

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 1:23-cv-00878-TDS-JEP**

DEMOCRACY NORTH CAROLINA;
NORTH CAROLINA BLACK ALLIANCE;
LEAGUE OF WOMEN VOTERS OF
NORTH CAROLINA,

Plaintiffs,

v.

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

Defendants,

and

PHILIP E. BERGER, in his official capacity as
PRESIDENT *PRO TEMPORE* OF THE
NORTH CAROLINA SENATE; et al.,

Intervenor Defendants.

**PLAINTIFFS' PROPOSED
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

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Plaintiffs Democracy North Carolina, North Carolina Black Alliance, and the League of Women Voters of North Carolina, by and through their undersigned counsel, respectfully submit the following proposed findings of fact and conclusions of law.

INTRODUCTION

This case concerns the constitutionality of new voting restrictions targeting same-day registration in North Carolina that were passed as part of an omnibus elections bill (Senate Bill 747) in the fall of 2023. The trial record developed from five days of fact and expert testimony tells a troubling tale. Election integrity activists dead-set on eliminating what they viewed as the “manipulation” of election outcomes by college students used their influence with various members of the General Assembly, including the bill sponsors and final decisionmakers Senator Warren Daniel and Representative Grey Mills, to introduce and embed into law a substantial limitation on same-day registration designed to depress growing youth voter engagement and turnout in the state. Testimony at trial shows that the bill sponsors put this concept in the bill at the behest of these activists, oblivious to the contours of the existing system they were changing and without any evidence or research into the consequences of what they were proposing, what impact it might have on voters or election administration, or whether any change was needed at all.

The new same-day registration system adopted in Senate Bill 747, by all accounts, will result in eligible ballots being rejected based on bureaucratic errors in the mail verification process, outside of affected voters’ control. Credible fact and expert testimony from Plaintiffs demonstrated that this harm will have a disparate effect on young voters, who disproportionately use same-day registration and who, due to life circumstances

relating to residential mobility and complex campus mail systems, face an outsized risk that their ballots will be wrongfully discarded through no fault of their own. This new system subjects voters who use same-day registration to more onerous registration requirements than other voters while offering them fewer protections once a ballot is cast.

Though a district court must afford the state legislature a presumption of good faith, that deference is no longer justified in the presence of discriminatory intent. In such a scenario, the legislature then bears the burden of proving a lawful justification for their legislative choices. Defendants are not up to the task. They were unable to prove they would have passed the same restrictions absent anti-youth animus for the Twenty-Sixth Amendment claim under *Arlington Heights*, and they were unable to justify the burden placed on same-day registrants under *Anderson-Burdick*. Instead, the bill sponsors simply adopted the policy preferences of the third-party election integrity activists, discriminatory as they were, and declined to conduct any legislative inquiry into the rationale for the changes at all. Efforts at trial to recast that sequence of events and advance post-hoc justifications fell flat.

Because Plaintiffs have demonstrated at trial that the same-day registration provision of SB 747 was enacted with discriminatory intent in violation of the Twenty-Sixth Amendment and constitutes an undue burden in violation of the First and Fourteenth Amendments, the law must be permanently enjoined.

FINDINGS OF FACT

I. PROCEDURAL HISTORY

1. Plaintiffs initiated this action on October 17, 2023, seeking a declaratory judgment that Section 10(a) of North Carolina Senate Bill 747 (“SB 747”) is unconstitutional and a permanent injunction barring its enforcement.

2. The Complaint (Dkt. 1) alleges three causes of action:

- a) Count One (All Defendants) – Denial of Plaintiffs’ Right to Procedural Due Process in violation of the Fourteenth Amendment to the Constitution of the United States and 42 U.S.C. § 1983;
- b) Count Two (All Defendants) – Undue Burden on the Fundamental Right to Vote in Violation of the First and Fourteenth Amendments to the Constitution; and
- c) Count Three (All Defendants) – Intentional Discrimination in Violation of the Twenty Sixth Amendment to the Constitution of the United States and 42 U.S.C. § 1983.

3. Legal challenges to SB 747 were also brought in *Voto Latino, et al. v. Hirsch, et al.*, Case No. 1:23-cv-861 (M.D.N.C. 2023) (“*Voto Latino*”) and *Democratic National Committee, et al. v. Hirsch, et al.*, Case No. 1:23-cv-862 (M.D.N.C. 2023) (“*DNC*”). Plaintiffs in those parallel proceedings moved for preliminary injunctions on their claims. *Voto Latino*, Dkt. 44; *DNC*, Dkt. 6.

4. On January 21, 2024, this Court granted in part and denied in part the pending motions. *Voto Latino v. Hirsch*, 712 F. Supp. 3d 637, 684 (M.D.N.C. 2021) (“PI Order”).

5. On January 29, 2024, in response to the PI Order, the State Board updated Numbered Memo 2023-05 (“NM 2023-05”) to include a “notice and remedy process” for a “same-day registrant whose address verification card is returned as undeliverable.” JX062 at 1.

6. Three months after the injunction was entered, *Voto Latino* and *DNC* plaintiffs stipulated to a stay of proceedings. *Voto Latino*, Dkt. 87; *DNC*, Dkt. 89. Then on April 22, 2025, the parties in *Voto Latino* and *DNC* jointly moved for entry of a consent judgment, which this Court granted on April 28, 2025. *Voto Latino*, Dkt. 101; *DNC*, Dkt. 98 [collectively, “Consent Judgment”].

7. While those proceedings played out, the litigation of Plaintiffs’ Complaint here continued. Plaintiffs defeated (i) Defendants’ motions to dismiss on April 2, 2024 (Dkt. 63); (ii) Defendants’ motion for summary judgment on July 21, 2025 (Dkt. 135); and (iii) Defendants’ renewed motion to dismiss on mootness grounds also on July 21, 2025 (Dkt. 135).

8. A bench trial on Counts II and III of Plaintiffs’ Complaint¹ was held from October 20 to 24, 2025. The official transcripts of those trial proceedings are available as follows: October 20, 2025 (Trial Volume I of V, pgs. 1–120 (Dkt. 185)); October 21, 2025 (Trial Volume II of V, pgs. 121–390 (Dkt. 186)); October 22, 2025 (Trial Volume III of V, pgs. 391–655 (Dkt. 187)); October 23, 2025 (Trial Volume IV of V, pgs. 656–888 (Dkt. 188)); and October 24, 2025 (Trial Volume V of V, pgs. 889–1043 (Dkt. 188)). Citations to the trial transcript appear as follows: “Trial Tr. Vol. [X], pg:l-pg:l (Witness name).”

¹ Plaintiffs voluntarily dismissed Count I with prejudice on May 22, 2025. Dkt. 133.

II. PARTIES TO THE CASE

A. Plaintiffs

9. Democracy North Carolina (“Democracy NC”) is a non-partisan, non-profit organization dedicated to increasing voter access and participation. Their work was discussed at trial by Cheryl Carter, the former co-executive director of Democracy NC, and Lucas Seijo, the Eastern Regional Managing Organizer. *See* Trial Tr. vol. II, 358:20–376:8 (Carter); Trial Tr. vol. II, 383:12–387:4 (Seijo); Trial Tr. vol. III, 395:14–405:23 (Seijo).

10. Democracy NC’s “mission is to strengthen and protect democratic structures, to empower and to build power within disenfranchised communities, and inspire confidence” in the political process. Trial Tr. vol. II, 359:7–14 (Carter). Democracy NC works for pro-democracy efforts through operating substantial election protection efforts to ensure access to the ballot, producing non-partisan voter guides to educate voters about candidates and issues, and partaking in “tabling events, voter registration, coalition meetings, press events.” *Id.*, 359:23–24; PX153 (example of voter education materials). A significant part of this effort is through engagement with young and student voters, through programs like Democracy Summer, a youth leadership program on community organizing and advocacy around voting rights. Trial Tr. vol. II, 360:18–361:4 (Carter). Democracy NC also strives to form lasting relationships with colleges and universities throughout North Carolina to assist students in navigate the election process, so that their “first time voting . . . experience is positive,” and that they “develop habits” to become “a lifetime voter.” *Id.*, 363:10–22; *see also* Trial Tr. vol. III, 397:3–24 (Seijo).

11. North Carolina Black Alliance (“NCBA”) is a non-partisan, non-profit organization that addresses policy and economic issues to enhance Black communities through promoting policy change and youth development. Their work was discussed at trial by Marcus Bass, the Deputy Director of NCBA, and Gabrielle Martin, the Youth Voter Engagement Coordinator. Trial Tr. vol. I, 28:14–72:25 (Bass); Trial Tr. vol. II, 376:17–382:22 (Martin).

12. NCBA “seek[s] to create a systemic policy change to improve the lives and living conditions of individuals across the state . . . [and] do direct engagement with individuals that are wanting to vote and create that systemic change.” Trial Tr. vol. I, 29:3–7 (Bass). To mobilize the electorate, NCBA partners with the HBCUs in North Carolina to provide voter resources and voter education. *Id.*, 30:14–31:10. NCBA operates many programs directed toward students, including the HBCU Think Tank, Votecoming, and Raising the BAR. *Id.*, 31:13–33:25, Trial Tr. vol. II, 377:19–378:4 (Martin). Because “a voter’s first experience oftentimes sets the expectation for engagement,” NCBA strives to ensure that student voters are “having a positive experience in seeing their vote count.” Trial Tr. vol. I, 50:1–14 (Bass).

13. League of Women Voters of North Carolina (“LWVNC”) is an all-volunteer, non-partisan, non-profit community-based organization that is the state affiliate of the League of Women Voters. Their work was described at trial by Jennifer Rubin, the President of the LWVNC. Trial Tr. vol. II, 337:10–357:24.

14. While LWVNC began as an organization focused on training women voters, it has evolved into one dedicated to educating and advocating for its mission “to empower

voters and defend democracy.” *Id.*, 339:9–10. LWVNC promotes informed and active participation in government through citizen education and public policy advocacy. This includes holding frequent voter registration and other election activities, including at college campuses and high schools, to reach young voters and “help them understand the [voting] process.” *Id.*, 339:18–22, 343:4–8; PX159 (Empowering Voters Defending Democracy Presentation). LWVNC’s objective in protecting the rights of young voters is to help them “vote and vote successfully” so that they can “become a lifelong voter.” Trial Tr. vol. II, 348:2–8 (Rubin).

B. Defendants

15. Alan Hirsch was the Chair of the North Carolina State Board of Elections (“State Board”) at the time suit was filed and was named a defendant in his official capacity.

16. Jeff Carmon III was the Secretary of the State Board, is now a Member of the State Board, and is named a defendant in his official capacity.

17. Stacy Eggers IV was a Member of the State Board, is now the Secretary of the State Board, and is named as a defendant in his official capacity.

18. Kevin Lewis was a Member of the State Board at the time suit was filed and was named as a defendant in his official capacity.

19. Siobhan O’Duffy Millen is a Member of the State Board and is named as a defendant in her official capacity.

20. Karen Brinson Bell was the Executive Director of the State Board at the time suit was filed and was named as a defendant in her official capacity.

21. The State Board is the agency responsible for the administration of the election laws of the State of North Carolina.

22. On July 7, 2025, pursuant to Federal Rule of Civil Procedure 25(d), Defendants Kevin Lewis and Alan Hirsch were replaced by Member Robert Rucho and Chair Francis X. De Luca. Defendant Karen Brinson Bell was replaced by Executive Director Sam Hayes. Dkt. 145; Dkt. 175 (“Joint Stipulations”) ¶ 25.

C. Defendant Intervenors

23. Philip E. Berger is the President Pro Tempore of the North Carolina Senate.

24. Timothy K. Moore, at the time of filing, was the Speaker of the North Carolina House of Representatives.

25. On October 25, 2023, Senator Berger and Speaker Moore, in their official capacities, moved to intervene on behalf of the General Assembly and as agents of the State of North Carolina to defend Senate Bill 747. Dkt. 19.

26. Intervention was permitted on November 15, 2023.

27. On January 9, 2025, Intervenor Defendant Timothy K. Moore was replaced by Destin Hall, as the successor in office and current Speaker of the North Carolina House of Representatives. Dkt. 104; Joint Stipulations ¶ 24.

D. Plaintiffs’ Expert Witnesses

28. Plaintiffs introduced expert testimony from two individuals, whose qualifications and expertise are discussed below.

29. Dr. Kevin M. Quinn is the current Charles Howard Candler Professor of Law and Professor of Data and Decision Sciences (formerly Quantitative Theory & Methods)

at Emory University. PX180 at App. A, 1. (Quinn Expert Report); PX213 at 1 (Quinn Updated CV); Trial Tr. vol. II, 204:14–15. He has been a professor for twenty-five years. PX213 at 1. He received his Bachelor of Arts from The Johns Hopkins University in 1992 with a major in political science. *Id.*; Trial Tr. vol. II, 204:16–19 (Quinn). He received a Master of Arts in 1994 and a Ph.D in 1999 from Washington University in St. Louis, both in political science. PX213 at 1. He is the author of numerous publications, including over forty articles, PX213 at 2–5, and over a dozen reviews, notes, and book chapters. *Id.* at 5–6. Over 30 of his articles have been published in peer-reviewed journals. Trial Tr. vol. II, 205:4–8 (Quinn). His research focuses on “political methodology” or “applied statistics to political science problems” and “empirical legal studies” or “the application of statistical methods to questions revolving around law and legal institutions.” *Id.*, 204:21–25.

30. The parties jointly stipulated to tender Dr. Quinn as an expert in political science and political methodology with an emphasis on empirical legal studies and statistical methods for law and social science. Joint Stipulations ¶ 4. Dr. Quinn was permitted to offer opinions as tendered. Trial Tr. vol. II, 205:21–206:1.

31. Dr. Quinn prepared three reports for this case: an Opening Report, dated March 5, 2025 (PX180), a Supplemental Report, dated March 20, 2025 (PX182²), and a Rebuttal Report, dated March 26, 2025 (PX184). All three reports were admitted into evidence. Joint Stipulations ¶ 3; Trial Tr. vol. II, 206:16–24 (Quinn).

² Dr. Quinn’s Supplemental Report supersedes Section VII of his Opening Report. *See* PX182 ¶¶ 3, 4–10 (Quinn. Supp. Report); Trial Tr. vol. II, 225:2–229:7 (Quinn).

32. Having observed Dr. Quinn’s testimony and reviewed his reports and supporting materials, the Court credits his analysis, opinions, and testimony, finds his opinions and conclusions largely uncontested, and grants them substantial weight.

33. Dr. Jacob Grumbach is a current Associate Professor at the University of California, Berkeley, Goldman School of Public Policy. PX176, Exhibit A at 1 (Grumbach Expert Report); PX212 (Grumbach Updated CV); Trial Tr. vol. IV, 721:16–17. He was previously an Associate Professor of Political Science at the University of Washington. PX212 at 1. He received his Bachelor of Arts in Political Science and History from Columbia University in 2010 and an M.A. and Ph.D in Political Science at the University of California, Berkeley, in 2018. *Id.*; Trial Tr. vol. IV, 722:16–19 (Grumbach). He is the author of over thirty peer- and editor-reviewed publications. PX212 at 1–4. He has published over a dozen articles discussing North Carolina election administration. Trial Tr. vol. IV, 723:11–15 (Grumbach). His “research focuses on U.S. democratic institutions with a focus on state policy” with “additional focuses on statistical methods and youth political participation and age in politics.” *Id.*, 723:7–10.

34. The parties jointly stipulated to tender Dr. Grumbach 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. Joint Stipulations ¶ 54. Dr. Grumbach was permitted to offer opinions as tendered. Trial Tr. vol. IV, 724:12–17.

35. Dr. Grumbach prepared two reports for this case: an Opening Report, dated March 5, 2025 (PX176), and a Rebuttal Report, dated March 26, 2025 (PX179). Both

reports were admitted into evidence. Joint Stipulations ¶ 3; Trial Tr. vol. IV, 725:16–19 (Grumbach).

36. Having observed Dr. Grumbach’s testimony and reviewed his reports and supporting materials, the Court credits his analysis, opinions, and testimony, finds his opinions and conclusions largely uncontested, and grants them substantial weight.

III. VOTER REGISTRATION AND SAME-DAY REGISTRATION BEFORE THE PASSAGE OF SENATE BILL 747

A. Voter Eligibility and Registration

37. North Carolina elections are governed by the North Carolina State Constitution, election statutes (primarily N.C.G.S. Chapter 163, titled “Elections and Election Laws”), administrative rules, and guidance issued by the Executive Director of the State Board through Numbered Memos.

38. An individual is eligible to vote in North Carolina if they are a U.S. Citizen, live in the county where they are registering and have resided for at least 30 days prior to Election Day, are at least 18 years old (or will be by the date of the election), and are not serving a felony sentence, including any period of probation, post-release supervision, or parole. Registration is a prerequisite to voting. N.C.G.S. §§ 163-54, 163-55; N.C. Const. art. VI, § 2.

39. Eligible voters in North Carolina can register in person, by mail, or online with the North Carolina Department of Motor Vehicles. To register, an applicant must complete and submit a voter registration form. Trial Tr. vol. III, 644:17–645:20 (Cox); SBEDX00001 (North Carolina Voter Registration Application).

40. The civilian voter registration deadline is 25 days before Election Day. N.C.G.S. § 163-82.6(d). For a completed voter registration form to be accepted, it must be submitted in person and received by the county board of elections by 5:00 p.m. Eastern Standard Time on the twenty-fifth day before a primary or election. If submitted by mail, the registration form must be postmarked by that date. N.C.G.S. § 163-82.6(d).

B. Same-Day Registration

41. An eligible voter may also register during the early voting period and vote at an early voting site utilizing “same-day registration.” JX029 at 4, App. A (N.C.G.S. § 163-82.6A);³ Trial Tr. vol. III, 635:13–636:12 (Cox).

42. Same-day registrants must attest to their eligibility and provide documentary proof of their residential address. JX029 at 4, App. A (N.C.G.S. § 163-82.6A(b)).

43. A same-day registrant who attests to their eligibility and provides documentary proof of residence can then immediately vote after satisfying the voter photo ID requirement. JX029 at 4, App. A (N.C.G.S. § 163-82.6A(c)).

C. Verification of Qualifications and Address of New Registrants

44. County boards of elections utilize a mail verification process for processing voter registration forms submitted by new registrants. The mail verification process under N.C.G.S. § 163-82.7 involves two rounds of notices sent by non-forwardable mail to the address provided on the voter registration form. If the Postal Service does not return the First Notice as undeliverable, then the county board registers the applicant to vote.

³ The controlling version of N.C.G.S. § 163-82.6A (prior to the passage of SB 747) appears appended to the State Board’s Numbered Memo 2016-15. *See* JX029.

N.C.G.S. § 163-82.7(c)-(d). If the First Notice is returned as undeliverable, then the county board sends the Second Notice. N.C.G.S. § 163-82.7(e). If the Second Notice is not returned as undeliverable, then the county board registers the applicant to vote. *Id.* Only if both notices are returned as undeliverable does the county board deny the application based on a lack of verification address. N.C.G.S. § 163-82.7(f).

45. The verification of same-day registration applications followed a similar process prior to the passage of SB 747. Within two business days of the person's registration, the county board of elections would begin to verify the registrant's address utilizing the same two-notice mail verification process outlined in N.C.G.S. § 163-82.7. *See* JX029 at 4, App. A (N.C.G.S. § 163-82.6A(d)).

D. Voting When Mail Verification Is Incomplete or Concludes After Voting, Before Senate Bill 747

46. When an election occurs before the mail verification process is complete, the registrant—regardless of whether they registered during regular registration or early voting—was still permitted to vote. North Carolina law states that such a “person shall not be denied the right to vote in person in an election unless the Postal Service has returned as undeliverable two notices to the applicant: one mailed pursuant to subsection (c) of this section and one mailed pursuant to subsection (e) of this section.” N.C.G.S. § 163-82.7(g)(1).

47. If a First Notice sent within 25 days before the election is returned as undeliverable, then the registrant is still permitted to vote in person, but not by absentee ballot. *Id.* § 163-82.7(g)(2). If the Second Notice is returned as undeliverable after the

registrant votes in person, the voter's ballot remains in the count. N.C.G.S. § 163-82.7(g)(3); Trial Tr. vol. III, 619:18–25 (Cox).

48. If a First or Second Notice is returned as undeliverable after a person has already voted by absentee ballot, then that absentee ballot may be formally challenged by the county elections board. N.C.G.S. § 163-82.7(g)(2). The challenge procedure requires a hearing in which the challenged voter is permitted to appear personally or through a representative. N.C.G.S. § 163-89(e). The burden of proof is on the challenger. N.C.G.S. § 163-89(c). “No challenges shall be sustained unless the challenge is substantiated by affirmative proof. In the absence of such proof, the presumption shall be that the voter is properly registered or affiliated.” N.C.G.S. § 163-90.1(b).

IV. THE LEGISLATURE ENACTED SENATE BILL 747'S RESTRICTION ON SAME-DAY REGISTRATION WITH AN UNLAWFUL INTENT TO DISCRIMINATE AGAINST YOUTH VOTERS

A. Youth Voter Registration and Participation Is on the Rise, Buoyed by the Availability of Same-Day Registration, Which Youth Voters Use Disproportionately

49. Over roughly the past decade, youth voter registration and turnout have increased in North Carolina's elections, with youth voters relying disproportionately on same-day registration to facilitate their participation in elections. Youth voters are an increasingly large portion of North Carolina's electorate. PX180 ¶¶ 67–70 (Quinn Report). Between 2014 and 2024, the absolute number of youth voters increased by 230,122—a 28% increase. *Id.* ¶ 69 & fig. 5. Over the same period, the proportion of youth voters in the electorate increased from 12.36% to 13.36%. *Id.* ¶ 70 & fig. 6. As youth voter registration increased, youth voter turnout did as well. *Id.* ¶¶ 75–76 & figs. 7–8.

50. Youth voters use same-day registration at disproportionately high rates as compared to their prevalence in the electorate. *Id.* ¶¶ 67–70, 84–90, 147. Since the 2016 general election, youth voters are the age group with the highest absolute number of same-day registration users in both primary and general elections. *Id.* ¶ 85 & tbl. 3. Over those same elections, “youth voters are always more than twice as likely to utilize same-day registration than voters overall.” *Id.* ¶ 86 & tbl. 4. Youth voters typically make up about 30% to 40% of all same-day registrants. *Id.* ¶ 89 & tbl. 5. This is the case despite youth voters making up only about 12% to 14% of total registered voters. *Id.* ¶ 70.

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51. Figures 6 and 9 from Dr. Quinn’s Opening Report, PX180, highlight this contrast: while youth voters make up the smallest proportion of voters overall, they make up the largest proportion of same-day registrants:

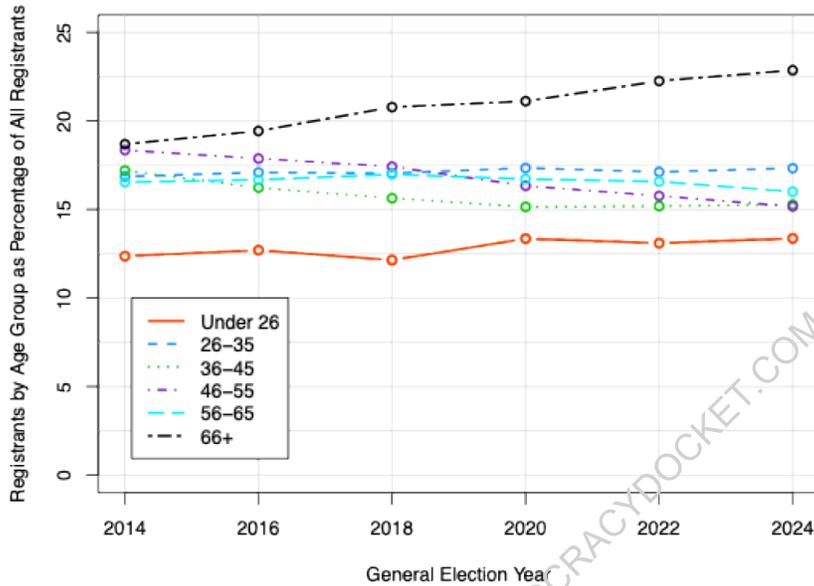


Figure 6. Age Composition of Registered North Carolina Voters, 2014-2024. Each age-group-specific point corresponds to the number of registered voters in that age group at that general election as a percentage of all registered voters at that general election. Tabulated from voter snapshot files from each general election date.

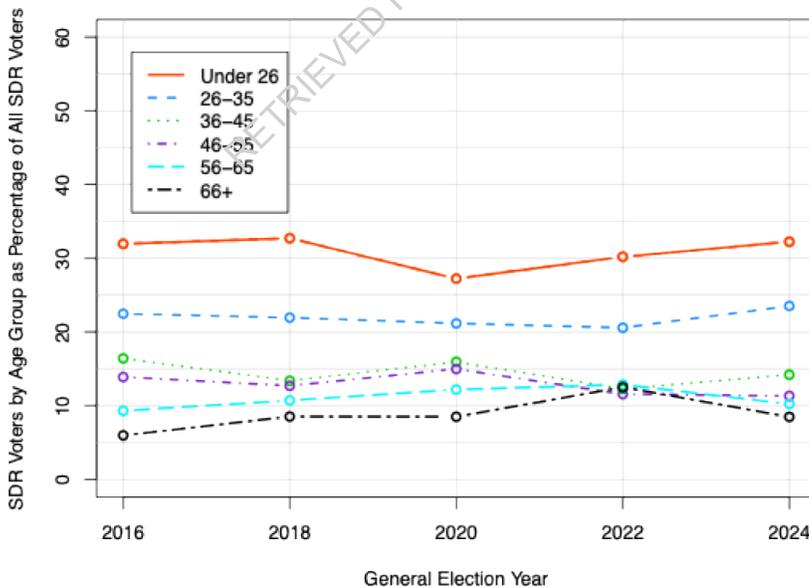


Figure 9. Voters in Each Age Group Who Registered and Voted in a Given General Election via Same-Day Registration as a Percentage of Same-Day-Registration Voters in that General Election. Tabulated from absentee files for each election and the SDR indicator variable.

B. The Legislature Sought to Restrict Same-Day Registration at the Behest of Cleta Mitchell and the North Carolina Election Integrity Team

1. Cleta Mitchell and the North Carolina Election Integrity Team Set a Goal to Crack Down on College Student Voting in North Carolina

52. Cleta Mitchell is a senior fellow at Conservative Partnership Institute, an organization which works to “train, equip, and unite conservative leaders across the country.” Trial Tr. vol. II, 141:5–142:13 (Mitchell). She is also the founder of the Election Integrity Network (“EIN”), an organization that seeks to “help build a permanent election integrity infrastructure” and “help train and mobilize citizens so that they can have oversight of their elections in their states and in their communities.” *Id.*, 144:10–146:5. Through EIN, she hosted a summit in North Carolina designed to build awareness and knowledge of the work that needed to be done “to try to improve integrity in North Carolina’s elections.” *Id.*, 161:17–23, 174:10–22.

53. Mitchell has a long history in the election integrity space, including having founded and chaired the Public Interest Legal Foundation. *Id.*, 135:16–137:25. She is a trusted source of information by conservatives, and individuals and entities have sought out her advice and involvement regarding public policy issues concerning election integrity. *Id.*, 172:23–173:4; Trial Tr. vol. III, 570:1–10 (Womack) (describing Mitchell as an “acclaimed election law attorney” and believing that she “would be of great value in influencing” the Senate election chairs).

54. Mitchell has been highly critical of policies that promote voting access for youth and student voters. According to Mitchell, it “make[s] it easy [to cheat] when you have the polling locations where [students] live on the campus; you have same-day

registration; you can use student IDs. You create a continuum where you're just breaking little bones all along the arm. Pretty soon you've got a broken arm." Trial Tr. vol. II, 197:15–198:4. Similarly, she believes that because of the participation of student voters, elections can be unfair and manipulated, and that "Democratic operatives" made changes in the law to make it easier for students to vote because they were largely "known Democrat voters." *Id.*, 198:5–16 (explaining her belief that these changes were made so that students "could help impact the outcome of the election"). Mitchell forcefully advocates for the elimination of same-day registration. *See id.*, 197:5–199:1.

55. Through her trial testimony, Mitchell sought to moderate her most provocative anti-student, anti-youth statements, including those made during her deposition in this case. For example, in her deposition, she testified unequivocally that the "participation of college students contribute[s] to the manipulation of election outcomes" because the Democrats seized upon that voting bloc; but at trial she softened that assertion to say that college student participation "can" contribute to that manipulation. *Id.*, 151:19–152:22. In her deposition, she testified that she did not "believe there is sufficient effort to confirm residency of college students," whereas at trial she accepted that college students who are North Carolina residents should be allowed to register and vote. *Id.*, 152:23–153:21. Finally, she testified at deposition that "it is the Democratic Party's strategy to support same-day registration and polling places on campuses" "so college students can just roll out of bed, vote, and get back into bed," because she thinks that "students are going to vote 95 percent [for] one party" (not Republicans), and that this makes elections unfair. *Id.*, 158:4–159:24. But at trial, she caveated that President Trump did well with young

voters (“young people 18 to 25”) in 2024, while acknowledging that, historically, 95 percent of students would vote Democratic. *Id.*, 157:14–23, 160:7–13. The Court finds these efforts unpersuasive and not credible.

56. Mitchell views her role as helping to connect conservative “citizen experts” and “their expertise and experience with policymakers, whether they be members of Congress, state legislatures, election administrators, the media.” *Id.*, 142:3–13. Indeed, for years, she has written materials advising on how best to interact with state legislatures, including how to lobby them and how to prepare for a legislative session. *Id.*, 176:14–179:7; PX197 (Preparing for a Legislative Session Powerpoint). Mitchell recommends that election integrity advocates “[b]ecome a trusted, go-to source of expertise, knowledge and information about the election process, and the issues and concerns that legislators are not aware of.” Trial Tr. vol. II, 178:21–179:5 (Mitchell); PX197 at 12. She testified that is “one of the things that we try to get our state coalitions to do, and they’re doing that, actually.” Trial Tr. vol. II, 178:21–179:5 (Mitchell).

57. And while Mitchell has worked with a number of different states’ election integrity efforts, Mitchell explained that “North Carolina was a real leader” because “the NCEIT leaders were familiar with the legislature,” unlike many other states’ groups. *Id.*, 175:2–23.

58. The North Carolina Election Integrity Team (“NCEIT”) is among the state-level election integrity groups with which Mitchell works. James Womack, NCEIT’s president, was recruited by Mitchell. *Id.*, 181:2–15; Trial Tr. vol. III, 537:12–21 (Womack). Womack testified that Mitchell “is the mentor and the inspiration behind the

work we do at NCEIT,” and she inspires Womack “[i]n a big way.” Trial Tr. vol. III, 539:21–540:3. Her book, *Election Integrity Infrastructure*, “was fundamental to [NCEIT] developing [its] eight lanes” of election integrity. *Id.*, 539:13–20.

59. Womack shares similar views to Mitchell on young voters and their use of same-day registration. As he explained, “we thought [same-day registration] created a special class of voters and a disparate treatment of normal registrants” and that it “really had no place in North Carolina.” *Id.*, 573:8–18. Womack does not classify young or student voters as vulnerable voters. Instead, he thinks “we bend over backwards to make sure college students can vote in North Carolina.” *Id.*, 544:3–11. He believes that college students use any address they can to register and vote, that North Carolina’s residency definition is “weak and permissive,” and that “students take advantage of that weak and permissive definition to register to vote in North Carolina,” creating a “vulnerability for election fraud.” *Id.*, 547:24–548:24. He has also said that college students from out of state “are going to go home to mommy and daddy, and they’re going to go somewhere else to go into employment.” *Id.*, 548:25–549:6. He previously testified that these students should be “voting in their home states” by law and that “we need to fix that.” *Id.*, 549:7–550:12.

60. At the time of his deposition, much closer to the passage of SB 747, Womack testified that it would not surprise him to be told that young voters disproportionately use same-day registration, although he attempted to reverse course at trial. *Id.*, 544:12–545:21. In his view, young voters “tend to be like social butterflies.” *Id.*, 546:4–7. Their “attention span is focused on other things until just before the election, when, all of a sudden, they’re

motivated to get registered right in this moment,” particularly by “their beer-drinking buddies or college student friends.” *Id.*, 546:8–16.

2. *NCEIT and Mitchell Begin Their Push to Restrict Same-Day Registration at the Start of Legislative Session*

61. NCEIT and Mitchell’s efforts to turn their anti-youth animus into public policy began in early 2023. Their advocacy targets were several members of the North Carolina General Assembly, including Senator Warren Daniel and Representative Grey Mills, the eventual bill sponsors of SB 747. The focus of their ire was same-day registration.

62. Senator Warren Daniel was one of three co-chairs of the Senate Elections Committee in 2023, alongside Senators Paul Newton and Ralph Hise. Trial Tr. vol. III, 407:3–16, 449:20–22 (Daniel). Senator Daniel was also one of SB 747’s three sponsors. *Id.*, 409:9–10. Generally, the election chairs sponsor and handle election legislation. They choose what changes to make, what “concept[s]” to adopt, and hand it to staff bill drafters to prepare. *Id.*, 411:4–25. The Senate members accept what the election chairs propose because they and Senate leadership consider the chairs to be the most knowledgeable on the topic. *Id.*, 411:4–17.

63. On the Senate side, Senator Daniel primarily worked with Senate pro tem staff members Josh Yost, Brent Woodcox, and Brian Fork, as well as several nonpartisan legislative staff members, on SB 747. *Id.*, 409:16–21. Brent Woodcox shepherded the drafting of SB 747. *Id.*, 409:24–410:21. The election chairs supervised his work. *Id.*, 410:25–411:2.

64. Representative Grey Mills served as the chair of the House Elections Committee from 2021 to 2024, and he carried SB 747 on the House side. Trial Tr. vol. III, 460:1–10 (Mills). Previously, from roughly 2013 to 2018, Representative Mills served on the Iredell County Board of Elections. *Id.*, 460:11–21.

65. On January 17, 2023, Joanne Empie—one of NCEIT’s legislative liaisons with whom Senator Daniel was familiar—emailed NCEIT’s “Post-Election Analysis” to one of Senator Daniel’s staff. JX039 at 1; Trial Tr. vol. III, 552:12–13 (Womack); Trial Tr. vol. III, 408:5–11, 413:23–414:18 (Daniel).

66. The document was intended to “[p]rovide an overview of Observations, Experiences and Challenges during the 2022 General Election- then discuss legislative priorities for improving NC election integrity for 2023 and beyond.” JX039 at 4. It identified inadequate scrutiny of same-day registration during early voting as a challenge for election integrity in North Carolina, and it also noted that “[o]ut of state college student registration to vote in NC remains problematic.” *Id.* at 17–18.

67. The document then provided a series of “Election Integrity General Recommendations from CPI’s Cleta Mitchell.” *Id.* at 24; *see also* Trial Tr. vol. III, 552:7–553:12 (Womack) (“[A]t this stage of the evolution of that slide, [the recommendations] came from Cleta. . . .”). One of the recommendations was to “[e]liminate same-day registration during early voting.” JX039 at 26 (emphasis omitted).

68. Senator Daniel acknowledged receiving these recommendations and believed he would have shared them with his staff. Trial Tr. vol. III, 418:5–20 (Daniel).

69. On February 8, 2023, another NCEIT member sent an email to numerous state legislators—including Senator Daniel and Representative Mills—asking that they “pass legislation this session” on a list of legislative priorities and recommendations drafted by Womack. PX087 at 1; Trial Tr. vol. III, 553:14–555:1 (Womack). The list included the following recommendations, among others: (1) “Out of State Students must sign an affidavit of emancipation in order to claim NC as a voting domicile specifying they are not registered to vote elsewhere”; (2) “Reduce early voting duration to 10 days”; and (3) “Make same day registrants eligible only for Provisional ballots- which can be researched and challenged prior to canvass.” PX087 at 2–3.

70. NCEIT also developed a list of legislative priorities that it communicated to legislators in early 2023. Dated February 25, 2023, the document noted that “[t]he NCEIT Team is drafting legislation in these major categories for consideration by the NCGA.” JX040 at 2. Again, this priority list included, among other items, requiring out-of-state students to “sign an affidavit of emancipation” to be able to vote in North Carolina, reducing the early voting period to ten days, and “[m]ak[ing] same day registrants eligible only for Provisional ballots- which can be researched and challenged prior to canvass.” *Id.* at 2–3.

71. Senator Daniel received NCEIT’s legislative priorities list prior to filing SB 747. Trial Tr. vol. III, 418:21–419:14 (Daniel); JX040 at 2–3. Senator Daniel passed these recommendations to his staff. Trial Tr. vol. III, 420:5–8.

3. NCEIT Successfully Gets Its Priority Bills Introduced in the House

72. Through its continued legislative outreach, NCEIT was able to achieve introduction of several of its bill ideas in the House that would later be incorporated into SB 747—including one that would treat same-day registration ballots as provisional.

73. On March 1, 2023, Womack sent Representative Mills NCEIT’s legislative priorities list along with bill summaries and draft language for two of NCEIT’s proposed bills: one dealing with poll observers and another granting public access to cast vote records. PX096; *see also* Trial Tr. vol. III, 557:3–25 (Womack) (explaining that these two proposals “would be later characterized as House Bill 770 and House Bill 772”). Again, these attachments included NCEIT’s legislative priority document that proposed making “same day registrants eligible only for Provisional ballots.” PX096 at 5; Trial Tr. vol. III, 483:17–23 (Mills).

74. Shortly after that email, Womack met with Representative Mills. Trial Tr. vol. III, 558:18–559:17 (Womack); *see also* Trial Tr. vol. III, 484:2–13 (Mills).

75. On March 11, 2023, Representative Ted Davis responded to a similar email from Womack, copying Representative Mills. PX088. In that email, Representative Davis asked that Representative Mills “review the attachments so we can decide whether or not to file either or both of [Womack’s] suggested legislation.” *Id.* at 1.

76. Later that same day, Womack responded, again with Representative Mills copied, saying that he “applaud[ed] the House initiatives to limit the length of the early voting period, to compel Same Day Registrants to use a provisional ballot, and to require delivery of mail-in ballots by the end of election day.” PX089.

77. At the time of Womack’s email, the House bill to require same-day registrants to use provisional ballots—House Bill 485 (“HB 485”)—had not actually been filed yet. It ended up being filed on March 27, just sixteen days after Womack’s email, with Representative Mills as one of four primary sponsors. PX010. This bill’s language appears nearly verbatim to what appeared in the filed version of SB 747. *Compare* PX010 at 2, *with* JX013 at 10; *see also* Trial Tr. vol. III, 510:16–512:10 (Mills) (comparing the two bills side by side and acknowledging that they were “substantially similar, very well could be the same”).

78. Having already sponsored a bill to require same-day registrants to vote provisional ballots, Representative Mills and others in the House remained receptive to requests from Womack and NCEIT. On April 11, NCEIT’s Jane Bilello noted that “[w]e need sponsors” for NCEIT’s cast vote record and poll observer bills. PX091 at 2. The email chain was forwarded to Representative Mills by Micah Phelps, asking him to “do a better job at working with these good people.” *Id.* at 1. Just a little over two hours after Phelps sent that email, Representative Mills’s legislative assistant responded, offering to help NCEIT schedule a meeting. *Id.*

79. Womack was able to meet with Representative Mills again shortly after that email exchange. During that meeting, Representative Mills said he would consider NCEIT’s bills and review their legislative priorities. Trial Tr. vol. III, 563:19–25 (Womack).

80. A week after that email exchange, on April 18, Representative Mills sponsored NCEIT’s cast vote record and poll observer bills. PX011 (House Bill 770, listing

Representative Mills as one of four primary sponsors); PX012 (House Bill 772, same). The language in these bills was nearly identical to NCEIT's draft language, which Representative Mills acknowledged at trial. *Compare* PX011 at 4–5, *with* PX096 at 11–12; *compare* PX012 at 3–7, *with* PX096 at 6–10; *see also* Trial Tr. vol. III, 503:22–505:15, 507:11–509:15 (Mills).

81. HB 770, the cast vote record bill, passed in the House on a 73-29 vote, although it was not ultimately enacted. PX011 at 1–2. Changes similar to those proposed by NCEIT in HB 772 were ultimately incorporated into SB 747. *See* JX002 at 2-3.

82. Though Representative Mills sponsored three separate bills in the House addressing three separate NCEIT priorities (including same-day registration), Representative Mills insisted at trial that he had no recollection of working on the issue of same-day registration prior to SB 747 passing over to the House, Trial Tr. vol. III, 471:15–472:22, and repeatedly denied ever studying draft bill language from NCEIT or working it into draft legislation with his lawyers at the General Assembly. *Id.*, 484:17–485:5; *id.*, 487:5–8 (claiming he “never worked with Jim Womack on any bills”). Given his demeanor on the witness stand and that his testimony is directly contradicted by both the documentary record and the testimony of James Womack, the Court declines to credit Representative Mills's testimony as it relates to his relationship with NCEIT and what role it had in influencing legislation that Representative Mills sponsored or oversaw.

4. *NCEIT and Mitchell Meet with Senate Election Chairs, Culminating in the Introduction of Their Same-Day Registration Concept into Senate Bill 747*

83. Meanwhile, on the Senate side, work had begun on an omnibus elections bill. Senator Daniel received recommendations for SB 747 from election integrity groups. Trial Tr. vol. III, 412:15–17 (Daniel). In fact, in March 2023, Senator Daniel and the other election chairs were considering over 75 policy recommendations from election integrity groups—including NCEIT—for inclusion in an election reform bill. *Id.*, 413:12–19.

84. On May 24, 2023, Senator Daniel, the other election chairs, and Senate staff (including Brent Woodcox), met with Mitchell and Womack in the legislative office building. *Id.*, 420:12–421:17; Trial Tr. vol. III, 568:6–569:7 (Womack). Just six weeks prior, Mitchell had given a presentation on election integrity at the Republican National Committee donor retreat. Trial Tr. vol. II, 184:23–186:4 (Mitchell). At that event, she shared that “[w]e can fix a few things in North Carolina because we think we should -- we have -- we now have a legislature controlled by the Republicans if we can persuade the new Republican member to vote with us.” *Id.*, 186:5–187:24.

85. Then, before an audience made up of the primary decision makers for elections legislation in North Carolina, Mitchell and Womack presented on their election integrity concerns, including on same-day registration. Trial Tr. vol. III, 420:12–421:17 (Daniel); Trial Tr. vol. III, 568:6–569:7 (Womack).

86. Mitchell and Womack’s presentation again identified “Election Integrity Challenges Facing North Carolina,” including concerns that “Same Day Registration (SDR) during early voting is inadequately scrutinized- electronic & unverified address

documentation allowed,” and that “[o]ut of state college student registration to vote in NC remains problematic.” JX042 at 6, 8; Trial Tr. vol. III, 421:8–14 (Daniel).

87. The presentation then proceeded to cover “Election Integrity Legislative Recommendations from EIN’s Clela Mitchell & NCEIT President James Womack.” JX042 at 15. The recommendations list again included “[e]liminat[ing] same-day registrations (SDRs) during early voting- or at least requir[ing] SDRs be issued provisional ballots so that addresses can be verified and challenges permitted prior to canvass.” *Id.* at 17 (emphasis omitted). This concept of requiring same-day registrants to be issued provisional ballots—an NCEIT legislative priority—was what ended up in the initial version of SB 747 filed on the Senate side. Trial Tr. vol. III, 422:25–423:5 (Daniel).

88. These presentation slides “were based on a review that Clela had done of the NC statutes, as well as [Womack’s] own experiences.” Trial Tr. vol. III, 569:18–21 (Womack). And Womack believed that Mitchell “could add value to the conversation with the three Senate co-chairs because she’s an acclaimed election law attorney and is familiar with the work done in other states, that that would be of great value in influencing those three Senate co-chairs.” *Id.*, 570:1-10.

89. That night, Womack sent an email to Woodcox, who he understood to be the “scribe . . . of the Senate co-chairs”, “memorializing” the “principal discussion items” from the meeting and providing a “recap of vitally important features we discussed and that we would like to see prioritized in the upcoming Omnibus bill.” *Id.*, 573:19–574:23; JX043 at 1. Among this more targeted list “of vitally important features” was requiring that “[s]ame-day registrants may only vote provisionally and the ballot cannot be counted until identity,

eligibility, and address are verified (prior to canvass).” JX043 at 1 (emphasis omitted). As discussed in more detail, *infra* Section IV.C, the concept to make same-day registration ballots provisional was “the compromise position we were hoping we could arrive at since there was no appetite at that time to try to eliminate same-day registration.” Trial Tr. vol. III, 575:3–10 (Womack).

5. *Senate Bill 747 Is Filed in the Senate and NCEIT Claims Credit*

90. On June 1, 2023, SB 747 was filed. JX001 at 10; *see also* Trial Tr. vol. III, 426:16–427:10 (Daniel). Per Mitchell and NCEIT’s recommendations, the bill included a provision to “Require Provisional Ballot for Same-day Registration.” JX013 at 10. Same-day registrants’ provisional ballots would be counted only upon passing mail verification or if they brought in additional documentary proof of residence to their county board office. *Id.* at 10.

91. Senator Daniel’s testimony about why this provision appeared in SB 747 lacked credibility. He acknowledged that this restriction to same-day registration was an NCEIT legislative priority and that they had proposed that very concept in the May 2023 meeting, just weeks before the bill was filed. Trial Tr. vol. III, 422:16–423:5 (Daniel). Yet he pushed back on the idea that it was included because of them, despite previously testifying at deposition that the provision was incorporated into the bill because of election integrity groups like NCEIT. *Id.*, 424:2–25.

92. The same day the bill was filed, NCEIT took credit, exclaiming “Look What WE Did!” in an online post branded with the NCEIT logo. PX194. The post highlighted Mitchell’s involvement, as well as Womack’s and NCEIT’s, and specifically noted their

meeting with “high-ranking Republican lawmakers in recent weeks, pushing their goals for changes to election laws ahead of the 2024 elections.” *Id.* The post quoted Womack, who explained that “[t]his is something my group has been pushing for.” *Id.* at 1.

6. *The State Board First Learns of Senate Bill 747 After It Is Filed*

93. Prior to this point, the North Carolina State Board of Elections had not been consulted on the bill or its specifics, instead only learning about it and getting involved once the bill was filed. Trial Tr. vol. III, 593:18–594:6 (Cox).

94. Paul Cox, General Counsel for the State Board, communicated with Woodcox and Yost about the bill in June 2023. Trial Tr. vol. III, 598:19–599:12; JX032. In one email, Cox expressed concerns about the impact of the bill’s changes to SDR on “military personnel, students, and low-income people/renters who move frequently.” JX032 at 1; Trial Tr. vol. III, 601:15–602:14 (noting these populations “move frequently” and that the “new identification procedures” “would be particularly difficult” for “those types of populations”). He then offered “a better approach to address the issue [the State Board] believed the legislature wanted to address.” Trial Tr. vol. III, 604:7–11 (Cox).

95. This offering was “not based on a determination by the State Board that the same-day registration process should be changed,” nor was it “something the State Board would have adopted of its own accord.” Trial Tr. vol. III, 604:12–605:3 (Cox). Paul Cox explained that when it comes to legislative policy, the State Board views its role relating to proposed legislation to be educating the members of the legislature on the corresponding impacts on elections and voters. *Id.*, 597:19–598:18. Sometimes there are proposals that the State Board recommends removing because it is “difficult” or “impossible to achieve,”

or “would have significant consequences on voters and the administration of elections.” *Id.* But when that is not possible, due to “where the politics are on a bill,” the State Board “considers ways to make [the proposal] more administrable.” *Id.*

96. That was the case here. The State Board was able to persuade legislators to remove certain aspects of Senate Bill 747, but they could not with the same-day registration provision. *Id.*, 602:24–604:6 (Cox). Based on communications with legislative representatives, the State Board was left with the “distinct impression” that there was a “legislative priority to do something about same-day registration, particularly address[ing] the issue of people not passing the mail verification test.” *Id.*, 602:24–603:23 (Cox). It was in *this* context that the State Board raised the idea of “provid[ing] a method to retrieve a ballot that fails the first mail verification before canvass, and not involve a challenge procedure—just instruct the county boards to retrieve and disapprove the ballot.” JX032 at 1.

97. On June 22, 2023, SB 747 passed the Senate and crossed over to the House. Doc. 174 ¶ 10; JX001 at 8. At that time, the Senate had not adopted the alternative approach laid out by the State Board. Trial Tr. vol. III, 605:20–23 (Cox). Senator Daniel never communicated with Paul Cox about the bill. *Id.*, 613:7–14 (Cox).

7. *Senate Bill 747 Is Passed in the House and Ultimately Becomes Law*

98. After SB 747 passed in the Senate, it moved to the House, where Representative Mills was responsible for carrying the bill forward. Trial Tr. vol. III, 460:1–10 (Mills).

99. On June 26, shortly after SB 747 crossed over into the House, a document titled “NCEIT Assessment & Recommendations – Senate Bill 747” was sent to a number of representatives, including Representative Mills. PX092. The document identified SB 747’s change to same-day registration as an “important election integrity improvement” that would “enable the local board of elections and concerned citizens the time to perform voter verification prior to the ballot being counted at canvass.” PX092 at 3 (cleaned up).

100. Once in the House, Paul Cox met with Representative Mills and a couple members of leadership staff, including Sam Hayes, to discuss SB 747 and the State Board’s recommendations for potential changes. Trial Tr. vol. III, 607:11–23 (Cox). On the SDR provision, Cox provided them with essentially the same recommendation he had given in the Senate. *Id.*, 607:24–608:2; *see also* PX093 (State Board suggestions).

101. Thereafter, the same-day registration provision was amended to provide that voters using same-day registration would vote a “retrievable” ballot, and if their first verification card returned as undeliverable before close of business on the business day before county canvass, their ballot would be removed from the count. JX005 at 5.

102. But the House did not adopt the State Board’s suggestion verbatim. Instead, it used its own language, which would lead to new restrictions on the kinds of documents students could use as documentary proof of residence for same-day registration. *Compare* SBEDX0020 at 6 (proposed language), *with* JX005 at 5 (proposed House committee substitute). Specifically, the House version of SB 747 removed the State Board’s authority to designate additional documents for use as documentary proof of residence, and it did not add university documents as a separately listed option. *Id.*; *see also* JX058 at 5–6 (State

Board feedback); JX029 at 4 (former statutory provision). As a result, students at public universities could continue to use documents from their schools, because those are government documents and both prior and current law allowed use of government documents as documentary proof of residence. But students at private universities could do so only if they were using their student ID to satisfy North Carolina's separate voter photo ID requirement (which in turn is possible only if their school's ID has been approved for use as voter photo ID, and not all private universities have approved photo IDs). Trial Tr. vol. III, 611:3–613:6 (Cox).

103. Paul Cox flagged the issue to House staff, suggesting language that would match the Board's then-current practice and warning that "[a]s written, this provision will disfavor college students of private institutions, and will reduce the opportunity for all students to rely on the list provided to CBEs." JX058 at 5–6. But the House did not incorporate this student-focused recommendation, and it was not otherwise incorporated into the enacted version of SB 747. Trial Tr. vol. III, 612:19–613:6 (Cox).

104. SB 747 passed the House on August 16 and was ultimately ratified on August 17. Doc. 174 ¶ 12; JX001 at 5–6. On August 24, Governor Cooper vetoed SB 747. Doc. 174 ¶ 13; JX001 at 5. SB 747 became law on October 10, when the General Assembly overrode the Governor's veto. Doc. 174 ¶ 14; JX002; JX001 at 4–5. Between the bill coming back from the House and the veto override, no other changes were made to it. Trial Tr. vol. III, 429:7–10 (Daniel).

C. The Bill Sponsors' Attempts to Obfuscate the Source of and Intent Behind Senate Bill 747's Restrictions on Same-Day Registration Fail

105. Through their testimony at trial, the bill sponsors offered several competing theories on the purpose behind Senate Bill 747's restriction on same-day registration and the motivation behind including that concept in the omnibus elections bill. As discussed below, the Court finds these explanations to be post-hoc justifications unsupported—and at times, directly refuted by—the full trial record. They are therefore rejected. Similarly, Clela Mitchell and James Womack used trial to try to downplay the success of their influence campaign on the final legislative product. Like the testimony of the bill sponsors, these efforts to recast the legislative process in a more legally justifiable light cannot be credited given the weight of the evidence.

106. At trial, Senator Daniel resisted acknowledging that the same-day registration change came from NCEIT, saying that “more than one were making this recommendation.” Trial Tr. vol. III, 424:2–25. However, there is no evidence in the record of other constituents or election integrity groups suggesting the same-day registration concept that ended up in SB 747, nor is there evidence of others receiving the same level of legislative attention—including personal meetings—that Mitchell and NCEIT did.⁴ For example, although the Election Boards Association of North Carolina reached out to

⁴ In fact, only with some prompting from his attorney could Senator Daniel muster the name of a single other third-party who he claimed provided input relating to Senate Bill 747. Trial Tr. vol. III, 454:9–20 (Daniel). Even so, Senator Daniel did not testify that this individual—Major Dave Getz—raised concerns about same-day registration or made any recommendations relating to the same. Meanwhile, the initial bill text closely mirrored Mitchell and NCEIT's suggestion and NCEIT-endorsed HB 485. *See supra* Section IV.B.3.

Senator Daniel about the bill after it was filed, PX084, Senator Daniel could not remember if he had even seen this email, read it, or passed it along to his staff, and he did not reach out to any county board of elections members or staff to investigate the concerns raised. Trial Tr. vol. III, 440:13–442:23. By contrast, he regularly passed along NCEIT communications to his staff, and he—along with the other Senate election chairs and the primary bill drafter, Brent Woodcox—took the time to meet privately with Mitchell and Womack to discuss their recommendations for election law changes. *See supra* Section IV.B.2.

107. That NCEIT and Mitchell did not get their ideal policy change—the elimination of same-day registration—does not undermine the extent of their influence. Early in the legislative process, Womack was informed that eliminating same-day registration was “mission impossible,” in part due to past lawsuits, and it was not something the General Assembly was going to do in this bill. Trial Tr. vol. III, 555:2–557:4 (Womack). This understanding was reinforced during their meeting with the Senate election chairs. *See id.*; *see also id.*, at 574:7–19 (describing the meeting as a “negotiation about our wish list”). In the spirit of that “negotiation,” Womack and Mitchell proposed making same-day registration ballots provisional. *Id.*, 554:19–557:1. Furthermore, although the final version of the SDR provision no longer used the term “provisional ballot,” it nonetheless aligned with NCEIT’s request that same-day registrants’ ballots be handled in a way so “that addresses can be verified and challenges permitted prior to canvass.” *See, e.g.*, JX042 at 17 (NCEIT Presentation).

108. At trial, Legislative Defendants also attempted to characterize SB 747's enactment as the normal legislative process at work, seeking to address alleged flaws in the prior system. But the evidence and testimony presented at trial disprove that characterization for several reasons.

109. *First*, neither Senator Daniel nor Representative Mills did any research into whether same-day registration and mail verification were flawed or in need of modification. Trial Tr. vol. III, 429:13–16 (Daniel); Trial Tr. vol. III, 520:11–521:3 (Mills) (“[I]t’s a people-driven place. I work with people. I didn’t do any research.”). Neither legislator requested nor reviewed any election data regarding same-day registration. Trial Tr. vol. III, 429:13–19 (Daniel); Trial Tr. vol. III, 521:4–11, 522:6–13 (Mills). Prior to the filing of SB 747, Senator Daniel did not know of any confirmed instances of ineligible voters being permitted to vote using same-day registration or voter fraud using SDR, and he likewise did not know of any instances where HAVA documents were forged for the purpose of presenting fraudulent documentary proof of address. Trial Tr. vol. III, 431:12–432:2. Likewise, Representative Mills never looked for or found a same-day registrant who failed mail verification and was not actually a resident of the residential address they claimed. Trial Tr. vol. III, 521:12–21. Nor did he have—or anyone else show him—evidence of any HAVA document being forged or altered by someone using same-day registration. *Id.*, 521:22–522:5.

110. Instead, in Senator Daniel’s opinion, the SDR provision was not evidence-driven but instead “commonsense driven.” Trial Tr. vol. III, 432:10–12. He did not consider it to be a major or significant piece of the bill, and it wasn’t something he focused

much attention on. *Id.*, 432:3–9. Even more tellingly, Representative Mills characterized SB 747’s legislative process as “people-driven.” Trial Tr. vol. III, 522:6–10 (Mills). In the case of the same-day registration provision, the record makes clear that the “people” in question were Mitchell, Womack, and NCEIT.

111. *Second*, in contrast to their responsiveness to Mitchell and NCEIT’s requests, Senator Daniel and Representative Mills were dismissive of concerns raised about proposed changes to same-day registration in SB 747, including ones related to young voters. In response to such concerns, Senator Daniel echoed some of Womack’s points about college student residency, stating—without any supporting data—that he thought “most college freshmen probably would remain registered in their home of residence and would vote absentee there.” JX017 at 0:08:00; Trial Tr. vol. III, 444:9–445:3 (Daniel). He also stated that he thought most same-day registrants would have a North Carolina driver’s license and a HAVA document and would be able to vote—despite not having any data supporting that belief. Trial Tr. vol. III, 443:14–444:5. In legislative debate, Senator Marcus expressed concern that the bill would have a “disproportionate impact” on students and young voters, who “use same-day registration at a higher rate and are less likely to have that limited number of documents that you’re allowing to prove their address.” JX017 at 1:19:26; Trial Tr. vol. III, 445:15–446:5 (Daniel). Senator Daniel did not investigate those claims and decided that they were not credible without elections data supporting them. Trial Tr. vol. III, 446:6–447:8.

112. Additionally, Senator Daniel did not speak to any postal workers or educational institutions about mail deliverability issues (including with student addresses),

nor did he speak with any election workers or personally request feedback from the State Board either himself or through his personal staff. Trial Tr. vol. III, 429:13–431:6.

113. *Third*, Senator Daniel and Representative Mills lacked familiarity with, and in some cases blatantly misunderstood, both the prior mail verification system and SB 747’s new requirements. Critically, Senator Daniel did not know that the existing same-day registration regime required same-day registrants to provide documentary proof of residence when registering, unlike people who register before the 25-day deadline. Trial Tr. vol. III, 432:15–24. He also did not understand that county boards of elections use different types of mailings to confirm residency for same-day registrants as compared when confirming residency for voters reporting a change of address within county. *Id.*, 432:25–433:4. In legislative debate to support his bill, Senator Daniel stated that when he was in college, he had a credit card tied to a P.O. Box on campus that he believed would qualify as documentary proof of residence. But a P.O. Box is not a residential address and therefore cannot be used as documentary proof of residence, which he acknowledged at trial. JX015 at 0:08:00; Trial Tr. vol. III, 444:7–445:13 (Daniel). Meanwhile, during their meetings, Womack “educated [Mills] on some provisions of election law that he wasn’t aware of,” and he was shocked that Representative Mills “didn’t appear to know the election code as the chair of the elections committee.” Trial Tr. vol. III, 558:21–559:17 (Womack).

114. *Fourth*, both the initial version of the same-day registration provision and the version finally enacted conflict with major goals of the omnibus bill, particularly election finality. SB 747 removed the previous three-day grace period for receiving absentee ballots mailed by Election Day, instead requiring that all absentee ballots be received by Election

Day to be counted. JX002 at 27. This provision was a “major piece of the bill, and Senator Daniel supported it because “[l]eaving voters in the dark about the outcome harms the integrity of the process” and “[e]very day that passes after Election Day with votes still coming in creates the possibility of distrust.” Trial Tr. vol. III, 438:11–439:3. Yet provisional ballots are not counted until right before canvass, meaning that the initial proposal to make same-day registration ballots provisional would have left all of those votes uncounted until ten days after Election Day. Trial Tr. vol. III, 439:4–10 (Daniel); Trial Tr. vol. III, 596:11–597:11 (Cox) (explaining that this would “essentially triple the number of provisional ballots that would have to be counted before the canvass” and that this was at odds with other parts of the bill meant to get results earlier). Similarly, the enacted same-day registration provision left same-day registrants’ ballots subject to removal until close of business on the business day before canvass—again, leaving election results in flux after Election Day until just before canvass. JX002 at 5.

115. *Fifth*, both Senator Daniel and Representative Mills acknowledged that the new system would throw out ballots of otherwise eligible voters, inconsistent with their own understanding of “election integrity.” Trial Tr. vol. III, 447:11–448:21 (Daniel); Trial Tr. vol. III, 462:10–21 (Mills). Senator Daniel acknowledged that a mail verification card might come back as undeliverable for reasons other than the voter not living there—such as postal errors, clerical mistakes by election staff, or even a full or damaged mailbox. Trial Tr. vol. III, 448:3–17; *see also* Trial Tr. vol. III, 433:15–21 (affirming awareness of State Board guidance that “[t]he failure of the verification process does not necessarily mean that the voter should not have cast a ballot”). And he could not guarantee that SB 747’s

SDR provision would not cancel the ballot of an otherwise eligible voter. Trial Tr. vol. III, 448:18-21 (Daniel). Meanwhile, Representative Mills similarly testified that if a voter's second verification card was returned after canvass, that would mean "an ineligible voter would have voted," despite acknowledging that the failed mail verification does not necessarily indicate fraud or that the voter did anything wrong. Trial Tr. vol. III, 451:10–452:13 (Mills). When asked whether an eligible voter not being able to cast a ballot due to postal error is an election integrity issue, Representative Mills could only state that it is "something that happens rare," based on his own experiences with the post office "and also just not being aware of that being a common occurrence." Trial Tr. vol. III, 462:22–463:21 (Mills).

116. *Finally*, the late-game appearance of the State Board of Elections in the legislative process cannot serve to cleanse the age-based animus that drove the origins of the same-day registration restriction in SB 747. Unlike Mitchell and NCEIT, the State Board was not consulted while the bill was first being drafted, instead only learning about the bill and its proposed changes to same-day registration after it was filed. Trial Tr. vol. III, 593:18–594:6 (Cox). The State Board had not advocated for or requested any changes to the mail verification process for same-day registration prior to SB 747 being filed, nor did it have any analyses or concerns about fraud that would have led it to do so. *Id.*, 594:7–20. And the State Board only made the recommendation to use the one-mailer verification system (rather than making all same-day registration ballots provisional) based on its understanding that changing the same-day registration process was a legislative priority that would remain in the bill. *Id.*, 602:24–605:7.

117. In sum, SB 747's changes to same-day registration were not enacted due to a desire or request from the State Board, or due to a fact-based deliberative process by the legislature, but instead due to a monthslong influence campaign driven by Mitchell, Womack, and NCEIT to restrict same-day registration. That influence campaign was in turn driven by, and infected by, Mitchell and Womack's animus against young, student voters.

V. SAME-DAY REGISTRATION AND ADDRESS VERIFICATION UNDER SENATE BILL 747 AND THE COURT-ORDERED NOTICE-AND-CURE PROCESS

A. New Rules and Procedures for Same-Day Registrants under Senate Bill 747

118. Under SB 747 as passed, a same-day registrant is sent a single non-forwardable mailer to verify address after registering. If that mailer is returned as undeliverable before the close of business on the business day before canvass, then the voter's registration is denied, and their ballot is removed. County boards are not required to provide the voter notice or an opportunity to be heard before denying the registration application and rejecting the ballot. JX002 at 5; N.C.G.S. § 163-82.6B.

119. After this Court's PI Order in *Voto Latino v. Hirsch*, 712 F. Supp. 3d 637, 684 (M.D.N.C. 2021), the State Board revised its guidance on Senate Bill 747—contained in Numbered Memo 2023-05—to include a notice-and-cure process for same-day registrants whose address verification cards were returned as undeliverable. *See* JX062.

120. Under this Numbered Memo, if the single mailer is returned as undeliverable before close of business *two* days⁵ before county canvass, the voter's status is changed to denied, but then additional steps are followed to effectuate a notice and cure process. JX062 at 6.

121. Specifically, county election board staff are instructed to check the address on the verification card against the voter's registration application to see if the address was entered correctly. If staff identify an error in how the address was entered, they are instructed to start a new verification mailing process and change the voter back to active status. JX062 at 6–7. SB 747's text did not require this address check. *See* JX002 at 5.

122. If staff do not identify an error between the verification card and registration application, then they must mail the voter a "Notice to Verify Your Address" within one business day. If the voter provided a phone number or email address, staff are instructed to notify the voter through those means too. JX062 at 7.

123. To cure their registration and have their ballot counted, a voter must either: (1) submit an additional HAVA document, different from the one they used at same-day registration, by close of business on the day before canvass; or (2) attend the county canvass meeting in-person to verify their address. JX062 at 7–8. If the voter cures, then their registration will be changed to active again, and their ballot will count. If not, then the voter's ballot will be pulled from the count. JX062 at 8–9.

⁵ The Numbered Memo uses a two-day cutoff instead of SB 747's one-day cutoff because the county boards of election would not be able to provide notice and an opportunity to cure to voters whose cards came back the day before canvass. JX062 at 6 & n.11.

124. If a same-day registrant's verification card comes back as undeliverable after the two-day cutoff period, their ballot remains in the count for that election, but they will be sent a second verification mailer. If the second verification mailer returns undeliverable, the registration application is denied. JX062 at 8.

125. The Consent Judgment from the *Voto Latino* and *DNC* litigation requires the State Board to enforce Section 10(a) of SB 747 but enjoined it from "remov[ing] 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 day" without "first providing such voter notice and an opportunity to remedy the address verification failure." Consent Judgment, 7. After the Consent Judgment was entered, the State Board readopted Numbered Memo 2023-05. JX061.

126. Although the Consent Judgment requires that same-day registrants be given notice and an opportunity to cure before their ballot is removed from the count, it does not bind the State Board to continue specific practices included in Numbered Memo 2023-05, such as the requirement that county boards "Check for Address Errors" and the means by which a voter can cure their registration.

B. Even with Notice-and-Cure, Same-Day Registrants Under Senate Bill 747 Face More Stringent Registration Requirements with Fewer Protections to Their Ballot Than Other Voters in North Carolina

127. Same-day registrants must show documentary proof of residence to register. Trial Tr. vol. III, 614:11–14 (Cox); N.C.G.S. § 163-82.6B(b)(2). This requirement is

unique to same-day registrants; those who register via other means are not required to show a document to prove their residential address. Trial Tr. vol. III, 614:23–615:21 (Cox).

128. Then, despite having to provide this additional proof-of-address documentation when registering, same-day registrants under SB 747 are typically only sent a single verification mailer, which, if returned undeliverable, will result in their ballot being removed. Trial Tr. vol. III, 614:18–22 (Cox); N.C.G.S. § 163-82.6B(d).

129. By contrast, a new voter registering outside of the 25-day standard registration cut off (hereinafter a “standard registrant”) is eligible for two verification mailers; if their first mailer returns as undeliverable, a second mailer is sent. Trial Tr. vol. III, 614:23–25, 652:2–10 (Cox); N.C.G.S. §§ 163-82.7(c)–(e). The second mailer provides a second opportunity to successfully verify, which is a valuable tool for voter registration successes across age groups. *See discussion infra* Section VI.B (revealing that over the last 15 years of address verification attempts, 44,264 individuals out of 158,163 registrants who failed the first mailer successfully registered by way of the second mailer).

130. An additional advantage of being eligible for two mailers is that standard registrants who have failed the first verification mailer are still eligible to vote (albeit with some restrictions depending on timing) while a second mailer is pending. *See* Trial Tr. vol. III, 617:2–620:9 (Cox); N.C.G.S. § 163-82.7(g).

131. In fact, standard registrants who fail one—or even both—attempts at mail verification receive numerous protections for their ballots once cast, protections not afforded to same-day registrants (who will necessarily have voted before they could fail mail verification). *See* Trial Tr. vol. III, 617:2–620:9 (Cox); N.C.G.S. § 163-82.7(g).

132. If a standard registrant's first verification card is sent within 25 days before an election and is returned as undeliverable, they may still vote in person and have that ballot counted. They are not permitted to vote by mail, and if they have already voted by mail, the county board of elections should challenge the ballot. N.C.G.S. § 163-82.7(g)(2)–(3); Trial Tr. vol. III, 619:3–620:9 (Cox).

133. And, if a new registrant's first or second verification card is returned undeliverable after they have already voted in person, then their ballot will stay in the count. N.C.G.S. § 163-82.7(g)(3); Trial Tr. vol. III, 616:5–620:9 (Cox) (“[I]f the person has already voted in the election, then . . . the ballot will stay in the count. There's no provision here for authorizing a challenge.”).

134. This means a standard registrant could have both verification cards returned undeliverable before canvass but still have their cast ballot counted. Trial Tr. vol. III, 620:6–9 (Cox).⁶

135. Even where a standard registrant's mail-in ballot is subject to challenge as described above, they receive robust due process protections through that formal challenge proceeding. In addition to requiring notice and a hearing, a successful challenge requires affirmative proof to be allowed to remove the ballot; in the absence of proof, the presumption is that a voter is properly registered. Trial Tr. vol. III, 621:21–622:15 (Cox); N.C.G.S. §§ 163-89, 163-90.1(b).

⁶ And, of course, a standard registrant who fails both mail verification cards well in advance of voting may still use same-day registration during the early voting period to start a new registration and have another chance to have their ballot counted. Trial Tr. vol. III, 624:16–23 (Cox).

136. By contrast, a same-day registrant with an undeliverable verification card has the opposite presumption, with the burden of proof falling on the voter to prove their eligibility. Under SB 747's text at ratification, such a ballot was removed with no notice or opportunity to cure. JX002 at 5. Under the new notice-and-cure process, the ballot will be rejected unless the voter takes affirmative steps to provide "additional evidence of their residence." Trial Tr. vol. III, 625:13–626:13 (Cox).

VI. SENATE BILL 747 HAS A DISPARATE IMPACT ON YOUNG VOTERS

A. Youth Voters Aged 18-25 Constitute a Coherent Political Community with Distinct Political Values and Attitudes

137. As explained by Plaintiffs' expert Dr. Jacob Grumbach, youth voters aged 18 to 25 are a "coherent political community," as evidenced by their "distinct political attitudes and priorities" forged through shared experiences, their underrepresentation in politics, and their treatment by political elites. PX179 ¶¶ 2–5 (Grumbach Rebuttal Report); *see also* Trial Tr. vol. IV, 727:14–728:10 (Grumbach).

138. Generational polarization, which "occurs when the political attitudes of generational cohorts diverge," separates age groups into distinct cohorts with common attitudes and priorities. *See* PX176 ¶ 15 (Grumbach Report). This phenomenon is substantial and increasing. *Id.* ¶¶ 3, 15. Both life-cycle effects, the idea that political views are shaped by individuals' current age and corresponding life circumstances, and cohort effects, the idea that different generations have different political attitudes because they have faced different historical circumstances and have different backgrounds, contribute to

generational polarization. *Id.* ¶¶ 16–17; *see also* Trial Tr. vol. IV, 726:9–22 (Grumbach) (describing generational circumstances of younger Americans).

139. Dr. Grumbach’s statistical analysis reveals “clear differences” in political attitudes across generations. He finds that “there are age gaps in opinions on important political and policy questions [that] are substantial and consistently evident,” despite “variation in attitudes between individuals within the same generation” and “variation in the partisanship of different generations across elections.” PX176 ¶¶ 19–21 (Grumbach Report).

140. Older elected officials target young voters’ political participation, motivated by this generational polarization as well as younger generations’ large population and increasing eligibility to vote. *See id.* ¶ 30; Trial Tr. vol. IV, 728:11–17 (Grumbach). Political actors have put forth theoretical arguments about reducing political participation of younger Americans, for example by increasing the legal voting age to 25, and state governments have pursued specific legislation to target the turnout of younger voters. *See* PX 176 ¶¶ 3, 33–34 (Grumbach Report); Trial Tr. vol. IV, 730:9-24 (Grumbach). Public justifications for these actions treat young people as a cohort, focusing on the idea that they are not informed enough or part of communities enough to vote (justifications that are reminiscent of those historically provided against expanding the franchise to other populations like women and racial minorities). PX176 ¶¶ 31–32 (Grumbach Report); PX179 ¶ 4 (Grumbach Rebuttal Report); Trial Tr. vol. IV, 729:10–730:8 (Grumbach). Notably, political elites also speak to youth voters as a segment of the electorate, emphasizing the perception that young voters constitute a political community with shared

experiences and distinct preferences. *See* PX179 ¶ 3 (Grumbach Rebuttal Report); Trial Tr. vol. IV, 727:22–728:10 (Grumbach); *see also* Trial Tr. vol. II, 157:22–23 (Mitchell) (“President Trump did pretty darn well with young people 18 to 25.”).

141. Beyond their shared political attitudes, lack of representation, and treatment by political actors, young voters share and disproportionately experience certain specific and practical barriers to voting because of their residential mobility. *See* PX176 ¶ 3 (Grumbach Report). Young people move at significantly higher rates than older people. *Id.* ¶ 36 & fig. 5; Trial Tr. vol. IV, 733:7–16 (Grumbach). This is partly due to their phase of life: young people may be in school or getting new jobs and renting rather than owning homes. *See* PX176 ¶¶ 42–44 (Grumbach Report). Even Defendants’ expert Dr. Andrew Taylor acknowledged these basic facts, including that renters tend to be younger and move more frequently than homeowners. Trial Tr. vol. IV, 844:23–845:7. Notably, moving creates “new obstacles to casting a ballot,” which “are often directly related to disruptions and delays to physical mail.” PX176 ¶ 36 (Grumbach Report); *see also* PX176 ¶¶ 40–44 (Grumbach Report); Trial Tr. vol. IV, 732:2–14 (Grumbach). One of these obstacles is the need to re-register to vote. PX176 ¶ 38 (Grumbach Report); *see also* Trial Tr. vol. IV, 846:14–19 (Taylor) (acknowledging that young voters need to submit new registrations more than any other age cohort). Moving within the past year also reduces a person’s likelihood of voting. PX176 ¶ 44 & fig. 5 (Grumbach Report); Trial Tr. vol. IV, 733:17–734:8 (Grumbach).

142. These expert opinions from Dr. Grumbach, derived from original analysis, social science and legal literature, are consistent with the testimony provided by Plaintiffs’

directors and staff, who year after year work directly with youth voters, including those on college campuses. Through their voter engagement work, they have identified common characteristics relating to youth voters, like lacking transportation, moving frequently, experiencing challenges with mail or even not receiving mail, and voting for the first time. *See, e.g.*, Trial Tr. vol. I, 37:14–19 (Bass) (noting that a lot of students “oftentimes don’t have methods of transportation”); Trial Tr. vol. II, 366:1–9 (Carter) (explaining that college students disproportionately use same day registration because they move frequently); Trial Tr. vol. I, 46:9–20 (Bass) (discussing variability in campus mail processes); Trial Tr. vol. II, 343:11–20 (Rubin) (noting that college-aged students often cannot receive mail where they are); Trial Tr. vol. II, 363:8–22 (Carter) (discussing the importance of making voting positive so first-time voters become lifetime voters).

143. Finally, though Dr. Taylor opines that young people aged 18-25 are not a clearly identifiable group of voters, LDTX125 at 4–6, 25, that contention is seriously undermined by his trial testimony. Of note, Dr. Taylor admitted that young voters share interests in particular policy issues, Trial Tr. vol. IV, 822:20–823:2, that a law discriminating against at least a subset of voters in the 18-to-25 range would discriminate against young voters, Trial Tr. vol. IV, 823:3–23; and that a definition of young voters as those aged 18 to 25 was “highly defensible,” Trial Tr. vol. IV, 797:24–798:1. Moreover, he could not point to any source that says voters aged 18 to 25 do not constitute young voters. Trial Tr. vol IV, 822:10–12.

B. Expert Analysis of Historical Verification Data Reveals that Senate Bill 747's Restrictions on Same-Day Registration Will Disproportionately Harm Youth Voters

144. Dr. Quinn performed a disparate impact analysis to assess the impact that the change to same-day registration in Senate Bill 747 will have on youth voters as compared to other age groups. *See* Trial Tr. vol. II, 246:18–23. Through that analysis, Dr. Quinn highlights the important role that the second verification mailer has played historically for youth voters in ensuring successful registrations and the ability to vote, while also demonstrating the ineffectiveness for youth voters of the 2024 notice-and-cure process currently in place. All told, Dr. Quinn concludes that removing the second verification mailer will result in the rejection of eligible voters' ballots with that harm disproportionately falling on youth voters. PX182 ¶ 30 (Quinn Supp. Report).

145. To analyze the importance of the second verification mailer and the harm caused by its removal, Dr. Quinn considered registration outcomes for both regular and same-day registrants who were subject to the two-mailer system since 2010. PX182 ¶ 18 (Quinn Supp. Report). This broader pool of registration outcomes is instructive, because prior to SB 747, “the verification system [was] essentially the same for both types of voters” and “[h]aving more information about essentially the same process provides more insight into how this process is actually working out for North Carolina voters.” Trial Tr. vol. II, 222:18–223:4 (Quinn). This method has the added benefit of avoiding having to make imperfect assumptions in an attempt to isolate same-day registration users, as the data provided from the State Board did not explicitly indicate who was a same-day registrant versus a regular registrant. Trial Tr. vol. II, 223:5–12 (Quinn); *see also* Trial Tr.

vol. II, 223:13–224:24 (Quinn) (critiquing Dr. White’s methodology for isolating “SDR-relevant” registration records as being both over- and underinclusive).

146. As reflected in Tables 7 and 9 below and in corresponding testimony, Trial Tr. vol. II, 230:10–232:23 (Quinn), Dr. Quinn’s analysis demonstrates that since 2010, the second mailer resulted in the registration verification of tens of thousands of voters, a disproportionately high number of whom were youth voters. Without the second mailer, “it is almost certain that these individuals would have failed verification and thus had their registration denied.” PX182 ¶ 26 (Quinn Supp. Report); Trial Tr. vol. II, 231:8–14 (Quinn). Between 2010 and 2025, nearly 45,000 voters relied on the second verification mailer to register to vote. PX182 ¶ 21 & tbls. 7, 9 (Quinn Supp. Report). Of these individuals, 44% were youth voters (19,498 individuals in the “Under 26” category out of 44,264 individuals total)—a disproportionately high number relative to their share in the electorate, which is approximately 12% to 14% depending on the year. PX182 ¶ 26 & tbl. 9 (Quinn Supp. Report); *see also* PX180 ¶ 70 (Quinn Report).

147. Dr. Quinn’s analysis also demonstrates that since 2010, youth voters have received a disproportionate number of second mailers, and the mail verification process has been generally more difficult for youth voters to navigate. Youth voters are the largest group of individuals receiving a second mailer—76,429 out of 158,163 (48.3%). PX182 ¶ 30 & tbl. 9 (Quinn Supp. Report). Accordingly, “when we take that second mailer away, as is the case for same-day registrants under SB 747, that’s going to have a larger effect on youth voters than other age categories.” Trial Tr. vol. II, 239:8–20 (Quinn).

Calendar Year	Verified on Second Mailer	Verified after Forward	Total Second Mailers	Total Forwarding Mailers
2010	1559	121	5378	2101
2011	2373	244	6314	2670
2012	5761	1037	19702	6845
2013	1986	375	6775	3459
2014	2399	305	10767	3488
2015	1201	179	4572	1993
2016	4175	515	15058	4532
2017	2156	232	7104	2695
2018	3181	320	11126	4078
2019	2813	383	9803	4994
2020	3471	691	12036	5926
2021	2321	429	7109	5084
2022	2592	310	9715	3423
2023	2566	223	8627	3147
2024	5069	296	22437	3512
2025	641	15	1640	443
Total	44264	5675	158163	58390

Table 7. Verifications on Second Mailer and After Forwarded Mailer by Year, 2010-2025. Tabulated from: "2025-02-01 litigation_ticket_124972_1stVFY_status_list.txt", "2025-02-01 litigation_ticket_124972_1stVFY_voter_list.txt", "2025-02-01 litigation_ticket_124972_Denied_status_list.txt", and "2025-02-01 litigation_ticket_124972_Denied_voter_list.txt".

PX182 (Quinn Supplemental Report) p. 7, Table 7

Age	Verified on Second Mailer	Verified after Forward	Total Second Mailers	Total Forwarding Mailers
Under 26	19498	2322	76429	29422
26-35	9501	921	32014	11017
36-45	5345	678	18428	6842
46-55	4326	671	14778	5305
56-65	3356	581	10214	3483
66 or older	2238	502	6300	2321
TOTAL	44264	5675	158163	58390

Table 9. Verifications on Second Mailer and After Forwarded Mailer by Age, 2010-2025. This table was constructed from the same data as Table 7. Age is constructed from the year of the occurrence of the column event (verified status change or when the second or forwarding mailer was sent) minus the year of birth. As a result, this is an approximate age.

PX182 (Quinn Supplemental Report) p. 11, Table 9

148. As reflected in Tables 8 and 10 below and in corresponding testimony, Trial Tr. vol. II, 236:24–239:7 (Quinn), youth voters also make up “[o]ver half of the individuals whose registration was denied” after two mailers, PX182 ¶ 29 & tbl. 10 (Quinn Supp. Report), and a disproportionate number of those who were seemingly erroneously denied as evidenced by subsequent attempts to register at the same address where verification failed, PX182 ¶¶ 24, 29 & tbl. 10 (Quinn Supp. Report); Trial Tr. vol. II, 237:16–239:7 (Quinn). Specifically, youth voters make up about 41.9% of people who failed mail verification initially but later verified at the same address. PX182 ¶ 29 & tbl. 10 (Quinn Supp. Report). And youth voters make up about 45.1% of individuals who failed mail verification at an address and then attempted to vote provisionally at that same address. *Id.* ¶ 22 & tbl. 10.

Calendar Year	Denied after Two Mailers	Denied after Forward	Denied & Later Verified at Same Address	Denied & Attempted to Vote Provisionally
2010	2764	1085	73	204
2011	3627	2040	68	183
2012	11607	4598	802	637
2013	4884	3039	77	199
2014	6419	2878	103	246
2015	4340	1841	41	124
2016	9002	2734	565	389
2017	5082	2575	55	102
2018	6684	3274	188	173
2019	6703	4387	58	143
2020	7153	4563	359	165
2021	5012	4462	45	110
2022	6169	3083	125	96
2023	5993	2918	22	60
2024	15083	2755	280	134
2025	2175	280	0	0
Total	102697	46512	2861	2965

Table 8. Denied Registrations After Two Mailers or Forwarded Mailer by Year, 2010-2025. This table was constructed from the same data as Table 7 as well as address history files and public provisional data.⁹

PX182 (Quinn Supplemental Report) p. 9, Table 8

Age	Denied after Two Mailers	Denied after Forward	Denied & Later Verified at Same Address	Denied & Attempted to Vote Provisionally
Under 26	51490	24881	1200	1337
26-35	20536	8599	519	509
36-45	11825	5228	300	351
46-55	9334	3870	305	337
56-65	6006	2427	315	263
66 or older	3506	1507	222	168
TOTAL	102697	46512	2861	2965

Table 10. Denied Registrations After Two Mailers or Forwarded Mailer by Age, 2010-2025. This Table was constructed from the same data as Table 8. Age is constructed from the year of the occurrence of the column event (denied status change for the first three columns or, for the last column, when the provisional vote was attempted) minus the year of birth. As a result, this is an approximate age.

PX182 (Quinn Supplemental Report) p. 12, Table 10

149. Taken together, Dr. Quinn’s analysis of the verification data demonstrates that:

[T]he mail verification process is a relatively difficult process for youth voters to successfully navigate, and that SB 747 is likely to exacerbate those difficulties. Those under 26 years of age are disproportionately more likely to fail the mail verification process than those in older age groups. The number of individuals under 26 with failed mail verifications would be even larger without the use of the second mailer given the rates at which individuals under 26 use that second mailer to verify.

PX182 ¶ 30 (Quinn Supp. Report); *see also* Trial Tr. vol. II, 239:8–20 (Quinn). This analysis contributes to Dr. Quinn’s broader conclusion:

Overall, SB 747 will likely result in disproportionate numbers of failed voter registration verifications for youth voters—both relative to how those youth voters would have fared in the pre-SB-747 two-mailer verification process and compared to how other age groups will likely fare under SB 747. Given historical trends, SB 747 is likely to disenfranchise people who would have been able to successfully register and vote under the pre-SB-747 law.

PX180 ¶ 157 (Quinn Report); *see also* Trial Tr. vol. II, 239:8–20 (Quinn).

150. Dr. Quinn also analyzed verification data from the 2024 elections to investigate the efficacy of the notice-and-cure process put in place by the State Board in response to orders from this Court. His analysis, reflected in Table 15 below, demonstrates that the notice-and-cure process was not effective for youth voters in the 2024 General Election. PX180 ¶¶ 123, 131–32 (Quinn Report).

	DENIED - DEFAULT TIME LIMIT	DENIED - FAILED CURE	STARTED NEW MAILING	VERIFIED - SDR CURE	ACCEPTED WITHOUT CURE
Under 26	418	47	86	76	41497
26-35	213	40	29	47	30415
36-45	87	23	9	33	18411
46-55	77	22	13	30	14664
56-65	80	22	16	33	13214
66+	70	22	19	39	10961
Total	945	176	172	258	129162

Table 15. November General 2024 Same-Day-Registration Voting. Tabulated from "NCSBE_003097 - 2025-02-06 litigation_ticket_124972_SDR_Undeliverable_Info_2024_Elections.CSV" merged with the public absentee file "absentee_20241105.csv".

151. During the 2024 general election, only 14% (76 of 541) of youth voters who failed the first mailer and had to navigate the notice-and-cure process cured their ballots. *Id.* ¶ 132 & tbl. 15. This was lower than the overall fraction of voters who were able to cure under those circumstances—18.7%, or 258 of 1379—and the lowest overall cure rate compared to any other age bracket. *Id.* ¶ 132; Trial Tr. vol. II, 241:18–242:17 (Quinn). Moreover, half of the registrants who failed the first mailer and were judged to have an address error on that mailer—thus receiving a new verification mailer—were youth voters; those voters would not have successfully registered under SB 747 as it was passed, as they benefitted from the “Check for Address Errors” provision of the notice-and-cure process.

See PX180 ¶¶ 129, 133 & tbls. 14 & 15 (Quinn Report); Trial Tr. vol. II, 242:18–243:15 (Quinn). When address errors were investigated, caught and corrected, in most cases, the registrant’s registration then verified. PX180 ¶ 138 (Quinn Report); Trial Tr. Vol. II, 243:16–244:2 (Quinn). However, Dr. Quinn’s analysis of that process shows substantial amounts of variability in the number of records with the “Started New Mailing” status, which suggest that address errors on the first mailer are being made and/or caught by county boards at different rates across counties. See PX180 ¶¶ 142 & tbl. 19 (Quinn Report).

152. As it relates to Dr. Quinn’s overall method and approach, the Court finds that Dr. Quinn offers a methodologically sound analysis that aids the Court in understanding the disparate impact of SB 747 on youth voters, answering the question most pertinent to the issues in this case—i.e., “what’s going to happen to youth voters after they lose the ability to use the second mailer to verify same-day registration.” Trial Tr. vol. II, 248:10–14 (Quinn). Answering that question necessarily requires considering not only the outcomes of the second mailer, but also *who is being sent* that second mailer (that is, the population whose first mailer is returned as undeliverable). Trial Tr. vol. II, 247:13–249:20 (Quinn). Dr. Quinn uses historical data and this “but-for” counterfactual of what would happen to registrants if the second mailer were removed (as SB 747 dictates for same-day registrants) to answer these questions. Trial Tr. vol. II, 249:22–251:2 (Quinn). When completing his analysis, Dr. Quinn looks at population data—that is, data that includes *every* registrant—standard and same-day—who received two mailers. Because he used the

full dataset, not a subset, Dr. Quinn could make inferences and findings without the need for statistical testing. *See* Trial Tr. vol. II, 244:19–246:14 (Quinn).

153. Dr. White’s analysis, by comparison, restricts its analysis to purely the second step of the verification process—“which is after individuals have failed the first mailer, possibly at very different rates for youth voters relative to older voters, is there some sense that county boards are discriminating against youth voters” based on an analysis of second-mailer verification outcomes. Trial Tr. vol. II, 248:15–24. It does so by utilizing a significantly-stripped-down dataset (from 3,711,329 records down to 7,156) to reach a category he defines as “SDR-Relevant.” *See* LDTX128 at 5-6, tbl. 2. The Court finds this methodological design to be flawed given the relevant questions in this case and, accordingly, affords Dr. White’s conclusions limited weight.⁷

154. Further supporting the Court’s endorsement of Dr. Quinn’s methodology is the fact that Dr. White’s underlying calculations, when properly interpreted, support Dr. Quinn’s overall conclusions. Dr. White’s analysis shows that young voters made up over 40% of same-day registrants who were verified on a second mailer and that young voters were more than five times more likely to rely on the second mailer for verification than older voters—points consistent with Dr. Quinn’s findings. PX184 ¶¶ 50–53 (Quinn

⁷ Beyond this design flaw, testimony at trial demonstrated technical and methodological flaws in Dr. White’s analysis that further undermine his findings. For example, Dr. White relied on a flowchart whose provenance he did not know and which was unauthenticated by the State Board to form the basis of his understanding of what constituted an “SDR-relevant” record, Trial Tr. vol. V, 941:4–943:9. Additionally, his definition of “SDR-relevant” records erroneously excluded same-day registrants who voted during the last three days of early voting but were not sent a first mailer before the end of early voting. *Id.*, 951:12–954:10.

Rebuttal); Trial Tr. vol. II, 258:14–259:5 (Quinn). As Dr. Quinn explained at trial, if you use Dr. White’s preferred data coding procedures, definition of what an SDR-relevant voter is, his definition of what denial and not denial is, you end up with . . . 42.89% of [youth voters verified on a second mailer].” Trial Tr. vol. II, 314:2–10. That rate is substantially similar to Dr. Quinn’s calculations from the full universe of voter registration verification data that approximately 44% of individuals verifying on the second mailer are youth voters. Trial Tr. vol. II, 252:22–253:8 (Quinn). Given these disparate rates of use, the Court concludes that eliminating the possibility of verification on the second mailer will have a disproportionately negative impact on youth registrants.

C. First-Hand Accounts from Election Officials also Demonstrate Why Senate Bill 747 Will Cancel Otherwise Eligible Ballots and Why the Impact Will Fall Hardest on Youth Voters

155. Paul Cox, general counsel for the State Board, testified that mail verification is an imprecise effort to determine whether someone lives where they claim to live. Trial Tr. vol. III, 627:21–24. He agreed that mail verification can fail for reasons independent of whether the person lives at that address, *id.*, 627:25–628:2, and acknowledged college dorms can have confusing mail addresses that can hinder mail verification: “[U]nless you have a very on-the-ball poll worker who spots somebody putting the wrong way to get your mail at your college dorm,” mail verification relies on the voter knowing exactly how to address mail to where they can receive it. *Id.*, 628:7–13. The State Board has experienced problems with getting mail delivered, even when the mail is addressed correctly and all the correct steps were taken. *Id.*, 629:8–12. Not only did Mr. Cox indicate that this problem

was prevalent with college dorms, but it was also prevalent with multi-unit housing. See *id.*, 630:18–631:6.

156. Director of Elections for the Forsyth County Board of Elections Tim Tsujii testified to a series of best practices he developed for his county to “mitigate” “challenges and issues [they experienced] with having voter registrations from [] students that were registering within our county and also resided on campus” that were “missing information” or included “incorrect information.” Trial Tr. vol. I, 91:10–22.

157. Forsyth County is home to multiple colleges and universities, including four with on-campus residents. *Id.*, 84:18–85:8. Forsyth communicates with school administration to obtain rosters of students living on campus to be able to assist students with the same-day registration process. *Id.*, 85:9–17. It also communicates with school administration about mailing address information, “as those addresses can be unique depending on the school.” *Id.* Using that address information, Forsyth created resources for poll workers and the public, respectively, identifying how to enter campus residential and mailing addresses. JX49 (Guidance for College Addresses); JX50 (Frequently Asked Questions for Students Living on Campus); Trial Tr. vol. I, 88:21–91:2 (Tsujii). None of these “best practices” are required by statute or State Board guidance. Trial Tr. vol. I, 85:22–86:2, 88:21-91:5 (Tsujii). Forsyth also incorporated student addresses into its poll worker scenario training. *Id.*, 88:1–20 (Tsujii). But despite these efforts, Forsyth still had a high number of same-day registrants’ verification cards return undeliverable in 2024 (93, counting both the primary and general elections)—even compared to counties with larger numbers of same-day registrants—and only four cures. PX180 at tbl. 19 (Quinn Report);

see also PX207 (collecting data on cure outcomes for undeliverable same-day registration mailings from 2024 general election in Forsyth); Trial Tr. vol. I, 102:21–104:1.

158. In New Hanover County, it was “well known that university students can struggle” with how to list their addresses and get mail, and it was “a continual challenge that we have with the university.” Hunter-Havens Dep. Des. at 20:21–21:11, 99:11–18 (Dkt. 156-7). Like Forsyth, New Hanover requests a template for how to format mailing addresses from the local university UNCW—but New Hanover does not make this template available at polling sites, and poll workers do not share it with students who state that they do not know their mailing address or who do not provide one. *Id.* at 40:1–14, 45:8–47:4. New Hanover had 231 SDR verification cards returned in the 2024 general election—the most in the state—and very few cures. Hunter Havens Dep. Des. at 136:18–137:14; *see also* PX180 at tbl. 19 (Quinn Report). This did not surprise the Director given “historically the challenges we’ve seen with UNCW students.” Hunter-Havens Dep. Des. at 99:8–100:16; *see also id.* at 115:8–21.⁸

159. Cumberland County experienced challenges with mail verification too, including for students living on campus. *See* Amaro Dep. Des. at 39:21–41:13 (Dkt. 156-

⁸ Additionally, New Hanover’s elections director testified that if her office had a phone number for a same-day registrant whose verification failed, she would have called them herself. Hunter-Havens Dep. Des. at 84:15–86:5. But proffered impeachment witness Jaimee Suwalkowski, a UNCW student who used same-day registration during the 2024 election and whose verification card was returned undeliverable, never received any call from the county board about her registration despite providing her phone number while registering, and did not learn of any issues with her registration until it was too late to save her ballot. Trial Tr. vol. I, 77:11–20, 78:2–18, 79:19–80:2. Plaintiffs’ request that the Court consider Suwalkowski’s testimony for impeachment purposes remains pending. *See* Trial Tr. vol. I, 77:3–4; Dkt. 189.

4); Hill Dep. Des. at 43:16–44:4 (Dkt. 156-5). At Fayetteville State University, not all students have a mailbox on campus; getting one requires a payment, and if a student does not pay for one, then they cannot receive mail on campus. Hill Dep. Des. at 33:22–34:24. Cumberland did not have any contact with college administrators about mailing address formats, nor did Cumberland provide copies of those formats at early voting sites or offer a student roster to assist students with same-day registering (despite the universities having shown interest in providing such rosters). Amaro Dep. Des. at 31:24–32:16, 37:6–38:18. During the 2024 elections, Cumberland had 72 same-day registrants whose verification cards returned as undeliverable. PX180 at tbl. 19 (Quinn Report). Of those, only four cured. *Id.*

160. Despite different locations, populations, and numbers of same-day registrants, all these counties have experienced challenges with student mail systems, which in turn translated into challenges for students using same-day registration and having their ballots counted.

161. Other counties, too, were familiar with the unique addressing conventions and challenges for students at colleges and universities. Wake County Board of Elections developed a document it shared with poll workers instructing them on how residential and mailing addresses should be listed for the county’s many student addresses. Trial Tr. vol. IV, 703:22–705:2 (Cox); JX038 (Email from Olivia McCall to Paul Cox). Wake’s elections director noted that they “have found that each college/university have different mailroom systems” and was therefore sure that college address systems “var[y] across the state.” JX038 at 1. This resource shows that the residential and mailing address formats for

students in apartments and on-campus housing are very complex, varying not just by school but by building. *See* JX038 at 2–4.

162. Plaintiffs’ testimony about their programmatic voter engagement work on college campuses corroborates this testimony regarding the challenges that young voters, especially students, face in registering to vote in North Carolina based on issues relating to residential mobility and mail delivery. *Infra* Section VII.

163. This testimony is also bolstered by the testimony of Mr. Timothy Greene, a retired Postal worker who delivered mail in North Carolina for forty years (Trial Tr. vol. II, 316:17–25).

164. Mr. Greene testified that he had experienced undeliverable mail every day of his job, and he explained that in his experience, multi-unit dwellings experienced much more undeliverable mail than single-family homes. Trial Tr. vol. II, 318:21–23, 319:6–16. Referencing mail verification cards from the Cumberland County Board of Elections that were sent and returned undeliverable during the 2024 General Election period (PX209 (Cumberland CBE Verification Card Returned Undeliverable)), Mr. Greene defined and provided context for certain USPS undeliverable codes, such as “insufficient address,” “no mail receptacle,” “unclaimed,” and “illegible.” *See* generally Trial Tr. vol. II, 323:5–332:2. Through this testimony, Mr. Greene described how mail can be marked as undeliverable and returned to sender for a variety of reasons even if the mail is properly addressed and the recipient still lives at the address. *Id.*, 332:8–13.

D. Senate Bill 747's Disparate Impact on Youth Voters Will Extend Beyond a Single Election Cycle

165. Negative experiences when voting, as well as barriers to voter registration, cause long-term harm when impacting the early stage of voter habit formation. Voting is habitual; voting in past elections increases the likelihood of voting in subsequent elections, and discouraging someone from voting (*i.e.*, through registration or voting barriers) discourages them from voting in subsequent elections. PX176 ¶¶ 52–56 (Grumbach Report). Dr. Grumbach testified that when the habit of voting is disrupted, “particularly through administrative procedures or having an individual’s ballot disqualified,” that voter is less likely to vote in subsequent elections because they do not “feel included in the electoral process”. Trial Tr. vol. IV, 744:10–745:13. Young voters are especially impacted by this disruption in voting habit formation because, by virtue of recently becoming eligible voters, they are still in the process of forming the habit. *Id.*, 745:14–746:10.

166. North Carolina elections data supports this point specifically as it relates to individuals whose first registration is obtained by way of same-day registration. Dr. Quinn explained that same-day registration “operat[es] as a pathway into becoming an habitual voter” and that this trend is most pronounced in the under 26-year-old age category as compared with other age groups. Trial Tr. vol. II, 219:15-220:23.

167. Plaintiffs work to build the habit of voting in young voters, recognizing that it is important for young voters to have a positive voting experience so that they continue to stay involved in voting and elections. For example, Marcus Bass testified that “a voter’s first experience oftentimes sets the expectation for engagement” and that a negative

experience makes it “more than likely that student[s] will not as frequent as if they were having a positive experience in seeing their vote count.” Trial Tr. vol. I, 50:9–14. Jennifer Rubin likewise noted that “when you can vote and vote successfully and vote as a young voter, you become a lifelong voter.” Trial Tr. vol. II, 348:2–8; *see also* Trial. Tr. vol. II, 363:8–22 (Carter). Conversely, when students have a negative voting experience, they feel that their vote does not matter, or that the process is too complicated, and they may be less comfortable voting in the future. See Trial Tr. vol. III, 401:25–402:17 (Seijo).

E. The Negative Impact Caused by SB 747 Is Consistent with North Carolina’s Historical Pattern of Restricting the Youth Vote

168. SB 747’s impact is a part of an ongoing history of attacks on and hostility towards youth and student voting in North Carolina, despite contradicting opinions offered by Legislative Intervenors’ expert, Dr. Andrew Taylor. Dr. Taylor points to North Carolina’s support for the Twenty-Sixth Amendment in 1971 as evidence that North Carolina has not historically restrained the youth vote. LDTX125 at 6–7 (Taylor Report). But Dr. Taylor’s analysis overlooked critical historical events that seriously undermine his conclusion.

169. For example, in 1951, the North Carolina Senate introduced a bill that would lower the voting age from 21 to 18 years old. PX215 at 3 (1951 N.C. Senate Journal Excerpts).⁹ This bill was reported favorably out of the Committee on Constitutional

⁹ Plaintiffs have requested that the Court take judicial notice of PX215, along with several other publicly available records relating to legislative or judicial events in North Carolina’s recent history. *See* Dkt. 183 (seeking admission of PX215, PX 216/216A, PX217, PX218, PX219/219A, PX220A, PX220B, PX220C, PX223/223A, PX226/226A).

Amendments but was delayed and then defeated on a full vote of the North Carolina Senate. *Id.* at 4–6. Dr. Taylor was not aware of and failed to consider this fact in connection with his historical assessment. Trial Tr. vol. IV, 824:10–12. *See generally* PX215.

170. Again, in 1963, both the North Carolina Senate and the North Carolina House introduced bills aimed at lowering the voting age from 21 to 18. PX217 at 2 (1963 N.C. Senate Journal Excerpts); PX218 at 2 (1963 N.C. House Journal Excerpts). In the Senate, the bill died in committee. *See* PX217 at 3. In the House, the bill was reported unfavorably out of the Committee on Constitutional Amendments and never given a full vote. PX218 at 3; PX216 at 3. Once again, Dr. Taylor was unaware of and failed to consider these failed attempts at lowering the voting age to 18. Trial Tr. vol. IV, 824:17–25.

171. Although North Carolina's *federal* elected officials supported the passage of the 26th Amendment in 1971, the U.S. Senate recognized North Carolina's failed attempts at lowering the voting age in the Congressional Record from that year. *See* PX216 at 2–4; PX216A at 49, 52, 54.

172. In 2009, the General Assembly established voter pre-registration for 16- and 17-year-olds. PX219 at 2 (S.L. 2009-541 Excerpts); PX219A at 4 (S.L. 2009-541 Full Text). Dr. Taylor pointed to the existence of pre-registration in North Carolina as evidence of favorable treatment towards young voters. LDTX125 at 11 (Taylor Report). But just four years later in 2013, the General Assembly repealed pre-registration and same-day registration in an omnibus elections bill that also added a voter photo ID requirement. PX220A at 1–2 (S.L. 2013-381 Excerpts); PX220C at 1–2, 24, 27–29 (S.L. 2013-381 Full Text). Dr. Taylor did not research the history of pre-registration in North Carolina in

preparing his opinions, Trial Tr. vol. IV, 828:1–3, and did not know that pre-registration was eliminated by legislative act and only exists today in North Carolina because of successful civil-rights litigation Trial Tr. vol. IV, 828:4–829:2, 838:20–24. Dr. Taylor was also unaware of the fact that the 2013 omnibus election law did not allow college students to use their student IDs as acceptable photo identification for voting purposes, Trial Tr. vol. IV, 832:4–11; *see also* PX220B at 2 (S.L. 2013-381 Excerpts); PX 220C at 2 (S.L. 2013-381 Full Text).

173. In 2016, the Fourth Circuit struck down the law that eliminated pre-registration and same-day registration and required voter photo identification as violative of the U.S. Constitution. *See N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 219 (4th Cir. 2016).

174. Thereafter, in 2018, the General Assembly passed another voter photo ID bill that allowed student IDs to be used for voting, but only if the university met certain requirements and then sought and obtained approval of their student IDs from the State Board of Elections. PX223 at 2–4 (S.B. 824 Excerpts); PX223A at 2–4 (S.B. 824 Full Text); N.C.G.S. §§ 163-166.16, -166.17. Most other ID types—such as driver’s licenses, passports, and military IDs—did not include these additional steps for approval. PX223 at 2; PX223A at 2. Dr. Taylor was not aware of the specific requirements needed for student IDs to be approved. Trial Tr. vol. IV, 832:20–833:10.

175. SB 747’s passage is consistent with this broader trend of legislation that seeks to reduce youth voter turnout. Same-day registration reduces barriers to voting, including those related to residential mobility, thereby increasing voter turnout—

particularly for young people. *See* PX176 ¶ 45 (Grumbach Report); *see also* Trial Tr. vol. IV, 734:11–735:6 (Grumbach). Research by Dr. Grumbach and Charlotte Hill, cited in Dr. Grumbach’s expert report, used statistical models to “estimate the causal effect of same day registration on voter turnout by age group,” showing that “same day registration increases turnout significantly, consistently, and most of all for younger people.” PX176 ¶ 46 & fig. 7 (Grumbach Report). While “[e]xpansions of same day voter registration increase the turnout of younger Americans . . . restrictions on same day voter registration reduce the turnout of younger Americans.” *Id.* ¶ 3. In sum, efforts to restrict same-day registration target the method of voting known to increase turnout in young people and exacerbate the challenges that young voters face due to their life circumstances, thereby specifically targeting the youth vote.

VII. PLAINTIFFS’ VOTER ENGAGEMENT PROGRAMMING, BEFORE AND AFTER THE PASSAGE OF SENATE BILL 747

176. Plaintiffs are non-profit organizations that engage, educate, and mobilize North Carolina voters through a variety of programs, including those geared towards youth and student voters. Through this work, Plaintiffs have developed an understanding of the challenges young voters face navigating the voting process and have catered their programs to address those issues.

177. NCBA operates a variety of voter engagement programs, including several programs targeted towards young voters and several that support (both directly and through trained partners and affiliates) voter registration, voter mobilization, and voter protection. Trial Tr. vol. I, 38:6–39:23, 41:17–43:15 (Bass); *see also* PX134 (Divine 9 GOTV

Presentation). With respect to student engagement, NCBA hosts an annual “HBCU think tank,” a “Votecoming” tour during even-numbered election years, parties at the polls during odd-numbered election years, and a “Raising the BAR” program. NCBA also hosts on-campus voter education programs, and it conducts and assists partner groups with on-campus voter registration drives. Trial Tr. vol. I, 31:6–34:23 (Bass); Trial Tr. vol. II, 377:17–378:4 (Martin).

178. The HBCU Think Tank program is hosted at the beginning of each summer. It is designed to “inform[] students around the changes to election laws” and to “help connect [student] issues that they face every single day to the role of government and [students’] role in voting.” Trial Tr. vol. I, 31:14–17 (Bass). Through that program, NCBA also works with students to develop voter registration and mobilization plans for their campuses. *Id.*, 31:18–21.

179. General student voter registration and education programs are conducted by NCBA at the beginning of each school year. The organization conducts registration drives, trains partner groups on changes to election law so that groups can update their registration processes, and educates young voters on the offices on the ballot and the power those offices exercise. *Id.*, 32:5–16. Then, around the start of early voting, NCBA hosts its Votecoming and party at the polls events to encourage students to vote and to celebrate student engagement in the voting process. *Id.*, 32:17–33:25; Trial Tr. vol. II, 377:17–378:4 (Martin). Votecoming events are only held during early voting because early voting allows students to correct any issues with their voter registration and allows for the use of same-day registration. Trial Tr. vol. II, 378:19–379:3 (Martin). As part of this mobilization effort,

NCBA provides materials educating students about ballot items and directs students towards NCBA's Safe Voter NC website with more voter registration information. *Id.*, 378:10–18; *see also* JX023 (NC Voter Registration Form Checklist for HBCUs).

180. Through this on-campus programming, NCBA has developed an understanding of issues faced by student voters attempting to exercise the franchise. This includes lack of early voting sites accessible to students due to lack of transportation and a general lack of education around voting rights. Trial Tr. vol. I, 37:14–38:3 (Bass).

181. Bass also testified about challenges student voters face with listing residential and mailing addresses when registering on campus, which affects the mail verification process. *Id.*, 35:15–36:22, 46:9–20; Trial Tr. vol. II, 380:1–381:4 (Martin). To address these challenges, NCBA developed an address template for each HBCU to aid students in filling out their registration forms. Trial Tr. vol. I, 34:24–36:7 (Bass); JX023. These templates were created through collaborations with campus administrators and are updated regularly to reflect the ever-changing nature of campus mail, housing systems, and student life, including when new dorms are built or a student moves. *Id.*, 35:14–36:1, 47:14–48:7.

182. The template document identifies the required sections of the voter registration form and recommends inclusion of a phone number or email in case the county board needs to contact the voter. JX023 at 1. It then provides images of completed voter registration address information for on-campus and off-campus students and examples of how to provide a mailing address if a student's on-campus residential address cannot be used to receive mail. *Id.* at 2–11. For example, students living on campus at North Carolina

Central University have mailing addresses that differ depending on whether they have a P.O. Box; even if they do not, their mailing address differs from their residential address:

Living on-campus; Without a PO Box

<p>Residential address Your home address. <i>Required.</i></p>	4	<p>Address (not P.O. Box) 1801 Fayetteville St. Apt/Unit # _____</p> <p>City Durham NC Zip 27707 County Durham</p> <p>If you have lived at this address less than 30 days, when did you move here? (mm/dd/yyyy) _____</p>
<p>Mailing address If you do not receive mail at your residential address, you must provide a mailing address. <i>Required.</i></p>	5	<p><input type="checkbox"/> Same as above</p> <p>Address or P.O. Box 1801 Fayetteville St., 213 Eagleson Hall Apt/Unit # _____</p> <p>City Durham State NC Zip 27707</p>

Living on-campus; With a PO Box

<p>Residential address Your home address. <i>Required.</i></p>	4	<p>Address (not P.O. Box) 1801 Fayetteville St. Apt/Unit # _____</p> <p>City Durham NC Zip 27707 County Durham</p> <p>If you have lived at this address less than 30 days, when did you move here? (mm/dd/yyyy) _____</p>
<p>Mailing address If you do not receive mail at your residential address, you must provide a mailing address. <i>Required.</i></p>	5	<p><input type="checkbox"/> Same as above</p> <p>Address or P.O. Box PO Box #73458, Eagleson Rm 213, 1801 Fayetteville St. Apt/Unit # _____</p> <p>City Durham State NC Zip 27707</p>

Id. at 3. At Winston-Salem State University, the on-campus residential address is simply “WSSU” and the mailing address is a student-specific number. *Id.* at 4. And at North Carolina A&T, on-campus mailing addresses use a student’s name and “at NCAT.” *Id.* at 6.

183. Gabrielle Martin works with ten of North Carolina’s HBCUs and testified to the variety of mailing conventions that campuses may use, including different addresses for packages and letters, Trial Tr. vol. II, 380:12–17, and to the fact that some campuses have fewer mailboxes than students. *Id.*, 381:15–18; *see also* Trial Tr. vol. I, 66:1–12 (Bass). In the lead up to the November 2024 general election, after SB 747 and NM 2023-05 were in effect, she personally interacted with over 1,000 students on HBCU campuses. Trial Tr. vol. II, 377:13–16, 379:4–10 (Martin). These interactions revealed issues student

voters continue to face, including confusion around residential and mailing addresses. *Id.*, 380:1–381:4.

184. Democracy NC engages with voting communities across the state through its organizing team, which conducts voter education and registration events, and engages in early voting advocacy at the county boards of elections. Trial Tr. vol. II, 359:15–24, 364:25–365:19 (Carter); Trial Tr. vol. II, 385:5–16, 386:2–13 (Seijo); *see also* PX153 (2024 Election Voter Guide); PX149 (Early Voting Advocacy Guide).

185. With respect to young voters, Democracy NC conducts a yearly internship program known as Democracy Summer, which engages North Carolina college students in each of its program areas. Throughout the summer internship program, the Democracy Summer “friendterns” participate in voter engagement events, work on research projects, and meet with elected officials. Trial Tr. vol. II, 360:18–362:5 (Carter); *see also* Trial Tr. vol. II, 384:4–25 (Seijo). Democracy NC also runs a “Fund Our Friendterns” grant program that assists students in running voter engagement or other campaigns on their campuses after the summer internship ends. *See* Trial Tr. vol. II, 362:6–363:4 (Carter).

186. Democracy NC engages young voters on college campuses throughout the school year, including voter registration and mobilization. Youth voter engagement is a focus of the organization’s work because Democracy NC’s goal is to develop “lifetime voter[s]” not “one-time voter[s],” and to do so, early voting experiences must be positive to help develop the habit of voting. *Id.*, 363:8–16; *see also* Trial Tr. vol. III, 401:25–402:17 (Seijo) (explaining that young voters who have a negative experience casting a ballot will feel like it is not worth it, or that it is too complicated, and Democracy NC must have more

conversations to engage that voter again). Young voters, who are new to the voting process, may have less knowledge about the voting process overall while also facing life circumstances that make it more challenging to exercise the right to vote, such as moving frequently and navigating “convoluted” processes to receive mail at universities. Trial Tr. vol. II, 363:8–22; 366:1–15 (Carter); Trial Tr. vol. III, 397:1–398:7 (Seijo).

187. Lucas Seijo, Eastern Regional Managing Organizer with Democracy NC for two and a half years and former Democracy Summer “friendtern,” has worked with up to thousands of voters throughout the eastern part of the state during a given election cycle. Trial Tr. vol. II, 383:21–385:20; Trial Tr. vol. III, 395:20–396:6. He focuses on youth voter registration and works to engage these voters after registration so that they turn out to vote. Trial Tr. vol. III, 397:1–13. College students are a particular group that Seijo focuses on because they comprise a majority of young voters and face more complications with their voter registrations because they tend to move more frequently. *Id.*, 397:19–398:7.

188. LWFVNC “focus[es] on helping to inform voters about what the issues are and make[s] sure that they know what they need to know about how to vote.” Trial Tr. vol. II, 339:11–15 (Rubin). This includes county board monitoring efforts, through which League members identify and help address voter and ballot issues occurring at the county level. *Id.*, 345:9–21. LWFVNC’s work is performed by a volunteer-member network across the state that includes 14 local chapters and approximately 2,000 members. *Id.*, 338:9–339:6. LWFVNC provides trainings and resources to its local leagues and members to empower them to be active in their communities on issues relating to voting and voter engagement. *Id.*, 339:23–340:6; *see also* PX159 (Empowering Voters Defending

Democracy Presentation). With respect to college students, LWVNC registers voters on campuses throughout the state and educates them about the issues and candidates on their ballots. Trial Tr. vol. II, 339:16–22 (Rubin); *see also* PX162 (LWVNC voter drive post on X).

189. Plaintiffs, through organizational representatives and staff, all testified that they were forced to alter their voter engagement programs, resulting in the expenditure of more time and resources, because of the restrictions placed on same-day registration in SB 747.

190. After SB 747 passed, NCBA began reaching out to college mail houses and student affairs professionals to build relationships and learn more about how mail was being handled on their campuses so that those processes could be verified. Trial Tr. vol. I, 47:14–48:7 (Bass). NCBA expanded its student voter mobilization efforts to the “back end” of the process to track what happened to same-day registrants’ ballots after they were cast, and to communicate with students about checking their mail and going through the cure process if necessary to ensure a cast ballot is actually counted. *Id.*, 48:8–49:12. NCBA was also required to update trainings and materials, and in some instances, return to campuses where materials were previously shared to make sure voters knew about the changes to the law. *Id.*, 48:20–23; 63:3–20. Not only did these efforts take more time and resources, *id.*, 49:1–25, but the change raised doubts about the voting process for young voters, directly frustrating NCBA’s mission to educate and mobilize this population. *See id.*, 50:1–14.

191. Democracy NC was concerned about the new changes to same-day registration because it understood from its extensive work in the field that young people

and college students move more frequently, have unique challenges related to receiving election mail, and rely disproportionately on same-day registration, so changes to same-day registration would disproportionately impact that population. Trial Tr. vol. II, 366:1–15 (Carter). To account for that, Democracy NC shifted more resources into its registration programs that register voters prior to the 25-day voter registration deadline, especially on college campuses. Trial Tr. vol. III, 400:23–401:24 (Seijo). And because much of Democracy NC’s work involves training volunteers working with voters, the organization had to spend significant time and resources to update its volunteers on the new procedures for same-day registration voters. Trial Tr. vol. II, 367:17–368:10 (Carter).

192. Cheryl Carter, testified that, in all, SB 747’s changes to same-day registration “ma[d]e it harder” for the organization to “inform[] and educat[e] its supporters about same-day registration” while also making sure that voters, and especially young voters, were not discouraged from engaging in the voting process. *Id.*, 371:8–20.

193. LWNVC was similarly aware of mailing issues faced by students and was concerned that SB 747’s single-mailer provision would significantly impact their ability to register and vote through same-day registration. Trial Tr. vol. II, 343:14–20 (Rubin). In response to Senate Bill 747, LWNVC had to put more resources—and especially time, their “most valuable resource”—into training its local leagues and volunteers, especially on the importance of accurately recording mailing addresses so that same-day registrants would not fail mail verification. *Id.*, 343:21–345:8. One training specifically highlighted SB 747’s changes to same-day registration, noting the new one-mailer system and emphasizing the importance of recording correct mailing addresses on voter registration

forms. *Id.*, 344:22–345:3; PX159 at 6, 12 (Empowering Voters Defending Democracy Presentation). LWNVC also updated its training for post-election canvass monitors, directing county board of elections observers to flag discussions of same-day registrants’ ballots. Trial Tr. vol. II, 345:9–346:6 (Rubin).

194. Based on this trial record, the Court finds that Plaintiffs are voter engagement organizations whose work includes a substantial focus on young and student voters; that their core organizational purposes are increasing voter access, participation and engagement, including within that target community; and that their voter engagement programs have and will be impaired by SB 747’s restrictions on same-day registration.

CONCLUSIONS OF LAW

VIII. PLAINTIFFS HAVE STANDING

195. To establish Article III standing, Plaintiffs must show that (1) they have “suffered or likely will suffer an injury in fact,” which (2) “likely was caused or will be caused by the defendant,” and (3) “likely would be redressed by the requested judicial relief.” *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 380 (2024) (“*Alliance*”). Where there are multiple plaintiffs, only one must demonstrate standing. *Carolina Youth Action Project v. Wilson*, 60 F.4th 770, 778 (4th Cir. 2023).

196. An organization establishes injury-in-fact when (1) “an action perceptibly impairs an organization’s ability to carry out its mission” and (2) “consequently drains the organization’s resources.” *Republican Nat’l Comm. v. N.C. State Bd. of Elections*, 120 F.4th 390, 395–96 (4th Cir. 2024) (quoting *N.C. State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 301 (4th Cir. 2020)) (cleaned up). “[V]oter engagement” organizations who

“counsel[] interested voters and volunteers on election participation” have been deemed to have suffered injuries from voting policies when forced to divert resources in a way that frustrates their organizational and voter outreach efforts. *See id.* at 396–97; *see also* Dkt. 149 at 4 (“The Fourth Circuit has clarified that organizations with related missions who suffer similar harm possess standing even after the Supreme Court’s decision in [*Alliance*]”).

197. At summary judgment, this Court found that because “Democracy North Carolina has provided evidence that its core organizational purposes are ‘increasing voter access and participation’ and ‘increas[ing] voter registration and civic participation within [North Carolina]’” and “that the challenged provisions of SB 747 have required it to spend additional time and money to register and educate would-be voters,” it has “forecast evidence which, if believed, would support its contention of standing.” Dkt. 149 at 4–5 (cleaned up). As discussed *supra* Sections II.A, VII, each Plaintiff delivered on this “forecast[ed] evidence” with credible testimony from their organizational representatives and staff.

198. That evidence demonstrates that Plaintiffs are non-profit organizations who engage, educate, and mobilize North Carolina voters to participate effectively in their democracy. Each has programs designed to address youth and student voting issues specifically and each spends significant time and resources to reach youth and student voters. Plaintiffs demonstrated that they were forced to shift resources away from their core voter engagement and turnout activities to address the foreseeable (and foreseen) harms of the new same-day registration system, which targets youth voters and rejects eligible

voters' ballots due to circumstances outside of their control. Relief from this Court would eliminate the risk of haphazard disenfranchisement for these voters that Plaintiffs support and serve, redressing the injuries Plaintiffs have suffered because of SB 747.

199. Accordingly, Plaintiffs have demonstrated standing to pursue their claims.

IX. SENATE BILL 747 VIOLATES THE TWENTY-SIXTH AMENDMENT BECAUSE IT WAS ENACTED WITH DISCRIMINATORY INTENT BASED ON AGE

A. The Twenty-Sixth Amendment Provides a Right of Action for Age-Based Discrimination in Voting to Which the Arlington Heights “Intentional Discrimination” Standard Applies

200. Based on the plain text, legislative intent, and post-ratification history of the Twenty-Sixth Amendment, the Court holds that the appropriate standard for assessing plaintiffs' claims under the Twenty-Sixth Amendment is the “intentional discrimination” framework as articulated by the Supreme Court in *Village of Arlington Heights v. Metropolitan Housing & Development Corp.*, 429 U.S. 252 (1977).

1. The Twenty-Sixth Amendment Provides a Right of Action for Age-Based Voting Discrimination

201. The Twenty-Sixth Amendment, ratified in 1971, provides that “[t]he right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.” U.S. Const. amend. XXVI, § 1.

202. In the decade immediately following ratification, plaintiffs brought several successful claims for violations of the Twenty-Sixth. *See, e.g., Worden v. Mercer County Bd. of Elections*, 294 A.2d 233, 237 (N.J. 1972) (holding that student plaintiffs “were

improperly discriminated against” and “improperly denied the right to register to vote”); *Ownby v. Dies*, 337 F. Supp. 38, 39 (E.D. Tex. 1971) (declaring state statute that required different residency determinations for persons under twenty-one violated the Twenty-Sixth Amendment). In 1979, the Supreme Court summarily affirmed a district court’s judgment holding that a county official violated the Twenty-Sixth Amendment by requiring college students to fill out a questionnaire regarding their current status and post-graduation residency and plans in order to register to vote. *See Symm v. United States*, 439 U.S. 1105 (1979).

203. Until more recently, however, jurisprudence surrounding the Twenty-Sixth Amendment has largely laid dormant, partly as a result of claims that have more directly implicated the protections of the Fourteenth Amendment or Section 2 of the Voting Rights Act. *See* Yael Bromberg, *Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment*, 21 U. Pa. J. Const. L. 1105, 1111–12, 1150–51 (2019) (but also noting that “[s]ince 2008, there has been a small but notable resurgence in Twenty-Sixth Amendment litigation in response to new voter restriction laws”). Courts in recent years have grappled with “what test applies to Twenty-Sixth Amendment claims.” *N.C. State Conf. of the NAACP v. McCrory*, 182 F. Supp. 3d 320, 522–23 (M.D.N.C. 2016), *rev’d on other grounds*, 831 F.3d 204 (4th Cir. 2016).

2. *The Plain Text and Legislative History of the Twenty-Sixth Amendment Supports Application of the Arlington Heights Framework*

204. The language of the Twenty-Sixth Amendment mirrors the text of the earlier Fifteenth and Nineteenth Amendments, which provide that voting rights “shall not be

denied or abridged by the United States or by any State on account of' race, color, previous condition of servitude, or sex. U.S. Const. amends. XV, XIX. Given the intentional parallels between the text of the Twenty-Sixth Amendment and these earlier Amendments, it follows then that the legal analysis should also be parallel. *Cf. Smith v. City of Jackson*, 544 U.S. 228, 233 (2005) (“[W]hen Congress uses the same language in two statutes having similar purposes . . . it is appropriate to presume that Congress intended that text to have the same meaning in both statutes.”).

205. Courts analyzing the Twenty-Sixth Amendment have consistently recognized its parallels with the previously ratified Fifteenth and Nineteenth Amendments. *See, e.g., One Wis. Inst., Inc. v. Nichol*, 186 F. Supp. 3d 958, 976 (W.D. Wis. 2016) (“[T]he Twenty-Sixth Amendment does more than prohibit states from setting explicit age-based qualifications on the right to vote. Indeed, the text of the amendment is virtually identical to the text of the Fifteenth Amendment.”); *Tex. Democratic Party v. Abbott*, 978 F.3d 168, 183–84 (5th Cir. 2020) (“The language and structure of the Twenty-Sixth Amendment mirror the Fifteenth, Nineteenth, and Twenty-Fourth Amendments. Each of those amendments has been interpreted to provide an individual right to be free from the denial or abridgement of the right to vote based on the classification described in the Amendment.”); *see also* Vikram David Amar, *Taking (Equal Voting) Rights Seriously: The Fifteenth Amendment as Constitutional Foundation, and the Need for Judges to Remodel Their Approach to Age Discrimination in Political Rights*, 97 Notre Dame L. Rev. 1619, 1628 (2022) (“[T]he striking parallelism between [the Twenty-Sixth Amendment] and the Fifteenth (and the Nineteenth as well) was obviously intentional. That is, the Twenty-Sixth

self-consciously tracks the language of the Fifteenth (and Nineteenth) Amendment(s), with the same intended consequences.”).

206. Similarly, the legislative history of the Twenty-Sixth Amendment strongly suggests protections akin to those provided by the Fifteenth and Nineteenth Amendments.

207. Congress initially sought to expand the franchise to eighteen- to twenty-one-year-olds via statute, but the Supreme Court held the law partially unconstitutional. *See Oregon v. Mitchell*, 400 U.S. 112 (1970) (allowing Congress to set the voting age for federal elections but not state and local elections).

208. The Twenty-Sixth Amendment, proposed by Congress shortly after the Supreme Court’s decision in *Mitchell*, is the result of clear Congressional intent to enfranchise and protect the rights of young voters beyond what the Constitution already provided prior to its ratification. *See* S. Rep. No. 92-26 at 14 (1971) (expressing concern that state efforts to comply with the *Mitchell* decision by establishing federal-only systems for young voters would “forc[e] young voters to undertake special burdens—obtaining absentee ballots, or traveling to one centralized location in each city, for example—in order to exercise their right to vote,” which “might well serve to dissuade them from participating in the election”); *see also Worden*, 294 A.2d at 237 (noting the legislative history of Twenty-Sixth Amendment supports a “purpose not only of extending the voting right to younger voters but also of encouraging their participation by the elimination of all unnecessary burdens and barriers”).

209. Determined to entrust young people with the right to vote, both houses of Congress issued a joint resolution proposing an amendment to the United States

Constitution to extend the right to vote to citizens aged eighteen and older. S. Rep. No. 92-26 at 1–7 (1971); H.R. Rep. No. 92-37 at 1–2 (1971). In examining the joint resolution, the House explicitly recognized that “the proposed new article will be construed as comparable in scope to the Fifteenth Amendment and the Nineteenth Amendment.” H.R. Rep. No. 92-37 at 7 (1971). It also recognized that “[t]he language of the proposed new article[] parallel[s] that of other articles of amendment that enlarged the franchise.” *Id.* As one House member announced: “What we propose to do . . . is exactly what we did in . . . the 15th amendment and . . . the 19th amendment. Therefore, it seems to me that this proposed amendment is perfectly in consonance with those precedents.” 117 Cong. Rec. 7539 (1971) (statement of Rep. Pepper). Another representative commented:

What does the proposed constitutional amendment accomplish? . . . [I]t guarantees that citizens who are 18 years of age or older shall not be discriminated against on account of age. Just as the 15th amendment prohibits racial discrimination in voting and just as the 19th amendment prohibits sex discrimination in voting, the proposed amendment would prohibit age discrimination in voting. . . .

210. *Id.* at 7534 (statement of Rep. Poff); *see also id.* at 7535 (statement of Rep. Poff) (describing the Twenty-Sixth Amendment as “confer[ring] a plenary right on citizens 18 years of age or older to participate in the political process, free of discrimination on account of age” (quoting H.R. Rep. No. 92-37 at 7 (1971))).

3. *Recent Precedent Supports Application of the Arlington Heights Framework for Claims Brought Under the Twenty-Sixth Amendment*

211. Given this textual overlap and its original framing, courts analyzing claims under the Twenty-Sixth Amendment have often looked to the more-developed

jurisprudence of the Fifteenth Amendment. *See, e.g., Tully v. Okeson*, 78 F.4th 377, 382 (7th Cir. 2023) (agreeing that “the Supreme Court’s interpretation of the equivalent language in the Fifteenth and Twenty-Fourth Amendments is a good starting place for [the court’s] analysis”); *Walgren v. Howes*, 482 F.2d 95, 101 (1st Cir. 1973) (“[B]oth the Fifteenth and Nineteenth Amendments served as models for the Twenty-Sixth. . . .”); *Lee v. Va. State Bd. of Elections*, 843 F.3d 592, 607 (4th Cir. 2016) (“[I]f the Twenty-Sixth Amendment functions like the Fifteenth Amendment, the plaintiffs would also need to demonstrate an intent to discriminate on the basis of age.”).

212. Since long before the ratification of the Twenty-Sixth Amendment, the Supreme Court has held that the Fifteenth Amendment provides “freedom from discrimination on account of race in matters affecting the franchise,” not just protection from “denial of the right to vote.” *Lane v. Wilson*, 307 U.S. 268, 274–75 (1939) (explaining also that the Amendment “hits onerous procedural requirements which effectively handicap exercise of the franchise . . . although the abstract right to vote may remain unrestricted as to race”).

213. To evaluate whether a challenged action affecting voting rights is motivated by a discriminatory purpose, the Supreme Court’s decision in *Arlington Heights* provides the established framework. *See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266–68 (1977).

214. The Court rejects Defendants’ suggestion that it apply to the Twenty-Sixth Amendment claim, instead, the *Anderson-Burdick* framework from *Anderson v. Celebrezze*, 460 U.S. 780 (1983) and *Burdick v. Takushi*, 504 U.S. 428 (1992). *See* Dkt.

169 at 15–17. As other courts have recognized, because the Twenty-Sixth Amendment’s text is patterned on the Fifteenth Amendment’s,

[i]t is difficult to believe that [the Twenty-Sixth Amendment] contributes no added protection to that already offered by the Fourteenth Amendment [through the *Anderson-Burdick* framework], particularly if a significant burden were found to have been intentionally imposed solely or with marked disproportion on the exercise of the franchise by the benefactors of that amendment.

One Wis. Inst., Inc. v. Thomsen, 198 F. Supp. 3d 896, 926 (W.D. Wis. 2016) (quoting *Walgren v. Bd. of Selectmen*, 519 F.2d 1364, 1367 (1st Cir. 1975)), *rev’d in part on other grounds*, *Luft v. Evers*, 963 F.3d 665 (7th Cir. 2020); *see also Luft*, 963 F.3d at 673.

215. The Supreme Court has explained that the freedom secured under the Fifteenth Amendment is freedom from “inequality of treatment though under color of law, not denial of the right to vote.” *Lane*, 307 U.S. at 274. The same must be true under the parallel Twenty-Sixth Amendment. *See Taggart v. Lorenzen*, 587 U.S. 554, 560 (2019) (explaining that when a term is “obviously transplanted from another legal source, it brings the old soil with it”) (internal quotations omitted).

216. Considering the above and joining the “consensus [that] has been emerging,” *League of Women Voters of Fla., Inc. v. Detzner*, 314 F. Supp. 3d 1205, 1221 (N.D. Fla. 2018), this Court concludes that Plaintiffs’ Twenty-Sixth Amendment claim must be assessed under the same intentional discrimination framework that applies to voting rights protected by the Fifteenth Amendment. *Id.*; *One Wis. Inst., Inc. v. Nichol*, 186 F. Supp. 3d at 976 (“Indeed, the text of the [Twenty-Sixth Amendment] is virtually identical to the text of the Fifteenth Amendment. The textual and structural similarities suggest that the

Arlington Heights framework is the appropriate mechanism for evaluating plaintiffs' age discrimination claims.”).

B. Anti-Youth Animus was a Motivating Factor in the Enactment of Senate Bill 747’s Restrictions on Same-Day Registration

217. The *Arlington Heights* framework calls for a “sensitive inquiry into [] circumstantial and direct evidence of intent” to determine whether “invidious discriminatory purpose” motivated the challenged legislation. 429 U.S. at 266. A plaintiff alleging discriminatory intent “need not establish that the challenged policy rested solely on discriminatory purposes, or even that a particular purpose was the dominant or primary one.” *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, 68 F.4th 864, 883 (4th Cir. 2023) (internal quotations omitted). Rather, a plaintiff must establish that unlawful intent “was a substantial or motivating factor behind the enactment of the law.” *N.C. State Conf. of NAACP v. Raymond*, 981 F.3d 295, 303 (4th Cir. 2020).

218. As noted above, the Supreme Court has outlined the *Arlington Heights* factors for courts to consider in determine whether a plaintiff has met their burden. In the case of age-based discrimination, “[t]he impact of the official action—whether it bears more heavily on one age-group than another, may provide an important starting point.” *Detzner*, 314 F. Supp. 3d at 1222 (quoting *Arlington Heights*, 429 U.S. at 266) (cleaned up). An invidious purpose may also be discerned from (1) the historical background of the challenged decision; (2) the specific sequence of events leading up to the decision; (3) departures from the normal procedural sequence; (4) substantive departures, where the

factors usually considered important strongly favor a decision contrary to the one reached; and (5) legislative or administrative history. *Arlington Heights*, 429 U.S. at 266–68.

219. In assessing whether the plaintiff met its burden, courts must afford the legislature a “‘presumption’ of good faith.” *Raymond*, 981 F.3d at 303 (quoting *Abbott v. Perez*, 585 U.S. 579, 603 (2018)). However, targeting a protected class, even if to “preserve legislative power in a partisan manner[,] can also be impermissibly discriminatory.” *Veasey v. Abbott*, 830 F.3d 216, 241 n.30 (5th Cir. 2016) (en banc); accord *McCrorry*, 831 F.3d at 226 (“When a legislature dominated by one party has dismantled barriers to African American access to the franchise, even if done to gain votes, ‘politics as usual’ does not allow a legislature dominated by the other party to re-erect those barriers.”).

220. Of relevance here, a legislature cannot “avoid the strictures of [the Constitution] by deferring to the wishes or objections” of outside parties. *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 448 (1985). In such a scenario, Plaintiffs “need not prove that the [decision-making body] *itself* intended to discriminate . . . in order to establish . . . discriminatory intent.” *United States v. Yonkers Bd. of Educ.*, 837 F.2d 1181, 1225 (2d Cir. 1987) (emphasis added) (quoting *United States v. Birmingham*, 538 F. Supp. 819, 828 (E.D. Mich. 1982)). It is sufficient that “animus was a significant factor in the position taken by the persons to whose position the official decision-maker [was] knowingly responsive.” *Id.* at 1226; see also *Stout v. Jefferson Cnty. Bd. of Educ.*, 882 F.3d 988, 1008 (11th Cir. 2018) (enjoining policy as racially discriminatory where “those who played a primary role in lobbying for the state action translated their grassroots effort into official action” (cleaned up)); *Smith v. Clarkton*, 682 F.2d 1055, 1066 (4th Cir. 1982)

(finding “ample evidence” defendants acted with discriminatory intent in “direct response” to “racially inspired” public opposition); *Mi Familia Vota v. Fontes*, 129 F.4th 691, 727–28 (9th Cir. 2025) (finding discriminatory intent where a discriminatory third party “helped author” the bill, sent legislators materials, “was involved with the [bill’s] enactment from start to finish,” and both claimed and received credit for the bill).

221. If a plaintiff satisfies their burden of establishing that invidious discrimination was a substantial or motivating factor behind the enactment of a law, the burden shifts to the defendant, who must “demonstrate that the law would have been enacted without [such] discrimination.” *Raymond*, 981 F.3d at 303 (internal quotation omitted). When assessing whether the defendant has met their burden after the burden shifting, the legislature is no longer afforded a presumption of good faith. *See id.* (citations omitted).

1. *Sequence of Events Leading up to the Enactment of Senate Bill 747 Gives Rise to a Strong Inference of Impermissible Intent*

222. The legislative record and the testimony elicited at trial demonstrate that SB 747’s restrictions on same-day registration were delivered in response to a monthslong influence campaign by election integrity activists Jim Womack (of NCEIT) and Cleta Mitchell, who publicly espoused anti-student rhetoric and sought a corresponding legislative crackdown on youth voting

223. As detailed above, *supra* Sections IV.B, IV.C, beginning in January 2023, Jim Womack’s North Carolina Election Integrity Team communicated with Senator Daniel about NCEIT’s issues with same-day registration and out-of-state college registration and

suggested the Cleeta-Mitchell-endorsed proposal of eliminating same-day registration entirely. These proposals were motivated by a desire to remove what they saw as special privileges from youth voters, a basis which has been repeatedly asserted, including at trial, by both Womack and Mitchell. FOF ¶¶ 54–55, 59–61, 117. This anti-youth animus provided the motivating force for placing same-day registration on NCEIT’s legislative agenda, and thus on the General Assembly’s legislative agenda. FOF ¶¶ 91, 106.

224. In service of NCEIT’s legislative priorities, including the curbing of same-day registration and college voting, Womack communicated with and fed proposed bill text to Representative Mills in the House. These efforts were translated into official action at multiple turns, with Mills sponsoring two bills that mirrored NCEIT proposals (one of which was later incorporated into SB 747). These bills included large chunks of language copied verbatim from NCEIT draft proposals and were introduced one week after Mills met with Womack in March 2023. In addition, Womack applauded another Mills-sponsored effort to change same-day registration ballots to provisional ballots (an idea prominently espoused by NCEIT) before any such bill was introduced in the House, indicating that NCEIT had advanced knowledge that the bill would be filed. NCEIT’s legislative advocacy campaign was also influential in the Senate, landing Womack and Mitchell a private presentation on May 24, 2023, with the three Senate election chairs (including Daniel) and the main bill drafter (Brent Woodcox). Like their House advocacy, the NCEIT Senate presentation identified same-day registration as a problem and recommended eliminating it entirely or requiring same-day registrants to vote provisional ballots. *See supra* Section IV.B.3–IV.B.4.

225. SB 747 was filed in the Senate about a week later and included a provision requiring same-day registrants to vote provisionally, with their ballots to be counted only upon passing mail verification or if they brought in additional proof of residence. The day the bill was filed, NCEIT publicly took credit for it. *See supra* Section IV.B.5.

226. The testimony of the bill sponsors does not rebut this origin story. Senator Daniel admitted that the change to same-day registration was designed to be responsive to the “election integrity groups” and that it was not a “significant aspect” of the bill to him, while Mills knew it was an NCEIT priority and could offer only generic explanations for its inclusion. Neither sponsor did any research or investigation into whether the existing systems for same-day registration and mail verification were flawed or required modification. Neither studied how the proposed change in SB 747 would impact same-day registrants or what interests the restriction would serve. Both affirmatively disclaimed the need for any research or investigation into such issues, instead asserting that provision was not “evidence-driven,” but “common-sense” or “people driven.” Critically, both misunderstood the same-day registration system they were overhauling, with Senator Daniel admitting he was unaware that the prior system already required documentary proof of address for same-day registrants. Further undermining the bill sponsors’ post-hoc justification was the fact that the goal of expediting election finality, cited as the primary feature of the legislation as a whole, was in direct conflict with the same-day registration provision, which pushed the disposition of thousands of ballots to the post-election canvass period. *See supra* Section IV.C.

227. Additionally, while some effort was made to pin the origin of the challenged provision on the State Board, testimony from Paul Cox show that the State Board (unlike NCEIT) was not consulted prior to the filing of SB 747, did not request a change to same-day registration or think it was needed, and only offered a more administratively workable alternative when it became clear that restricting same-day registration was non-negotiable for the proponents of SB 747. *See supra* Section IV.B.6.

228. All told, the legislative record demonstrates that the restrictions to same-day registration in SB 747 both originated from a desire to curb young voters' participation, stemming from the anti-youth animus of Mitchell and NCEIT, and were enacted into law via the responsive actions of the bill sponsors. Indeed, the Supreme Court has invalidated a voting restriction as unconstitutionally discriminatory for nearly the precise reasons advanced by Mitchell and Womack in their efforts to curb same-day registration. “‘Fencing out’ from the franchise a sector of the population because of the way they may vote is constitutionally impermissible.” *Carrington v. Rash*, 380 U.S. 89, 94 (1965). A state may ensure that all persons “enrolled to vote be bona fide residents of the community. But if they are in fact residents, with the intention of making [North Carolina] their home indefinitely, they, as all other qualified residents, have a right to an equal opportunity for political representation.” *Id.* at 93–94.

229. Compare this to *Mi Familia Vota v. Fontes*, where the involvement of a third-party that expressed discriminatory intent in advocating for voting changes “support[ed] a conclusion that the Voting Laws were the product of intentional discrimination.” 129 F.4th at 727–28. Like Mitchell and NCEIT with SB 747, the third-party there “helped author”

the bill, sent legislators materials, and were credited by both legislators and the third parties themselves for the bill's enactment. *See id.* at 727–728, n.8. *Stout v. Jefferson County Board of Education* is also illustrative, where community members “translated their discriminatory purpose into official action” when they met with city officials and pushed them to secede from the county's integrated school system. 882 F.3d 988, 1007 (11th Cir. 2018).

230. Defendants ask too much of *Brnovich v. Democratic National Committee* to oppose Plaintiffs' intent theory. There, the appellate court found intentional discrimination based on a “‘cat's paw’ theory,” i.e., not disputing the legislators' non-discriminatory reasons for passing the law, but instead treating the legislators as unknowing “dupe[s]”; the Supreme Court ruled that this theory was not applicable to legislatures. 594 U.S. 647, 689–90 (2021) (internal quotations omitted). But Plaintiffs do not argue that any legislator here was duped into doing something unbeknownst to them. Instead, the testimony at trial makes clear that: (1) Senator Daniel and Representative Mills were the ones responsible for the challenged provision's progression and passage, including choosing the concepts to include and carrying the bill through the legislature, FOF ¶¶ 62–64; and (2) changes to same-day registration were incorporated into and kept in the bill due to NCEIT and Mitchell's wanting it, not because it was a priority or an informed concern of Senator Daniel or Representative Mills, FOF ¶¶ 61–104. Also unlike in *Brnovich*, the third parties here were heavily involved in the development, drafting, and passage of SB 747's same-day registration restrictions. *See Mi Familia Vota*, 129 F.4th at 728 (contrasting the minimal involvement of third parties in *Brnovich* with a situation where “discriminatory

animus permeated each and every step of the legislative process because the Free Enterprise Club was involved with the Voting Laws' enactment from start to finish"). Moreover, *Brnovich* did not purport to overturn the decades-old precedent that the government cannot "avoid the strictures of [the Constitution] by deferring to the wishes or objections" of outside parties. *Cleburne Living Ctr.*, 473 U.S. at 448 ("Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect." (quoting *Palmore v. Sidoti*, 466 U.S. 429, 433 (1984))).

231. Similarly, in *South Carolina v. United States*, there was no evidence of "discriminatory effects" from the challenged law, and the plaintiffs could only point to a single email from a constituent—not identified as having played any role in the legislative process—as evidence of discriminatory intent. 898 F. Supp. 2d 30, 45–46 (D.D.C. 2012). By contrast, the challenged provision here does have "discriminatory effects," made voting harder than it was under pre-existing law, and was incorporated into SB 747 due to the concerted efforts and advocacy of Mitchell and NCEIT (who were, in turn, motivated by their anti-youth animus). *See supra* Sections IV, VI.

232. *City of Cuyahoga Falls v. Buckeye Community Hope Foundation*, 538 U.S. 188 (2003), another case cited by Defendants, is also inapposite. In *Cuyahoga Falls*, the Sixth Circuit "ascrib[ed] the motivations of a handful of citizens supportive of [a] referendum to the City." *Id.* at 194. The Supreme Court disagreed with this, because the referendum petition was submitted to the voters "pursuant to the requirements of [the City's] charter," a facially neutral petitioning procedure, and thus the City "did not enact the referendum" and could not "be said to have given effect to voters' allegedly

discriminatory motives.” *Id.* at 195. The only evidence put forth of discriminatory intent was “statements made by private individuals in the course of a citizen-driven petition drive,” which cannot be properly imputed to the City by themselves. *Id.* at 195–96. The same cannot be said here, where NCEIT and Mitchell met directly with the sponsors of SB 747 to limit the exercise of young voters’ franchise and the legislators incorporated their language and concept into the bill at their prompting.

2. *Senate Bill 747 Has a Disparate Impact on Young Voters and Will Invalidate Eligible Voters’ Ballots Through No Fault of Their Own*

233. The evidence at trial also shows that SB 747’s restriction on same-day registration—and its corresponding rejection of eligible voters’ ballots—bears more heavily on young voters than other age groups.

234. As an initial matter, the Court rejects Defendants’ contention that “young voters” constitute a category of voters too amorphous to be targeted for discrimination. Defendants’ Trial Brief, Dkt. 169 at 6, n.2. As discussed, *supra* Section VI.A, young voters constitute a coherent political community with distinct political attitudes and priorities that provide a motive for political actors to seek to reduce their turnout.

235. And age, unlike other protected classes, is immutable but not enduring; while no one can change their age of their own volition, every individual’s age is nonetheless changing. This is a unique dynamic. Adopting Defendants’ position that the class of “young voters” must be fixed and definite would render the Twenty-Sixth Amendment functionally nonjusticiable since any age-based class, young or old, is susceptible to similar considerations. This would conflict with a long-respected canon of constitutional

construction that meaning and force should be ascribed to every individual word in the Constitution. “In expounding the Constitution of the United States, every word must have its due force, and appropriate meaning; for it is evidence from the whole instrument, that no word was unnecessarily used, or needlessly added. . . . No word in the instrument, therefore, can be rejected as superfluous or unmeaning” *Holmes v. Jennison*, 39 U.S. 540, 570–71 (1840); *see also Wright v. United States*, 302 U.S. 583, 588 (1938).

236. Nor is Defendants’ proposed line-drawing a necessary component of an intentional discrimination case. “A willingness to inflict collateral damage by harming some, or even all, individuals from a favored group in order to successfully harm members of a disfavored class does not cleanse the taint of discrimination; it simply underscores the depth of the defendant’s animus.” *Pac. Shores Props., LLC v. City of Newport Beach*, 730 F.3d 1142, 1159–60 (9th Cir. 2013) (citing *Griffin v. Cnty. Sch. Bd. of Prince Edward Cnty.*, 377 U.S. 218, 231 (1964)). Here Plaintiffs need not prove that there is a universally-accepted age cutoff for a young voter, that every student falls within that age range, that the provision targets young voters exclusively, or that every young voter will be disenfranchised; rather, Plaintiffs must show that there was an intent to discriminate based on age and that the impact of the challenged law bears more heavily on the targeted age group.

237. To the question of that impact, testimony and expert analysis from Dr. Kevin Quinn provide compelling evidence of disparate impact against young voters based on fifteen years of historical mail verification data and an analysis of the 2024 elections with a notice-and-cure process in use. *See supra* Section VI.B. Nor was this analysis disputed

by Defendants' expert Dr. Paul White. *Id.* As explained by Dr. Jake Grumbach, this disparate impact and harm is likely to have a long-term deterrent effect for youth voters who are still developing habits around voting and can easily be dissuaded from future political participation when administrative burdens result in retroactive disqualification of a voter's ballot. *See supra* Section VI.D.

238. This expert impact evidence is bolstered by testimony from state and local election officials, a retired mail carrier, and Plaintiffs themselves, who speak to the possibility of erroneous failed mail verification and the fact that students residing in college dormitories and other campus housing are particularly at risk given documented challenges around mail verification because of their varied and complicated mailing address conventions. *See supra* Sections VI.C, VII.

239. Finally, Dr. Grumbach also testified that SB 747 is consistent with a broader trend of legislation seeking to reduce turnout among young Americans. PX176 ¶ 3 (Grumbach Report). The Court credits this testimony given recent historical incidents wherein the North Carolina legislature attempted to restrict ballot access for youth voters through the substantial narrowing or elimination of pre-registration, early voting and same-day registration. *See supra* Section VI.E.

C. Defendants Are Unable to Carry Their Burden to Show that Senate Bill 747 Would Have Been Enacted Without Anti-Youth Animus as a Motivating Factor

240. Plaintiffs have therefore demonstrated that age-based discrimination was “a substantial or motivating factor” behind the passage of SB 747, and “the burden must shift to the law’s defenders to demonstrate that the law would have been enacted without this

factor.” *Hunter v. Underwood*, 471 U.S. 222, 228 (1985). This is true even though good faith of the General Assembly is presumed. *Abbot*, 585 U.S. at 603; *see also Arlington Heights*, 429 U.S. at 265–66 (“When there is a proof that a discriminatory purpose has been a motivating factor in the decision, this judicial deference is no longer justified.”). At this stage, the court must “scrutinize the legislature’s actual non-[discriminatory] motivations to determine whether they alone can justify the legislature’s choices.” *McCrary*, 831 F.3d at 221 (emphasis in original).

241. Defendants have not demonstrated that SB 747’s restrictions on same-day registration would have been enacted without anti-youth animus as a motivating factor. As demonstrated, the evidence shows the legislators made this change at the behest of NCEIT and Mitchell without any alternative justification for advancing this restriction on youth voting. Although Defendants claim SB 747 generally promotes voter confidence and election integrity, the evidence does not bear that out. Instead, SB 747 imposes unique barriers on the franchise for young and student voters utilizing same-day registration that will result in the rejection of otherwise eligible ballots year after year without any clear corresponding improvement in election administration or security.

X. SENATE BILL 747 CREATES AN UNDUE BURDEN ON THE FUNDAMENTAL RIGHT TO VOTE IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS

242. The *Anderson-Burdick* framework provides a sliding scale of scrutiny on burdens on the fundamental right to vote. If a law imposes a severe burden on that right, strict scrutiny applies. *See Fusaro v. Cogan*, 930 F.3d 241, 257–58 (4th Cir. 2019). “[E]ven rational restrictions on the right to vote are invidious if they are unrelated to voter

qualifications.” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 (2008) (Stevens, J., controlling op.). If the burden is determined to be less than severe, courts balance “the character and magnitude of the burdens imposed against the extent to which the regulations advance the state’s interests.” *Fusaro*, 930 F.3d at 257–58 (citation omitted); *see also* *Libertarian Party of Virginia v. Alcorn*, 826 F.3d 708, 716 (4th Cir. 2016); *Voto Latino v. Hirsch*, 712 F. Supp. 3d 637, 664 (M.D.N.C. 2024) (“*Anderson-Burdick* balancing operates on a sliding scale: the greater the burden imposed, the more important a state’s justification must be.”).

243. Any burden on the constitutional right to vote—“[h]owever slight [it] may appear”—“must be justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation.’” *Crawford*, 553 U.S. at 191 (Stevens, J., controlling op.) (quoting *Norman v. Reed*, 502 U.S. 279, 288-89 (1992)). The court must “not only determine the legitimacy and strength of each of those interests, [but] also must consider the extent to which those interests make it necessary to burden the plaintiff’s rights.” *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). This is “a fact-intensive inquiry.” *Daunt v. Benson*, 999 F.3d 299, 313 (6th Cir. 2021).

244. When an undue burden on the right to vote is shown under this fact-dependent inquiry, relief must be shaped to remedy the specific undue burden shown. *See, e.g., Graveline v. Benson*, 992 F.3d 524, 546-47 (6th Cir. 2021) (affirming trial court’s remedy which “addresses the combined effect of the statutory scheme but still accounts for the uncontested evidence [] set forth to defend the necessity of the [challenged election procedure]”); *Green Party of Ga. v. Kemp*, 171 F. Supp. 3d 1340, 1373-74 (N.D. Ga. 2016)

(describing the process for “crafting [a] remedy” that “balance[s] several concerns” including “compl[ying] with the United States Constitution” and the State’s asserted interests); *see also McCrory*, 831 F.3d at 239 (explaining that “once a plaintiff has established the violation of a constitutional or statutory right in the civil rights area, ... court[s] ha[ve] broad and flexible equitable powers to fashion a remedy that will fully correct past wrongs” (alterations in original) (quoting *Smith v. Town of Clarkton*, 682 F.2d 1055, 1068 (4th Cir. 1982))).

A. SB 747 Places a Severe Burden on the Fundamental Right to Vote

245. “The right to vote is fundamental.” *Voto Latino*, 712 F. Supp. 3d at 665. At trial, Plaintiffs established that SB 747 severely burdens that fundamental right, requiring the application of strict scrutiny. The elimination of the second verification mailer would have caused tens of thousands of rejected registrations in the last 15 years for individuals who were conclusively established as eligible under the pre-SB 747 regime. FOF ¶ 146; *see also* PX182 ¶¶ 20–21 & tbl. 7, 9 (Quinn Supp. Report). Even Defendants’ own expert, despite a minimally inclusive methodology, FOF ¶ 153, found that thousands of voters would have had their ballots discounted had SB 747 been in effect for this period. Trial Tr. vol. V, 973:24–975:25 (White). It does so despite the fact that mail verification can fail for reasons outside a voter’s control or due to errors unrelated to whether the voter lives at their residential address—as multitude of fact witnesses, including the bill sponsors and state and local election officials, agreed. FOF ¶¶ 115, 155–164. In sum, SB 747 creates significant risk that eligible, bona fide voters who follow all applicable rules and

affirmatively prove their address when registering will nonetheless be disenfranchised through no fault of their own.

246. Moreover, it imposes this severe burden disproportionately on a class that includes critical first-time voters constitutionally enfranchised by the Twenty-Sixth Amendment, impeding them from developing the habit of voting and potentially depressing their turnout in future elections. FOF ¶¶ 165–167.

247. SB 747’s burden remains severe despite the notice-and-cure process mandated by the Consent Judgment. Dr. Quinn’s analysis reveals that the notice-and-cure process was not effective in general and was especially ineffective for youth voters. PX180 ¶¶ 129–41, 143 (Quinn Report); FOF ¶¶ 150–151. Testimony from the Forsyth, New Hanover, and Cumberland County Boards of Elections confirms this, as each county experienced a high number of undeliverable verification cards and a low number of cures, even when “best practices” not required by law were employed to try and assist voters. FOF ¶¶ 156–160.

248. Beyond the thousands of voters whose ballots it will discard through no fault of their own, there are two unusual factors present here that further exacerbate SB 747’s undue burden on same-day registrants.

249. First, SB 747 creates a scheme where same-day registrants, unlike other voters, cannot be assured that their ballots will count—even after they have completed every step required (and more, *see supra* Section V.B) of other in-person voters. Same-day registrants, even after satisfying all these requirements, must nonetheless wait and hope the new system does not arbitrarily disqualify their vote on the basis of a single mailer. This

distinguishes the burden of SB 747 from more typical burdens, which are weighed against “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. While a voting burden “cannot be evaluated without also taking into account the other available means” of voting, *id.*, SB 747 is peculiar in that it imposes its most onerous burdens at precisely the moment when a voter has *no* available alternatives for voting. The threat of disenfranchisement comes entirely after a voter has already cast their ballot, which self-evidently prevents them from using an alternative voting method.

250. This is a uniquely onerous burden, and one that definitionally cannot be saved by virtue of voting opportunities available elsewhere in North Carolina’s election code. No such opportunities are available when SB 747’s burdens come to bear; the die has already been cast at that point. By introducing an eligibility requirement that can only be satisfied after the voter has left the voting booth and which depends on factors out of the voter’s control, SB 747’s same-day registration scheme introduces an element of random chance into whether a specific class of voters—same-day registrants—will have their ballots counted. The Constitution cannot countenance, let alone require, that a class of voters win at a game of chance before their ballots will count. The single verification mailing that is SB 747’s primary (and, given the evidence concerning the inefficacy of the notice-and-cure process, nearly exclusive) safeguard against erroneous disenfranchisement cannot bear the weight that SB 747 places on it, regardless of what opportunities may be available elsewhere in the election code. After all, “post-election ballot disqualification for individuals erroneously identified as [ineligible] constitutes a substantial burden on the

right to vote.” *Griffin v. N.C. State Bd. of Elections*, 781 F. Supp. 3d 411, 449 (E.D.N.C. 2025); *Cf. Voto Latino*, 712 F. Supp. 3d at 677 (“[T]he State, having offered the option of *voting* during SDR, cannot discard their *ballots* due to governmental error and without notice and an opportunity to be heard simply on the ground that voters should have known not to take such a risk.” (emphases in original)).

251. Second, the manner in which SB 747 burdens same-day registrants’ exercise of their right to vote, through administrative errors that are almost entirely out of the control of the voter, is demonstrably more likely to permanently depress an impacted voter’s political participation. Dr. Grumbach provided unrebutted evidence that when administrative errors cause a voter’s ballot to be discarded through no fault of their own, as SB 747’s single-mailer provision does, it creates a durable, negative effect on an impacted voter’s likelihood of participating in future elections. Trial Tr. vol. IV, 744:10–745:13 (Grumbach); PX176 (Grumbach Report) ¶ 55. This means that a voter is not only at risk of having their ballot discarded, but also of being discouraged from engaging in the democratic process ever again. Where such administrative burdens are calibrated to land disproportionately on a disfavored class of voters, it would allow a governmental actor to durably re-shape an electorate more to its liking.

252. SB 747 operates via precisely these kinds of administrative errors. In this way, SB 747 not only burdens disfavored voters (same-day registrants) in a current election, but reverberates into future elections by driving those disfavored voters out of future electorates at a meaningful rate. The government cannot put its thumb on the scale

in this way. “[O]nce the States grant the franchise, they must not do so in a discriminatory manner.” *McDonald v. Board of Election Comm’rs*, 394 U.S. 802, 807 (1969).

B. Defendants Cannot Justify the Burden Placed on Same-Day Registrants’ Right to Have a Ballot Counted Once It Is Cast

253. Just as Defendants cannot show that SB 747 would have been enacted absent anti-youth animus, they are also unable to justify the burden SB 747 places on same-day registrants. The relevant burden for this analysis is the decision to make success or failure of a voter’s ballot dependent upon matters completely out of their control by utilizing an admittedly imprecise system of mail verification that all but guarantees eligible voters who have already proven their residential address will have their ballots disqualified through no fault of their own.

254. A state does not have constitutional *carte blanche* to target methods of voting used by disfavored classes of voters. “[I]t is especially difficult for the State to justify a restriction that limits political participation by an identifiable political group whose members share a particular viewpoint, associational preference, or economic status.” *Celebrezze*, 460 U.S. at 793. That SB 747 disproportionately burdens youth voters (an “identifiable political group”) makes its burdens “especially difficult” to justify. *Id.*

255. First, the bill sponsors conducted no analysis, and had no understanding, of whether the burdens were “necessary” to advance actual state interests, *see Celebrezze*, 460 U.S. at 789. Indeed, the sponsors proudly disclaimed doing any such study, believing their “commonsense” to be justification enough. FOF ¶ 110. This amorphous consideration is not nearly precise enough to even begin to evaluate whether the burdens are necessary to

support the state's interest in SB 747. More is required. That is particularly true in light of the significant evidence of discriminatory intent in the record, *see supra* Sections VI, X, since discriminatory intent is never a valid state interest.

256. Defendants contend that the SDR provision promotes voter confidence and finality in elections. But the bill sponsors did zero research into whether the prior system was flawed and did not identify any examples of voter fraud or of ineligible voters being permitted to vote using SDR; they likewise did not investigate the SDR provision's potential impacts, including on student voters. FOF ¶¶ 109–112.

257. Nor can SB 747 be attributed to the State Board's expertise in election administration. This was not a change the State Board wanted or would have adopted of its own accord, nor was it warranted by any data, study, or election administration experience. FOF ¶¶ 102–03, 116; Trial Tr. vol. III, 594:7–20, 604:7–605:7 (Cox).

258. Furthermore, many of the interests ostensibly served by SB 747 were already served by a separate element of the SDR system: the requirement to show documentary proof of residence when presenting to same-day register and vote. FOF ¶¶ 42–43, 113. This requirement, present in both the prior SDR scheme and SB 747, is not required of any other registrant in North Carolina. This requirement already imposed a substantial burden on voters, because such documentation is not always readily available (especially for youth voters, who frequently rent and do not have utility bills in their own name). *See, e.g.*, JX029 at 3; FOF ¶¶ 94, 141. But unlike SB 747's scheme, the documentary proof of address requirement constitutes a well-calibrated tradeoff for allowing registration during the early voting period, allowing real-time registration and voting only after independent, real-time

verification of a registrant's address. This requires voters to affirmatively prove residence before voting while also ensuring that—unlike SB 747's new scheme—no one's fundamental right to vote was entirely conditioned on a single, error-prone verification mailing.

259. That careful balancing of interests is completely absent in SB 747's scheme: despite requiring the same, additional burden of documentary proof of address for same-day registrants, it nonetheless imposes a newfound risk of arbitrary, post-hoc disenfranchisement on those same voters, *see* FOF ¶¶ 121–22, with zero additional benefit to election security or any other feasible state interest. The failure to justify SB 747's burden on same-day registrants is especially apparent when considering the more expansive protections for similarly situated non-SDR registrants who have cast a ballot. Those registrants could have both verification mailings returned undeliverable before canvass but still have their ballot counted. *see* FOF ¶¶ 131–34 And even if those ballot are challenged, removing their ballot from the count would require affirmative proof. By contrast, a same-day registrant's ballot can be removed from the count based on a single verification card returning as undeliverable, with the burden of proof then resting on them to provide additional evidence of their residency. FOF ¶¶ 121–36.

260. Second, there is no reason to think that any of the interests that SB 747 purportedly advances are furthered in a substantial, let alone well-calibrated, way. Tellingly, both the initial and final versions of the SDR provision conflicted with other supposed legislative goals for the bill as a whole around election finality, leaving same-day registrants' ballots—and therefore the final election results—in question until just

before canvass. FOF ¶ 114. Legislative Defendants have advanced additional, purported risks that they contend SB 747's scheme protects against—the risk that someone may forge an address document to falsely claim North Carolina residence, and the risk that ineligible voters take advantage of same-day registration to cast a ballot without verification—that even they concede are entirely speculative. There is no evidence that any of these hypothetical scenarios occur with any regularity, and hardly any evidence that they occur *at all*. FOF ¶¶ 109, 115–16; Trial Tr. vol. III, 594:7–20, 604:7–605:7 (Cox). These are purely speculative, post-hoc concerns.

261. SB 747's changes to same-day registration cannot be “necessary” to serve the General Assembly's asserted interests because the documentary proof of address requirement better serves all those interests. It provides contemporaneous affirmative evidence that someone lives where they say they live, serving the state's interest in preventing voter fraud much more effectively than SB 747's single verification mailer, which establishes only that mail can be delivered to the listed address (a concededly imprecise method of confirming residence even when it is not waylaid by administrative errors). It serves election finality by ensuring that voter qualifications are verified in real-time, rather than shifting determination of whether a vote will be counted until canvass as SB 747's scheme does. FOF ¶ 118. And the documentary proof of address requirement does not bear any increased risk of forged qualifications; there is no evidence that this was even a concern of the General Assembly during the framing and passage of SB 747, nor that it was a concern anywhere in North Carolina either before or after SB 747.

262. Where all of the interests served by a challenged law are better served by a pre-existing provision, that new legal requirement is at best superfluous. Where the new provision imposes an additional, severe burden on the fundamental right to vote, the provision goes from superfluous to unconstitutional. SB 747 is nowhere near “necessary” to further the General Assembly’s asserted interests, and those interests cannot justify it accordingly.

CONCLUSION

263. The Court finds the evidence at trial sufficient to show that the enactment of SB 747 was motivated at least in part by an unconstitutional intent to discriminate against voters based on age. The Court also finds that Defendants have failed to prove, based on the evidence at trial, that SB 747 would have been enacted in its present form if it did not tend to discriminate against youth voters.

264. Additionally, the Court finds the evidence at trial sufficient to show that SB 747’s restrictions on same-day registration are undue burdens on the right to vote in violation of the First and Fourteenth Amendments of the U.S. Constitution.

265. For the foregoing reasons, this Court holds that the same-day registration provision of SB 747 was enacted in violation of the United States Constitution and it is enjoined from future enforcement on that basis.

Dated: November 21, 2025

Respectfully Submitted,

/s/ Jeffrey Loperfido

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send a notice of electronic filing to all parties of record.

/s/ Jeffrey Loperfido

(State Bar #52939)

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