, 531:10-532:16]. Every member had notice and debate, which was not limited in any way—in fact, the House Committee debate ran over its allotted time, and Representative Mills had to obtain permission to extend the committee meeting when the proposed committee substitute was considered. [Vol. III Tr. 531:10-23].

119. Unlike the *McCrary* case on which Plaintiffs rely, it is undisputed that there were no requests for age-related or demographic-related data concerning SDR usage in drafting, amending, or passing the UMP. [*Compare* Vol. III Tr. 445:1-3, 447:2-8, 456:23-457:3, 521:4-11, 522:6-13 *with McCrary*, 831 F.3d at 214-16]. The same third parties through whom Plaintiffs attribute discriminatory motives likewise had no understanding of age-related breakdowns of SDR usage. [Vol. II Tr. 200:4-7; Vol. III Tr. 588:9-18]

120. Lacking any such evidence, Plaintiffs fall far short of their burden to establish a suspect or tainted legislative process.

121. Additionally, it bears repeating that Plaintiffs challenge the very same legislative process and statute which reflect their successful advocacy efforts to stop SDR ballots from becoming provisional. [Vol. II Tr. 370:15-371:3].

122. Yet even if Plaintiffs could identify any abnormalities in the legislative process, which they did not, that fact standing alone would not necessitate a finding in their favor. *See Abbott v. Perez*, 585 U.S. 579, 610 (2018) (“[W]e do not see how the brevity of the legislative process can give rise to an inference of bad faith—and certainly not an inference that is strong enough to overcome the presumption of legislative good faith.”).

123. Though Plaintiffs rely heavily on attempts to draw parallels to *McCrory*, 831 F.3d 204 (4th Cir. 2016), those comparisons are inapposite. As explained *supra*, in passing S.B. 747, the General Assembly indisputably did not have or request any age-based data or demographic breakdowns of SDR usage. [Vol. III Tr. 445:1-3, 447:2-8, 456:23-457:3, 521:4-11, 522:6-13]. There were no comments or beliefs from legislators or any decision-maker conveying any age-related animus or motive. [Vol. III Tr. 431:16-18, 456:10-22, 531:4-9]. And, importantly, the legislative process in passing S.B. 747 was anything but suspect—it was the quintessential example of the democratic process working as intended. FOF ¶¶17-40.

124. Indeed, the history of the UMP signals exactly how one would expect legislation to become law: constituents raised concerns, legislators listened, and legislation was proposed, debated, and amended after constituent feedback and consultation with the

administering state agency. Only once the final amended and oft debated bill was passed into law did it become the will of the General Assembly. As evidence confirmed, this exact process occurred with S.B. 747. Plaintiffs themselves are examples of this functioning process—Democracy NC successfully achieved certain statutory changes to the very provision they now challenge. [Vol. II Tr. 370:15-371:3; Vol. III Tr. 519:14-520:4; 526:8-527:6].

125. In sum, Plaintiffs offered scant evidence to establish this element of *Arlington Heights*—the legislative process here was complete in every sense of the term. There is nothing in the record before the Court supporting a finding otherwise. *See Raymond*, 981 F.3d at 305-311 (counseling a comprehensive review of the legislative process preceding a statute, including amendments to the bill, and mitigating features or alternative options provided to voters). This factor weighs in favor of Defendants.

**iv. Plaintiffs Do Not Identify Any Contemporary Statements by Decisionmakers Supporting Their Claim of Discriminatory Animus.**

126. Although Plaintiffs' Complaint made a passing attempt to identify supposed age-related animus from an (unnamed) member of the General Assembly, [D.E. 1 at ¶41], they abandoned this theory at trial, offering no evidence or arguments that anyone in the General Assembly ever expressed any discriminatory motives in passing the UMP. Instead, Plaintiffs focused solely on a selection of comments and personal beliefs from Womack and Mitchell. But, as the evidence confirmed, neither had any involvement in the UMP's

final form, nor were they happy with it. [Vol. II Tr. 201:17-202:8; Vol. III Tr. 590:18-20]. Thus, Plaintiffs' attenuated theories lack both direct and circumstantial support.

127. In total, Plaintiffs here make many of the same arguments found to be erroneous in *Raymond*. Plaintiffs disregard legislative good faith and instead latch onto a hand-picked selection of comments from third parties that are either unrelated to S.B. 747 or the UMP and whose wishes never became law, asking the Court to infer discriminatory motives not because of present actions or contemporaneous evidence, but because of generalizations concerning who the General Assembly is. *Raymond*, 981 F.3d at 304.

128. Other cases provide additional insight as to Plaintiffs' evidentiary shortcomings here. For example, in *Nance v. City of Albemarle*, this Court found that a one-off comment, by a third-party who was representing defendants was insufficient to establish the defendant harbored a discriminatory animus, especially when there was no evidence that the comment was related to the challenged governmental act. 520 F. Supp. 3d 758, 781 (M.D.N.C. 2021).

129. Here, Plaintiffs similarly did not identify any evidence of discriminatory views by the General Assembly. And to the extent they hand-pick quotes from third parties, it is undisputed that those parties either did not meet with legislators or disapproved of the final form of the UMP. [Vol. II Tr. 200:2-3, 201:17-202:8; Vol. III Tr. 560:7-25, 590:18-20].

130. As a result, this final factor demands a finding in Defendants' favor. Taken together with the others, it is clear that Plaintiffs' Twenty-Sixth Amendment Claim fails under *Arlington Heights* with equal force to its failures under *Anderson-Burdick*.

## CONCLUSION

For all these reasons, and those stated in the accompanying findings of fact, Plaintiffs' claims fail. The record compels that judgment be entered in favor of Defendants.

Respectfully submitted, this the 21st day of November, 2025.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 21st day of November, 2025, the foregoing was filed and served upon all counsel of record via the Court's CM/ECF system.

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