

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

NORTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his
official capacity as the Governor of North
Carolina, *et al.*,

Defendants.

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

Civil Action No. 1:13-cv-658

LEAGUE OF WOMEN VOTERS OF
NORTH CAROLINA, *et al.*,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et
al.*,

Defendants.

Civil Action No. 1:13-cv-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA, *et
al.*,

Defendants.

Civil Action No. 1:13-cv-861

PROPOSED FINDINGS OF FACT - 1 -

I. Introduction - 1 -

II. North Carolina’s History of Official Discrimination in Voting - 1 -

III. The History of Discrimination and Entrenched Socioeconomic Disparities Meant that the End of de Jure Discrimination Did Not Produce Equal Access to the Political Process for All North Carolinians. - 5 -

A. African Americans Bear Ongoing Effects of the Legacy of Official Discrimination in Education, Employment, and Housing - 5 -

B. Socioeconomic Disparities Impact Participation in the Political Process..... - 13 -

C. Particularly Among Minority Citizens, Voter Registration and Participation Remained Depressed Throughout the Twentieth Century - 16 -

IV. Voting Reforms Enacted from 2001 to 2009 Reduced Barriers to Voting, Particularly for African American, Hispanic, and Young Voters..... - 17 -

A. Early In-Person Voting..... - 18 -

B. Out-of-Precinct Provisional Balloting..... - 23 -

C. Same-Day Registration..... - 26 -

D. Preregistration for Young Voters - 32 -

E. By Facilitating Access to the Franchise for Previously Excluded Populations, These Reforms Transformed North Carolina Elections.... - 32 -

V. Increasing Minority Participation Threatened the Political Status Quo... - 35 -

A. North Carolina Elections Are Highly Racialized..... - 35 -

B. Increased Minority Participation in the State Threatened the Legislative Majority’s Ability to Win Re-Election..... - 38 -

VI. Efforts to Repeal Voting Reforms that Had Provided More Equal Access to the Electoral Process Culminated in the Enactment of HB 589 - 39 -

A.	In 2011, Efforts to Restrict Voting Fell Short.....	- 39 -
B.	In 2013, Relieved from Section 5, North Carolina Overhauled State Election Laws to Limit Access to the Franchise	- 40 -
VII.	HB 589 Limits Access to the Vote and Disproportionately Burdens Minorities	- 67 -
A.	The Repeal of SDR Makes Registering to Vote More Difficult.....	- 67 -
B.	Reduction of Early Voting Makes Casting a Ballot More Burdensome.....	- 76 -
C.	Eliminating OOP Voting Removes a Critical Fail-Safe	- 86 -
D.	Elimination of Preregistration and Mandatory High School Voter Registration Drives Imposes a Severe Burden on Young Voters, Who are Disproportionately African American and Latino.....	- 91 -
E.	Ending CBOE Discretion to Extend Hours Burdens the Right to Vote	- 97 -
VIII.	HB 589 Has a Cumulative Negative Impact on North Carolina Voters	- 98 -
IX.	Aggregate Turnout Statistics from 2014 Are Not Informative	- 100 -
X.	Intent to Suppress the Youth Vote.....	- 104 -
	PROPOSED CONCLUSIONS OF LAW	- 113 -
I.	Challenged Provisions of HB 589 Violate Section 2 of the Voting Rights Act	- 113 -
A.	The Challenged Provisions of HB 589 Violate Section 2’s Results Tests.....	- 119 -
II.	The Challenged Provisions Violate Section 2 and the Fourteenth and Fifteenth Amendments Because They Were Adopted with a Discriminatory Purpose	- 126 -
A.	The Legislature Intended to Minimize Minority Political Participation.....	- 130 -
III.	HB 589 Unduly Burdens Voters in Violation of Fourteenth and Fifteenth Amendments.....	- 134 -

A. HB 589 Impose Substantial to Severe Burdens on the Right to Vote.. - 137 -
B. Justifications Proffered Do Not Justify the Substantial Burdens - 139 -
IV. Several Provisions of HB 589 Violate the Twenty-Sixth Amendment - 142 -
V. Remedy - 144 -

PROPOSED FINDINGS OF FACT

I. Introduction

1. On August 12, 2013, Governor Pat McCrory signed into law HB 589/S.L. 2013-381 (PX110), an omnibus elections overhaul that passed both houses of the North Carolina General Assembly on July 25, 2013. PX121 (HB 589 bill history).¹

2. The provisions of HB 589 challenged in this proceeding abolished same-day registration (“SDR”), curtailed the early voting period, prohibited the counting of out-of-precinct provisional ballots (“OOP”), eliminated preregistration for 16- and 17-year olds and mandatory high school voter-registration drives, increased the number of poll observers allowed at the polls, expanded the ability to challenge voters at the polls, and removed discretion from county boards of elections (“CBOEs”) to extend polling times by an hour. PX110 §§ 11, 12, 16, 19, 20, 25, 33, 49 (HB 589).

II. North Carolina’s History of Official Discrimination in Voting

3. North Carolina’s history of extensive official discrimination against African Americans² in the area of voting is well documented and undisputed. Indeed, for most of its history, that discrimination prevented most of the State’s African Americans from registering to vote, voting, or otherwise participating in the democratic process. PX230 at 1, 13-19, 22-24 (Leloudis Rpt.); PX46 at 8-16, 48-49 (Kousser Rpt.); PX47 ¶¶ 12-17

¹ For the Court’s convenience, Plaintiffs are attaching to this document a list of the admitted Plaintiffs’ exhibits, organized as far as practicable by type of exhibit and chronologically (declarations of fact witnesses, expert witness reports and related exhibits, deposition designations, etc.). *See* Exhibit A.

² The terms “African American” and “black” are used interchangeably in this document, as are the terms “Hispanic” and “Latino.”

(Lawson PI Decl.); *see also Gingles v. Edmisten*, 590 F. Supp. 345, 359-60 (E.D.N.C. 1984).

4. This history, detailed below, is relevant here because of its present-day effects on the socioeconomic status of minorities in North Carolina and on their experiences with and faith in the integrity of the North Carolina electoral system. *See North Carolina State Conference of the NAACP v. McCrory*, 997 F. Supp. 2d 322, 349 (M.D.N.C. 2014). Considering North Carolina's history of discrimination together with the events leading up to passage of HB 589 reveals a troubling pattern of backlash against rising minority political strength in North Carolina. *See* PX42 ¶¶ 57-58 (Stewart PI Decl.); PX230 at 37-42 (Leloudis Rpt.); 7/24/15 Trial Tr. 14:15-32:15 (LeLoudis); 7/14/15 Trial Tr. 63:21-65:21 (Kousser).

5. In the nineteenth century, following ratification of the Fourteenth and Fifteenth Amendments, North Carolina experienced a brief period of increased black voter participation, during which African American voters had a substantial impact on the outcome of elections. PX46 at 9-10 (Kousser Rpt.); PX47 ¶ 12 (Lawson PI Decl.); PX230 at 5-7, 11-12 (Leloudis Rpt.).

6. During this period, black and white Republicans, and later white Populists, began to vote together, gain seats in the North Carolina General Assembly, and elect African American officials. PX46 at 10 (Kousser Rpt.); PX230 at 9-12 (Leloudis Rpt.); 7/14/15 Trial Tr. 64:15-65:1 (Kousser). Between 1895 and 1897, a new political coalition revised North Carolina's election code to remove barriers to voter registration and encouraged voter participation. PX46 at 11 (Kousser Rpt.); PX230 at 10-11

(Leloudis Rpt.); 7/14/15 Trial Tr. 64:18-24 (Kousser); 7/24/15 Trial Tr. 17:18-19:21 (Leloudis).

7. This biracial coalition threatened believers in white supremacy, and at the end of the nineteenth century, North Carolina reinstated policies and laws having the purpose and effect of disenfranchising African Americans. Such efforts included an 1899 law that required every voter to re-register and gave registrars discretion to exclude African Americans from the rolls, expanded challenger provisions, and repealed practices to assist illiterate voters. PX46 at 11-13 (Kousser Rpt.); PX230 at 17-18 (Leloudis Rpt.). By 1900, racial appeals, violence, and efforts to disenfranchise African Americans reached an apex, and included the legislature's enactment of facially neutral laws designed to undermine black voting strength. PX46 at 11-13 (Kousser Rpt.); PX47 ¶ 12 (Lawson PI Decl.); PX230 at 13-16, 18-19 (Leloudis Rpt.); 7/14/15 Trial Tr. 99:7-100:14 (Kousser); *Gingles*, 590 F. Supp. at 359-60.

8. In 1900, North Carolina adopted a constitutional amendment that established a poll tax and limited voting to those who passed a literacy test or owned a certain amount of property. PX46 at 12 (Kousser Rpt.); PX230 at 16-17 (Leloudis Rpt.); PX229 at 9 (Burden Rpt.). The amendment also included a grandfather clause designed to exempt whites from the literacy test. PX46 at 12 (Kousser Rpt.); PX230 at 17 (Leloudis Rpt.); PX229 at 9 (Burden Rpt.).

9. Discriminatory tactics such as the poll tax and literacy test reduced black voter participation to nearly 0% in elections held during the early part of the twentieth century. PX229 at 9 (Burden Rpt.); 7/24/15 Trial Tr. 21:13-19 (Leloudis).

10. While the poll tax and grandfather clause were eliminated before 1965, North Carolina continued until the 1960s to impose various literacy tests that effectively disenfranchised most African Americans in the state. PX229 at 9 (Burden Rpt.); *Gaston Cnty. v. United States*, 395 U.S. 285, 293-95 (1969); *Gingles*, 590 F. Supp. at 360. These intentionally discriminatory, but facially neutral laws directly impacted many eligible black voters who reside in North Carolina today. For example, Plaintiff Rosanell Eaton testified that in the 1940s she was required to recite the Preamble to the Constitution from memory in order to register to vote. 7/8/14 PI Tr. 38:18-39:16 (Eaton). During House committee debate on HB 589, Representative Evelyn Terry recalled her experiences accompanying her mother and grandfather as they attempted to pass the literacy test to register to vote in Forsyth County. PX546 105:18-107:4 (4/17/13 House Elec.). Former state Senator Earline Parmon recalled training African Americans during the 1960s in church basements to recite the preamble so they would be “less intimidated about exercising their rights.” PX23 ¶ 9 (Parmon Decl.). Although it is no longer enforced, the literacy test provision remains part of North Carolina’s constitution today, and efforts to repeal it have been unsuccessful. PX229 at 9-10 (Burden Rpt.); 7/13/15 Trial Tr. 103:21-25 (Barber).

11. As a result of North Carolina’s continued history of discrimination, 40 of the State’s counties were subject to preclearance requirements pursuant to Section 5 of the Voting Rights Act of 1965. PX155-158 (Fed. Reg. Excerpts); PX99 ¶ 4 & Att. A (McCrary Decl.).

12. Enforcement of the Voting Rights Act led to notable improvements for black voters in North Carolina, but barriers to equal political participation persisted. *Gingles*, 590 F. Supp. at 361. In 1986, a unanimous U.S. Supreme Court held that North Carolina’s “legacy of official discrimination” had “acted in concert” with the use of multimember state legislative districts “to impair the ability of ... cohesive groups of black voters to participate equally in the political process and to elect candidates of their choice.” *Thornburg v. Gingles*, 478 U.S. 30, 80 (1986); *see also United States v. Onslow Cnty.*, 683 F. Supp. 1021, 1024 (E.D.N.C. 1988); *Johnson v. Halifax Cnty.*, 594 F. Supp. 161, 168-71 (E.D.N.C. 1984); PX230 at 28 (Leloudis Rpt.); PX46 at 49, 53 (Kousser Rpt.). Indeed, African Americans and Latinos are still under-represented in elected office at all levels of government. 7/15/15 Tr. 140:15-143:25 (Burden); PX 682.

13. Between 1965 and 2013, the U.S. Department of Justice objected, pursuant to Section 5, to over 60 voting changes in North Carolina, including discriminatory methods of election and dilutive practices such as staggered terms, residency requirements, annexations of predominately white areas, and majority vote and runoff requirements. PX99 ¶ 5 & Att. B (McCrary Decl.); PX238 ¶¶ 35, 37-39 (Lawson Decl.).

III. The History of Discrimination and Entrenched Socioeconomic Disparities Meant that the End of de Jure Discrimination Did Not Produce Equal Access to the Political Process for All North Carolinians.

A. African Americans Bear Ongoing Effects of the Legacy of Official Discrimination in Education, Employment, and Housing

14. The protracted race-based exclusion of black North Carolinians from the State’s political franchise had far-reaching, long-lasting effects on their socioeconomic conditions. 7/24/15 Trial Tr. 21:20-22:25; 32:3-15 (Leloudis). For example, state

education expenditures for white children outpaced those for black children by a measure of three to one by 1920, a pattern that persisted through the 1950s. *Id.* at 22:5-9 (LeLoudis); 7/14/15 Trial Tr. 134:11-17 (Clotfelter); PX237 ¶¶ 26-28, 31 (Clotfelter Decl.). During the industrialization of North Carolina's urban areas, African Americans—with no political recourse—were excluded from skilled and industrial jobs, which severely depressed wages in the urban black labor market. 7/24/15 Trial Tr. 22:10-14 (Leloudis). In rural areas, African Americans were relegated to sharecropping, a major source of African American poverty as recently as the last quarter of the twentieth century. *Id.* at 22:15-21 (LeLoudis); PX680 (Brown Dep. 8:1-15; 8:20-9:15); PX230 at 8 (Leloudis Rpt.); 7/23/15 Trial Tr. 88:8-89:4 (Duncan). And African Americans were excluded by law from white neighborhoods through the use of restrictive covenants. 7/24/15 Trial Tr. at 22:22-25 (Leloudis).

15. In more recent decades, discrimination has also targeted and currently impacts Hispanics in North Carolina. PX229 at 10-14 (Burden Rpt.); PX230 at 33-31 (Leloudis Rpt.); PX231 at 19-20 (Lichtman Rpt.).

16. Evidence of stark socioeconomic disparities in education, employment and income, housing, health, and access to transportation, between minorities and whites in North Carolina is uncontested. *See, e.g.,* 7/27/15 Trial Tr. 145:15-25 (Hood). Moreover, these socioeconomic disparities are a lingering result of centuries of official racial discrimination, segregation, and economic and political subjugation. PX46 at 52-53, 63 (Kousser Rpt.); PX229 at 10-15 (Burden Rpt.); PX45 at 9-18 (Duncan Rpt.); 7/14/15 Trial Tr. 129:7-11 (Clotfelter); 7/24/15 Trial Tr. 21:20-22:25; 26:3-23, 30:6-18; 51:12-21

(Leloudis); 7/15/15 Trial Tr. 86:3-87:4 (Burden). These persistent disparities evince a lack of responsiveness on the part of elected officials in North Carolina to the particularized needs of minority members of the community. PX230 at 1, 41 (Leloudis Rpt); PX229 at 15-16 (Burden Rpt); PX46 at 54-56 (Kousser Rpt); 7/24/15 Trial Tr. 32:3-15 (Leloudis).

1. Racial disparities in education and literacy

17. For most of its history, North Carolina engaged in official, state sanctioned discrimination in education. 7/14/15 Trial Tr. 134:11-17 (Clotfelter); PX237 ¶¶ 22-34 (Clotfelter Decl.). Well into the middle of the twentieth century, the State had an explicit policy of racially segregating its educational institutions and providing African Americans with significantly inferior educational resources and opportunities. PX237 ¶¶ 7, 23-34 (Clotfelter Decl.).

18. Following the Supreme Court's decision in *Brown v. Bd. of Education*, 347 U.S. 483 (1954), North Carolina and its school boards routinely circumvented the mandate to desegregate by adopting facially neutral plans that kept intact de facto segregation. PX237 ¶ 50 (Clotfelter Decl.); PX230 at 24 (Leloudis Rpt.). As late as 1971, the Supreme Court found that one of North Carolina's largest school districts was operating a "dual system." *See generally Swann v. Bd. of Education*, 402 U.S. 1 (1971). As a result of the State's policies, many current black voters in North Carolina are direct victims of the State's official discrimination in education. PX242 ¶ 140 n.70 (Stewart Decl.); *see also* PX680 (Brown Dep. 7:14-25); 7/8/14 PI Tr. 99:6-9 (Hawkins); 7/8/14 PI Tr. 37:21-38:1 (Eaton); 7/13/15 Trial Tr. 100: 2-12 (Barber).

19. This history of discrimination in education has continuing intergenerational effects on the educational outcomes of African Americans in the state. PX237 ¶¶ 11-21, 34 (Clotfelter Decl.); 7/14/15 Trial Tr. 159:10-20 (Clotfelter). Students who were exposed to North Carolina's segregated schools have lower levels of educational attainment. PX237 ¶¶ 37-38, Tbl.G (Clotfelter Decl.). Studies show a correlation between parents' educational attainment and children's educational achievement. This correlation "is statistically significant and quantitatively important, no matter how it is defined." *Id.* ¶¶ 12, 15. Thus, African American voters in North Carolina whose parents attended segregated schools continue to suffer the consequences of state-mandated discrimination in education.

20. Further, de facto segregation persists in North Carolina schools. In fact, since the 1990s, the racial imbalance in North Carolina's public schools has intensified. PX237 ¶¶ 51-53 (Clotfelter Decl.).

21. The current racial imbalances in North Carolina's schools create new racial disparities in the distribution of educational resources. Black and low-income students in contemporary North Carolina, on average, tend to be taught by or are enrolled in schools with teachers who have less experience and fewer qualifications than the teachers of schools attended by white and non-poor students. PX237 ¶¶ 56-59 & Tbls.I, J (Clotfelter Decl.).

22. Based on measures such as rates of literacy, rates of high school completion, and standardized test scores, educational disparities among African Americans, Hispanics, and whites continue to exist today. PX229 at 11-13 (Burden

Rpt.); PX237 ¶¶ 35, 39-47, Tbl.H (Clotfelter Decl.); PX239 at 1, n.1 (Summers Decl.). As compared to whites, African Americans and Hispanics have lower standardized testing scores, higher high-school dropout rates, longer average school-suspension times and higher suspension rates, and lower rates of post-secondary attainment. PX229 at 11-12 (Burden Rpt.); 7/15/15 Trial Tr. 86:22–87:4 (Burden); PX237 ¶ 48 (Clotfelter Decl.); PX45 at 10-11 (Duncan Rpt.). Thus, even when disparities in high school graduation rates appear narrow, *see* PX231 at 11 (Lichtman Rpt.), racial disparities in measures of educational achievement remain. *See, e.g.*, PX683 (Vernon-Feagans Dep. 43:24-45:23) PX240 ¶¶ 29-30, Figs. 3-5 (Vernon-Feagans Decl.) (finding that African American and white high school graduates have different levels of literacy as a result of segregated schools); PX680 (Brown Dep. 7:8-7:13, 8:1-4, 8:18-19 (attended Edgecombe County schools through the sixth grade, but is unable to read)); *see also supra* FOF ¶¶ 18-19.

23. Historical and current racial disparities in educational attainment and achievement bear directly on how HB 589 impairs the ability of minority voters to participate equally in the political process. Numerous studies have shown that educational attainment is often the single best predictor of whether an individual votes. PX229 at 12 (Burden Tr. Rpt.); *see also* 7/27/15 Trial Tr. 120:21-121:4 (Hood). “[T]his is largely because education lowers the ‘costs’ of voting by providing language skills, direct information about the electoral process and a sense of confidence [or] efficacy that facilitate participation even when the rules are changed.” PX229 at 12 (Burden Rpt.); *see, e.g.*, PX680 (Brown Dep. 7:14-25, 8:16-19, 13:21-17:12).

24. The intergenerational effect of North Carolina's past discriminatory policies and practices in its provision of educational resources, as well as present educational inequalities, has direct effects on the socioeconomic status of minority voters today, as reflected in income, rates of employment, and levels of poverty. PX237 ¶ 21 (Clotfelter Decl.); 7/14/15 Trial Tr. 130:25-7; 133-19-134:7 (Clotfelter); PX229 at 11-12 (Burden Rpt.); PX240 ¶ 26 (Vernon-Feagans Decl.).

2. Racial disparities in employment and income

25. In 2012, the percentage of individuals living in poverty in North Carolina was relatively high when compared to national standards. 7/23/15 Trial Tr. 83:2-7 (Duncan); PX45 at 3-5 (Duncan Rpt.). Poverty rates for African Americans (26.6%) and Hispanics (34.2%) were two to three times higher than for whites (11.9%) in 2012. 7/23/15 Trial Tr. 83:8-12 (Duncan); PX45 at 5, Fig. 1 (Duncan Rpt.). Similarly, a study of non-urban North Carolinians found that the African American poor were 50% poorer than the white poor. PX240 ¶ 25, Fig. 2 (Vernon-Feagans Decl.). Overall, the median net worth of whites in North Carolina today exceeds the net worth of African Americans by more than 20 times. PX231 at 17-18 (Lichtman Rpt.).

26. Census data indicates that estimated unemployment rates for the third quarter of 2014 were 5.3% for whites, 10.3% for African Americans, and 8.1% for Latinos. PX229 at 11 (Burden Rpt.). A high proportion of the unemployed are poor, but African Americans are disproportionately represented among the unemployed poor at a much higher rate than whites. 7/23/15 Trial Tr. 85:8-19 (Duncan); PX45 at 13 (Duncan

Rpt.) (As of 2012, 45% of the unemployed poor were black but only 34% were white.); *see also* PX231 at 8-10 (Lichtman Rpt.).

27. There are also racial disparities in employment conditions in North Carolina. African Americans disproportionately hold jobs that afford less flexibility to take time off to vote because they are subject to non-standard and extended work hours. PX240 ¶¶ 38-39, Fig. 10, Tbl.2 (Vernon-Feagans Decl.); PX46 at 53 (Kousser Rpt); PX671 Ex. H at 6 (Req. for Jud. Not.); PX45 at 12 (Duncan Rpt.); 7/7/14 PI Tr. 64:6-17 (Coleman) (describing how the 17 days of early voting made voting more accessible for individuals with multiple jobs).

28. The disproportionate poverty they confront undermines the ability of many black North Carolinians to participate in the political process. PX683 (Vernon-Feagans Dep. 28:7-32:25); PX240 ¶¶ 55-60, Fig. 23 (Vernon-Feagans Decl.). Living in poverty means living with limited resources that, over time, makes it difficult to participate in community life. PX45 at 5 (Duncan Rpt.); PX683 (Vernon-Feagans Dep. 30:13-16; 49:14-50:12).

29. Those living in near poverty (150% of the income threshold for poverty) also struggle to make ends meet, put food on the table, and care for their families. Over one quarter of North Carolinians fall in that category and, again, the rate is higher for African Americans than for whites. 7/23/15 Trial Tr. 83:15-20 (Duncan). Those scraping by also face challenges to participating in civic life.

3. Racial disparities in housing and transportation

30. African Americans and Hispanics in North Carolina move more frequently than whites and experience significantly higher rates of residential instability. PX45 at 16-17 (Duncan Rpt.); PX46 at 52 (Kousser Rpt.); PX671 ¶¶ 10, 12 (Req. for Jud. Not.). African Americans are more likely than white residents to move between North Carolina counties, PX671 ¶ 13 (Req. for Jud. Not.); PX42 at 30 n.37 (Stewart PI Decl.); PX46 at 52 (Kousser Rpt.), as well as within the same county. PX231 at 116 (Lichtman Rpt.); PX671 Ex. H at 5, 12 (Req. for Jud. Not.).

31. Poor African American families in North Carolina move more times, have more people moving in and out of their households over the years, and have less time at one address as compared to poor non-African American families. 7/23/15 Trial Tr. 86:6-17 (Duncan); PX45 at 16-17 (Duncan Rpt.); PX240 ¶ 63 (Vernon-Feagans Decl.); PX683 (Vernon-Feagans Dep. 46:6-18; 48:10-49:5).

32. With respect to access to transportation, black and Hispanic residents of North Carolina are disproportionately more likely to lack access to a vehicle compared to white residents. PX45 at 13-14 (Duncan Rpt.) (only 2.4% of whites live in households without a vehicle, compared to 10.7% of African Americans and 6.4% of Hispanics); PX231 at 13, 19 (Lichtman Rpt.); PX240 ¶¶ 41-42 (Vernon-Feagans Decl.); PX683 (Vernon-Feagans Dep. 35:16-36:15). And although 15% of the poor live in homes without access to a vehicle, only 8.8% of poor whites fall into this category as compared to 27% of poor African Americans. PX45 at 14 (Duncan Rpt.). Limited access to a useable vehicle undercuts one's ability to participate in civic activities in counties without

public transportation, and even in counties with public transportation, it imposes disproportionately greater voting costs and burdens. PX683 (Vernon-Feagans Dep. 33:1-21; 39:2-40:11); PX241 ¶ 25 (Webster Decl.); 7/20/15 Trial Tr. 174:18-24; 176:4-17 (Webster).

B. Socioeconomic Disparities Impact Participation in the Political Process

33. Education, income, employment, and health are strongly associated with the “very domains that contribute to voting participation.” PX229 at 10-14 (Burden Rpt.); PX44 at 11-12 (Burden PI Rpt); 7/16/15 Trial Tr. 80:1-81:8 (Stewart). Thus, even after formal barriers to the franchise were eliminated, racial disparities in political participation persisted in North Carolina, in part as a product of socioeconomic disparities linked to prior discrimination. *See Gingles*, 590 F. Supp. at 361; *infra* FOF Part III.C.

34. Under the dominant framework in political science for studying voter participation, a crucial factor in determining whether individuals vote is the cost of voting. The costs that a voter must incur include the time, resources, and effort needed to overcome administrative requirements in order to vote. Increases in such costs that result from more restrictive voting laws can significantly deter participation. PX229 at 3-4 (Burden Rpt.); 7/15/15 Trial Tr. 70:12-71:9 (Burden); 7/8/14 PI Tr. 193:5-25 (Stewart); *see also* 7/27/15 Trial Tr. 146:1-147:18 (Hood) (defense expert acknowledging that the “costs of voting” model is among the most well established principles in political science). Such costs have a greater effect on voters with fewer socioeconomic resources, especially those with lower levels of education or literacy, and on individuals who have

not already developed the habit of voting regularly. As a result, these individuals are significantly less likely to vote when a change to election procedures raises the cost of voting. *See* PX229 at 3-4 (Burden Rpt.); 7/15/15 Trial Tr. 74:22-75:25 (Burden).

35. For example, individuals with lower educational attainment and literacy levels are more likely than others to miss a voter registration deadline that falls several weeks before an election because they are less likely to attempt to register until there is significant social attention to politics as an election approaches. PX42 ¶ 120 (Stewart PI Decl.); 7/16/15 Trial Tr. 68:3-24 (Stewart).

36. State Board of Elections (“SBOE”) data are consistent with these findings. During the four-year period between the 2008 and 2012 general elections, African Americans were disproportionately *less* likely to register during the regular registration period (*i.e.*, before the 25-day deadline) and disproportionately *more* likely to register after the 25-day deadline. Indeed, in every federal general election from 2002 to 2014 (except 2006) African Americans were more likely than whites to register after the 25-day registration deadline. 7/16/15 Trial Tr. 57:11-14; 60:7-25 (Stewart); PX42 ¶¶ 105-106, 121, Tbl.7, Ex. 31 (Stewart PI Decl.); PX242 App. X & Y at 164-165 (Stewart Decl.).

37. These patterns show that as a result of racial disparities in educational attainment, African Americans in North Carolina are more likely than whites to become attuned to elections and registration requirements only shortly before Election Day. 7/16/15 Trial Tr. 62:18-63:4 (Stewart).

38. Racial disparities in educational achievement and literacy also disproportionately increase the complexity of registering to vote before an election. Calculating a registration deadline that, like North Carolina's, falls 25 days before Election Day, requires an intermediate level of literacy, as well as quantitative and civic literacy skills. *See* PX239 at 6, Tbl.1 (Summers Decl.); 7/15/15 Trial Tr. 18:2-19:20; 21:15-22:6 (Summers).

39. Moreover, because North Carolina requires voters to re-register to vote when they move between counties, *see* 7/22/15 Trial Tr. 97:25-98:2 (Strach), obstacles related to registration are exacerbated for voters who move frequently, a population that, in North Carolina, is disproportionately low income and disproportionately minority. *See supra* FOF ¶ 30.

40. For those voters without access to a vehicle, or who work long or inflexible hours, appearing at an assigned polling place on Election Day can be extremely burdensome. For example, if a voter's polling place is not within walking distance, individuals without access to a vehicle must rely on public transportation (if it exists) or other non-personal means to get there—burdens which can be substantial. *See supra* FOF ¶¶ 28, 32; 7/20/15 Trial Tr. 174:18-24, 176:11-17, 179:19-22 (Webster); 7/13/15 Trial Tr. 155:21-156:10, 156:20-157:14 (Palmer); 7/7/14 PI Tr. 67:10-23 (Coleman); *see also* PX4 ¶ 10 (Dorlouis Decl.) (transportation burdens experienced on college campuses).

41. Similarly, having more days available to vote can provide a voter with a busy or inflexible schedule due to work or family obligations, or a voter who lacks access

to a vehicle, greater opportunities to surmount these burdens. 7/20/15 Trial Tr. 195:8-18, 196:11-18 (Webster); *id.* at 150:1-150:7, 151:2-152:4, 153:11-158:25 (Owens); PX11 ¶ 21 (Palmer); PX787 (Hawkins Dep. 31:18-32:9); 7/13/15 Trial Tr. 153:22-154:16, 155:21-56:10 (Palmer).

42. A study of poor rural families in North Carolina found that they have less access to transportation and technology and face greater day-to-day challenges (*e.g.*, nonstandard work hours, lower levels of literacy, child care arrangements) compared to non-poor families. PX240 ¶¶ 30, 35-46, Figs. 5-6, 12-16 (Vernon-Feagans Decl.). These challenges create barriers for active engagement in civic life, including the political process. *Id.* ¶ 10. For each of these variables, African Americans bear statistically-significant, greater burdens than their white counterparts. *Id.* ¶¶ 30, 35-46.

C. Particularly Among Minority Citizens, Voter Registration and Participation Remained Depressed Throughout the Twentieth Century

43. As a result of the history of discrimination and other voting barriers linked to socioeconomic disparities discussed above, voter registration and participation rates remained low in North Carolina until very recently, particularly among African Americans. PX46 at 20-21, Tbls.1-2 (Kousser Rpt.); PX42 at 29, Tbl.3 (Stewart PI Decl.). In 1980, only 51.3% of the black voting age population was registered to vote compared to 70.1% of the white voting age population. *Gingles*, 590 F. Supp. at 360-61. In 1990, 63% of the black voting age population was registered to vote compared to 69% of the white voting age population. PX47 ¶ 16 (Lawson PI Decl.). Although overall registration increased over the next decade, the gap between black and white registration rates was actually larger in 2000 than it had been in 1990. PX42 at 29, Tbl.3 (Stewart PI

Decl.) (in 2000, 81.1% of North Carolina's voting age African Americans were registered to vote, compared to 90.2% of voting age whites). Even in 2006, the gap between black and white registration rates persisted with 82.3% of the black voting age population registered to vote, compared to 87.4% of the white voting age population (a 5.1 percentage point difference). *Id.*

44. With respect to voter turnout, in the 1988, 1992 and 1996 elections, North Carolina ranked 48th, 46th, and 43th in the nation, respectively. PX46 at 20, Tbl.1 (Kousser Rpt.). In 1996, an election with a highly competitive Senate race featuring a popular African American candidate, Harvey Gantt, 48.3% of North Carolina's white voting age population voted, compared to just 36.9% of the black voting age population. *Id.* at 21, Tbl.2; 7/22/2015 Trial Tr. 20:6-24 (Michaux). Racial disparities in turnout continued between 2000 and 2006, with white turnout exceeding black turnout by roughly 10 percentage points on average. *See* PX46 at 21, Tbl.2 (Kousser Rpt.).

IV. Voting Reforms Enacted from 2001 to 2009 Reduced Barriers to Voting, Particularly for African American, Hispanic, and Young Voters

45. Between 2001 and 2009, North Carolina adopted a series of election reforms designed to expand voting opportunities. 7/22/15 Trial Tr. 16:12-22, 18:10-22, 21:10-19, 22:6-8 (Michaux); PX17 ¶ 8 (H. Michaux Decl.); PX47 ¶¶ 18-21 (Lawson PI Decl.); PX46 at 17 (Kousser Rpt.). While the reforms to North Carolina's election laws benefited aspiring voters generally, African Americans advocated for and were especially likely to use these practices to overcome the socioeconomic and historical barriers that had previously interfered with their political participation. 7/16/15 Trial Tr. 182-185, 188-190 (Moss); 7/13/15 Trial Tr. 103:5-104:14 (Barber); PX231 at 28-30 (Lichtman

Rpt.); PX46 at 17-22 (Kousser Rpt.); PX47 ¶¶ 24-25 (Lawson PI Decl.); 7/17/15 Trial Tr. 98:14-24, 101:12-102:9 (Lichtman); PX10 ¶¶ 15, 18-23 (NAACP Decl.). Young voters were also particularly likely to use these practices. PX236 at 6-12, 15-16, 19, 21, 28, 35 (Levine Rpt.).

A. Early In-Person Voting

46. In 2001, the General Assembly enacted HB 831/S.L. 2001-319 and HB 977/S.L. 2001-337, establishing no-excuse early voting for all North Carolina voters during all elections. Both bills passed with substantial bipartisan support. PX47 ¶ 18 (Lawson PI Decl.); PX46 at 26-27 (Kousser Rpt.); PX16 ¶ 8 (Bartlett Decl.). The NC NAACP, advocating on behalf of black voters, supported extending the early voting period to 17 days. 7/7/2014 PI Tr. 63:24-64:5 (Coleman).

47. Since these changes, each CBOE in North Carolina has been required to offer in-person early voting for all voters at the county board office or an equivalent site during the designated early voting period, including the final Saturday before Election Day.³ NCGS § 163-227.2(b). CBOEs have the option of offering early voting in the evenings and during additional weekend days during the early voting period, and they may also designate additional early voting sites beyond the CBOE office. NCGS §§ 163-227.2(f), (g). From 2002 until the enactment of HB 589, the early voting period was a 17-day period starting the third Thursday before each election (19 days before Election Day) and ending the last Saturday before each election (3 days before Election Day). On

³ Formally known as “one-stop absentee voting,” this practice is commonly referred to as “early voting.” All uses of the phrase “early voting” in this document refer to in-person one-stop absentee voting.

the last Saturday, counties were required to offer early voting until 1:00 p.m. and permitted to offer it until 5:00 p.m. PX16 ¶ 9 (Bartlett Decl.); NCGS § 163-227.2(b) (2013).

1. Expanded early voting reduces the cost of voting for voters and provides administrative benefits for voters and election officials.

48. After North Carolina adopted a 17-day early voting period, voters expressed satisfaction to the SBOE because it enabled them to choose a day and time to vote. *See* 7/8/14 PI Tr. 118:3-5, 120:9-13 (Bartlett); *see also* 7/27/15 Trial Tr. 92:12-93:1 (Hood). Some voters prefer early voting because it is easier to obtain assistance than it is on Election Day. *See* PX680 (Brown Dep. 12:9-20).

49. North Carolina's 17-day early voting period also eased election administration. It reduced Election Day congestion, gave officials more time before elections to correct errors and minor mistakes, allowed for voting to be administered by the more experienced, better-trained poll officials who generally work at early voting sites, and lowered costs for CBOEs by increasing efficiency and reducing equipment needs. 7/7/14 PI Tr. 170:6-171:2, 178:1-179:24, 181:10-19 (Gilbert); PX16 ¶¶ 11-12 (Bartlett Decl.); 7/8/14 PI Tr. 127:9-20 (Bartlett); *see also* 7/9/14 PI Tr. 6:24-8:6 (Stewart); PX42 ¶ 139 (Stewart PI Decl.); 7/27/15 Trial Tr. 97:3-98:22 (Hood).

2. Millions of North Carolina voters rely on early voting.

50. When comparing mid-term elections to mid-term elections, and presidential elections to presidential elections, in each subsequent election, more voters have relied on early voting—both in absolute terms and as a percentage of the total electorate. Millions of North Carolina voters now rely on early voting, and these numbers continue to

increase. *See* PX42 ¶ 145 (Stewart PI Decl.) (2000-2004); PX242 at 71, Fig. 8, App. S at 159 (Stewart Decl.) (2006-2014); PX234 Fig. 1 (Gronke Rpt.); 7/17/15 Trial Tr. 9:10-10:24 (Gronke).

51. These trends suggest that North Carolina voters have become habituated to early voting, and that increasing reliance on early voting in North Carolina is likely to continue into the future. *See* 7/17/15 Trial Tr. 10:25-11:5 (Gronke); PX40 ¶ 22 (Gronke PI Rpt.); PX234 ¶¶ 10-11 (Gronke Rpt.); PX247 ¶ 8 (Gronke Surr. Rpt.); *see also* 7/27/15 Trial Tr. 93:2-10 (Hood).

52. Early voting plays a particularly significant role in North Carolina in presidential elections. Many more voters—both in absolute terms and in terms of the percentage of the electorate—rely on early voting in presidential elections than on any other method of casting a ballot. *See* 7/17/15 Trial Tr. 10:15-21 (Gronke). More than 2.4 million North Carolinians voted early in each of the last two presidential elections—over 55% of all ballots cast in those elections. PX234 Fig. 1, ¶ 10 (Gronke Rpt.).

3. African American voters disproportionately rely on early voting.

53. Early voting was particularly widely embraced in the African American community. African Americans in North Carolina have used early voting at higher rates than whites in each of the last four general elections. *See* PX234 Fig. 2 (Gronke Rpt.); PX242 at 159 (Stewart Decl.); 7/16/15 Trial Tr. 70:2-5 (Stewart). In each of the 2008, 2010, and 2012 elections, the African American share of early voters was higher than the African American share of non-early voters. 7/17/15 Trial Tr. 121:3-18 (Lichtman).

54. Higher rates of early voting by African Americans cannot be attributed to factors such as age and partisanship, as racial disparities in early voting usage persist even when controlling for those other factors. *See* 7/17/15 Trial Tr. 18:5-17 (Gronke); PX234 ¶¶ 15-17, Fig. 3 (Gronke Rpt.).

55. Racial disparities in early voting usage are largest in presidential elections, when African Americans have voted early at a rate about 40% higher than white voters. In the 2008 and 2012 general elections, over 70% of African American voters used early voting, as compared with 51% and 52% of white voters, respectively. PX40 ¶¶ 26-27, Ex. 10 (Gronke PI Rpt.); PX242 at 159 (Stewart Decl.).

56. African American voters have become habituated to early voting to a stronger degree than white voters. *See* PX40 ¶¶ 22, 51 (Gronke PI Rpt.); PX234 ¶¶ 8, 31 (Gronke Rpt.). Higher early voting usage rates among African Americans are not a one-time or temporary occurrence caused exclusively by the presence of a particular candidate on the ballot, but rather are likely to continue in the future. PX234 ¶ 17 (Gronke Rpt.); PX40 ¶ 51 (Gronke PI Rpt.).

4. The popularity of early voting with African American voters is linked to North Carolina's history of official discrimination.

57. By lowering the cost of voting, early voting has been particularly helpful to voters with limited socioeconomic resources, *see supra* FOF ¶¶ 34, 40-41, and as a result of past discrimination, such voters are more likely to be African American, *see supra* FOF Part III.A. Moreover, many black voters use early voting because of lingering “concerns that something could go wrong in their attempts to vote.” Early voting gives

these voters more confidence that they will have time to overcome obstacles to voting. PX25 ¶ 52 (Glazier Decl.); PX28 ¶ 41 (McKissick Decl.).

58. Also because of the history of discrimination, in-person early voting has a different meaning than voting by mail for African Americans. For voters who experienced the long struggle for equal access to the franchise and for their descendants who have internalized the lessons of that struggle, casting a ballot in the presence of an election official carries both profound symbolic importance and practical assurance that the ballot will count. PX17 ¶ 35 (H. Michaux Decl.); PX28 ¶ 41 (McKissick Decl.); PX23 ¶ 34 (Parmon Decl.); PX783 (A. Eaton Dep. 36:1-22); PX795 (Perry Dep. 38:19-25, 39:1-3).

59. Reinforcing all of these reasons is the fact that because of superior training and experience, poll officials who work at early voting sites can better provide assistance needed by lower literacy voters and are better equipped to provide voters with the assurance that their ballots will be counted. *See supra* FOF ¶¶ 48-49.

60. Emblematic of the embrace of early voting in the black community are the “souls to the polls” efforts organized on Sundays during early voting. Under these programs, church members and clergy organize efforts to assist people in getting to the polls and voting. *See* PX20 ¶ 27 (Adams Decl.); PX23 ¶ 18 (Parmon Decl.); PX22 ¶ 22 (Hall Decl.); 7/7/14 PI Tr. 154:6-155:11 (Hill); 7/14/15 Trial Tr. 168:21-172:15 (Cunningham); PX10 ¶¶ 15, 24, 27-30 (NAACP Decl.).

61. In Mecklenburg County, for example, black clergy and civil rights groups such as the NAACP organized a highly successful countywide “souls to the polls”

program. 7/16/15 Trial Tr. 185:6-193:7 (Moss). The program was geared toward addressing barriers to voting faced by low income black voters: first, it enabled congregants without vehicles to get to the polls; second, voters with inflexible work schedules could vote during a time already set aside for other activities; and third, it facilitated assistance from trusted neighbors to voters who might otherwise have been hesitant to appear alone at the polls. 7/16/15 Trial Tr. 182:10-185:5, 188:7-190:3 (Moss). The availability of two Sundays of early voting also enabled voting in connection with church attendance for those in rural areas who have church services only twice monthly rather than every week. 7/7/14 PI Tr. 65:20-66:4 (Coleman); 7/16/15 Trial Tr. 196:6-22 (Moss).

62. SBOE data confirms that Sunday voting has been particularly popular with African American voters. In 2008 and 2012, for example, black voters were over twice as likely as white voters to use Sunday voting. PX42 Ex. 41(a) (Stewart PI Decl.) (Sundays listed as 9th and 16th days before election).

5. Young voters also benefited from early voting.

63. The evidence also shows that early voting increases youth turnout. *See* PX235 at 8 & n.18 (Hillygus Rpt.). Young voters in North Carolina were more likely than older voters to cast their ballots after 1 p.m. on the final day of early voting. PX236 at 21-22 (Levine Rpt.).

B. Out-of-Precinct Provisional Balloting

64. In 2005, the General Assembly enacted S.L. 2005-2 reaffirming the legislature's intention to count "out-of-precinct" provisional ("OOP") ballots, which are

ballots cast by a registered voter on Election Day in the voter's county of residence but outside the voter's assigned precinct. Such ballots were counted for all contests in which the voter was eligible to vote. PX146 (S.L. 2005-2); NCGS § 163-166.11(5) (2013); 7/22/15 Trial Tr. 174:11-175:5 (Strach). The bill included an enumerated finding that, of voters who cast OOP ballots in the November 2004 election, "a disproportionately high percentage were African-American." PX146 § 1(9) (S.L. 2005-2); PX47 ¶ 20 (Lawson PI Decl.); PX46 at 27-30 (Kousser Rpt.).

1. OOP voting provided administrative benefits and was a fail-safe.

65. Provisional ballots provide a "fail-safe" procedure that has been used in North Carolina since the 1990s. PX585 at 1 (SBOE Mem. 96-13). Starting in 2004, the Help America Vote Act ("HAVA") required all states to offer provisional ballots in federal elections. 52 U.S.C. § 21082. There are a number of reasons why a voter may cast a provisional ballot and many circumstances under which a provisional ballot may be counted. *See* PX42 ¶¶ 219-24 (Stewart PI Decl.); 7/22/15 Trial Tr. 176:7-177:13, 179:5-22 (Strach); *see also* PX551 at 4-5, 9 (2/24/05 House Elec.); PX16 ¶ 48 (Bartlett Decl.); PX811 (Dickerson Dep. 37:9-38:4); 7/7/2014 PI Tr. 147:7-148:5 (Hill). To cast a provisional ballot, a voter fills out a form indicating the reason for voting provisionally. PX600 (Prov. Voting App.); 7/22/2015 Trial Tr. 177:14-178:1 (Strach).

66. CBOEs must review and verify all provisional ballot applications, including for OOP ballots. NCGS § 163-166.11(4); 7/22/2015 Trial Tr. 177:6-17 (Strach). Election officials conduct research to ascertain whether the voter is registered and otherwise eligible to cast a ballot. 7/22/2015 Trial Tr. 73:21-74:11, 177:18-178:1

(Strach). Provisional ballots are not counted unless they are verified by a CBOE. NCGS §§ 163-166.11(4), -182.2(a)(4); 7/22/2015 Trial Tr. 178:2-7 (Strach).

67. North Carolina legislators and government officials have touted OOP ballots as a tool for ensuring that eligible, duly registered voters are not disenfranchised. *See, e.g.*, PX16 ¶ 47-48 (Bartlett Decl.); PX146 at 1-2 (S.L. 2005-2); 7/22/2015 Trial Tr. 21:20-22:8 (Michaux); PX182 at 4 (Poucher Comments to EAC); PX817 (Poucher Dep. 66:2-22).

68. OOP ballots contribute a significant number of votes to statewide races such as governor and president. PX42 ¶ 230 (Stewart PI Decl.). OOP voting assists voters to overcome challenges that may prevent them from appearing at their assigned precinct on Election Day. *See* 7/9/2014 PI Tr. 17:6-18:2 (Stewart); 7/16/2015 Trial Tr. 77:17-78:11 (Stewart).

2. OOP ballots were used disproportionately by minority voters.

69. African Americans cast OOP ballots at significantly higher rates than whites. In fact, using the SBOE's voter history data, Drs. Lichtman and Stewart show that African Americans disproportionately cast OOP ballots in every federal general election since 2006. PX42 ¶¶ 234-35, 244, Tbl.14b (Stewart PI Decl.); PX231 at 109-115 (Lichtman Rpt.); 7/16/15 Trial Tr. 77:2-8 (Stewart); 7/17/15 Trial Tr. 120:3-121:2 (Lichtman). African American voters were between 1.8 and 3.8 times more likely than white voters to cast OOP ballots in general elections held between 2006 and 2012. PX42 ¶ 235 & Tbl.14b (Stewart PI Decl.).

70. In 2012, black voters were over 2.5 times more likely than white voters to cast an OOP ballot. 7/30/2015 Trial Tr. 133:22-134:3 (Stewart). Black voters in that election cast 35% of partially counted OOP ballots but only 23% of all other ballots, while white voters cast 52% of partially counted OOP ballots but 71% of all other ballots. PX231 at 114 (Lichtman Rept). Defendants' experts conceded that black voters have cast a disproportionately high percentage of OOP ballots. 7/27/2015 Trial Tr. 16:21-17:1 (Thornton); 7/28/2015 Trial Tr. 168:1-169:8 (Hofeller).

71. Hispanic voters are also more likely to cast OOP ballots than white voters. In the November 2012 election, Hispanics cast 4.1% of OOP ballots and 1.4% of all other ballots. PX245 at 20, Tbl.R-11 (Lichtman Surr. Decl.); 7/17/15 Trial Tr. 120:3-121:2 (Lichtman). Likewise, young North Carolinians were more likely than older North Carolinians to use OOP provisional voting. PX236 at 35 (Levine Rpt.).

C. Same-Day Registration

72. In 2007, after a lengthy legislative process in both chambers of the General Assembly, North Carolina enacted S.L 2007-253, which allowed a person to register and vote at an early voting location in the individual's county of residence during the 17-day early voting period, a practice commonly referred to as "same-day registration." S.L. 2007-253 (codified at NCGS § 163-82.6A (2013)); PX47 ¶ 21 (Lawson PI Decl.); PX46 at 30-33 (Kousser Rpt.). This bill was drafted in consultation with the SBOE. It was co-sponsored by several African American representatives and received bipartisan support. PX147 (identifying co-sponsors); PX16 ¶ 27 (Bartlett Decl.); PX47 ¶ 21 (Lawson PI

Decl.); PX46 at 30-33 (Kousser Rpt.); PX10 ¶ 21 (NAACP Decl.); 7/7/14 PI Tr. 62:25-63:9 (Coleman).

73. Same-day registrants submitted their voter registration application in person directly to county officials at early voting sites, and those county officials ensured that the registration applications included all mandatory information. 7/22/15 Trial Tr. 103:9-19 (Strach); 7/23/15 Trial Tr. 70:21-71:1 (Minnite).

74. The primary differences between SDR and other voter registration procedures in North Carolina were that (1) same-day registrants were required to attest to and show valid proof of address to an election official *before* being added to the list of registered voters and permitted to cast a ballot, and (2) CBOEs were required to initiate mail verification for same-day registrants within 48 hours of receiving the voter registration application. 7/22/15 Trial Tr. 103:20-104:6, 104:14-17 (Strach); PX16 ¶¶ 29-30 (Bartlett); *see also* PX622 (8/28/12 SBOE Mem.) (identifying acceptable identification); 7/29/15 Trial Tr. 84:16-24 (Strach).⁴

75. Same-day registrants were required to cast retrievable absentee ballots during the early voting period; other registrants, by contrast, could appear on Election Day and cast a regular (non-retrievable) ballot, even if their mail verification was still pending. 7/22/15 Trial Tr. 105:24-106:23 (Strach); *compare* NCGS § 163-82.6A(c) (2013) *with* NCGS § 163-82.7(g).

⁴ There is no statutory deadline by which mail verification must be initiated when a voter registration application is submitted by other means. 7/22/15 Trial Tr. 104:18-25 (Strach). *See infra* FF ¶¶ 196-206 for a description of the North Carolina voter registration process.

1. SDR created administrative benefits for the State.

76. An SBOE analysis of the mail verification of new voters who used SDR during the 2012 elections, as compared to 2012 registrants who used traditional, close-of-books registration, demonstrated that SDR registrants verified at rates comparable to, and sometimes higher than, non-SDR registrants. PX68A (2/11/13 SBOE Rpt.). This report was provided to legislators while they were evaluating HB 589. 7/17/15 Trial Tr. 169:13-21 (Lichtman). An SBOE analysis of SDR registrants from the 2010 general election found that less than 1% of those whose ballots were counted had not been verified. PX57 (SBOE 2010 Gen. Elec. Rpt.).

77. The results of a Guilford County SDR study were consistent with the SBOE analyses. Immediately following the 2012 general election, the Guilford CBOE analyzed mail verification rates and found that the undeliverable rate for SDR registrants was half that for non-SDR registrants. Thus, to the extent mail verification rates measure the accuracy of registration applications, SDR applications were more accurate than non-SDR applications. PX19 ¶ 24 (Gilbert Decl.); 7/7/14 PI Tr. 185:11-186:16 (Gilbert).

78. A subsequent analysis of the undeliverable rates for registrants during 2014—all of whom were non-same-day registrants due to HB 589—reflected that 3.63% of 2014 registrants had not passed mail verification by April 2015 (nearly 6 months after the November 2014 election). 7/30/15 Trial Tr. 147:4-149:1 (Lichtman). This was nearly 50% higher than the undeliverable rate for 2012 same-day registrants, as reflected in a re-analysis of the 2012 election that the SBOE conducted for litigation. *Id.*

79. Highly experienced election administrators testified that SDR created substantial administrative benefits in conducting elections. For example, when voters had a problem with their registration, election officials found that using SDR to ensure that voters' registrations were accurate was much more efficient and effective than resolving a registration problem by requiring voters to cast a provisional ballot. PX811 (Dickerson Dep. 31:5-22); PX19 ¶ 26 (Gilbert Decl.); 7/17/14 PI Tr. 184:8-15 (Gilbert); 7/8/14 PI Tr. 133:2-14 (Bartlett).

80. SDR enabled election administrators and poll workers, operating under enormous stress, to solve problems and avoid confrontations with voters. 7/8/14 PI Tr. 133:15-22; 137:25-138:23 (Bartlett); 7/7/14 PI Tr. 186:17-187:20 (Gilbert).

2. SDR was widely used by North Carolina voters, particularly by African Americans, Latinos, and young voters.

81. Tens of thousands of North Carolina voters relied on SDR during each federal election between 2008 and 2012. PX40 Ex. 15 (Gronke PI Rpt.); *see also* 7/17/15 Trial Tr. 39:6-13 (Gronke). In each of the 2008 and 2012 general elections, roughly 100,000 voters used SDR. PX40 Ex. 15 (Gronke PI Rpt.); PX42 ¶ 101, Tbl.7 (Stewart PI Decl.).

82. African Americans and Hispanics used SDR at a statistically-significant higher rate than white voters in each statewide general election where it was available. 7/16/15 Trial Tr. 57:4-14, 62:8-14 (Stewart); PX42 ¶¶ 92, 106, 108, Fig. 7, Exs. 31 & 32 (Stewart PI Decl.); PX40 ¶¶ 45-46, 48 Ex. 15 (Gronke PI Rpt.); 7/17/15 Trial Tr. 118:9-24 (Lichtman). In each of these elections, African Americans and Hispanics also used SDR at a disproportionately higher rate than their share of previously registered voters.

7/17/15 Trial Tr. 117:8-118:8, 118:14-24 (Lichtman); PX231 at 100-08 & Tbls.33-35 (Lichtman Rpt.); PX245 Tbl.R-9 at 23 (Lichtman Surr. Rpt.). In the four-year period preceding the November 2012 federal election, African Americans were over 35% more likely than white voters to register during the SDR period. PX42 ¶ 52 (Stewart PI Decl.); PX40 ¶ 46 (Gronke PI Rpt.). In the May 2008 primary, May 2010 primary, and the November 2010 general election, African American SDR usage rates were approximately double that of white voters. PX40 ¶¶ 46, 49, Exs. 14-16 (Gronke PI Rpt.). These differences persist even controlling for party, as black Democrats were twice as likely to use SDR as white Democrats in 2008. 7/27/15 Trial Tr. 87:4-88:23 (Hood). In addition, young voters in North Carolina were more than twice as likely as older voters to use SDR in the 2008, 2010, and 2012 general elections. PX236 at 7, 15-16 (Levine Rpt.).

3. SDR was a critical fail-safe that provided especially important protections to poor African American and Latino voters.

83. SDR provided a fail-safe for thousands of North Carolina voters, particularly poorer individuals, Latinos, and African Americans, who have fewer resources to overcome the hurdles imposed by registration requirements. 7/15/15 Trial Tr. 93:21-25 (Burden). African Americans, in particular, are disproportionately likely to become entangled in the State's voter registration process as it interacts with the effects of racial disparities in education, literacy levels, vehicle access, and residential instability. *See supra* FOF Part III.A; 7/16/15 Trial Tr. 80:1-81:22 (Stewart).

84. SDR offered voters with lower literacy levels the opportunity to register and vote even if they failed to overcome the barriers imposed by requirements to correctly fill out and submit a voter registration application to the correct county by the

voter registration deadline. SDR thereby mitigated the impact of racial disparities in prose, document, computer, quantitative, and civic literacy. 7/15/15 Trial Tr. 23:7-31:22 (Summers). This was at least in part because election officials were instructed to insure that applications for registration through SDR were properly completed. 7/22/15 Trial Tr. 103:13-19 (Strach).

85. Gloria Hill, a member of the Hoke CBOE, testified that SDR “broke th[e] intimidation barrier, and it made it easier for [people who struggle to read] to come in, register and vote” because officials at one-stop sites offered assistance. 7/7/14 PI Tr. 151:10-152:1 (Hill).

86. Pastor Gregory Moss, a leader in organizing the “souls-to-the-polls” program for his predominantly African American congregants in Mecklenburg County, testified that SDR was “a force multiplier” for his program. 7/16/15 Trial Tr. 193:12-194:2 (Moss). Other get-out-the-vote organizers have echoed this sentiment. 7/16/15 Trial Tr. 37:8-25 (Phillips); PX8 ¶ 19 (R. Michaux Decl.); PX9 ¶ 16 (Montford Decl.); PX20 ¶ 32 (Adams Decl.).

87. Similarly, Maria Palmer, a Latina elected official who helps register Latino voters, testified that SDR was particularly successful in the Latino community because it provided a mechanism for Latinos who were unfamiliar with the voter registration process to register and vote. *See* 7/13/15 Trial Tr. 148:14-149:14 (Palmer).

D. Preregistration for Young Voters

88. In 2009, the General Assembly enacted S.L. 2009-541, establishing preregistration for 16- and 17-year olds. The bill passed by overwhelming, bipartisan margins, 107-6 in the House and 32-3 in the Senate. PX46 at 33 (Kousser Rpt.)

89. Preregistration proved hugely popular. In less than four years, over 150,000 young people preregistered to vote. 7/15/15 Trial Tr. 203:3-23 (Hillygus); 7/20/15 Trial Tr. 121:4-16 (Levine); PX235 at 13 (Hillygus Rpt.); PX236 at 7, 19 (Levine Rpt.).

90. Because the black and Latino populations in North Carolina are younger on average than the white population, the preregistration provision disproportionately benefited African Americans and Latinos. 25.9% of black citizens and 57.9% of Hispanic citizens in North Carolina are under 18. By comparison, only 19.5% of white citizens in North Carolina are under 18. PX229 at 24 (Burden Rpt.).

91. Indeed, in 2012, African Americans comprised 30% of all preregistrants, despite making up only 22% of the population in North Carolina. 7/15/15 Trial Tr. 204:10-19 (Hillygus); PX235 at 16 (Hillygus Rpt.); *see also* 7/17/15 Trial Tr. 121:19-122:6 (Lichtman); PX231 at 129-32 (Lichtman Rpt.); PX229 at 24 (Burden Rpt.). Similarly, in North Carolina in 2012, 3.8% of preregistered voters, but only 1.7% of voters overall, were Hispanic. PX245 at 23, Tbl.R-10 (Lichtman Surr.).

E. By Facilitating Access to the Franchise for Previously Excluded Populations, These Reforms Transformed North Carolina Elections

92. The reforms discussed above improved access to the franchise for all North Carolinians. Between 2000 and 2012, North Carolina's registration rolls increased

28.2%. This overall increase represented a 15.8% increase for white registrants and a 51.1% increase for black registrants. PX42 at 26, Tbl.2 (Stewart PI Decl.). North Carolina's ranking for youth registration increased from 43rd to 8th during this time period. PX236 at 6, 9-10 (Levine Rpt.). In 2012, 6.7 million North Carolinians were registered to vote, constituting 89.1% of the voting age population. PX42 ¶ 59 (Stewart PI Decl.).

93. With respect to voter turnout, before 2008, North Carolina performed among the lowest quartile of states in the nation. After 2008, the first year that early voting, SDR, and OOP voting were in effect, the overall voter participation rate changed substantially in North Carolina. PX46 at 20, Tbl.1 (Kousser Rpt.). Between the 2004 and 2008 general elections, North Carolina experienced the largest increase in turnout of any state in the nation. PX231 at 28 (Lichtman Rpt.).

94. SDR, early voting, and OOP voting were fail-safe mechanisms that ameliorated the impact of socioeconomic disparities. 7/16/15 Trial Tr. 80:1-10 (Stewart); 7/13/15 Trial Tr. 103:8-17 (Barber). Thus, while these practices benefited aspiring voters generally, their effects were especially pronounced in the African American community. PX46 at 17-22 (Kousser Rpt.); PX47 ¶¶ 24-25 (Lawson PI Decl.); 7/17/15 Trial Tr. 98:14-24, 101:12-102:9 (Lichtman). Of the 1.46 million voters added to North Carolina's voter rolls between 2000 and 2012, 35% were African American, even though African Americans constituted just 20% of the voting-age population in 2000. PX42 ¶ 68 (Stewart PI Decl.). North Carolina experienced the largest increase in African American turnout in the country between 2000 and 2012. 7/17/15 Trial Tr. 77:25-78:13 (Trende).

95. In 2008, for the first time in modern history, black registration rates reached a fragile parity with that of whites. PX42 ¶ 53, Tbl.3 (Stewart PI Decl.); 7/16/15 Trial Tr. 56:23-57:8 (Stewart). At the time of the 2008 general election, 94.9% of the black voting age population was registered, compared to 90.7% of the white voting age population; in 2010, these rates dropped to 89.1% and 86.5%, respectively; and in 2012 were 95.3% and 87.8%, respectively. PX42 at 29, Tbl.3 (Stewart PI Decl.).

96. In another historic shift, African American turnout in the 2008 general election in North Carolina exceeded that of whites for the first time, and Democratic presidential candidate Barack Obama carried North Carolina by one percentage point, the first Democratic presidential candidate to win the state since 1976. PX47 ¶¶ 10, 24-25 (Lawson PI Decl.); PX46 at 21, 58, 63 (Kousser Rpt.). The importance of the strength of African American votes was not lost on Republicans in North Carolina, given the key role African Americans played in the defeat that year of their gubernatorial candidate, Patrick McCrory. *See* PX46 at 35 (Kousser Rpt.).

97. In 2012, once again, African American turnout exceeded white voter turnout in North Carolina, and minority and young voters continued to trend away from supporting Republican candidates. PX47 ¶ 28 (Lawson PI Decl.); PX46 at 21, 58, 63 (Kousser Rpt.); 7/15/15 Trial Tr. 84:5-10 (Burden); PX231 at 20, 24 (Lichtman Rpt). Youth voter turnout, which had been 31st in the nation in 2000, had risen to 10th. PX236 at 6, 9-10 (Levine Rpt.).

V. Increasing Minority Participation Threatened the Political Status Quo

A. North Carolina Elections Are Highly Racialized

98. A “pervasive pattern” of racial polarization in elections has persisted in North Carolina. *Dickson v. Rucho*, 2013 WL 3376658 at *18 (N.C. Super. Ct. July 8, 2013); PX231 at 23 (Lichtman Rpt.); *see also* PX229 at 8 (Burden Rpt.); PX46 at 49-50 (Kousser Rpt.); PX672 ¶ 79 (Defs.’ Ans. to U.S. Compl.). Throughout its history, elections in North Carolina have been characterized by overt and implicit racial appeals, with white candidates routinely stoking racial fears and arguing that certain candidates and policies posed a threat to white privilege. PX230 at 1, 13-15, 22-24, 29, 32-36 (Leloudis Rpt.); 7/22/15 Trial Tr. 13:1-13 (Michaux); PX10 ¶¶ 33-39 (NAACP Decl.).

99. The racially polarized nature of North Carolina’s elections has been clearly intermixed with partisan politics, including the reemergence of the Republican Party in the state. *See* PX46 at 4 (Kousser Rpt.); *see also* PX238 ¶ 92 (Lawson Decl.); PX230 at 29 (Leloudis Rpt). On average, black voters in North Carolina currently support Democratic candidates at near unanimous levels, whereas nearly two-thirds of white voters support Republican candidates. PX231 at 23 (Lichtman Rpt.); PX47 ¶¶ 27-28 (Lawson PI Decl.); 7/17/15 Trial Tr. 99:25-100:5 (Lichtman).

100. Experts for both Plaintiffs and Defendants agree that in North Carolina, a person’s race is a better predictor of how he or she will vote, even more so than party identification. 7/17/15 Trial Tr. 100:14-18 (Lichtman); 7/28/15 Trial Tr. 174:14-18 (Hofeller). Defendants’ expert Dr. Thomas Hofeller, who has advised the majority party in the legislature on redistricting matters, testified about the proximity of early voting

locations to African American and Democratic voters, and how those groups heavily used early and Sunday voting. 7/28/15 Trial Tr. 139:5-16, 149:14-151:25 (Hofeller).

101. Throughout this recent period, racial appeals in elections and public policy debates in North Carolina persisted, relying on “familiar tropes to stir up white fear and animosity.” PX230 at 33 (LeLoudis Rpt.). For example, in 2010, the North Carolina Republican Party's Executive Committee distributed a campaign mailer in a General Assembly race appealing to anti-immigrant and anti-Hispanic sentiment. The mailer depicts incumbent Representative John Christopher Heagarty with a sombrero on top of his head and his skin darkened by photo editing. It depicts “Señor” Heagarty exclaiming, “Mucho taxó.” PX230 at 34-35 (Leloudis Rpt.).

102. Also during the 2010 election cycle, the Republican Party’s Executive Committee distributed a mailing regarding North Carolina’s newly passed “Racial Justice Act” that contained misleading information and an appeal to racial fear. PX10 ¶¶ 36-37 (NAACP Decl.). The NC NAACP objected to the mailer as a racial appeal and called on the Executive Committee to renounce the advertisement. *Id.*

103. Organizations supportive of Republican Party policies but officially unaffiliated with the Party, made further racial appeals. Among other things, they have suggested that Hispanic “illegals” are stealing elections and undermining American democracy through engaging in voter fraud. PX231 at 142 (Lichtman Rpt.); PX230 at 36, 40 (Leloudis Rpt). Such allegations have never been substantiated. *See* PX16 ¶ 55 (Bartlett Decl.); *see infra* FOF ¶¶ 170-180.

104. In both 2008 and 2012, reports of anti-Obama effigies were made, including an incident during the 2012 Democratic National Convention in Charlotte, where effigies of President Obama and state political figures were strung up in a hangman's noose and displayed on a truck parked near delegates' hotels. PX230 at 33-34 (Leloudis Rpt.). In 2008, the NC NAACP filed a complaint with the Department of Justice when a funeral casket with a picture of then-Senator Obama was displayed within view of voters at an early voting site in Craven County. PX10 ¶ 34 (NC NAACP Decl.); 7/13/15 Trial Tr. 104:22-23 (Barber). As President of the NC NAACP, Rev. Barber has received personal threats and death threats for standing up for voting rights. 7/13/15 Trial Tr. 106:2-11 (Barber). Other NC NAACP Branch Presidents have received threatening letters that resulted in calls to police departments and other authorities. *Id.*

105. In 2014, the SBOE's "citizenship audit" and media reports on the audit prompted voter challenges based solely on race and English-language proficiency. For example, Robin Ellis, a poll worker and chief judge in Mitchell County, testified that election staff in her precinct targeted every Latino man that entered the precinct. PX784 (Ellis Dep. 29:7-29:20; 29:25-30:23). The media coverage also resulted in confusion regarding the legal basis for challenging voters. In New Hanover County, a poll worker asked his local CBOE director "[i]f we get someone who does not speak English, or is suspect, can I question them about being a citizen of [the] USA?," prompting the director to request written guidance from the SBOE on the issue. PX452 (2014 email to Brian Livecchi).

B. Increased Minority Participation in the State Threatened the Legislative Majority's Ability to Win Re-Election

106. In 2010, in this racially charged political environment, Republicans won majorities in both chambers of the North Carolina General Assembly, for the first time since 1898. PX46 at 5 (Kousser Rpt.). In 2012, Republicans strengthened their control of the General Assembly and won the governor's office. PX 47 ¶ 36 (Lawson PI Decl.); PX 230 at 36 (Leloudis Rpt).

107. Given the 10-point swing in voter strength from whites to African Americans from January 2004 to January 2013, 7/17/15 Trial Tr. 98:20-24 (Lichtman), Republican leaders understood that they would have difficulty retaining their majorities in the North Carolina General Assembly if minority voters continued to register and vote in numbers approaching their 2008 and 2012 performance. *See id.* 98:25-99:6; 100:6-13 (Lichtman); PX 231 at 20-26 (Lichtman Rpt.). Indeed, Defendants' own proffered expert highlighted this phenomenon. PX739 at 1 (Trende, *The Case of the Missing White Voters*); PX740 (Trende, *Does GOP Have to Pass Immigration Reform?*); 7/28/15 Trial Tr. 114:22-115:15 (Trende).

108. The level of racial polarization and its political consequences were the focus of the 2013 litigation over North Carolina's GOP-led redistricting plan, which engaged many of the same legislative actors responsible for HB 589, including Senators Bob Rucho and Tom Apodaca. The existence of persistent racial polarization in voting was a central part of the State's defense of that plan. PX231 at 23 (Lichtman Rpt.).

109. Moreover, simple demographic changes played against Republicans. Between 2000 and 2010, the share of the North Carolina population that was white

dropped by almost 4%, while the black population percentage was roughly constant and the Latino population more than doubled. PX46 at 63 (Kousser Rpt.); PX47 ¶ 79 (Lawson PI Decl.).

110. Rates of registration among Hispanics still lag far behind those of both whites and African Americans. PX230 at 32 (Leloudis Rpt.). But North Carolina is poised to experience a rapid rise in the size of the Hispanic electorate. *See id.* This is primarily because the Hispanic population is so young and the majority of young Hispanics are U.S. citizens. For example, 84% of Hispanics in North Carolina who will turn 18 between 2015 and 2020 are citizens, and 97-98% of Hispanics who will turn 18 between 2020 and 2030 are citizens. Statewide, the eligible Hispanic voting age population “should surpass 300,000 by 2020, 400,000 by 2025, and be close to or above 500,000 by 2030.” PX230 at 39 (Leloudis Rpt.).

VI. Efforts to Repeal Voting Reforms that Had Provided More Equal Access to the Electoral Process Culminated in the Enactment of HB 589

A. In 2011, Efforts to Restrict Voting Fell Short

111. During the 2011-2012 legislative session, Republican legislators attempted to enact a voter photo ID law that Democratic governor Beverly Purdue vetoed. A proposal to reduce early voting days and eliminate SDR died in a Senate committee after the SBOE released a report describing the benefits of early voting, highlighting its disproportionate use among African Americans, and explaining that reducing early voting days would increase waiting times for voters and increase costs in high turnout elections. PX231 at 28 (Lichtman Rpt.); PX46 at 34 (Kousser Rpt.); PX47 ¶¶ 32, 34 (Lawson PI Decl.); PX60 (SBOE 5/18/11 Mem. re House Bill 658); PX16 ¶¶ 15, 22 (Bartlett Decl.).

112. The debates on the 2011 voter ID bill were “filled with racial overtones.” PX46 at 36 (Kousser Rpt.). Without any credible evidence, proponents suggested that the bill was needed to prevent large numbers of “illegal immigrants” from committing in-person voter impersonation at the polls. *Id.* at 36. The proponents had good reason to know that there was nothing to their racially incendiary allegations of in-person voter fraud: the SBOE had provided the General Assembly with a report showing that there had been only two potential cases of in person voter fraud referred for criminal prosecution over a period when tens of millions of votes had been cast. PX71 Att. F (“Documented Cases of Voter Fraud in North Carolina”); 7/23/15 Trial Tr. 20:13-21, 31:1-35:25 (Minnite).

B. In 2013, Relieved from Section 5, North Carolina Overhauled State Election Laws to Limit Access to the Franchise

113. Although by 2013 Republicans controlled both houses of the General Assembly and the Governor’s office, the State was still subject to the federal preclearance regime laid out in Section 5 of the Voting Rights Act, under which the State bore the burden of proving that any change in election law had neither a discriminatory purpose nor a retrogressive effect. *See* 52 U.S.C. § 10304; PX47 ¶¶ 29, 36 (Lawson PI Decl.); PX48 at 32-33 (Leloudis PI Rpt.); PX46 at 58 (Kousser Rpt.); PX 231 at 32 (Lichtman Rpt.).

114. Prior to the *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), decision, proponents of HB 589 acknowledged that any legislation would have to satisfy Section 5. PX47 ¶ 39 (Lawson PI Decl.); 7/20/15 Trial Tr. 33:16-34:22 (Lawson); PX401A (Rep. Harry Warren 3/13/13 email); *see also* PX407A (Rep. Lewis to Chair of Wake County

GOP); PX391 (Rep. Murry email to Jay DeLancy); PX393 (Senator Jones email to legislative staff).

115. They accordingly pursued a limited voter photo ID bill that they likely believed would withstand the preclearance process and engaged in a legislative process that they lauded as transparent and involving extensive vetting, study, and analysis. 7/17/15 Trial Tr. 102:10-104:1, 104:25-106:16 (Lichtman); PX47 ¶ 40 (Lawson PI Decl.); *see also* PX231 at 140 (Lichtman Rpt.).

116. But supporters made clear that if freed from Section 5 scrutiny, they would prefer a bill with more restrictions on voting. PX396A (6/17/13 Sen. Goolsby stating that “many of the soft policies [in the pre-*Shelby* version] are a result of squeamishness about the mandatory federal review”); 7/20/15 Trial Tr. 34:2-10 (Lawson).

117. Once unburdened of Section 5’s requirements following *Shelby*, legislators abandoned their deliberate approach and transformed HB 589 into an omnibus overhaul of North Carolina election law, specifically targeting the very reforms that had been advocated for and disproportionately used by African Americans, and that expanded electoral opportunities for Latino and young voter participation within the state. PX47 ¶ 54 (Lawson PI Decl.); PX46 at 38-39 (Kousser Rpt.); PX231 at 31-33 (Lichtman Rpt.).

1. The pre-*Shelby* HB 589 legislative process generally conformed with the procedural norms of the North Carolina House.

118. Between March 12 and April 23, 2013, the House held two lengthy public hearings and five committee meetings on the original, pre-*Shelby* photo voter ID bill. PX47 ¶¶ 40-45 (Lawson PI Decl.); PX542 (3/12/13 House Elec.); PX543 (3/13/13 House Elec.); PX129 (4/3/13 House Elec.); PX544 (4/10/13 House Elec.); PX545 (4/10/13

House Elec.); PX546 (4/17/13 House Elec.). Citizens and experts testified, including Ion Sancho, the supervisor of elections for Leon County (Tallahassee), Florida. While Mr. Sancho had been invited to speak about his state's voter ID procedures, during his testimony he described Florida's experience in the 2012 general election after it cut its early voting period from two weeks to eight days as "a nightmare," with "the longest wait times of any state in the nation" and an estimated 225,000 voters unable to cast ballots. PX35 ¶¶ 5-9, 11, 24 (Sancho Decl.); PX129 at 62:4-67:6; 69:3-5, 69:23-70:4, 78:13-25; 79:1-3, 7-17 (4/3/13 House Elec.); PX47 ¶¶ 45-46 (Lawson PI Decl.). No member of the Elections Committee proposed changing North Carolina's early voting, SDR, or provisional ballot laws. PX26 ¶ 17 (Harrison Decl.).

119. As introduced in the House, the pre-*Shelby* version of HB 589 included provisions that required photo ID for voting and amended some absentee voting procedures. PX105 (HB 589 as filed).

120. Even during the pre-*Shelby* period, statements by supporters of voter ID revealed the highly racialized context in which HB 589 was considered. For example, during the March 12 Public Hearing, Jay DeLancy, Executive Director of the Voter Integrity Project, testified: "The bad news is that hiding non U.S. citizens on the voter roll is very easy." He alleged "a vast left-wing conspiracy, if you will pardon the term, working to pad the voter rolls with as many non-citizens as possible." PX542 at 34 (3/12/13 House Elec.).

121. A representative of Moore Tea Citizens explained her support of voter ID in similar terms: “then we get a whole bunch of them to show up that are illegals” who are “trying to steal from us.” PX544 at 55 (4/10/14 House Elec.).

122. A Republican Precinct Chair from Buncombe County testified that disenfranchising some of the Democrats’ “special voting blocks” was “within itself” the “reason for photo voter ID, period, end of discussion. It is a no-brainer.” PX544 at 51 (4/10/13 House Elec.). He further explained his view of the law following HB 589’s passage on national television, by stating that if the law “hurts a bunch of lazy blacks that want the government to give them everything, so be it.” PX47 ¶ 85 (Lawson PI Decl.).

123. On April 24, 2013, HB 589 passed the North Carolina House with the support of House Republicans and five white Democrats. Not a single African American representative voted in favor of the bill. PX123 (4/24/13 House roll call vote); PX154 (2013 House demographics).

124. The version of HB 589 passed by the House was about 16 pages long and included two parts—one regarding voter photo ID exclusively and the other addressing some administrative absentee voting procedures. PX106 (HB 589 v.5). Its voter photo ID requirement provided that acceptable ID would include identification cards “issued by a branch, department, agency, or entity of the United States, this State, or any other state,” and it set forth a non-exhaustive, illustrative list of acceptable ID, such as government employee ID and student ID. PX106 at 3 (HB 589 v.5).

125. The House version of the bill did not include any provisions relating to early voting, SDR, preregistration, challengers, or OOP voting. PX106; PX47 ¶ 54

(Lawson PI Decl.). Nonetheless, House leaders said they were satisfied that they had drafted a very good bill that would “protect[] the integrity of the election system and guarantee[] every registered voter the opportunity to vote.” PX397A; 7/20/15 Trial Tr. 31:14-32:23 (Lawson); 7/17/15 Trial Tr. 103:1-11, 105:17-22 (Lichtman).

2. After *Shelby County*, legislators pushed through a radically different version of HB 589.

126. On April 25, 2013, the North Carolina Senate received the House version of HB 589. The House bill passed first reading, and the Senate’s Republican leadership referred the bill to the Committee on Rules and Operations of the Senate (“Rules Committee”), chaired by Senator Tom Apodaca. PX121 (HB 589 bill history). Between April 26 and July 22, the bill sat in the Rules Committee with no further public actions or formal debates. PX121 (HB 589 bill history); PX47 ¶ 54 (Lawson PI Decl.).

127. On June 25, 2013, the U.S. Supreme Court issued its decision in *Shelby County v. Holder*. As a result of that decision, North Carolina was no longer required to obtain preclearance of changes to its election-related laws, including HB 589.

128. After the *Shelby* ruling, legislative proponents of HB 589 fundamentally changed the process for vetting and adopting the bill. 7/17/15 Trial Tr. 104:25-107:11 (Lichtman). The day of the *Shelby* decision, Senator Apodaca announced that the Senate would move ahead with a “full bill” version of HB 589. PX81 (Article, NC Voter Id Bill Moving Ahead with Supreme Ruling); PX714 (Apodaca video); 7/22/15 Trial Tr. 25:17-20 (Michaux); PX231 at 32 (Lichtman Rpt.); PX47 ¶ 54 (Lawson PI Decl.). Ultimately, the first and only Rules Committee hearing was scheduled for July 23, 2013, only three

days before Republican leadership had determined that the legislative session would adjourn. PX47 ¶¶ 54-55 (Lawson PI Decl.).

129. The post-*Shelby* Rules Committee substitute version of HB 589 was 57 pages long and bore little resemblance to the version that the Senate had received from the House. The new bill included 53 new parts, in addition to major modifications to the voter photo ID provision, which made it much more restrictive. PX107 (HB 589 v.6). The Senate made the list of IDs exclusive and eliminated public university ID cards, employee ID cards, and ID cards given to those on public assistance, changes that would hit African American voters the hardest. PX47 ¶ 55 (Lawson PI Decl.); PX 231 at 34-35 (Lichtman Rpt.); PX334 (4/24/13 email to Rep. Lewis re number of African American UNC ID card holders).⁵ Among other provisions, the new bill eliminated one week of the early voting period, abolished SDR, and prohibited the counting of OOP ballots. It also eliminated straight-ticket voting and preregistration. Finally, it allowed political parties to designate up to ten at-large observers per county, and it allowed any registered voter to challenge another voter from anywhere in the state before Election Day and from the same county on Election Day. PX107 (HB 589 v.6).

130. Democratic Rules Committee members were not provided with the “full bill” until after 9:00 p.m. on the evening before the Committee hearing, leaving virtually

⁵ The forms of acceptable photo ID were now limited to (1) a North Carolina driver’s license; (2) a special (non-operators) ID issued by the North Carolina DMV; (3) a U.S. passport; (4) military ID; (5) veteran’s ID; (6) a tribal ID (from a federally or state-recognized tribe); and (7) a driver’s license or non-operator ID issued by another state but only if the voter had registered within 90 days of the election. PX107 at 2 (HB 589 v.6, § 2.1).

no time for those members to evaluate the dozens of provisions that had been added to the House version. PX18A ¶ 15 (Stein Decl.); 7/21/15 Trial Tr. 169:22-171:1, 171:19-172-25 (Stein); 7/7/14 PI Tr. 111:17-113:1 (Blue). Although bills concerning changes similar or related to some of the new provisions had previously been introduced in the General Assembly, none of those bills had received debate, hearings, or public input. PX238 ¶¶ 73-81 (Lawson Decl.); 7/20/15 Trial Tr. 35:23-36:11 (Lawson).

131. Sending HB 589 to the Senate Rules Committee constituted a significant deviation from the norms of the Senate. Typically, a piece of legislation such as HB 589 would have been sent to the Judiciary Committee, which was one of the committees with expertise in handling election law issues. PX238 ¶ 65 (Lawson Decl.); PX28 ¶¶ 21-22, 25-27 (McKissick Decl.); 7/20/15 Trial Tr. 30:8-21 (Lawson); *see also* 7/21/15 Trial Tr. 169:5-16 (Stein). However, the Rules Committee “has the reputation of being close to Senate leadership and approving bills without amendment.” PX28 ¶ 22 (McKissick Decl.).

132. During the July 23 Rules Committee hearing, 10 members of the public were permitted to speak for two minutes each, and all spoke in opposition to the bill. PX202 at 41:12-56:11 (7/23/13 Sen. Rules); PX47 ¶ 58 (Lawson PI Decl.). Senators and members of the public presented information showing that provisions of the bill, including the stricter voter photo ID requirement, the reduction of the early voting period, and the elimination of SDR, would affect millions of North Carolinians and disproportionately burden African American voters. PX18A ¶¶ 27, 28, 31, Exs. A, E

(Stein Decl.); PX202 at 32:6-25, 39:23-25, 40:1-12, 41:25-43:2, 54:11-23 (7/23/13 Sen. Rules); 7/21/15 Trial Tr. 174:16-175:11 (Stein).

133. Undeterred, proponents of the overhauled omnibus bill, including primary sponsor Senator Bob Rucho, provided broad rationales for the bill, claiming that the omnibus reforms would “re-establish[] a confidence in the electoral process and therefore our government.” When pressed he claimed that the changes to early voting and SDR were intended to add consistency to elections and allow county officials more time to validate voters. PX202 at 41:2-11, 75:10-15 (7/23/13 Sen. Rules); PX47 ¶ 56 (Lawson PI Decl.). The Committee adopted the substitute bill on a voice vote and sent it to the Senate floor. PX202 at 76:20-25 (7/23/13 Sen. Rules).

134. The full Senate debated the new version of HB 589 on July 24 and July 25, 2013, after senators voted not to allow suspension of the rules permitting a third reading on the same date as the second reading. 7/7/14 PI Tr. 127:4-128:3 (Blue). Again, opponents presented data showing the negative effects HB 589 would have on African American voters. PX47 ¶¶ 59, 62 (Lawson PI Decl.); PX549 at 16:3-18:22 (7/24/13 Sen. Fl.) (Stein); 104:20-107:25, 109:20-110:15 (Bryant); *see also infra* FOF ¶¶ 160, 164-165. Many opponents also described the bill’s measures as voter suppression, and explained that African American constituents did not support the bill. PX549 at 14:13-15:17 (7/24/13 Sen. Fl.) (Ford) (“This is not voter reform. This is voter suppression”); 130:7-134:10 (McKissick) (“That’s why this bill deeply, deeply concerns me, because I do see it as a voter suppression act.”); 135:16-141:18 (Nesbitt) (“Everything you’re doing in this bill makes it harder for people to vote and when you do that, we all know that will

suppress the vote”); 81:1-82:24 (Robinson) (“[A] large majority of my constituents are African-Americans and I would say that 99.9 percent oppose this bill.”).

135. The bill’s supporters were unmoved. Amendments specifically designed to ameliorate burdens on African Americans were defeated with little discussion. PX114, 116, 117, 118 (S. Amends. 2, 7, 8, & 9). For example, African American Senator Floyd McKissick, Jr. offered a compromise amendment to restore the full 17 days of early voting in presidential years, when turnout would be especially high. PX114 (S. Amend. 2). Senator Rucho criticized the amendment, and it was voted down on party lines. PX549 at 31:5-36:18, 53:1-55:9, 61:21-63:16, 64:9-16 (7/24/13 Sen. Fl.); PX121.

136. On July 25, the Senate voted to pass the amended version of HB 589 on a party-line vote. PX550 at 100 (7/25/13 Sen. Fl.). Every African American senator voted against the bill. PX124 (7/25/13 Sen. roll call vote); PX153 (2013 Senate demographics).

137. About two hours later, the Senate-amended version of HB 589 was returned to the House for consideration. PX550 at 100-101 (7/25/13 Sen. Fl.); PX138 at 2 (7/25/13 House Fl.); PX121 (HB 589 bill history). Despite the massive differences between the original, House-vetted voter ID bill that had received significant consideration and the Senate’s omnibus kitchen-sink bill that received virtually no consideration, the House majority refused to appoint a conference committee. 7/8/14 PI Tr. 68:5-69:11 (Glazier); PX25 ¶¶ 28-29, 33 (Glazier Decl.); 7/22/15 Trial Tr. 33:3-5 (Michaux).

138. Rejecting creation of a conference committee, which would have allowed for debate on the bill and amendment to the Senate omnibus, was another departure from

the usual legislative process. The General Assembly routinely appointed conference committees when House and Senate versions differed substantially, even in situations in which versions of bills differed far less than those of HB 589. PX238 ¶¶ 64, 67-72, 95 (Lawson Decl.); 7/20/15 Trial Tr. 30:22-31:3 (Lawson).

139. Indeed, even proponents of HB 589 expected that a conference committee would be appointed. On July 24, 2013, a day before the House concurred in the Senate's version of the omnibus measure, Representative Harry Warren wrote an email to the director of the Rowan CBOE, stating that he was "sure changes will be made in a conference committee" on several "aspects of the bill." PX418 (7/24/13 Warren email).

140. When no conference committee was appointed, Representative Mickey Michaux, the longest serving African American in the General Assembly, moved to have the House consider the bill as a Committee of the Whole. 7/22/15 Trial Tr. 30:1-18 (Michaux); PX138 at 3:3-15 (7/25/13 House Fl.); PX17 ¶ 27 (H. Michaux Decl.). A Committee of the Whole would have allowed for additional time to vet the bill's provisions as a House, including allowing for legislative staff members to explain the bill and for legislators to offer amendments, all of which was impossible on a straight up-or-down concurrence vote. 7/22/15 Trial Tr. 30:1-16 (Michaux); PX27 ¶ 27 (H. Michaux Decl.); Rule 30, 2013-2014 House Rules. Criticized by Republican leaders, including by the Chairman of the Rules Committee who objected to the Committee of the Whole as a "waste of time," Representative Michaux's motion was defeated. PX138 at 3:18-4:15, 6:16-7:1 (7/25/13 House Fl.); PX122 at JA2367 (7/25/13 House floor vote on Mot. 12); PX47 ¶ 65 (Lawson PI Decl.); 7/22/15 Trial Tr. 30:1-16 (Michaux).

141. The House debate was a pro-forma exercise. Rep. Warren and Rep. Lewis, Chairman of the House Elections Committee, were the only HB 589 supporters who spoke on the bill when it returned to the House for a concurrence vote on July 25. PX231 at 152 (Lichtman Rpt.); 7/22/2015 Trial Tr. 58:13-23 (Michaux) (“I didn’t hold out any possibility that [statements during the debate] would sway anybody because we had been told that they were in charge and they were going to do what they wanted to do.”).

142. In describing the changes made by the Senate, Representative Warren misleadingly claimed that the Senate substitute made very few substantive changes to the House version. PX231 at 33, 152-154 (Lichtman Rpt.); PX47 ¶ 65 (Lawson PI Decl.); PX138 at 12:17-25, 13:1-2, 13:6-7 (7/25/13 House Fl.) (“[t]he Senate working on the bill made very few substantive changes to the VIVA Act,” as passed by the House “with a bipartisan vote” and which took into consideration “the viewpoints of people who were opposed to the concept of voter ID”); PX138 at 13:14-18 (7/25/13 House Fl.) (“There were several categories of acceptable ID’s that we had listed in the House. We had a total of 13; they’ve cut that back to seven. Well, what we lost in that was not really substantial.”).

143. Neither Rep. Warren nor Rep. Lewis mentioned that Part 25 of the Senate’s substitute bill eliminated a full week of early voting. PX138 at 11:27-20:14 (7/25/13 House Fl.); PX47 ¶ 67 (Lawson PI Decl.).

144. Every African American member of the House, along with every member of the House’s Democratic Caucus who was present, spoke against the Senate version of the bill. PX25 ¶ 35 (Glazier Decl.); PX27 ¶ 21 (Goodman Decl.); PX26 ¶ 28 (Harrison

Decl.); PX31 ¶ 27 (Martin Decl.); PX122 at JA2366 (7/25/13 House floor vote); PX47 ¶ 71 (Lawson PI Decl.); 7/8/14 PI Tr. 63:15-64:9 (Glazier).

145. While representatives are typically afforded 10 minutes for a first comment on a bill and five minutes for a second comment, Speaker Thom Tillis limited debate in opposition to HB 589 to approximately 100 minutes, just under two and a half minutes per legislator. PX25 ¶ 36 (Glazier Decl.); PX26 ¶ 29 (Harrison Decl.); PX17 ¶¶ 28-29 (H. Michaux Decl.); PX31 ¶¶ 27-28 (Martin Decl.); PX152 (2013 N.C. General Assembly Rules, Rule 10(b)); 7/8/14 PI Tr. 64:13-65:18 (Glazier).

146. On July 25, 2013, less than three hours after the debate began, the House voted to concur in the Senate's bill by a vote of 73 to 41; every African American representative voted against the bill. PX125 (7/25/13 House roll call vote); PX154 (2013 House demographics). The members of the Legislative Black Caucus, joined by the Democratic Caucus, stood up, held hands, and bowed their heads in a moment of silence. 7/22/15 Trial Tr. 33:17-21 (Michaux).

147. Representative Glazier testified that this process was the most "atypical" and "worst" he had ever seen, "a combination of truncated, nontransparent, limited capacity for any public notice, public input, scholarly discussion, understanding of the provisions of a bill that was, to say the least, controversial, full of substance, and dealt fundamentally with the most important part of democracy, the right to vote." 7/8/14 PI Tr. 66:16-67:7 (Glazier).

148. No legislator who supported HB 589 was willing to testify under oath during this case about the legislature's rationales for supporting HB 589 or their decisions to use certain procedures in adopting that legislation.

149. Governor McCrory signed HB 589 in August 2013. The repeal of preregistration took effect almost immediately, in September 2013. The other challenged provisions—the reduction in early voting and repeal of SDR and OOP balloting—took effect in January 2014. The photo ID requirement, as amended by S.L. 2015-103, will be implemented in 2016. PX110 (HB589 session law version).

3. Legislators knowingly revised HB 589 to target minority voters.

150. Based on data publicly available at the time and known to members of the General Assembly, each of the specific changes that the legislature made to HB 589 in the wake of the *Shelby County* decision—both additions to and subtractions from the initial version—had the foreseeable consequence of disproportionately affecting minority voters. PX231 at 7, 33-132 (Lichtman Rpt.); 7/17/2015 Trial Tr. 107:17-24, 116:16-23 (Lichtman).

151. With respect to the voter ID provisions, the legislature eliminated forms of photo ID that were relatively more accessible to African Americans and retained forms of ID that were relatively less accessible to African Americans. PX231 at 34-35, 99 (Lichtman Rpt.); 7/17/15 Trial Tr. 107:17–108:22, 113:13–114:17 (Lichtman); PX47 ¶ 55 (Lawson PI Decl.). Furthermore, “the disproportionate impact of VIVA is not based on party differences (Republican vs. Democratic voters), but based on racial differences (white vs. African American voters)”; for example, African American Democrats were

far more impacted by the voter ID provision than were white Democrats. PX231 at 90-91 (Lichtman Rpt.); 7/17/2015 Trial Tr. 164:20-165:20 (Lichtman).

152. The significant changes made by the legislature following the *Shelby* decision also disproportionately impacted Hispanic voters. PX245 at 23-25, Tbls.R-9-R-11, R-13 (Lichtman Surr. Rpt.); PX716 at 11-12, 14 (Lichtman Trial Dem.).

153. In addition to the information presented during the formal legislative process regarding the disproportionate racial impact of HB 589, the record is replete with evidence that supporters of HB 589 requested and reviewed information showing that the bill's provisions would disproportionately harm African Americans. *See, e.g.*, 7/20/15 Trial Tr. 36:21-37:1 (Lawson); PX47 ¶ 82 (Lawson PI Decl.).

a) SBOE-DMV database matching revealed that African Americans disproportionately lacked DMV-issued photo ID.

154. In January 2013, the SBOE compared its voter registration database to the DMV customer database and issued a report, which it supplemented with additional analysis in March 2013. Each report found that hundreds of thousands of registered voters could not be matched to a DMV ID and that the pool of unmatched voters was disproportionately African American. PX70 at JA1671-73 (Jan. 2013 Rpt.); *id.* at JA1674-75 (Mar. 2013 Rpt.); PX73 (Mar. 2013 Tbls.).

155. In March 2013, key sponsors of HB 589 commissioned the SBOE to conduct further analyses. With the active participation of key legislative leaders, including Representatives Lewis, Moore, Samuelson, Murry, and Warren, as well as outside counsel in this litigation, Thomas Farr, and Ray Starling, counsel to Speaker Thom Tillis, the SBOE overhauled its matching protocol so as to capture as many

potential matches as possible, and produced a new list of “unmatched” voters described in an April 2013 report. PX534 (Apr. 2013 Rpt.); PX799 (Burriss Dep. 114:3-117:3, 145:20-147:11, 342:17-344:20); PX421, PX423, PX425, PX426, PX427, PX430, PX434, PX440 (Mar.-Apr. 2013 emails between SBOE and legislative staff).

156. On April 16, 2013, Counsel Starling approved the final SBOE matching report, affirming that SBOE staff had “hit the nail on the head” with the new analysis. PX346 (4/17/13 email).

157. Legislative staff specifically requested, and the SBOE provided, data regarding the race of individuals who did not match to a DMV ID. Among the unmatched voters, the SBOE further reported the race of those who requested absentee ballots, used early voting, registered through SDR, and cast provisional ballots. PX69 (multiple emails between SBOE and legislators/legislative staff); PX72 (Degraffenreid email to Reps. Warren, Murry, and Samuelson); PX74 (spreadsheet of data).

158. The SBOE’s April 2013 report concluded that 318,643 registered voters could not be matched to a DMV-issued ID, of whom 33.8% (107,681) were black and 54.2% (172,613) were white. PX534 (Apr. 2013 Rpt.). 7.4% of African American registered voters (or 1 in every 13) were unmatched to a DMV ID, compared to 3.8% of whites. 7/17/2015 Trial Tr. 112:7-113:3 (Lichtman).

159. The January, March, and April 2013 matching reports, as well as a prior analysis in 2011, each revealed a disproportionately high number of African American voters who could not be matched to the DMV database. Indeed, with each iteration of the analysis, the racial disparity grew larger. PX58, PX59 (2011 SBOE Mems.); PX70 (Jan.,

Mar. 2013 Rpts.); PX73 (Mar. 2013 Tbls.); PX534 (Apr. 2013 Rpt.); *see also* PX245 at 12-13 (Lichtman Surr. Rpt.).

160. The SBOE's April 2013 matching report, including information about racial disparities in DMV ID possession, was presented to state legislators during consideration of HB 589. 7/21/15 Trial Tr. 180:7-17 (Stein); 7/22/15 Trial Tr. 23:8-22 (Michaux).

b) Legislators knew that African Americans disproportionately relied on early voting, SDR, and provisional ballots.

161. Legislators also requested from the SBOE data on the number of “one-stop voters” and “provisional voters” broken down by demographic categories (including race, party affiliation, ethnicity, age, and gender). PX72 (Degraffenreid email to Reps. Warren, Murry, and Samuelson); PX385 (Degraffenreid email to Rep. Warren).

162. The evidence also shows that in January and February 2012, legislative research staffer Erika Churchill requested and received voter turnout data grouped by county, race, and voting method (*i.e.*, early vs. Election Day), as well as demographic data on provisional voters, for the 2008 and 2010 elections. PX 459 (1/25/12 email Burris to Churchill); PX437 (2/8/12 email Churchill to Burris); PX436 (2/9/12 email Churchill to Burris).

163. All requests made by Ms. Churchill to the SBOE were based on a drafting or information request from the legislature and all information provided by the SBOE to Ms. Churchill was provided to legislators. PX809 (Churchill Dep. 53:17-54:8, 58:17-59:3).

164. Opponents of HB 589, legislators and members of the public alike, made statements and provided ample evidence of the negative impact the bill would have on African American, elderly, and young voters. *See, e.g., supra* FOF ¶¶ 132, 134; 7/16/15 Trial Tr. 32:15-33:10 (Phillips); PX549 at 67:1-11 (Kinnaird); 69:18-72:2 (Graham); 79:8-80:18 (Parmon); 83:3-84:8 (Robinson); 104:20-107:25, 109:20-110:15 (Bryant); 135:19-141:18 (Nesbitt) (7/24/13 Sen. Fl.); PX550 at 27:12-34:16 (7/25/13 Sen. Fl.) (Stein); PX47 ¶ 62 (Lawson PI Decl.).

165. For example, Senator Josh Stein provided his colleagues with information and charts showing that African Americans disproportionately voted during early voting and disproportionately relied on SDR. 7/21/15 Trial Tr. 184:8-188:1 (Stein); PX549 at 17:19-18:10 (7/24/13 Sen. Fl.) (Stein); PX550 at 30:8-15, 34:3-12 (7/25/13 Sen. Fl.) (Stein); PX18A ¶¶ 24-28, Ex. A (Stein Decl.).

166. Senator Stein also provided each senator with a copy of a study showing that Florida's reduction in early voting had a disproportionate impact on African American and Hispanic voters. PX549 at 18:10-24 (7/24/13 Sen. Fl.) (Stein); PX47 ¶ 59 (Lawson PI Decl.).

167. Proponents of the bill offered no direct response to the testimony and evidence regarding HB 589's racially disproportionate effects. Senator Rucho stated only that "Senator Stein rambles on with his charts and talks about a bunch of other things," and claimed that he was "never aware" of the statistics presented regarding racial effects. 7/21/15 Trial Tr. 179:9-18 (Stein); PX549 at 19:7-20:17, 108:6-109:16 (7/24/13 Sen. Fl.); PX47 ¶ 63 (Lawson PI Decl.).

168. Finally, in addition to the information legislators requested and received from the SBOE and legislative staff, and received in legislative proceedings, members of the public, including the North Carolina NAACP, participated in unprecedented public actions against the bill in highly publicized events of which General Assembly leadership were aware at the time. PX400A (Rep. Tillis email to Rep. Lewis re Moral Mondays); PX10 ¶¶ 48, 50-53 (NAACP Decl.); PX676 ¶¶ 35-36 (Coleman Decl.).

4. Justifications based on alleged voter fraud or voter confidence are tenuous and pretextual.

169. Proponents of HB 589 articulated two related primary justifications for HB 589. First, they suggested that the law was needed to combat the risk of widespread voter fraud. PX46 at 42-44 (Kousser Rpt); PX549 at 78:5-6 (7/24/13 Sen. Fl.) (Tillman) (“We don’t know how many thousands of cases [of voter fraud exist].”). Second, they suggested that the legislation would promote public confidence in the integrity of North Carolina’s election system. PX46 at 44-45 (Kousser Rpt); PX533 (Tillis 3/16/12 MSNBC Interview) (“There is some voter fraud, but that’s not the primary reason for doing this. . . . There’s a lot of people who are just concerned with the potential risk of fraud.”); PX 231 at 139 -141 (Lichtman Rpt).

170. No empirical evidence was presented to the legislature to suggest that voter fraud was a problem in North Carolina or that voters lacked confidence in the electoral process. 7/23/15 Trial Tr. 68:12-69:24 (Minnite); *see also* PX232 at 16-17 (Minnite Rpt); PX46 at 42-44 (Kousser Rpt).

171. Examining records that go back to 2000—a roughly 15 year period—Dr. Lorraine Minnite identified fewer than 20 indicted or charged cases in North Carolina

involving any type of “intentional corruption of the voting process by voters.” PX232 at 12-17 (Minnite Rpt). Most of these cases list the final disposition as “unknown” or “pending.” *Id.* at 15. In addition, despite repeated requests by Plaintiffs during discovery, Defendants were unable to identify any cases of voter fraud that have been prosecuted in North Carolina. *See e.g.*, PX664 ¶¶ 89-94 (Defs.’ Supp. & Am. Resp. to U.S. Req. for Admissions); PX668 at 9 (Defs.’ Resp. to U.S. Interrogatory Request No. 22); PX666 at 10-11 (Defs.’ Resp. to LWV Interrogatory Request No. 11); PX667 at 5-6 (Defs.’ Resp. to the NAACP Interrogatory Requests Nos. 12 and 13); PX816 (Tutor Dep. 64:25-65:22, 66:22-67:19).

172. Defendants’ expert, Dr. Hood, agreed that the bulk of existing academic research indicates that voter fraud is “an extremely atypical phenomenon.” 7/27/15 Trial Tr. 101:24-102:8 (Hood). Dr. Hood developed his own method of detecting voter fraud, and also found no evidence of fraud. *Id.* 105:16-106:4 (Hood).

173. The SBOE provided a table to the General Assembly titled “Documented Cases of Voter Fraud in North Carolina,” dated March 11, 2013. PX232 at 16 and App. F (Minnite Rpt). The table shows that the total number of election fraud cases the SBOE referred to local prosecutors from 2000 to 2012 was just 631, out of the tens of millions of votes cast during that time period. PX232 at 16-17 (Minnite Rpt).

174. Even the 631 number exaggerates the number of cases involving credible allegations of voter fraud referred to prosecutors. Fifty-three of the 631 cases concern allegations relating to crimes that do not meet the definition of voter fraud (*e.g.*, failing to

deliver voter registration forms). *Id.* at 16; 7/23/15 Trial Tr. 23:16-25:1, 31:13-33:7 (Minnite).

175. Moreover, the testimony of the SBOE's chief investigator (Marshal Tutor) and his colleague (Candi Rhinehart), as well as documents concerning the types of cases referred to prosecutors establish that most of the 631 referred cases did not actually involve "documented" voter fraud as the title of the table suggests. Tutor testified that in "many instances" the SBOE referred cases to prosecutors when the voter had merely made a mistake, PX816 (Tutor Dep. 32:22-34:8), that from 2003 to 2012, the SBOE referred cases to prosecutors irrespective of whether there was any evidence of criminal intent, PX816 (Tutor Dep. 31:18-34:8), and that SBOE officials referred cases where they had reason to know that the elderly voters involved had accidentally voted twice because of dementia or confusion and/or poll worker error. PX816 (Tutor Dep. 99:23-104:21); *see also* PX818 (Rhinehart Dep. 15:18-17:4).

176. The testimony of SBOE's investigators also establishes that the minuscule number of cases the SBOE referred to prosecutors involving credible allegations of voter fraud—at most some small fraction of the 631 cases they referred—constitutes the sum total of such cases existing throughout the State during the 2000 to 2012 timeframe. PX816 (Tutor Dep. 24:1-28:3); PX818 (Rhinehart Dep. 12:3-12:19). Tutor explained that after a preliminary investigation, he would only close out a case if there was "nothing to it" and the case was "frivolous." PX816 (Tutor Dep. 29:19-35:19); *see also* PX818 (Rhinehart Dep. 21:2-21:15).

177. County officials have also testified that voter fraud almost never occurs in North Carolina. For example, Kate Cosner, current SBOE County Liaison and former executive director of the Alleghany CBOE, testified that she had confidence in the integrity of elections conducted in Alleghany County, PX803 (Cosner Dep. 20:13-18), and could not recall even a single instance of voter fraud occurring in the county. PX803 (Cosner Dep. 27:18-28:13; 31:18-23); *see also* 7/7/14 PI Tr. 191:24-192:24 (Gilbert).

178. In-person voter impersonation fraud is the only type of fraud prevented by HB 589's photo ID requirement. 7/23/15 Trial Tr. 25:2-14 (Minnite); PX816 (Tutor Dep. 52:4-53:7). Yet Defendants have failed to identify even a single individual who has ever been arrested, much less charged and convicted, for committing this type of crime in North Carolina. *See* PX816 (Tutor Dep. 64:25-65:22, 66:22-67:19). Moreover, as members of the General Assembly knew when enacting HB 589, the SBOE had referred just two cases involving allegations of voter impersonation fraud to prosecutors between 2000 and 2012. PX232 at 16 n.54, App. F (Minnite Rpt.); PX816 (Tutor Dep. 59:19-61:4, 61:16-62:23); 7/23/15 Trial Tr. 20:13-21 (Minnite).

179. Notwithstanding the concerted efforts of certain politicians and organizations to raise concerns about alleged voter fraud, *see, e.g.*, PX549 at 78:1-79:1 (Tillman); 95:1-23 (Hise) (7/24/13 Sen. Fl.); PX 533 (Tillis 3/16/13 MSNBC Interview); PX232 at 17-18 (Minnite Rpt.), the General Assembly had no reason to believe the public had lost confidence in the integrity of North Carolina's elections when it enacted HB 589. PX232 at 18-22 (Minnite Rpt.); PX46 at 66-67 (Kousser Rpt.); 7/17/2015 Trial Tr. 163:5-

164:2 (Lichtman) (polls conducted in North Carolina reflect that the public did not support changes of the type included in the final version of HB 589).

180. Moreover, while proponents asserted that they enacted HB 589 to restore confidence in the State's electoral system, in fact, they did exactly the opposite. The record is replete with evidence establishing that HB 589 has severely compromised the confidence many North Carolinians have in the fairness and integrity of their current election system. *See, e.g.*, 7/16/15 Trial Tr. 197:18-198:21 (Moss) (“[HB 589] really seems to fly in the face of integrity and fairness”); 7/13/15 Trial Tr. 107:18-110:2, 111:20-113:18, 115:18-117:7 (Barber); 7/13/15 Trial Tr. 64:16-65:3 (Farrington); 7/14/15 Trial Tr. 180:19-181:6 (Cunningham); PX680 at 8 (Brown Dep. 28:9-29:1); PX767 (Paylor Dep. 42:19-43:9); PX820 (Suggs Dep. 18:15-19:6); 7/20/15 Trial Tr. 79:19-80:10 (Duke); 7/21/15 Trial Tr. 129:12-23 (West); 7/15/15 Trial Tr. 169:16-170:12 (Cohen).

181. Furthermore, Defendants have failed to provide even a *post hoc* explanation as to how concerns related to voter fraud and/or restoring confidence in North Carolina elections could justify eliminating a week of early voting, refusing to count OOP ballots, or abolishing preregistration.

182. Defendants' claim that eliminating SDR would enhance the security of the election system is simply not credible. The SDR verification process is more accurate and more stringent than the regular registration verification process. PX46 at 43-44 (Kousser Rpt.); PX16 ¶¶ 29-36 (Bartlett Decl.); PX166 ¶ 4 (Bartlett 2d Decl.). Voters attempting to register via SDR must complete a form, swearing to its accuracy and their eligibility to vote under penalty of perjury, in front of a trained election official; and votes

cast by SDR voters are retrievable and can be excluded if determined to be invalid. These and other safeguards for SDR do not exist for regular mail-in registration applications. *See supra* FOF ¶¶ 73-75. The evidence provided to the legislature indicated that verification failure rates were higher for non-SDR registrants than for SDR registrants. PX68A (SBOE mail verification analysis of 2012 registrants); PX57 (2010 General Elec. SDR Summary); 7/17/2015 Trial Tr. 169:10-21 (Lichtman).

183. Defendants' *post-hoc* justifications with respect to the verification rates of SDR registrants are particularly tenuous. The SBOE's 2015 study on mail verification failure rates, using data not available to the legislature in 2013 and a methodology fraught with error, produced results that cannot be credited. First, Brian Neesby, the SBOE data analyst who conducted the study left entire counties out of his analysis of SDR registrations. 7/30/15 Trial Tr. 159:9-24 (Lichtman); *see also* PX694 at 5, 32 (no records from Camden, Rowan Counties). Second, voters identified by the 2015 study as potentially ineligible to vote were, in fact, qualified North Carolina voters whose registrations eventually verified. 7/30/15 Trial Tr. 102:5-105:10 (Bailey); 7/30/15 Trial Tr. 96:8-98:3 (Gainey); 7/30/15 Trial Tr. 32:3-7, 33:8-18 (Neesby).

184. Finally, the decision by the General Assembly's leadership to give special treatment to mail-in absentee ballots—the only form of voting exempted from the photo ID requirement, despite evidence before the body showing that alleged cases of absentee voter fraud far outnumbered alleged cases of voter impersonation—demonstrates a fundamental contradiction in the proffered justification. This contradiction between the legislation, the evidence of absentee voter fraud, and the proffered intent—and the

particular voters it favored (white Republicans)—was noted multiple times in the legislative debate, and ignored by decision-makers. PX231 at 144-150 (Lichtman Rpt.).

5. Other justifications are similarly tenuous and pretextual.

185. *Uniformity and Opportunity.* Notwithstanding claims to the contrary, HB 589’s early voting provision does not promote uniformity in early voting schedules. It does not require statewide uniformity in terms of the number of early voting hours or locations. Rather, it (1) freezes into place existing aggregate early voting hours in each county, which vary dramatically from county to county and vary based on the type of election, and (2) allows for waivers from the “total hours” requirement, with the number of counties seeking and obtaining waivers varying from election-to-election and the SBOE ruling on waiver requests arbitrarily. PX110 § 25.1 (HB 589 § 25.1); *see infra* FOF ¶ 233. Furthermore, the goal of achieving greater uniformity in no way requires the elimination of seven days of early voting. PX46 at 46-47 (Kousser Rpt); PX 231 at 150-151 (Lichtman Rpt.).

186. Some of HB 589’s supporters maintained that shortening the early voting period reduces costs. PX549 at 11:2-13 (7/24/13 Sen. Fl.); PX46 at 45-46 (Kousser Rpt.). They had every reason to know that it does not. The SBOE had determined that compressing the early voting period would increase costs and provided that information to legislators. PX60 (5/18/11 SBOE Mem.); PX71 at JA1701-02 (03/11/13 SBOE Mem. Att. G); 7/8/14 PI Tr. 122:8-124:3 (Bartlett); PX19 ¶¶ 11, 16 (Gilbert Decl.); *see also* PX82 (7/1/13 McCue email to Strach attaching county responses to survey re proposed cut to early voting); PX814 (McCue Dep. 180:3-18). Opening additional locations for

early voting to respond to the congestion caused by reducing the number of days also significantly increases costs, particularly in terms of labor and voting equipment. *See* 7/7/14 PI Tr. 181:10-83:2 (Gilbert); 7/8/2014 PI Tr. 123:6-124:3 (Bartlett); PX803 (Cosner Dep. 81:24-83:21).

187. *Reduction of Administrative Difficulties of SDR.* Although proponents argued that eliminating SDR would reduce “havoc” by increasing time for the validation of registrations, PX549 at 5:9-15, 78:6-12 (7/24/13 Sen. Fl.); PX550 at 45:19-23 (7/25/13 Sen. Fl.); PX202 at 41:2-11 (7/23/13 Sen. Rules), they had good reason to know that no extra time was needed. Prior to the enactment of HB 589, SBOE and county election officials furnished the legislature with information evincing the smooth and successful implementation of SDR. PX16 ¶¶ 29-32 (Bartlett Decl.); PX19 ¶ 24 (Gilbert Decl.); PX68 (2/11/13 SBOE Rpt.); PX56 (3/31/09 SBOE SDR Rpt.). Moreover, Common Cause of North Carolina’s Executive Director, Bob Phillips, had shared with legislators three possible ways to change SDR to allow for more time for the completion of the mail verification process. Legislators never considered these proposals, and instead focused only on SDR’s repeal. 7/16/15 Trial Tr. 33:13-34:19 (Phillips); PX12 ¶ 16, Ex. A (Phillips Decl.).

188. *No Justification Offered for Elimination of Out of Precinct Voting.* During debate on HB 589, no proponent offered any justification or explanation for the elimination of OOP voting. Post-enactment, Defendants’ lawyers have suggested that legislators eliminated OOP voting to prevent get-out-the-vote organizers from

transporting large numbers of voters to the wrong polling place, but they presented no evidence whatsoever that this phenomenon was actually occurring.

189. Nor is there any evidence that OOP voting resulted in long lines or created administrative burdens for CBOEs. The county boards have until the county canvass to process provisional ballots, which occurs ten days after a presidential general election and seven days after every other election. PX817 (Poucher Dep. 64:25-65:7); PX19 ¶ 34 (Gilbert Decl.). Gary Bartlett, who served as the SBOE Executive Director for approximately 20 years, testified that no CBOE ever reported failing to finish counting OOP ballots by the canvass. 7/8/14 PI Tr. 139:6-9 (Bartlett); PX16 ¶¶ 49-50 (Bartlett Decl.); *see also* 7/7/14 PI Tr. 149:2-12 (Hill), 190:10-13 (Gilbert). Indeed, there is no evidence that administrative complications with processing such ballots were ever reported to the SBOE or the legislature. *See, e.g.*, PX21 ¶ 26 (Blue Decl.); PX25 ¶ 74 (Glazier Decl.); PX31 ¶ 58 (Martin Decl.).

190. The *post hoc* justification provided by Defendants' proffered expert, Sean Trende, that HB 589 places North Carolina within "the mainstream" also does not survive closer scrutiny. First, in making his assessment that North Carolina was within the "mainstream," Trende did not engage in a "local appraisal" accounting for the individual characteristics of each state, 7/28/15 Trial Tr. 64:3-65:14 (Trende), and, indeed, Trende acknowledged that "mainstream" is not a term of art in political science. *Id.* 59:13-17 (Trende). Second, a majority of states have two or more of the practices at issue, and the median number of such practices in a state is two. *Id.* 61:4-6, 65:24-66:10 (Trende). Post-HB 589, North Carolina is one of only eight states with none of the relevant

practices. *Id.* Third, North Carolina is the only state to abolish SDR, OOP voting, or preregistration, and is one of only two states to reduce early voting to less than 17 days. *Id.* 62:5-64:2 (Trende).

191. In contrast to the virtual absence of any evidence to support a legitimate motive for the challenged provisions in HB 589, several legislators supporting the bill admitted that its purpose was to make it more difficult for individuals to vote. For instance, Senator Tillman stated: “And one-day registration, you think it’s such a great idea to have mobs and mobs of people up there that have never bothered to register in a huge election and they want to come in on Election Day and register to vote. . . . If you don’t think enough about voting to make sure you’re registered—it used to be 30 days in advance, Senators, until recently.” *See* PX549 at 78:6-16 (7/24/13 Sen. Fl.) (Tillman); PX550 at 81:13-22 (7/25/13 Sen. Fl.) (Rabin.) (“[My perspective] comes from considerably earlier where folks are supposed to take the initiative to go after what they want. I do not want a system personally when it comes to my vote that models on what I think I’ve heard some people would like to have in here and that’s the model of the American Idol where everybody can just dial it up on the phone and vote for whoever they want to vote for or however they want to vote[.]”). Indeed, Representative Lewis, the only legislator in the House to debate in favor of the bill, suggested that partisan ends may have been a goal of the legislature, when, in the face of allegations that HB 589 was motivated by partisan interests, he described the reforms passed since 2001 as “hav[ing] been passed with a partisan motive, too.” PX138 at 119:9-22 (7/25/13 House Fl.).

VII. HB 589 Limits Access to the Vote and Disproportionately Burdens Minorities

192. As outlined further below, the adoption of HB 589’s challenged provisions harmed voters, and disproportionately harmed African American and Hispanic voters, just as the evidence before the general assembly forecast.

A. The Repeal of SDR Makes Registering to Vote More Difficult

193. As a result of the repeal of SDR, North Carolinians who are not registered to vote in their county of residence must submit a voter registration application 25 days before an election. PX97 at 1 (SBOE webpage); NCGS §§ 163-54, 163-82.6(c). With limited exceptions, individuals who register to vote after the 25-day deadline may not vote in the upcoming election. 7/16/15 Trial Tr. 57:16-58:1 (Stewart).

194. Between federal elections, there is significant “churn” in the voter rolls—removals from and additions to the list of registered voters—even when the overall number of registered voters remains relatively stable. 7/16/15 Trial Tr. 66:15-67:23 (Stewart); PX42 ¶¶ 69-74 (Stewart PI Decl.). Thus, individual registration status, as well as overall registration rates, can change rapidly if registration becomes more difficult, and, over the course of several election cycles, a relatively small reduction in access to voter registration can lead to a significant change in registration rates. PX42 ¶¶ 69, 71 (Stewart PI Decl.); 7/8/14 PI Tr. 200:9-201:11 (Stewart).

1. Registering to vote in North Carolina without SDR

195. The SBOE bears the responsibility for developing state voter registration applications. NCGS § 163-82.3(a)-(b).

196. Each North Carolina county is charged with managing its elections, including voter registration. *See* 7/22/15 Trial Tr. 73:1-5 (Strach). Thus, if a voter moves between counties within the state, he or she must re-register to vote by submitting a new voter registration application. 7/22/15 Trial Tr. 97:25-98:2 (Strach).

197. Voter registration applications must include responses to required fields and must be submitted to the CBOE in the voter's county of residence. The required fields are full name, date of birth, citizenship checkbox, residential address, and signature. 23 N.C. Reg. 2017 (1)(a) (2009); 7/22/15 Trial Tr. 80:19-81:10, 82:4-9, 84:2-4 (Strach); *see also* PX212A (NC Voter Registration Application). The registration process is suspended if an application does not include a response to one of the required fields, and CBOEs are required to send such applicants an incomplete notice (or reject letter). 7/22/15 Trial Tr. 160:2-12, 209:19-210:6 (Strach). Voter registration will not resume until the voter provides the requisite information. 23 N.C. Reg. 2017 (1)(b-c).

198. An applicant can provide missing information by completing a provisional ballot application during early voting or at the voter's correct precinct on Election Day. NCGS §§ 163-82.4(e), -166.11; 7/22/15 Trial Tr. 179:23-180:8 (Strach).

199. CBOEs validate the mandatory information on the voter registration application to determine eligibility and add qualified applicants to the list of registered voters. NCGS § 163-82.1; PX212A (NC Voter Registration Application). Validation of mandatory information is largely an electronic process and typically happens in a few seconds. PX567 (SBOE Unique ID Processing Mem.); 7/22/15 Trial Tr. 93:20-94:5 (Strach).

200. Qualified applicants are deemed eligible and are added to the list of registered voters while their address is verified through the mail. *See* NCGS § 163-82.7(a).

201. County boards mail an address verification document to the residential address (a required item on the application form) *unless* an applicant provides both a residential and a mailing address. When an applicant provides a mailing address that is different from the residential address, the mailing address is used for mail verification. 7/29/15 Trial Tr. 63:3-64:2 (Strach).

202. A voter who is added to the list of registered voters, but is awaiting mail verification, can appear in person and vote during early voting or on Election Day unless two mailed notices have been returned as undeliverable to the CBOE before the voter appears to vote. NCGS § 163-82.7 (c), (e), (g). If two mailed notices are returned as undeliverable before a voter appears to vote for the first time, the application for registration is denied. 7/22/15 Trial Tr. 116:21-117:1 (Strach).

203. If such notices are returned in a case where an applicant had provided a valid residential address—for example, in the case of postal service error—a qualified applicant may be denied the right to vote. CBOEs have in fact had notices returned as undeliverable even where the applicant was later found to be eligible. *See* 7/8/14 PI Tr. 30:14-23 (Gilbert); PX713 (Ealy Dep. 15:4-18:22) (voter registration denied twice because verification mailings returned undeliverable).

204. If two mailed notices are returned to a county board after a person appears and votes, officials are required to “treat the person as a registered voter” and to send the

person a forwardable confirmation mailing, as required by North Carolina's voter registration list maintenance procedures. NCGS § 163-82.7(g)(3); 7/28/15 Trial Tr. 209:4-19 (Strach); 7/29/15 Trial Tr. 71:4-21, 73:14-18 (Strach).⁶

205. Voters who do not respond to a confirmation mailing after voting are designated as "inactive" voters and in order to vote in a future election must appear in person and confirm their address. 7/22/15 Trial Tr. 113:2-17; 114:16-115:8; 115:16-19; 116:2-14 (Strach). Voters who fail mail verification and do not respond to a confirmation mailing are removed from the list of registered voters if there is no further contact from the voter for two federal election cycles. *Id.* at 99:16-100:2 (Strach). Removed voters do not appear on the list of registered voters and will only be permitted to vote a provisional ballot. NCGS § 163-166.11; 7/22/15 Trial Tr. 101:19-102:5 (Strach).

2. SBOE data show that in 2014, thousands were disadvantaged by the elimination of SDR, disproportionately African Americans.

206. A substantial number of voters used SDR, and its repeal raises the costs of voting and disrupts voting behaviors. PX229 at 3-4 (Burden Rpt.); 7/15/15 Trial Tr. 70:12-71:9; 74:7-17, 80:10-11 (Burden). In 2014, nearly 12,000 North Carolinians registered to vote during the 10-day early voting period preceding the November general election—the period when SDR would have been available had it not been repealed by HB 589. PX242 ¶ 175 (Stewart Decl.).

207. Racial disparities in educational achievement create a disproportionate likelihood that African Americans will submit a voter registration application after the

⁶ Even if the first nonforwardable mailing is returned to a county board *before* a person appears to vote, the individual can appear in person, provide their correct address, and vote. 7/29/15 Trial Tr. 71:17- 72:7, 72:13-73:6 (Strach).

25-day registration period closes. *See supra* FOF ¶¶ 35-36. In 2014, as in past pre-SDR elections, the data bore this out. In 2014, black applicants for registration submitted voter registration applications during the early voting period (after the close of registration) at a rate 11% greater than white applicants. PX242 ¶ 177 & n.97 (Stewart Decl.) (1.99% of all black registrations over the two-year election cycle were submitted during this ten-day period, compared to 1.8% of white registrations, a statistically significant difference); *see also* PX239 ¶¶ 24, 35 (Summers Decl.); 7/15/15 Trial Tr. 21:15-22:6, 23:17-24:5, 60:5-16 (describing burdens faced by low-literacy voters identifying the need to register and calculating the registration deadline) (Summers). These individuals were unable to vote in the 2014 election.

208. In addition, the SBOE's database of incomplete registration applications (the "incomplete queue") shows that as of November 2014, black applicants were disproportionately more likely to be in the incomplete queue. Although only 25% (136,113) of the individuals who submitted voter registration applications between 2012 and 2014 were black and 65.12% (417,053) were white, 35% of individuals in the incomplete queue were black, compared to just 52% who were white. PX633 at 5, Tbl.1 (SEIMS Data Stip.); PX242 App. W & X at 163, 164 (Stewart Decl.).

209. Racial disparities in educational achievement also increase the likelihood that African Americans will face a delay in their voter registration process. Applicants in the incomplete queue because of errors that lower literacy individuals are apt to make were disproportionately black. For example, 33% of applicants placed in the incomplete queue because of a failure to check the citizenship box were black, compared to 29% who

were white, and 59% of applications with a missing birth date were submitted by black applicants, compared to 22% by white applicants. PX633 at 5, Tbl.1 (SEIMS Data Stip.)

210. These disparities are consistent with the conclusions of Dr. Kathryn Summers, who found that low literacy voters were more likely to submit a voter registration application without checking the citizenship checkbox and more likely to improperly record their date of birth on an application for registration. PX239 ¶¶ 26-35, 37-38, Fig. 1 (Summers Decl.); 7/15/15 Trial Tr. 14:13-17:18 (Summers); *see also* 7/13/15 Trial Tr. 148:14-149:25 (Palmer) (explaining how SDR aided Latino voters who made mistakes on registration applications).

3. Testimony of individual voters illustrates the burden.

211. In 2014, otherwise eligible North Carolinians were disenfranchised because they were not aware of the state's registration requirements and were unable to remedy registration issues without SDR.⁷ 7/14/15 Trial Tr. 40:12-18 (Kittrell) (unaware that he had to re-register upon moving to a new county); PX770 (Sidbury Dep. 10:12-12:4) (same); PX777 (Woodard Dep. 14:12-15:24, 16:14-23) (same); 7/13/15 Trial Tr. 71:20-73:22 (Hicks) (after moving to a new county, unaware that he would not be able to re-register during the early voting period, and unaware that he would not be permitted to vote in his former county of residence); PX820 (Suggs Dep. 5:21-17:13) (lower income, black voter who frequently moves because of employment and previously relied on SDR could not vote); PX767 (Paylor Dep. 7:9-8:25, 11:24-14:3, 16:10-18:8, 21:16-29:14,

⁷ Additional background information for some of the affected voters, including their race, can be found at PX305, PX306, and PX678.

30:16-33:20) (student with frequent moves previously relied on SDR could not vote); PX802 (Windsor Dep. 14:6-12, 16:6-17:16, 21:2-6) (Surry County registrant unaware of need to re-register after voting UOCAVA ballot).

212. SBOE officials have acknowledged that many voters do not know that moving from one county to another in North Carolina requires a new voter registration application, or that without SDR, voters who move to a new county cannot update their registrations during early voting. PX357 (email from George McCue to Voter Outreach Team); *see also* 7/13/15 Trial Tr. 71:20-73:22 (Hicks); 7/14/15 Trial Tr. 40:12-18 (Kittrell); 7/16/15 Trial Tr. 168:22-170:17 (Alsobrooks); PX770 (Sidbury Dep. 10:12-12:4); PX777 (Woodard Dep. 14:12-15:24, 16:14-23); PX760 (Jensen Dep. 15:6-17:16, 19:14-20:1, 20:9-18); PX765 (McGowan Dep. 12:12-14:24); PX774 (Weant Dep. 10:24-12:24); PX792 (Malette Dep. 12:22-13:24). Without SDR in place to act as a failsafe in 2014, these failures to educate the public on the part of the state and counties disenfranchised eligible voters, particularly those with lower civic literacy skills. *See* 7/15/15 Trial Tr. 22:7-15 (Summers).

213. Other voters were unable to vote in 2014 because their CBOEs failed to receive or record voter registration applications they submitted through third-party voter registration drives. PX781 (Chislom Dep. 12:18-13:12, 14:2-12, 16:2-16) (voter registered at a registration drive at church before close of books); PX801 (Williams Dep. 14:16-15:19, 17:20-18:16) (same; CBOE employee was on site).

214. Still other voters fell victim to CBOEs that improperly purged eligible registration records, and without SDR, these mistakes could not be corrected. 7/15/15

Trial Tr. 177:25-178:12 (Jackson) (voter registration record incorrectly merged with another voter in the county with the same name and purged voter's provisional ballot was not counted); PX771 (Smith Dep. 12:19-13:21) (voter incorrectly identified as having been convicted of a felony and purged from voter roll). North Carolina does not provide a method for appealing an improper removal from the voter registration list when a voter appears to vote. Voters who have been improperly removed are disenfranchised until county officials can cure the error when the registration period reopens. 7/22/15 Trial Tr. 200:22-201:17 (Strach).

215. Without the failsafe of SDR, numerous voters were disenfranchised during the 2014 general elections. *See, e.g.*, PX779 (Beatty Dep. 11:2-14:12, 15:5-25, 20:21-21:20). Because SBOE records do not capture voters who presented to vote and were not offered provisional ballots when poll workers could find no record of their registration, *see, e.g.*, PX688 (Garth Dep. 13:21-24); PX801 (Williams Dep. 17:20-18:16), SBOE records understate the effect of the absence of SDR in 2014.

4. Remaining methods of registration are not a substitute.

216. Voter registration opportunities at the Division of Motor Vehicles ("DMV") do not mitigate the disproportionate burdens borne by African Americans or poorer individuals when registering to vote. First, individuals living in poverty, as well as a disproportionate percentage of African Americans and Hispanics, have lower rates of access to a usable vehicle. PX45 at 13-14 (Duncan Rpt.); PX231 at 19 (Lichtman Rpt.); PX241 ¶ 21 & Fig. 4 (Webster Decl.). Thus, black, Hispanic, and poorer individuals disproportionately bear the burden of relying on public transportation to reach a DMV

location. Moreover, the DMV does not offer voter registration to every person who enters a DMV office but to DMV customers only. PX806 (Webb Dep. 204:25-205:11, 210:25-211:12); PX780 (Bucholtz Dep. 88:7-89:25; 172:14-25; 175:19-176:12); PX755 (Dill Dep. 10:7-11:23, 13:3-11). Therefore, individuals without a vehicle or a driver's license, a group that is disproportionately low-income, African American, and Latino, are also less likely to be offered the opportunity to register to vote at the DMV because they are not visiting DMV office for a DMV service or transaction. *Id.*; *see supra* FOF ¶ 32.

217. The successful registration of voters who appear at the DMV requires the transmittal of applications and signatures (DMV image) to complete the registration process. North Carolina law prohibits CBOEs from processing voter registration applications without a signature. *See supra* FOF ¶ 197. Several voters testified that their attempts to register at the DMV before the 2014 election were unsuccessful, a fact they only learned when they appeared to vote and were not on the voter rolls. 7/13/15 Trial Tr. 82:12-87:11 (Colbert); PX758 (Gignac Dep. 14:20-16:2, 18:12-20:14); PX754 (Deters Dep. 11:18-12:23, 14:12-15:22); PX688 (Garth Dep. 10:10-11:18); PX788 (Jordan Dep. 17:3-18:9, 19:1-20:18, 21:7-11); 7/14/15 Trial Tr. 108:8-17, 109:19-110:25, 112:9-17 (Najera); PX800 (Sims Dep. 43:10-46:11, 47:9-23, 49:13-50:9, 52:7-52:22). State officials are aware of delays in the transmittal and delivery of completed voter registration applications from the DMV, and of confusion among voters who appear at the DMV after moving between counties as to whether they need to re-register. PX780 (Bucholtz Dep. 132:21-133:10, 134:6-9, 142:22-143:16, 144:2-145:25); PX807 (Boyd-Malette Dep. 228:5-230:5); PX803 (Cosner Dep. 164:10-165:5); PX799 (Burriss Dep.

305:19-307:4); PX357 at 3 (9/11/14 McCue Email); PX340, PX478-79, PX834 (4/17/14 email re DMV Missing Images).

218. Problems of this nature are so common that the SBOE created an automated process by which CBOEs communicate with the DMV following each election to determine whether provisional voters had submitted registration forms that were not properly processed. PX799 (Burriss Dep. 279:1-280:20, 283:24-284:22, 285:10-24).

219. Finally, voter registration opportunities at North Carolina public assistance agencies do not mitigate the disproportionate barriers faced by black, Hispanic, and lower income individuals seeking to register. Voter registration services at public assistance agencies are offered only to individuals who are applying for services through those agencies and the volume of registration applications accepted by those agencies is relatively small—applications from such agencies accounted for less than 4% of all new registrations received in 2012, PX635 at 40-41, Tbl.2a (EAC Report), and the number of average monthly registrations from public assistance offices has declined sharply in recent years. PX634 (SBOE Voter Reg. Data); 7/22/15 Trial Tr. 189:20-192:23 (Strach); 7/17/15 Trial Tr. 145:18-146:12 (Lichtman).

B. Reduction of Early Voting Makes Casting a Ballot More Burdensome

220. HB 589 eliminated the first seven days of the early voting period, and prohibited counties from offering early voting after 1:00 p.m. on the last Saturday before Election Day. PX110 § 25.1 (HB 589). Under HB 589, early voting begins on the second Thursday before each election instead of the third Thursday, shortening the period from 17 to 10 days and eliminating one of two Sundays. *Id.* Although HB 589 included

a provision requiring counties to offer a minimum number of total early voting hours, this requirement can be waived. PX110 §§ 25.2, 25.3 (HB 589).

221. In November 2014, over a million voters cast their ballots during early voting. Approximately 45% of African American voters used early voting, as compared to only 36% of white voters. This difference is statistically significant and demonstrates that a strong preference for early voting among African Americans is now clear for midterm elections as well as presidential elections. PX242 ¶ 168, App. S at 159 (Stewart Decl.); 7/17/15 Trial Tr. 121:3-18 (Lichtman); PX234 ¶¶ 13-17, Fig. 2 at 6 (Gronke Rpt.).

1. The early voting cut burdens voters by restricting opportunities to vote; burdens fall disproportionately on minority voters.

222. Disruptions to voting habits raise costs for voters and deter participation. *See* PX44 at 3 (Burden PI Rpt.); 7/15/15 Trial Tr. 71:21–72:13 (Burden); 7/16/14 Trial Tr. 79:5-25 (Stewart); 7/17/15 Trial Tr. 21:919 (Gronke) (the elimination of early voting days imposes adjustment burden not present where the voting opportunity did not exist in the first instance). Thus, the disproportionately black group of voters who would have used the now-eliminated times to vote must find a different—and presumably more costly—time to vote, if they are able to vote at all. PX234 Fig. 2 at 6 (Gronke Rpt.); 7/9/14 PI Tr. 8:19-10:3 (Stewart), 119:10-120:9 (Burden); 7/16/15 Trial Tr. 56:15-22, 79:5-25 (Stewart); 7/15/15 Trial Tr. 80:7-19 (Burden) (HB 589 disrupts habits of black and Latino voters more than white voters). The SBOE itself concluded that reducing the early voting period from 17 to 10 days would harm voter participation. PX60 at 1 (5/8/11 SBOE Mem.).

223. Not only do black voters rely on early voting more than white voters in general, but during recent presidential elections, the racial disparity in use of early voting was greatest during the first week and on the last Saturday—the specific days affected by HB 589. PX40 ¶¶ 38-41, Exs. 12-13 at 30, 32 (Gronke PI Rpt.); 7/17/15 Trial Tr. 22:25-24:5 (Gronke); *see also* PX42 ¶¶ 131, 160-161, 164, Figs. 16-17 at 68, 70, Ex. 41(a) at 199 (Stewart PI Decl.); PX231 at 119, 123, 127 (Lichtman Rpt.); 7/17/15 Trial Tr. 121:3-18 (Lichtman). By eliminating one of the two Sundays available for early voting, HB 589 will have a particularly acute effect in African American communities that have come to rely on “souls to the polls” efforts. *See* PX40 ¶ 52 (Gronke PI Rpt.) (negative impact on African Americans of eliminating first seven days of early voting); 7/16/15 Trial Tr. 194:6-196:1 (Moss).

224. Voters of lower socioeconomic status will be uniquely burdened by the loss of one week of early voting. Such voters—who are disproportionately African Americans and Latinos—frequently have jobs with hourly wages and inflexible hours, inflexible childcare responsibilities, and/or transportation difficulties (because of lower rates of vehicle ownership). *See supra* FOF Part III.A. These voters may find it effectively impossible to vote on Election Day, or indeed on any particular day. They are therefore more burdened than other voters when the number of voting days is reduced. *See* PX45 at 2-3 (Duncan Rpt.); PX28 ¶ 42 (McKissick Decl.); PX11 ¶ 21 (Palmer Decl.); PX229 at 11-12 (Burden Rpt.); *see also* 7/27/15 Trial Tr. 120:14-121:15 (Hood). Witnesses who work with organizations that do get-out-the-vote work with people from historically disenfranchised and underserved communities testified that with fewer days

during which to coordinate volunteers and arrange transportation, they will not be able to serve as many people. PX8 ¶¶ 13-15 (R. Michaux Decl.); PX9 ¶ 19 (Montford Decl.); PX12 ¶ 12 (Phillips Decl.); PX20 ¶¶ 27-28 (Adams Decl.); PX721 (Durant Dep. 18:16; 19:1-24); 7/8/14 PI Tr. 94:9-95:7, 100:12-24 (Hawkins); 7/16/15 Trial Tr. 194:6-195:22 (Moss).

225. Several voters testified that they were directly affected by the reduction of early voting opportunities in the 2014 general election. *See, e.g.*, 7/13/15 Trial Tr. 58:23-59:4 (Farrington) (black voter with inflexible work schedule); 7/14/15 Trial Tr. 172:23-173:16 (Cunningham) (same); PX721 (Durant Dep. 16:16-17:4, 17:13-18:9, 18:16-18, 19:1-20:5) (disabled black voter dependent on busy caregiver for transportation to polls). Elected official Maria Palmer testified that her Latino constituents face barriers due to the shortened early voting period. 7/13/15 Trial Tr. 153:22-154:16 (Palmer).

2. Compressing early voting will cause severe congestion in presidential elections, deterring some voters altogether and burdening the voting rights of voters who do participate.

226. Shortening the early voting period also burdens voters by increasing congestion during the remaining early voting period and on Election Day, with particular harm to African Americans. Increased voter wait times directly increase the cost of voting, and redistributing voters over a more condensed period will impose greater stress on the election system, undermining some of the administrative benefits of early voting and further burdening voters by creating a greater likelihood that a vote cast may not be counted. 7/8/14 PI Tr. 193:5-195:22 (Stewart); 7/9/14 PI Tr. 6:24-10:3, 10:17-25 (Stewart); 7/16/15 Trial Tr. 84:1-11, 86:8-23 (Stewart). Burdens imposed by

overcrowding and long lines at the polls will be especially noticeable during a high volume presidential election, and are uniquely acute in a state like North Carolina where both voters and the election administration system have so heavily relied on early voting. 7/17/15 Trial Tr. 20:10-22:24 (Gronke). These burdens will fall more heavily on African Americans because they are more likely to vote early, to face difficulties making time to vote or arrangements to get to the polls, and to encounter problems common to lower literacy voters. 7/16/15 Trial Tr. 87:19-88:4 (Stewart).

227. Even before the early voting cutback, “North Carolina early voting centers were among the most congested in the nation,” with 27.2% of early voters in North Carolina spending more than 30 minutes in line in 2012 (compared with only 15.8% nationwide). PX42 ¶¶ 171-175 (Stewart PI Decl.). Internal SBOE documents confirm that early voting locations in North Carolina experienced “extremely heavy voter turnout and long lines,” with some wait times “as long as 2 hours.” PX54 (10/30/08 SBOE Mem.); PX62 (10/22/12 SBOE Mem.); *see also* PX63 (10/23/12 SBOE Mem.).

228. Given the shortened early voting period, it is no surprise that this pattern continued in November 2014, with 13.9% of North Carolina early voters waiting more than 30 minutes (compared with only 2.6% nationwide). PX242 ¶¶ 192-193 (Stewart Decl.) Indeed, even for a midterm election with much lower turnout than in a presidential election, some county officials reported instances of long lines both during early voting and on Election Day. PX803 (Cosner Dep. 52:21-53:18, 54:4-55:9); DX210 at 6 (SBOE Wait Times Rpt.). Other witnesses testified that long lines on Election Day caused some voters to leave polling places without voting. PX768 (Pitt Dep. 10:16-

11:12); 7/16/15 Trial Tr. 38:16-39:1, 49:12-50:8 (Phillips). Given North Carolina's past experience with early voting wait times, there will likely be congestion with a shortened 10-day period in 2016. PX242 ¶ 194 (Stewart Decl.).

229. Individuals with decades of experience in administering elections in North Carolina, including the former Executive Director of the North Carolina SBOE, attest that the loss of a week of early voting will cause significant congestion in presidential elections. Polling place congestion deters some would-be voters from voting and renders poll officials more prone to mistakes and less able to provide assistance to voters who need it. 7/8/14 PI Tr. 118:12-22, 122:25-123:8 (Bartlett); 7/7/14 PI Tr. 174:5-175:13 (Gilbert); PX16 ¶¶ 16, 22, 25 (Bartlett Decl.); PX19 ¶¶ 11-12, 18-19 (Gilbert Decl.); PX28 ¶¶ 43-45 (McKissick Decl.); 7/16/15 Trial Tr. 86:8-23 (Stewart).

230. Queuing theory—a well-established scientific methodology routinely applied in fields involving operations and logistics—can quantify the increased Election Day waiting time that voters can expect with the reduction in early voting, and confirms these effects. PX49 ¶¶ 12-31 (Allen PI Rpt.); 7/21/15 Trial Tr. 30:13-18 (Allen). According to Dr. Theodore Allen, if even as few as 3.8% of the voters from the now-eliminated early voting days had attempted to vote on Election Day in 2012, average waiting times to vote would have almost doubled, with a worst-case scenario of average waiting times to vote reaching almost 3 hours. PX233 ¶ 6, Tbl.A at 4 (Allen Rpt.); 7/21/15 Trial Tr. 41:15-42:12 (Allen). These estimates, which do not take into account other election changes that increase waiting times, including the elimination of straight-

ticket voting and new photo ID requirement, are conservative. 7/21/15 Trial Tr. 42:19-44:9 (Allen); PX49 ¶ 26 n.12 (Allen PI Rpt.).

231. Dr. Allen's low-end estimate indicates that, in a presidential election, approximately 13,000 voters would be deterred from voting by longer lines resulting from even a small shift of voters from the early voting period to Election Day. *See* PX233 ¶¶ 7-12, Tbl.B at 5 (Allen Rpt.); 7/21/15 Trial Tr. 49:13-50:17 (Allen).

3. The aggregate hours provision does not alleviate these burdens.

232. HB 589's requirement that counties maintain the same total number of early voting hours as in recent comparable elections will not offset the burdens resulting from the elimination of seven early voting days. First, HB 589's waiver provisions means that aggregate early voting hours will *not* remain the same for many voters. For the 2014 general election, 31 counties obtained waivers of the minimum hours requirement. PX569 at 3-5 (7/29/14 SBOE Mtg.); PX570 at 2 (8/21/14 SBOE Mtg.); *see also* PX814 (McCue Dep. 131:8-132:10, 135:3-136:15). The total number of early voting hours across the state dropped from 2010 to 2014 by 3.2%. PX242 ¶ 180 (Stewart Decl.).

233. In addition, the SBOE's procedure for evaluating counties' waiver requests is based on nothing more than the hunches of a single SBOE member, Dr. Maja Kricker. Dr. Kricker never explained how she arrived at the criteria she set forth, the SBOE has no data providing a basis for her decisions, and she did not even require all county requests to meet her criteria. PX 814 (McCue Dep. 136:16-142:3); PX 361 (7/29/14 Email with Attachment).

234. Second, expanding the range of hours offered per day of early voting is not an effective substitute for more days of early voting because most voters appear at the polls at particular times, which tend to be in the middle of the day. PX42 ¶¶ 135, 178-182 (Stewart PI Decl.); PX16 ¶ 24 (Bartlett Decl.); PX35 ¶ 19 (Sancho Decl.). Opening polls early in the morning or keeping them open late into the evening, when voter traffic tends to be light, does not provide an effective replacement for the popular lunchtime or end-of-the-workday hours that voters have used in the past. *See* 7/8/14 PI Tr. 125:25-126:9 (Bartlett); PX16 ¶ 24 (Bartlett Decl.); PX35 ¶ 19 (Sancho Decl.). Rather, many voters who would have voted during the eliminated seven-day period will now shift to voting at a similar time on the remaining early voting days or on Election Day itself, which, unless counties open additional early voting sites in convenient locations, will likely result in even greater congestion. PX42 ¶¶ 179-180 (Stewart PI Decl.); 7/21/15 Trial Tr. 109:3-14 (Allen); PX233 ¶ 10 (Allen Rpt.). Many counties in North Carolina lack the resources necessary to open additional sites, and the law does not require it or provide for such additional resources. *See* PX42 ¶¶ 188-195 (Stewart PI Decl.); PX803 (Cosner Dep. 81:24-83:21); 7/29/15 Trial Tr. 116:4-10 (Strach). This was confirmed in 2014, when the time periods during the day that saw the biggest drop in available hours as compared with 2010 also saw large increases in voter traffic. PX242 ¶¶ 188 (Stewart Decl.); 7/16/15 Trial Tr. 72:19-74:3 (Stewart).

235. Florida's experience in 2012 confirms that reducing early voting days, even while maintaining roughly the same number of hours, can significantly burden voters in a high-turnout presidential election. Before the 2012 election, Florida reduced its early

voting period from a discretionary range of 12-14 days to a maximum of 8 days, while maintaining the same aggregate number of early voting hours in counties holding 84% of Florida's population. *See* PX40 ¶ 37 (Gronke PI Rpt.). Due to the increased volume in voters who had to be processed in the system each day, longer lines formed during early voting (with waiting times increasing by 50-100%), and on Election Day itself (with the last ballot cast nearly 7 hours after the polls closed). PX40 ¶ 32 (Gronke PI Rpt.); PX35 ¶ 11 (Sancho Decl.); PX34 ¶ 12 (Sawyer Decl.). Early voting rates fell significantly in Florida in 2012 as compared to 2008. *See* PX40 ¶ 33 (Gronke PI Rpt.). And according to one estimate, over 200,000 voters ultimately gave up in frustration due to long lines on Election Day alone. PX35 ¶ 11 (Sancho Decl.); *see also* PX49 ¶ 36 (Allen PI Rpt.).

236. Florida's experience (which was widely publicized and was discussed during the legislative process in North Carolina, *see supra* FOF ¶ 118) also suggests that early voting reductions in a high-turnout presidential election will disproportionately burden African American voters. Because African Americans were disproportionately represented among early voters in Florida, the burdens of increased congestion during the early voting period fell disproportionately on them. PX40 ¶ 32 (Gronke PI Rpt.); PX35 ¶ 15 (Sancho Decl.). Indeed, the decline in African Americans' early voting rate was four times that of white voters. PX40 ¶¶ 34-36 (Gronke PI Rpt.).

4. Absentee by mail is not an equal alternative to early voting.

237. A voter in North Carolina must take several steps to vote by mail. A voter or close relative must first submit a written request for a ballot using a state-approved form, which must include ID such as a driver's license or social security number or a

copy of a documentary form of ID. NCGS §§ 230.1(a), 230.2. Once the ballot arrives by mail, the voter must then mark the ballot in the presence of two witnesses (or one witness who is a notary public), complete and sign the certifications on the ballot envelope, and deliver the ballot (by mail or in person) to the voter's CBOE. NCGS § 231.

238. Lingering socioeconomic effects of past discrimination mean that absentee voting does not provide African American voters with an opportunity to vote that is as efficacious as in-person voting. According to Dr. Kathryn Summers, low literacy voters often have less civic literacy and are thus less familiar with the concept of, and process for, absentee voting by mail. PX239 ¶¶ 61-62 (Summers Decl.).

239. In contrast to other states, only a small fraction of voters cast ballots by mail in recent elections in North Carolina, and these voters were disproportionately white. PX242 App. S at 159 (Stewart Decl.); 7/17/2015 Trial Tr. 167:24-168:4 (Lichtman). As discussed above, voting in person has particular significance for many black voters. *See supra* FOF ¶¶ 577-59. Several African American voters testified that they have never voted by absentee ballot and are not familiar with the relevant rules and regulations. PX680 (Brown Dep. 12:4-12:8); 7/13/15 Trial Tr. 55:12-14 (Farrington); 7/14/15 Trial Tr. 168:6-7 (Cunningham); PX773 (Ward Dep. 9:16-10:1); PX721 (Durant Dep. 20:1-5); PX679 (Washington Dep. 10:9-15); PX776 (Wilson Dep. 8:20-25). They prefer voting in person for a variety of reasons, including receiving assistance at the polls and having greater confidence that their vote will be counted. PX680 (Brown Dep. 12:9-20); 7/13/15 Trial Tr. 55:15-20 (Farrington); 7/14/15 Trial Tr. 168:8-11 (Cunningham); PX721 (Durant Dep. 20:8-16); PX776 (Wilson Dep. 9:1-10); PX798 (Pitt Dep. 27:25-

28:10). Mail in absentee voters, as opposed to in person voters, are not entitled to official assistance under state law if they need help filling out their ballot. N.C.G.S. § 163-166.8.

240. Finally, North Carolina election officials report recurring problems with the U.S. Postal Service's handling of ballots, such as ballots not being properly postmarked, being returned as undeliverable even when the voter's address is legitimate, being returned to the voter instead of being delivered to the CBOE, and being delivered to the incorrect CBOE. PX800 (Sims Dep. 63:1-64:25, 66:2-67:6); PX817 (Poucher Dep. 92:21-24, 93:6-22, 97:19-99:6).

C. Eliminating OOP Voting Removes a Critical Fail-Safe

241. HB 589 eliminates the practice of counting OOP ballots and provides that a provisional ballot cast on Election Day may be counted only if it is cast in the voter's assigned precinct, even if the voter is registered and otherwise eligible to vote. PX110 § 49.3 (HB 589); 7/22/15 Trial Tr. 179:5-180:3 (Strach).⁸

1. SBOE data show that eliminating OOP voting disproportionately burdens minority voters.

242. Because African American and Hispanic voters disproportionately cast OOP ballots in North Carolina, ending the practice of counting these ballots impacts them disproportionately and reduces their voting strength. PX42 ¶ 244 (Stewart PI Decl.); PX16 ¶ 47 (Bartlett Decl.); PX146 at 3 (S.L. 2005-2); 7/9/14 PI Tr. 19:2-8 (Stewart); 7/16/15 Trial Tr. 79:10-25 (Stewart). In 2008, 2010, and 2012, African Americans and

⁸ The provisional ballot statute was amended in 2014 to clarify procedures for voters with unreported moves within a county. S.L. 2014-111 § 12; *see also* PX362 (guidance for county officials regarding voters who have moved).

Hispanics were also overrepresented among OOP voters whose ballots were partially counted. 7/17/15 Trial Tr. 120:16-121:2 (Lichtman); *see also* 7/16/2015 Trial Tr. 77:2-8; 79:14-18 (Stewart).

243. SBOE data show that at least 1,643 voters cast OOP ballots in the 2014 general election. African American voters were about 3.5 times more likely than white voters to cast an OOP ballot. PX242 ¶ 197 (Stewart Decl.); PX689 (SBOE 2014 Statewide Provisional Results spreadsheet); PX245 at 18 (Lichtman Surr. Rpt.); 7/16/15 Trial Tr. 77:9–16 (Stewart). Even Defendants’ expert, Dr. Thornton, conceded at trial that African Americans constituted 22% of the overall electorate but cast about 40% of OOP ballots in the November 2014 election. 7/27/15 Trial Tr. 15:4-17:2 (Thornton).

244. The decrease in the total number of OOP ballots from 2010 to 2014 is likely the result of poll workers instructing voters that their ballot would not count unless they went to their assigned precinct. *See* PX242 ¶¶ 196, 203 (Stewart Decl.); 7/16/15 Trial Tr. 77:9-16 (Stewart); PX817 (Poucher Dep. 49:2-6); PX245 at 18 n.11 (Lichtman Surr. Rpt.). OOP provisional ballot statistics from the November 2014 election understate the effect of HB 589 because the State did not track how many aspiring voters appeared at an incorrect precinct on Election Day and never cast a ballot, or how many voters decided not to present themselves at a precinct other than their assigned one, knowing there was no possibility of casting a ballot that would be counted. 7/16/15 Trial Tr. 78:16-79:4 (Stewart).

2. Eliminating OOP voting particularly burdens voters of lower socioeconomic status, who are disproportionately minority.

245. Many voters who cast out-of-precinct provisional ballots would have to travel a significant distance to reach their correct polling place. According to SBOE data, voters in Mecklenburg and Wake Counties that cast out-of-precinct provisional ballots in the November 2014 election would have had to travel over six miles, on average, to reach their assigned polling place from the polling place at which they cast their provisional ballot—a substantial burden for those without access to a vehicle. PX241 ¶ 81 (Webster Decl.); 7/20/15 Trial Tr. 178:10-19, 179:19-22 (Webster). In more rural counties, the burden is likely to be even greater. *Id.* at 175:13-21, 179:11-18 (Webster).

246. This empirical evidence is confirmed by testimony from African American voters directly impacted by the prohibition on counting OOP ballots in the November 2014 election. PX808 (Burke Dep. 12:10-18:4) (frustrated OOP voters at predominantly-black Chavis Heights Community Center precinct in Raleigh on Election Day); *see also* PX822 (Dykes Dep. 16:18-17:25, 23:2-21); PX790 (Kuniholm Dep. 21:17-27:1) (long lines, frustrated and confused OOP voters at a predominantly-minority precinct in Durham); PX762 (Kennedy Dep. 23:10-26:25) (similar occurrence at a predominantly-black precinct in Winston-Salem); 7/13/15 Trial Tr. 61:9-24 (Farrington); PX764 (Manley Dep. 10:10-12:1, 12:9-13:5).

247. The testimony of individual witnesses also reveals the extent to which socioeconomic factors, such as residential instability, limited vehicle access and job flexibility, and health can interfere with individuals' ability to appear at their assigned precinct on Election Day. PX712 (Abercrombie Dep. 8:16-22, 10:22-11:13, 11:23-13:10)

(voter who had recently moved waited in line for hours at what she believed was her proper precinct, only to learn that it was not); 7/20/15 Trial Tr. 150:18-152:4, 154:10-156:25 (Owens) (unable to travel to assigned precinct during short lunch break due to lack of personal vehicle); 7/13/15 Trial Tr. 57:3-22, 58:6-19, 64:22-65:3, 65:10-20 (Farrington) (could only vote near workplace due to 12-hour workday, employer inflexibility); 7/14/15 Trial Tr. 164:22-166:24 (Cunningham) (residential instability, doctor's appointment, inflexible job schedule); *see also* 7/13/15 Trial Tr. 153:25-154:16 (Palmer) (many Latino constituents work multiple jobs and have inflexible work schedules).

248. Transportation issues are persistent for voters living in poverty and are not easily susceptible to resolution through a voter education campaign or other SBOE action. PX679 (Y. Washington Dep. 6:2-7:15, 8:5-9:22, 13:8-15:11, 17:13-19:15, 25:25-26:7, 34:6-35:24, 39:15-40:4) (voter living in poverty, with significant health impairments, without vehicle access, was physically unable to travel to assigned precinct); PX797 (T. Washington Dep. 13:5-14:16) (same). For example, transporting low socioeconomic status voters living in an assisted-care facility or nursing home is a challenge for caretakers, especially when residents are rapidly admitted and discharged and may not have time to update their registration information. PX778 (Banks Dep. 17:8-19:12, 21:1-22, 22:22-23:21, 25:10-20).

249. The same socioeconomic factors can prevent voters from using alternatives to voting on Election Day, such as voting during the early voting period. 7/13/15 Trial Tr. 58:23-59:4 (Farrington) (72-hour work week); 7/14/15 Trial Tr. 172:23-173:16

(Cunningham) (peak time of year at work and health problems). OOP voters uniformly testified that they were unaware of, confused about, or had concerns with voting by mail. PX679 (Y. Washington Dep. 10:6-15); PX776 (Wilson Dep. 8:14-9:5); 7/13/15 Trial Tr. 54:22-55:3, 55:12-20 (Farrington); 7/14/15 Trial Tr. 168:6-11 (Cunningham).

250. Poll worker error and poor communication from the CBOEs contribute to the burden. PX766 (Meadows Dep. 9:23-12:12) (voter presented at wrong precinct and redirected to another incorrect precinct across town); PX761 (Kearns Dep. 8:23-17:23, 22:20-23) (voter moved to new polling location with nearly identical name as old location without notice from CBOE).

251. Out-of-precinct provisional voters in the November 2014 election frequently left the polling place erroneously believing that that their vote would count. *See, e.g.*, PX776 (Wilson Dep. 12:4-15); 7/13/15 Trial Tr. 63:10-24 (Farrington); 7/14/15 Trial Tr. 177:18-24 (Cunningham). If a poll worker fails to tell the voter that OOP provisional ballots will not be counted, he or she will be unable to cure the problem if they later become aware of their mistake because double voting is illegal. PX776 (Wilson Dep. 13:4-14, 33:16-22) (voter cast an OOP ballot because he believed it would count, was later told he went to the wrong polling place but did not want to vote a second time).

D. Elimination of Preregistration and Mandatory High School Voter Registration Drives Imposes a Severe Burden on Young Voters, Who are Disproportionately African American and Latino

1. Severe and disproportionate burdens

252. The burden on young North Carolinians from the elimination of preregistration and mandatory high school voter-registration drives is severe. Although preregistration was in effect for only three years and eight months—from January 1, 2010, through the end of August 2013—over 150,000 young people preregistered to vote. 7/15/15 Trial Tr. 203:3-23 (Hillygus); 7/20/15 Trial Tr. 121:4-16 (Levine); PX235 at 13 (Hillygus Rpt.); PX236 at 7, 19 (Levine Rpt.). These preregistrants were more likely to stay on the voter rolls than were non-preregistered young voters: 77.7% of preregistered, versus 75.2% of non-preregistered, young voters maintained active voting status. PX236 at 19 (Levine Rpt.); *see also* 7/20/15 Trial Tr. 123:1-6 (Levine). And, according to the SBOE, during the period from the 2010 general election (at which point few preregistrants would have become registered voters) to the 2014 general election (at which point most preregistrants would have become registered voters), the youth share of registered voters in North Carolina jumped from 9.70% to 10.37%. DX344 (SBOE Youth Stats.); 7/30/15 Trial Tr. 52:23-53:13 (Neesby).

253. Preregistration also increases turnout among young voters. States that implement preregistration laws see an average increase in turnout among 18-22 year olds of as much as 13%, and there is a statistically significant relationship between adoption of preregistration laws and increased turnout even under an especially conservative modeling approach. 7/15/15 Trial Tr. 193:17-196:1 (Hillygus); PX235 at 20-21

(Hillygus Rpt.). Preregistration programs also lead to a particularly large increase in turnout where, as was the case in North Carolina, such programs are paired with high school voter-registration drives. 7/15/15 Trial Tr. 199:7-8, 200:15-202:1 (Hillygus); PX235 at 11-12, 26-27 (Hillygus Rpt.). There are several reasons that preregistration has this significant impact on youth registration and turnout, 7/15/15 Trial Tr. 200:15-201:15 (Hillygus); PX235 at 11-12, 25-27 (Hillygus Rpt.), and lay witness testimony and declarations illustrated these points. 7/15/15 Trial Tr. 163:20-170:12 (Cohen); 7/21/15 Trial Tr. 115:11-117:2, 117:14-21 (West); 7/23/15 Trial Tr. 124:1-131:3 (Compton); *see also* PX11 ¶ 19 (Palmer Decl.).

254. With the elimination of preregistration and mandatory high school voter-registration drives, tens of thousands of young North Carolinians per year who have used preregistration if it were still in effect must find another, more burdensome means of registering. In light of the widespread use of preregistration and its impact on turnout, it is plain that the repeal of preregistration will have the effect of reducing youth turnout and registration in North Carolina. Indeed, Dr. D. Sunshine Hillygus concluded that the repeal of preregistration will result in as many as 50,000 fewer young North Carolinians voting in 2016 than would have done so if the law had remained in effect. 7/15/15 Trial Tr. 206:11-207:10 (Hillygus); PX235 at 4 (Hillygus Rpt.). Likewise, Dr. Peter Levine explained that the elimination of preregistration will reduce registration and turnout among young voters. PX236 at 20 (Levine Rpt.).

255. The negative impact on young voters from the repeal of preregistration has begun to take place. Nadia Cohen testified that, in 2012, robust political discussion took

place at her school, and students were excited about registering and voting. In contrast, without the presence of registration drives in her school in 2014, Cohen said that the State had taken away a responsibility. 7/15/15 Trial Tr. 163:20-166:5, 169:16-170:12; *see also* 7/21/15 Trial Tr. 115:12-117:2 (West). Helen Compton testified that since the repeal of preregistration, not only must she address a smaller population of students in her efforts to register young voters, but the process is now more confusing and complicated. 7/23/15 Trial Tr. 126:10-128:12 (Compton). Further, while students were excited about registering and informed about the process in 2012, in 2014 it appeared that many students did not know much about what was taking place. 7/23/15 Trial Tr. 126:10-128:12 (Compton).

256. This notable decline in interest took place in 2014 notwithstanding the historic nature of that election, suggesting that the diminished salience of the election for high school students was in part attributable to a decrease in voter-registration activities in schools that year. Indeed, Nancy Lund stated that because preregistration was repealed, her nonpartisan group no longer made the concentrated effort to get into high schools and register students since it was no longer mandatory for the high schools to let them on campus to register students. PX791 (Lund Dep. 39:9-17, 94:10-95:6). And Director Strach knew of only a “few” counties in which high school voter-registration drives continued once such drives were no longer mandatory and preregistration had been eliminated. 7/29/15 Trial Tr. 130:10-131:8 (Strach).

257. Further, the severe burden from the elimination of preregistration will be borne disproportionately by African Americans and Hispanics, a number of whom likely

will not register due to the repeal of preregistration. *See* PX229 at 24 (Burden Rpt.); 7/17/15 Trial Tr. 121:19-122:6 (Lichtman); 7/23/15 Trial Tr. 129:2-25, 130:1-13, 20-25 (Compton). Before preregistration was repealed, African Americans used this means of registration more than white voters, comprising 30% of all preregistrants in 2012, despite making up only 22% of the population in North Carolina. 7/15/15 Trial Tr. 204:10-19 (Hillygus); PX235 at 16 (Hillygus Rpt.); 7/17/15 Trial Tr. 121:19-122:6 (Lichtman); PX231 at 129-32 (Lichtman Rpt.); PX229 at 24 (Burden Rpt.). Likewise, Dr. Lichtman reported that in North Carolina in 2012, 3.8% of preregistered voters, but only 1.7% of voters overall, were Hispanic. PX245 at 23, Tbl.R-10 (Lichtman Surr. Rpt.); *see also* PX230 at 38 (Leloudis Rpt.); PX229 at 24 (Burden Rpt.); 7/17/15 Trial Tr. 121:19-122:6 (Lichtman). Maria Palmer also explained that because young Hispanic voters are often first-generation voters, without preregistration many do not know how to register and their parents cannot teach them because they do not know how to register. 7/13/15 Trial Tr. 151:13-152:2, 8-9 (Palmer).

2. No material state interest

258. There was no legitimate basis for the repeal of preregistration. Apart from Senator Rucho's statement that many other states do not offer preregistration, PX549 at 36-37 (7/24/13 Sen. Fl. Debate), the only rationale provided was Senator Rucho's assertion that there was confusion about preregistration, as evidenced by the situation of his son, who preregistered and thought he was supposed to vote before he turned 18 years old. *See* PX202 at 22 (7/23/13 Sen. Rules). Director Strach testified at trial, however, that she had never heard of a situation in which a person who had preregistered but was

not yet eligible to vote had attempted to cast a ballot. 7/22/15 Trial Tr. 202:1-5; *accord* PX19 ¶ 35 (Gilbert Decl.); 7/15/15 Trial Tr. 166:6-13 (Cohen) (students not confused about age at which they could vote); 7/21/15 Trial Tr. 115:12-117:2 (West) (16 year olds who preregistered could not vote); PX549 at 74 (7/24/13 Sen. Fl. Debate) (Sen. Graham explained that preregistration was not difficult, cumbersome, or confusing); *see also* 7/21/15 Trial Tr. 189:20-190:4 (Stein) (Sen. Tillman could not explain how preregistration enhanced the integrity of elections); PX138 at 75:3-4 (7/25/13 House Fl.) (Cotham) (“we’re taking away pre-registration of young people for no good reason at all”).

259. Moreover, the elimination of preregistration has not reduced confusion but instead created it. *See, e.g.*, 7/23/15 Trial Tr. 128:1-5 (Compton). Under preregistration, the governing rule was simple: a 16 year old could preregister. Now, in an even-numbered year, “[t]here are certain periods— even if a 17-year-old []—would be 18 on the day of the general election, they are only allowed to register 60 days out from the primary for that general election. So prior to that 60 days, they would not be eligible to register. During the 60 days and up until the close of the books before the primary or election, they would be eligible to register at that time and would be processed as a registered voter.” 7/22/15 Trial Tr. 203:5-13 (Strach); 7/15/15 Trial Tr. 207:11-208:17 (Hillygus); PX235 at 16 (Hillygus Rpt.). And the situation “absolutely gets more complicated” in odd-numbered years, as municipalities have different election schedules in those years, meaning that people born on the same day may become eligible to register to vote on different days if they live in different municipalities. 7/22/15 Trial Tr. 204:4-

205:3 (Strach); 7/15/15 Trial Tr. 207:11-208:17 (Hillygus); PX235 at 16 (Hillygus Rpt.). Indeed, Director Strach found that the risk of confusion resulting from the elimination of preregistration was sufficiently great to warrant her directing the DMV not to register 17 years olds *even if they were eligible to vote*, resulting in the failure to offer voter-registration services at the DMV to over 2,700 young North Carolinians who were entitled to those services. 7/22/15 Trial Tr. 205:24-210:25 (Strach); PX726 (SBOE Letter to 17 year olds).

260. Nor was there any significant burden associated with the administration of preregistration. PX799 (Burriss Dep. 177:12-179:1, 180:5-11); PX803 (Cosner Dep. 156:24-157:4). And, tellingly, the popularity of preregistration is increasing. Since 2007, nine states have adopted preregistration programs. 7/15/15 Trial Tr. 205:23-206:7 (Hillygus); PX235 at 10 (Hillygus Rpt.). Only one state has ever eliminated preregistration: North Carolina. 7/15/15 Trial Tr. 206:8-10 (Hillygus); PX235 at 16 (Hillygus Rpt.).⁹

261. Taken together, these facts establish that the burdens associated with the repeal of preregistration far outweigh the State's interest in that repeal. In addition, because neither the General Assembly nor Defendants have ever provided a rationale for

⁹ In 2007, Florida allowed all 17 year olds plus any teenager with a driver's license to preregister. Fl. Stat. § 97.041(5)(b) (2007). This meant that in addition to 17 year olds, 16 years olds and 15 year olds with a driver's license could preregister. *See* Fl. Stat. § 322.05(1) (2007). In 2008, the law was amended to make preregistration eligibility dependent upon age, rather than possession of a driver's license. Fl. Stat. § 97.041(5)(b) (2008). Thus, preregistration was expanded to all 16 year olds (not just those with a driver's license), and certain 15 year olds (those few who would have been eligible for a driver's license) were no longer able to preregister. 7/16/15 Trial Tr. 13:17-14:16 (Hillygus).

the elimination of mandatory high school voter-registration drives (aside from Rep. Lewis' reference to the provision providing for such drives as "an old provision," PX138 at 21 (7/25/13 House Fl.)), the burdens associated with the elimination of mandatory high school voter-registration drives outweigh the State's interest in the elimination of such drives.

E. Ending CBOE Discretion to Extend Hours Burdens the Right to Vote

262. The removal of CBOE discretion to keep polling locations open for an extra hour in extraordinary circumstances further burdens the right to vote, as voters whose polling locations would have been kept open for an extra hour but for the change must now vote within a more limited time span and will likely face longer wait times to vote than they otherwise would have. Former SBOE Executive Director Gary Bartlett has explained that, while the discretion to keep the polls open for an extra hour "was an allowance that was rarely needed, . . . it made a real difference when emergencies happened earlier in the day." PX16 ¶ 26 (Bartlett Decl.); *see also* PX28 ¶ 44 (McKissick Decl.) (Durham County "has historically had occasional problems with voting machines and, prior to the introduction of early voting, long lines on Election Day," and HB 589's removal of discretion from the county elections board to keep polling places open for an additional hour if necessary "takes away a means of addressing such Election Day problems"). Neither the General Assembly nor the Defendants have provided any rationale for this change to North Carolina law.

VIII. HB 589 Has a Cumulative Negative Impact on North Carolina Voters

263. The burdens imposed by HB 589 are cumulative. PX229 at 22, 24 (Burden Rpt.). Voting involves a series of steps, each of which must be successfully completed for an aspiring voter to have her vote cast and counted. The challenged provisions of HB 589 impose an additional hurdle at each one of these steps. 7/16/15 Trial Tr. 92:25-94:21 (Stewart). Even if a voter overcomes one hurdle, she may falter at the next. *See* PX550 at 34:3-5 (7/25/13 Sen. Fl.) (Stein).

264. For example, low-income aspiring voters, who are disproportionately black and Latino and face logistical hurdles arriving at the polls, have greater access with a longer early voting period, the option of SDR, and the option of casting OOP ballots on Election Day. Voters Gwendolyn Farrington and Terrilin Cunningham are just two examples of African American voters who, because of long, inflexible working hours, were unable to vote during the shortened early voting period in 2014. Then, on Election Day, constrained by those same employment conditions plus additional constraints resulting from health problems (Ms. Cunningham) or limited household vehicle access (Ms. Farrington), each voter was forced to cast an OOP ballot that was not counted. 7/13/15 Trial Tr. 58:23-60:19, 63:10-18, 65:10-20 (Farrington); 7/14/15 Trial Tr. 172:23-175:8, 180:5-18, 185:11-17 (Cunningham).

265. The ability of caregivers to assist those with serious health related conditions (a disproportionate number of whom are minorities, *see supra* FOF ¶ 33; PX44 at 11 (Burden PI Rpt.)) in getting to the polls is undermined by the combination of the logistical hurdles created by the elimination of SDR and OOP voting and the

reduction in the number of early voting days. PX721 (Durant Dep. 16:16-17:4, 17:13-18:9, 18:16-18, 19:1-20:5); PX778 (Banks Dep. 5:16-19:12; 21:1-22, 22:22-25:20).

266. Reductions in early voting and the elimination of SDR and OOP ballots increase the likelihood that voters will need to make multiple trips in a compressed time frame. The requirement to comply with more restrictive registration provisions and a shortened early voting period, as well as the need to find transportation to the correct precinct on Election Day, pose significant burdens to these voters, a group that is disproportionately African American and Hispanic.

267. Finally, although the impact of the amended voter photo ID law remains unclear, the SBOE's own data show that hundreds of thousands of voters lack DMV-issued photo ID, *see supra* FOF ¶¶154, 158-159, and they must complete reasonable impediment forms and cast provisional ballots under the new law. The added time needed to complete these forms and provisional ballots could contribute to longer lines, and the complexity of the new procedures adds a new challenge for election officials, particularly those working at Election Day precincts who tend to lack the experience and training of officials at early voting sites. *See* PX42 ¶ 139 (Stewart PI Decl.); 7/9/14 PI Tr. 6:24-8:18 (Stewart) (describing greater reliability of staff at early voting sites); 7/21/15 Trial Tr. 43:99-44:9 (Allen). Both of these effects are likely to exacerbate increased congestion and longer lines caused by the reduction in early voting, without the administrative benefits that come with early voting sites. PX42 ¶ 213 (Stewart PI Decl.); 7/9/14 PI Tr. 9:15-19 (Stewart).

IX. Aggregate Turnout Statistics from 2014 Are Not Informative

268. As discussed above, the November 2014 election confirmed past trends apparent from data about individual voter behavior. Specifically, in 2014, African American voters were more likely than white voters to register during what would have been the SDR period if it had been available, to use early voting, and to cast OOP ballots. *See supra* FOF ¶¶ 206, 221, 243; PX242 ¶ 156 (Stewart Decl.).

269. It is not possible to draw causal conclusions about the burdens imposed by HB 589 by simply comparing aggregate turnout numbers from the 2010 and 2014 elections. 7/17/15 Trial Tr. 137:5-20 (Lichtman); 7/27/15 Trial Tr. 117:1-22 (Hood); 7/16/15 Trial Tr. 89:8-16, 91:14-92:6 (Stewart); 7/15/15 Trial Tr. 76:5-11 (Burden).

270. Many factors influence aggregate turnout in a given election. One such factor is the effort expended to mobilize voters. 7/27/15 Trial Tr. 117:16-22 (Hood). Some other factors involve the particular electoral context, including the competitiveness of the election, the mix of offices, total campaign spending, particular campaign tactics, overall voter interest, and the voting laws in place. *See, e.g.*, 7/27/15 Trial Tr. 118:23–120:7 (Hood); 7/16/15 Trial Tr. 153:4-154:7 (Stewart).

271. In 2014, North Carolina saw a hard-fought U.S. Senate contest that wound up as one of the closest Senate races in the nation, with the highest level of campaign spending for a Senate race in U.S. history. 7/15/15 Trial Tr. 76:12-77:4 (Burden); PX229 at 29-30 (Burden Rpt.); PX242 ¶ 162 (Stewart Decl.); PX234 ¶ 20 (Gronke Rpt.); 7/17/15 Trial Tr. 28:12-19 (Gronke). This race was significantly more competitive and more expensive than the state's 2010 U.S. Senate race, with \$110 million spent in 2014 as

compared with less than \$20 million in 2010. PX234 ¶ 20 (Gronke Rpt.); PX229 at 29 (Burden Rpt.).

272. Also, for the first time in two decades, there was an open seat election in Congressional District 12 with a contested primary and an opportunity for voters in this majority-black district to elect a new representative. Taking the increased turnout in CD 12 into account, the increase in black turnout in 2014 as compared to 2010 goes down to plus 1.1 percentage points, about the same as the increase in white turnout. 7/17/15 Trial Tr. 142:25-143:22, 190:5-13 (Lichtman).

273. Another factor tending to boost African American turnout in 2014 was the substantial mobilization efforts of organizations that promote political participation by black voters, driven in part by a “novelty effect” based on anger about the enactment of HB 589. 7/17/15 Trial Tr. 137:21-138:8, 139:8-19 (Lichtman). The long-time president of the NC NAACP described his group’s voter engagement efforts in 2014 as the largest of his tenure, and testified that they would not be repeatable in future years. 7/13/15 Trial Tr. 110:4-111:17, 114:19-116:7 (Barber).¹⁰

274. In addition, voters in midterm elections tend to be more experienced voters than those in presidential elections. These voters were less likely to use SDR when it was available and less likely to cast OOP ballots, making an aggregate turnout comparison

¹⁰ Defendants’ experts did not attempt to control for these and other circumstances of the 2014 election, such as the open congressional seat in one of the state’s two majority-Black districts. 7/27/15 Trial Tr. 136:22-142:13 (Hood).

between 2010 and 2014 even less useful.¹¹ PX242 ¶¶ 157-59 (Stewart Decl.); 7/16/15 Trial Tr. 92:17-24 (Stewart).

275. A statistical analysis of the effect of an election law change such as one of the challenged provisions of HB 589 would require more data than just overall turnout numbers from two different elections in one state—*i.e.*, data from several more elections or more geographical units. 7/16/15 Trial Tr. 91:14-92:6 (Stewart).

276. In fact, to the extent aggregate turnout in 2014 is relevant to an assessment of the burdens imposed by HB 589, the relevant comparison is between actual 2014 turnout and what turnout in 2014 would have been had HB 589 not been in effect. 7/30/15 Trial Tr. 114:10-116:2 (Stewart). This is a question that Defendants' expert Dr. Janet Thornton, who presented a comparison of 2010 and 2014 turnout data, did not attempt to answer; rather, she acknowledged that it is possible that HB 589 did in fact suppress turnout. *See* 7/27/15 Trial Tr. 9:21-10:5 (Thornton).

277. Thus, while aggregate turnout among African Americans of voting age in North Carolina was about two percentage points higher in 2014 than it was in 2010, *see* PX685 (Stewart Updated App. U), an analysis of individual voter data from past elections shows that African Americans were nevertheless disproportionately burdened by HB 589. 7/16/15 Trial Tr. 79:5-25, 90:9-91:13 (Stewart); 7/30/15 Trial Tr. 116:3-117:3 (Stewart). It is also worth noting that white turnout exceeded black turnout in the 2014 primary and

¹¹ Peer-reviewed studies concerning the effects of voting laws typically focus on presidential general elections, and Defendants' expert could think of no example of such a study using data from primaries or midterms. 7/27/15 Trial Tr. 131:24-132:22 (Hood).

general elections. *See* 7/17/15 Trial Tr. 219:16-21 (Lichtman); 7/27/15 Trial Tr. 133:18-24 (Hood); PX685 (Stewart Updated App. U).

278. Defendants' proffered expert Sean Trende also opined that the voting reforms at issue have no effect on African American participation rates. But he is not qualified to offer that opinion as an expert. He has limited experience with statistics and admitted that he has not been tendered as an expert in statistical analysis, 7/27/15 Trial Tr. 191:10-192:2 (Trende); 7/28/15 Trial Tr. 81:20-82:16 (Trende); writes for websites that do not appear in print and has authored no peer-reviewed publications, 7/27/15 Trial Tr. 193:21-194:10, 195:10-196:16 (Trende); and has never analyzed any state's laws with respect to the relevant practices, other than early voting, *id.* 196:23-200:12 (Trende).

279. Trende's analysis of the effects of the voting practices at issue is also unreliable. Among other things, he lumps together very different kinds of voting laws into a single "ordinal" system and assumes that each reform will have an identical effect on turnout, which no political scientist has ever attempted to do in a peer-reviewed study. 7/28/15 Trial Tr. 82:20-86:22 (Trende); 7/30/15 Trial Tr. 120:3-121:15 (Stewart); *see also* PX42 at JA 994-1025 (Stewart PI Surr. Decl.). His analysis of individual reforms was riddled with basic factual errors and failed to account for significant differences in how those reforms are implemented. 7/28/15 Trial Tr. 87:12-89:20, 92:20-94:6 (Trende). He failed to control for factors that affect turnout such as income, education, and age. *Id.* 99:25-102:19 (Trende). He attempted to control for competitiveness, but relied on non-objective judgment calls that do not allow his work to be replicated, and would be unsuitable for peer-review. *Id.* 94:7-96:25 (Trende). Lastly, the data underlying his work

contains error margins that he fails to report, and inaccuracies that he has no experience in addressing, rendering it unreliable for these purposes. *Id.* 107:23-112:7 (Trende); 7/37/15 Trial Tr. 110:24-114:17 (Hood); 7/30/15 Trial Tr. 123:19-125:10 (Stewart).

X. Intent to Suppress the Youth Vote

280. The General Assembly enacted HB 589 with the intent, at least in part, to suppress disproportionately the vote of young North Carolinians. *First*, HB 589 targeted young voters on its face by repealing preregistration and mandatory high school voter-registration drives, PX110 at 24-26, 30 (HB 589), as well as by permitting military IDs, veterans' IDs, and certain types of tribal enrollment cards, but not college IDs, to be used for voting—even though public college IDs would have been permissible forms of voter ID under the version of HB 589 originally passed by the House. *Compare* PX106 at 3 (HB 589 v.5), *with* PX110 at 2 (HB 589). As set forth above, the elimination of preregistration and mandatory high school voter-registration drives will impose a severe burden on young North Carolinians and have a significant, negative, and lasting effect on their turnout and civic engagement, yet no plausible rationale has been asserted for the General Assembly's elimination of these programs. Moreover, while the General Assembly has now modified the voter ID law to permit voters reasonably impeded from obtaining an ID to vote without *any* form of ID, the legislature did not change the provision prohibiting the use of college IDs to establish identity. Sess. Law 2015-103 (HB 836), § 8(a); *see also* 7/20/15 Trial Tr. 126:10-128:22 (Levine) (the photo ID provision, despite its recent amendment, will continue to contribute to HB 589's overall negative effect on youth turnout and voting).

281. *Second*, the General Assembly that enacted HB 589 had a clear motive for seeking to suppress the vote of young North Carolinians: It did not like the way they voted, or the extent to which they were voting. From 2000 to 2012, North Carolina's ranking for youth voter registration climbed from 43rd to 8th, and its ranking for youth voter turnout rose from 31st to 10th. 7/20/15 Trial Tr. 104:6-105:10 (Levine); PX236 at 6, 9-10 (Levine Rpt.). While this change was attributable in significant part to North Carolina's newfound status as a swing state, this improvement was also attributable, in part, to laws that HB 589 repealed or significantly rolled back. 7/20/15 Trial Tr. 104:6-105:10 (Levine); PX236 at 6, 9-12 (Levine Rpt.); *see also* PX235 at 5 & n.3 (Hillygus Rpt.).

282. These youth votes were not evenly divided between the two major political parties. On the contrary, young North Carolinians voted overwhelmingly for Democratic candidates. PX231 at 24 (Lichtman Rpt.); PX550 at 35:3-6 (7/25/13 Sen. Fl.) (Stein) (young voters disproportionately vote Democratic); PX138 at 57:6-7 (7/25/13 House Fl.) (Glazier) (young people resist voting Republican); *see also id.* at 59:6-8 (Hall) ("But every member in this chamber knows that young voters are much more likely to vote Democratic."). As such, Republican elected officials—a group that includes every person who voted for HB 589—had a strong political incentive in 2013 to restrict the ability of young citizens to vote. *Cf.* PX235 at 6 (Hillygus Rpt.) (the systematic underrepresentation of young voters means that their views are underrepresented by elected officials). Indeed, this motive, in conjunction with young voters' heavily disproportionate use of SDR, indicates that members of the State Senate had young voters

in mind when they made statements in support of HB 589 that suggested that voting had become too easy. *See* PX549 78:6-15 (7/24/13 Sen. Fl.) (Tillman); PX550 81:13-22 (7/25/13 Sen. Fl.) (Rabin).

283. *Third*, the challenged provisions disproportionately burden young citizens—often to a striking degree—and the legislature was clearly aware of this when it passed HB 589. National and historical data demonstrate that SDR boosts youth turnout. 7/20/15 Trial Tr. 119:6-120:8 (Levine); PX236 at 7, 17 (Levine Rpt.). In North Carolina, young voters were more than twice as likely as older voters to use SDR in the 2008, 2010, and 2012 general elections, and in 2014 they were over eight times more likely than older voters to cast a provisional ballot that was rejected because there was no record of their registration. 7/20/15 Trial Tr. 116:16-117:6, 128:24-129:4 (Levine); PX236 at 7, 15-16, 29, 34, 36-38 (2/12/15 Levine Rpt.); *see also* 7/14/15 Trial Tr. 37:9-41:13 (Kittrell) (testimony of young voter who was disenfranchised in 2014 because he was not registered in the county where he presented to vote during early voting); 7/20/15 Trial Tr. 68:4-71:11 (Duke) (in 2012, he and other college students were only able to vote by using SDR when their voter registrations were rejected because their on-campus addresses did not receive mail); 7/22/15 Trial Tr. 214:18-216:10 (Strach) (registration mail verifications and other SBOE mailings to students at colleges have been reported as undeliverable); 7/30/15 Trial Tr. 101:23-103:4 (Bailey) (used SDR to register in 2012, and, despite receiving mail at the on-campus address where he registered, over the next several months he did not receive any mailing from the SBOE or Forsyth CBOE confirming his address).

284. Young North Carolinians were also more likely than older North Carolinians to use OOP voting when it was available, and in the 2014 general election they were nearly four times more likely than older voters to cast a provisional ballot that was rejected because it was cast out of precinct. PX236 at 35 (Levine Rpt.). Similarly, Dr. Levine found that the shortened early voting period in 2014 disproportionately and negatively affected young voters and is likely to do so in the future, and that, prior to the enactment of HB 589, young voters were more likely than older voters to cast their ballots after 1 p.m. on the final day of early voting—a period during which early voting is no longer permitted due to HB 589. 7/20/15 Trial Tr. 140:7-141:22 (Levine); PX50A at 16-17 (Levine PI Rpt.); PX236 at 21-23 (Levine Rpt.); *see also id.* at 20 (study of shortening of early voting in Florida shows that low-propensity voters are affected most severely, and young voters are disproportionately low-propensity voters); *cf.* PX235 at 8 & n.18 (Hillygus Rpt.) (early voting has been found to increase youth turnout). Further, young voters in North Carolina are less likely than older voters to possess a form of ID that can be used for voting under the voter ID law. 7/20/15 Trial Tr. 126:10-127:17 (Levine); PX236 at 8 (Levine Rpt.). Dr. Levine found that the enactment of provisions that are unfavorable to young voters, such as the provisions at issue in this case, has a cumulative negative effect on young voters, 7/20/15 Trial Tr. 129:5-130:18 (Levine); PX236 at 9, 12 (Levine Rpt.), and that, together, HB 589’s challenged provisions will have a “long-term, possibly lifelong” negative effect on youth turnout and participation. 7/20/15 Trial Tr. 130:19-132:18 (Levine).

285. Dr. Levine’s findings were reinforced by young voter testimony at trial. Louis Duke explained that HB 589 (as well as SB 666) “created [a] culture of fear and intimidation where young people feel not only unwanted in the electoral process but not allowed and not welcome.” 7/20/15 Trial Tr. 78:20-80:10 (Duke). Ebony West noted that HB 589 has had the effect of disengaging students from the voting process and discouraging them from voting. 7/21/15 Trial Tr. 128:5-18 (West). And, Nadia Cohen testified that it seems “like being 18 isn’t old enough [to vote] anymore.” 7/15/15 Trial Tr. 169:16-170:12 (Cohen).

286. Further, the legislative debates make it clear that the legislature was well aware of the disproportionate, long-term negative effect that HB 589 would have on young voters. Emails show that sponsors of HB 589 and other legislators key to its passage asked for data, broken down by age and other demographic information, regarding the possession of North Carolina IDs, one-stop voters, and provisional voters. PX69 at 3 (HB 589 Sponsor Email re Voting Data). Senator Stein testified, moreover, that throughout the Senate floor debates, he and others explained that HB 589’s SDR, early voting, preregistration, and voter ID provisions would have a disparate, negative impact on young voters. 7/21/15 Trial Tr. 182:23-184:4 (Stein); *see also* PX549 67:1-11 (7/24/13 Sen. Fl.) (Kinnaird); PX550 30:15-21, 33:20-34:11 (7/25/13 Sen. Fl.) (Stein); *id.* at 48:1-4, 49:2-50:8 (Graham); *id.* at 72:24-73:2 (Robinson).

287. On the House floor, multiple representatives stated that HB 589 targeted and disproportionately affected young people, including high school and college students. PX138 41:14-22 (7/25/13 House Fl.) (Adams); *id.* at 43:15-24 (Mobley); *id.* at 56:24-

57:7 (Glazier); *id.* at 58:24-59:8 (Hall); *id.* at 73:8-75:25 (Cotham); *id.* at 96:3-7, 97:8-17 (Queen). And, both chambers knew that young voters believed the bill was designed to “punish” them, “impair” their right to vote, and shut them out of the electoral process. PX549 71:10-24, 72:25-73:19, 74:7-9 (7/24/13 Sen. Fl.) (Graham); *see also* PX138 54:3-13 (Glazier) (“[Y]ou are telling the next generation, in very clear terms, their voices don’t matter, their participation doesn’t count.”); 7/13/15 Trial Tr. 108:6-7 (Barber) (“Our young people sat in the gallery with tape over their mouth saying, you are trying to shut us out of the process.”).

288. *Fourth*, as discussed above, the rationales for the challenged provisions are either weak or nonexistent. And the final version of HB 589 was passed through an extraordinary process in which only one member of the North Carolina House of Representatives spoke in favor of the bill.

289. *Fifth*, members of the General Assembly that passed HB 589 were openly hostile to young voters. Two bills introduced in 2013, SB 666 and SB 667, would have prevented a parent from claiming a tax exemption for a child registered to vote at an address other than the parent’s address, *see* PX151 (SB 667, Ed. 1); PX201 (SB 666)—in other words, would have taxed the parents of students who registered to vote at college. While it is plain from the face of these bills that they were designed to decrease the likelihood that college students would vote from their college residence, other evidence also establishes that these bills were intended to suppress youth voting.

290. The architect of SB 666 and SB 667, Voter Integrity Project (“VIP”) Executive Director Jay DeLancy, explained in deposition testimony that Senator Bill

Cook (a primary sponsor of both bills) had spoken to DeLancy about the “problem” of a precinct being set up on a college campus and “asked [DeLancy] if [he] had any ideas on how to solve this problem, and [VIP] did.” PX804 (DeLancy Dep. 34:23-35:6).¹² According to DeLancy, “a child voting in a school board race, disrupting local politics, is a problem. A child voting for a bond issue in a town where that child never pays a penny in taxes in that town, that child goes back home and lives under mommy and daddy’s umbrella and, yet, that vote that—that college vote irresponsibly takes—has an impact long after that child has left that town.” PX804 (DeLancy Dep. 47:11-18).

291. Sponsors of SB 666 and SB 667 (and other legislators) knew the bills were intended to suppress the youth vote. In an April 4, 2013 email that went to senators and/or staff members of senators who sponsored one or both of the bills, as well Senator Apodaca and others, DeLancy indicated that the idea reflected in SB 666 and SB 667 would “continue to draw national attention as a solution to the vexing problem of temporary residents (college students) *skewing local politics* without ever feeling the consequences for their actions.” PX353 (4/4/13 DeLancy Email to A. Shreve) (emphasis added). In an email sent nine days later to four senators who sponsored one or both of the bills, DeLancy wrote about what was “looming over the horizon if we don’t get a good student voter restriction this year”: California “sweeps blue by about 60-65 percent for all elections.” PX350 (4/15/13 DeLancy Email to A. Shreve). Further, in emails with

¹² An email string confirms that DeLancy was involved in the inception of the idea to tax dependents who registered at an address other than that of a parent and provided feedback on a draft of the bill, and that a member of Senator Cook’s staff informed a legislative bill drafter that “Sen. Cook would like for [the bill drafter] to proceed with [DeLancy]’s suggestions.” See PX352 (3/25/13 DeLancy Email re Student Dependents).

Rep. Paul Stam in early March 2013, DeLancy wrote that then-Rep. Tim Moffitt was “interested after the Buncombe County Commission race that . . . flipped control back to the Dems when student provisional ballots caused a 100-vote swing for the swing district Commissioner (GOP candidate wound up losing by 18 votes)” and that “David Lewis seemed interested” in the idea of defining emancipation as the act of registering to vote. PX347 (4/5/13 DeLancy Email to P. Stam); *see also* PX804 (DeLancy Dep. 68:5-70:5).

292. Although these bills were not enacted, the fact that SB 667 was sponsored by six senators who subsequently voted for HB 589, *see* PX151 (SB 667, Ed. 1), and that other members of the General Assembly who supported HB 589 expressed interest in the idea behind SB 666 and SB 667 (as discussed above) demonstrates that the General Assembly that enacted HB 589 was highly antagonistic to youth voting. Moreover, Defendants have identified SB 666 as a precursor to HB 589, *see* DX 217 ¶ 23 (6/17/14 Justice Decl.) (“Many of the provisions added to the proposed committee substitute [for HB 589] by the Senate Rules committee were pending in bills introduced earlier in the 2013 session. . . . S.B. 666, filed on April 2, 2013, proposed to enhance observer rights, repeal same day registration, and limit early voting to ten days.”); *Opp. to Mot. for Prel. Inj.* at 44, ECF No. 126, No. 13-CV-861. And, it is clear that Jay DeLancy—whose disdain for student voting is beyond question—met with Rep. Lewis and a staff member of his well before the introduction of the full bill to advocate for ideas ultimately included (in whole or in part) in the full-bill version of HB 589, including the institution of a voter ID law and the repeal of SDR and early voting. *See* PX804 (DeLancy Dep. 143:18-147:13); PX351 (7/24/13 DeLancy Email to Rep. Lewis) (stating in part, “As I’m reading

through the latest version of HB 589, I just have to smile at how much you managed to include in it and how some of those ideas synch with some that we gave you all those months ago.”).

293. *Sixth*, actions of the SBOE, the DMV, and CBOEs following the enactment of HB 589 provide further evidence of the State of North Carolina’s hostility to youth voting. In late 2013, as noted, Director Strach—a close personal associate of one of the architects of HB 589, 7/22/15 Trial Tr. 65:8-14 (Strach)—unlawfully directed the DMV not to offer voter-registration services to 17 year olds even if they were eligible to register, resulting in over 2,700 young North Carolinians improperly not being offered the opportunity to register to vote at a DMV location. *See* 7/22/15 Trial Tr. 205:24-210:25 (Strach); PX726 (SBOE Letter to 17 year olds). In addition, the DMV has adopted a policy to instruct college students with out-of-state driver’s licenses who obtain no-fee voter IDs that they have to obtain a North Carolina driver’s license within 60 days, *see* PX806 (Webb Dep. 206:25-210:24); PX573 at 11-12 (8/6/14 DMV VIVA Memo)—even though there is no such requirement under North Carolina law, which establishes different standards for when an individual may vote in North Carolina and when he or she must obtain a North Carolina driver’s license. *Compare* NCGS § 163-57(11), *with* NCGS § 20-7(a), *and* NCGS § 20-4.01(34).

294. Further, some counties that had provided an early voting location on a college campus in 2012 decided not to provide an on-campus early voting location in 2014. *See* 7/22/15 Trial Tr. 216:19-217:22 (Strach) (unsure how many counties decided to move early voting sites off of campuses, but believed or knew about Winston-Salem

State University, N.C. State University, and Appalachian State University (“ASU”). With respect to the early voting location at ASU, a state court judge held that moving the site would be unconstitutional and that he could find no intent in moving that site other than to discourage student voting. *See* 7/29/15 Trial Tr. 137:16-138:22 (Strach). Further, the Pasquotank CBOE tried to disqualify a senior at Elizabeth City State University, a historically black university, from running for city council in 2014, though the SBOE reversed that decision. 7/22/15 Trial Tr. 217:23-218:11 (Strach).

295. Taken together, these facts demonstrate that the challenged provisions of HB 589 were enacted, at least in part, to suppress the vote of young North Carolinians.

PROPOSED CONCLUSIONS OF LAW¹³

I. Challenged Provisions of HB 589 Violate Section 2 of the Voting Rights Act

1. “Section 2 [of the Voting Rights Act, 52 U.S.C. § 10301(a)] ‘prohibits all forms of voting discrimination’ that lessen opportunity for minority voters,” *League of Women Voters v. North Carolina* (“LWV”), 769 F.3d 224, 238 (4th Cir. 2014) (quoting *Thornburg v. Gingles*, 478 U.S. 30, 45 n.10 (1986)), including restrictive voter photo identification laws, *Veasey v. Perry*, 13-cv-193, 2014 WL 5090258 (S.D. Tex. Oct. 9, 2014), *aff’d in relevant part*, 2015 WL 4645642 (5th Cir. Aug. 5, 2015); reductions in the

¹³ Private Plaintiffs have brought a variety of claims, on behalf of a range of groups and individuals. The United States has challenged four provisions of HB 589—the reduction of the early voting period, the elimination of SDR, the prohibition on counting out-of-precinct provisional ballots, and the imposition of a new photo ID requirement—alleging that those provisions have a discriminatory purpose and would lead to discriminatory results in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, with respect to African American voters. The court and the parties have deferred resolution of Section 2 claims addressing the voter photo ID claim in light of recent changes made to the law.

period available for early in-person voting, *Ohio Conference of the NAACP v. Husted*, 43 F. Supp. 3d 808 (S.D. Ohio 2014), *aff'd*, 768 F.3d 524 (6th Cir. 2014); and unequal access to voter registration, *Operation PUSH v. Allain*, 674 F. Supp. 1245 (N.D. Miss. 1987), *aff'd sub nom. Operation PUSH v. Mabus*, 932 F.2d 400 (5th Cir. 1991). Thus, Section 2 prohibits the implementation of the provisions at issue here—eliminating same day registration, curtailing the early voting period, repealing out-of-precinct voting, repealing preregistration, and expanding observers and challengers—if the evidence shows that these requirements “result[] in a denial or abridgment of the right . . . to vote” of minority voters.

2. “[Section 2 prohibits] not only voting practices borne of a discriminatory intent, but also voting practices that ‘operate, designedly or otherwise,’ to deny ‘equal access to any phase of the electoral process for minority group members.’” *United States v. Charleston Cnty.*, 365 F.3d 341, 345 (4th Cir. 2004) (quoting S. Rep. No. 97-417, 97th Cong. 2d Sess. 28, 30 (1982) (“Senate Report”)). Thus, Plaintiffs may prevail by showing that HB 589 has a discriminatory result, was enacted or maintained with discriminatory purpose, or both. *Chisom v. Roemer*, 501 U.S. 380, 404 (1991).

3. The Fourth, Fifth, and Sixth Circuits have adopted a two-element framework by which to evaluate a Section 2 results claim involving the types of practices challenged here: (1) first, the challenged provision “must impose a discriminatory burden,” meaning that it “disproportionately impact[s] minority voters”; and, (2) second, that disproportionate impact must “in part be caused by or linked to social and historical conditions that have or currently produce discrimination against members of the

protected class.” *LWV*, 769 F.3d at 240, 245; *see also Veasey v. Abbott*, No. 14-41127, 2015 WL 4645642 *10 (5th Cir. Aug. 5, 2015); *Ohio Conference of the NAACP v. Husted*, 768 F.3d 524, 554 (6th Cir. 2014), *vacated and remanded on other grounds* 2014 U.S. App. LEXIS 24472 (6th Cir. Oct. 1, 2014). The causal question is not whether the challenged practice standing alone causes the disproportionate effect, but rather whether the practice “interacts with social and historical conditions” to produce an “inequality in the opportunities enjoyed by black and white voters.” *Gingles*, 478 U.S. at 47; *see also Gonzalez v. Arizona*, 624 F.3d 1162, 1193 (9th Cir. 2010), *aff’d sub nom. Arizona v. Inter Tribal Council of Arizona, Inc.*, 133 S. Ct. 2247 (2013). Section 2 obligates states to “eradicat[e] inequalities in political opportunities that exist due to the vestigial effects of past purposeful discrimination.” *Gingles*, 478 U.S. at 69 (citing S. Rep. at 5, 40; H.R. Report No. 967-227, at 31).

4. When assessing both elements, “courts should consider the totality of circumstances.” *LWV*, 769 F.3d at 240 (internal quotations marks omitted); 52 U.S.C. § 10301(b). The Senate Report that accompanied the 1982 amendments to Section 2 guides that totality of circumstances inquiry. It identified nine “typical factors” that can inform a court’s evaluation (the “Senate Report factors”) and “shed light on whether the two elements of a Section 2 claim are met.” *LWV*, 769 F.3d at 240; *see also Gingles*, 478 U.S. at 36-37. The Senate Report factors include:

1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;

3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
6. whether political campaigns have been characterized by overt or subtle racial appeals;
7. the extent to which members of the minority group have been elected to public office in the jurisdiction[;]
- [8.] whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group[; and]
- [9.] whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.

See Gingles, 478 U.S. at 36-37; Senate Report 28-29. No one factor is dispositive and “there is no requirement that any particular number of factors be proved, or that the majority of them point one way or the other.” *LWV*, 769 F.3d at 240 (quoting Senate Report at 29).

5. Section 2, “on its face, is local in nature.” *LWV*, 769 F.3d at 243. It expressly directs courts to assess whether the political processes “*in the State or political subdivision* are not equally open” to minority citizens. 52 U.S.C. § 10301(b) (emphasis added); the Senate Report also repeatedly focuses on “the jurisdiction” or the “political subdivision.” Accordingly, the Section 2 inquiry “is peculiarly dependent upon the facts of each case and requires an ‘intensely local appraisal of the design and impact’ of contested electoral mechanisms.” *Gingles*, 478 U.S. at 79. Section 2 therefore does not

require consideration of whether a practice is lawful (or unlawful) in other states. *See LWV*, 769 F.3d at 243-44.

6. North Carolina's previous voting practices, including the practices altered by HB 589, are "centrally relevant" and "a critical piece of the totality-of-the-circumstances analysis Section 2 requires." *LWV*, 769 F.3d at 242. The Supreme Court has explained that Section 2 requires a "searching practical evaluation of the past and present reality, with a functional view of the political process." *Gingles*, 478 U.S. at 45 (internal quotations marks omitted). This practical evaluation necessarily requires an examination of past practices, including whether the election provisions in question "eliminate[] voting opportunities that used to exist under prior law that African Americans disproportionately used." *LWV*, 769 F.3d at 242.

7. The inquiries under Section 2 and Section 5 of the Voting Rights Act are distinct. "[Section] 5 prevents nothing but backsliding" under its retrogression standard, whereas Section 2 prohibits "discrimination more generally" under its results standard. *Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320, 334-35 (2000). Under the Section 5 retrogression analysis, the focus is on "the position of racial minorities with respect to their effective exercise of the electoral franchise." *Beer v. United States*, 425 U.S. 130, 141 (1976). Thus, Section 5 compares the electoral position of minority citizens after implementation of the practice at issue with the electoral position of minority citizens before the practice was implemented. By contrast, under Section 2, the question is whether, "based on the totality of the circumstances," the challenged provisions result in minority voters having "less opportunity *than other members of the electorate* to

participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 1030(b) (emphasis added); *see also LWW*, 769 F.3d at 238; Senate Report at 29. Thus, Section 2 compares the electoral position of minority citizens under the practice at issue with the electoral position of white citizens under that practice.

8. A Section 2 case looks forward—to “what the right to vote ought to be.” *Bossier Parrish*, 528 U.S. at 334. In many Section 2 cases, the standard, practice, or procedure that affords all citizens an equal opportunity to participate will be one that has never before been implemented by the jurisdiction because the jurisdiction has historically *never* provided minority citizens with the equal opportunity to participate and elect representatives of their choice. Put somewhat differently, Section 2 does not require that plaintiffs identify a preexisting practice within the jurisdiction to serve as a “baseline” against which the challenged practice should be measured. That being said, the Supreme Court in *Bossier Parish* made clear that where a Section 2 claim alleges that a change to an existing practice violates Section 2, a court *can* look to the prior practice as part of the results test inquiry. In this case, the fact that North Carolina successfully used SDR, OOP, 17 days of early voting, and preregistration over several election cycles makes these practices highly appropriate to use an illustrative example because, unlike a hypothetical, the feasibility of, and results under, these practices are known and documented. *Id.*

9. Section 2 forbids “abridgement” of the right to vote as well as outright “denial,” 52 U.S.C. § 10301(a). Therefore, voter turnout cannot be the sole measure of whether a Section 2 violation has occurred because “nothing in Section 2 requires a

showing that voters cannot register or vote under any circumstance.” *LWV*, 769 F.3d at 243.

10. The Fourth Circuit directed that “a searching practical evaluation” of the “totality of the circumstances” requires an examination of the “sum of [the] parts” of a challenged law “and their cumulative effect on minority access to the ballot box.” *LWV*, 769 F.3d at 241-42; *see also* *Clingman v. Beaver*, 544 U.S. 581, 607-08 (2005) (O’Connor, J., concurring in part and concurring in the judgment) (“A panoply of regulations, each apparently defensible when considered alone, may nevertheless have the combined effect of severely restricting participation and competition.”).

A. The Challenged Provisions of HB 589 Violate Section 2’s Results Tests

11. Following careful consideration of the evidence presented by the parties, the Court concludes that the challenged provisions of HB 589 “impose a discriminatory burden” that “disproportionately impact[s] minority voters,” and that that burden is “in part [] caused by or linked to social and historical conditions that have or currently produce discrimination against members of the protected class.” *LWV*, 769 F.3d at 240, 245. Thus, HB 589 “results in a denial or abridgement of the right of [African Americans and Hispanic citizens] to vote on account of race or color, or [membership in a language minority group],” in violation of Section 2 of the Voting Rights Act.

12. Section 2 aims to ensure, to the extent possible, that the current effects of state-sponsored, as well as private, racial discrimination are not incorporated into the voting process. Official and private discrimination in North Carolina have worked together to create current racial disadvantages, and it is not necessary for the court to

disentangle these or to find that official discrimination caused all of the disparities. *See, e.g., Gingles*, 478 U.S. at 64-65; *Gomez v. City of Watsonville*, 863 F.2d 1407, 1418 (9th Cir. 1998). Nonetheless, in this case, Plaintiffs have more than sufficiently tied current disadvantages suffered by African Americans and Latinos in North Carolina to official racial discrimination by the State and its subdivisions.

13. Because African Americans and Latinos in North Carolina disproportionately relied on SDR, its elimination bears more heavily on them than on white voters. The evidence also establishes that the ability of African Americans and Latinos to register on a more equal basis with whites using SDR is “linked to and caused in part by” the impact of social and historical conditions on the lives of these voters. As laid out in more detail in the proposed findings of fact, social and historical conditions in North Carolina—such as disproportionately lower levels of education, income, and access to transportation—make it more difficult for African Americans and Latinos than whites to navigate the registration process and meet a deadline 25 days in advance of the election.

14. The record establishes that African Americans are highly motivated to vote and there is no evidence to suggest that African Americans are less motivated to vote than whites. Thus, lack of motivation cannot explain disparities in African American and white ability to meet the 25-day registration deadline.

15. That African Americans have attained fragile parity with whites in registration by using SDR does not mean that African Americans will be able to maintain that parity without SDR. The evidence points to the conclusion that African Americans

who are now registered are more at risk of losing their registration status than whites because of higher residential mobility, racial disparities in literacy, and other factors related to the State's history of racial discrimination. Moreover, Latinos are not yet close to registration parity with whites and need SDR to ensure continued progress toward this goal.

16. As set out in the findings of fact, no alternative means of registration is available that will enable African Americans and Latinos to offset the loss of SDR. All other means of registration have been available in North Carolina at least since the 1990s and did not enable equal access for African Americans and Latinos prior to SDR.

17. As the Fourth Circuit has held, the fact that the National Voter Registration Act "sets a floor" of 30 days for state registration systems does not answer the question whether the State's elimination of SDR violates Section 2. *LWV*, 769 F.3d at 243. The NVRA expressly provides that nothing in the act "shall supersede, restrict, or limit the application of the Voting Rights Act of 1965." 52 U.S.C. § 20510(d)(1); *see id.* § 20510(d)(2) ("Nothing in this chapter authorizes or requires conduct that is prohibited by the Voting Rights Act. . . .").

18. African American voters in North Carolina have consistently used early voting at higher rates than white voters. As laid out in detail in the findings of fact, they have done so in part as a response to social and historical conditions in North Carolina—such as disproportionately lower levels of education, income, and access to transportation, and a lack of confidence in an electoral process that long excluded them from full participation. HB 589's significant reduction of the early voting period

interacts with those social and historical conditions in North Carolina to disproportionately burden black voters by reducing options and increasing congestion—both consequences to which black voters, due to social and historical conditions, are less able than white voters to adjust.

19. African American and Latino voters in North Carolina disproportionately cast out-of-precinct provisional ballots. As laid out in detail in the findings of fact, this disproportionate use is in part a product of social and historical conditions, including disproportionately lower levels of education, income, and access to transportation. Accordingly, repealing the counting of OOP ballots will disproportionately burden African American voters as opposed to white voters.

20. HB 589's provisions that provide for the expansion of poll observers, challengers and qualification of challengers in polling locations will cause a "chilling effect" and disproportionately burden voters of color, as a result of North Carolina's history of discrimination, the cumulative impact of the provisions of HB589, and the most recent evidence of racial targeting and intimidation of African Americans and Latinos voting strength. Indeed, the Fourth Circuit has indicated its skepticism that no challengers or poll observers will abuse their statutory power in the future. *LWV*, 769 F.3d at 237.

21. African American and Latino voters in North Carolina disproportionately use pre-registration. As laid out in the findings of fact, because of the differing age distributions of whites and minorities in North Carolina, the preregistration provision had disproportionately benefitted African Americans and Latinos and accordingly its repeal

will disproportionately burden African American and Latino citizens. In particular, as spelled out in the findings of fact, because the size of the eligible Latino voting population is expected to dramatically increase, the elimination of pre-registration for 16- and 17-year-olds will particularly diminish the political impact of the explosive growth of North Carolina's Hispanic population.

22. The evidence in this case established the presence of the Senate Report factors most relevant to concluding that the challenged provisions of HB 589 result in minority voters having less opportunity than other citizens to participate in the political process.

23. This Court has already found that “North Carolina . . . has an unfortunate history of official discrimination in voting and other areas that dates back to the Nation’s founding. This experience affects the perceptions and realities of black North Carolinians to this day. Simply put, in light of the historical struggle for African Americans’ voting rights, North Carolinians have reason to be wary of changes to voting laws.” (Senate Rpt. Factor 1). *North Carolina State Conf. of the NAACP v. McCrory*, 997 F. Supp.2d 322, 349 (M.D.N.C. 2014).

24. This Court has concluded that “[b]lack citizens of North Carolina currently lag behind whites in several key socioeconomic indicators, including education, employment, income, access to transportation, and residential stability.” (Senate Rpt. Factor 5) *McCrory*, 997 F. Supp. 2d at 348. It has further found that these “current socioeconomic disparities” result in part from “North Carolina’s history of official

discrimination against blacks.” *Id.* at 366. As set forth in the findings of fact, Latino voters lag behind whites in these key indicators, as well.

25. Defendants have conceded the existence of racially polarized voting, stating: “Defendants admit that past court decisions in the area of voting rights speak for themselves and that racially polarized voting continues to exist in North Carolina.” PX672 ¶79 (Defs.’ Answer to U. S. Compl.); PX47 ¶¶ 24, 28 (Lawson PI Decl.). In addition, Defendants acknowledged in other recent litigation that there is a “pervasive pattern” of racial polarization in North Carolina elections. (Senate Rpt. Factor 2). *Dickson v. Rucho*, 2013 WL 3376658 at *18 (N.C. Super. Ct. July 8, 2013); *see also* PX46 at 49-50 (Kousser Rpt.).

26. Overt and subtle racial appeals in political campaigns in North Carolina have both responded to and exacerbated the racial polarization present in its elections (Senate Rpt. Factor 6).

27. Due, in part, to racially polarized elections in North Carolina, elected officials whose electoral success does not depend on minority voters’ support have ignored their “distinctive group interests that are capable of aid or amelioration by government.” *Gingles v. Edmisten*, 590 F. Supp. 345, 355 (E.D.N.C. 1984) (Senate Rpt. Factor 8). That non-responsiveness has continued to the present.

28. Moreover, North Carolina and its subjurisdictions have routinely put in place voting practices or procedures that have enhanced the opportunity for discrimination against African American voters. *See e.g., Gaston Cnty. v. United States*, 395 U.S. 285, 293-97 (1969) (sustaining a district court’s finding that a North Carolina

county's "use of the literacy test, coupled with its racially segregated and unequal school system, discriminatorily deprived Negroes of the franchise" and "perpetuated inequities"); *Gingles*, 478 U.S. 30 (1986); *United States v. Onslow Cnty.*, 683 F. Supp 1021 (E.D.N.C. 1988); *Johnson v. Halifax Cnty.*, 594 F. Supp. 161 (E.D.N.C. 1984) (Senate Rpt. Factor 3). The specific facts regarding the history and enactment of the challenged provisions of HB 589 are also evidence of Senate Factors 3 and 8. While the implementation of early voting, SDR, and OOP voting were embraced in large numbers by African Americans and were effective tools in helping to reverse the persistent disparities in registration and participation, it is precisely these practices that HB 589 targeted, which also enhanced the opportunity for discrimination against African American voters. *See also Veasey*, 2015 WL 4645642 at *16 (finding that the rejection of efforts to ameliorate the challenged voter ID law's impact on the minority community supported a conclusion of lack of responsiveness).

29. As described in the findings of fact, the primary justifications proponents of HB 589 offered for enacting the challenged provisions are highly tenuous and unsupported by the evidence. The rationales offered for the law are so unpersuasive as to suggest that they are pre-textual and constitute an additional Senate Report factor bolstering the conclusions that the challenged provisions of HB 589 violate Section 2. (Senate Rpt. Factor 9). Non-tenuous rationales, at a minimum, must be more than "merely imaginable." *LWV*, 769 F. 3d at 246.

30. Finally, if proponents' motive was to achieve partisan advantage or incumbent protection, this rationale is also tenuous. Unlike redistricting, which is a

political act that may consider these factors to a degree, a policy to make it harder to vote because those affected are not likely to vote for policymakers or their party can never be legitimate. *See, e.g., Carrington v. Rash*, 380 U.S. 89, 94 (1965) (“‘Fencing out’ from the franchise a sector of the population because of the way they may vote is constitutionally impermissible.”)

31. In conclusion, the totality of the circumstances demonstrates that the challenged provisions of HB 589 result in African Americans and Latinos having an unequal opportunity to participate in the political process, and thus denies and abridges the right to vote on account of race, color, or membership in a language minority group in violation of Section 2.

II. The Challenged Provisions Violate Section 2 and the Fourteenth and Fifteenth Amendments Because They Were Adopted with a Discriminatory Purpose

32. In addition to the results test, Section 2 of the Voting Rights Act forbids adopting a voting law or practice for a racially discriminatory purpose. *See, e.g., Garza v. Cnty. of L.A.*, 918 F.2d 763, 766 (9th Cir. 1990); Senate Report at 27. The Fourteenth and Fifteenth Amendments to the Constitution similarly prohibit the implementation of voting practices enacted with a racially discriminatory purpose. *Bossier Parish*, 520 U.S. at 481.

33. The evidence before the Court all points in the same direction: that the challenged provisions of HB 589 were adopted in part for a discriminatory purpose. This evidence includes the presence of multiple Senate Report factors, the racial impact of the changes, the legislators’ knowledge of that impact, the partisan motivation to limit the

methods of registering and voting used by African Americans, the tenuousness of the alternative rationales offered for the statute, the legislative process (including the legislature developing a “full bill” in secret while waiting for the *Shelby* decision), and the evidence that HB 589 hits African American Democrats harder than it hits white Democrats.

34. Although this Court has already concluded that the challenged provisions of HB 589 violate the results test of Section 2, it must still determine whether the challenged provisions of HB 589 were enacted with a discriminatory purpose. The Plaintiffs’ prayers for relief include a request that a preclearance requirement be ordered under Section 3(c) of the Voting Rights Act and that election observers be authorized under Section 3(a) of the Act as part of a final judgment, which require a finding of discriminatory purpose.¹⁴ 52 U.S.C. § 10302.

35. In order to prevail on a claim of racially discriminatory purpose, the evidence must demonstrate only that discriminatory purpose was *one* of the motivating factors underlying the enactment. The evidence need not show “that the challenged action rested solely on racially discriminatory purposes” or that the racially discriminatory purpose “was the ‘dominant’ or ‘primary’ one.” *Village of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 265 (1977).

36. Discriminatory purpose may be proved by direct evidence or circumstantial evidence. *Rogers v. Lodge*, 458 U.S. 613, 618 (1982). It does not require proof of

¹⁴ Courts may authorize federal observers as part of a temporary or interlocutory order without the necessity of such a finding. 52 U.S.C. § 10302(a).

invidious racial animus. All that is required is a showing of an intent to disadvantage minority citizens. *Garza*, 918 F.2d at 778 & n.1 (Kozinski, J., concurring and dissenting in part); *see also LULAC v. Perry*, 548 U.S. at 440 (noting that taking away political opportunity just as a minority group is about to exercise it “bears the mark of intentional discrimination that could give rise to an equal protection violation”).

37. Evidence regarding a particular decisionmaker’s individual intent in seeking to enact a voting change is relevant evidence in a purpose analysis, particularly where that decision-maker played a key role in the enactment of the voting change. *See, e.g., Busbee v. Smith*, 549 F. Supp. 494, 500 (D.D.C. 1982) (three-judge court), *aff’d mem.* 459 U.S. 1166 (1983).

38. Because it is unlikely that proponents motivated by a discriminatory purpose would announce that purpose publicly, public statements by legislative proponents of a challenged law articulating an ostensibly permissible intent should not be accorded any special weight. *Smith v. Town of Clarkton*, 682 F. 2d 1055, 1064 (4th Cir. 1982).

39. A common framework for analyzing whether circumstantial evidence is probative of discriminatory purpose was established by the Supreme Court in *Arlington Heights*, which specifies that “an important starting point” for assessing discriminatory purpose is “the impact of the official action[, *i.e.*,] whether it bears more heavily on one race than another.” 429 U.S. at 266 (internal quotation marks omitted). Additional evidentiary sources include, but are not limited to: (a) “[t]he historical background of the decision . . . particularly if it reveals a series of official actions taken for invidious

purposes”; (b) “the specific sequence of events leading up to the challenged decision;”(c) “[d]epartures from the normal procedural sequence”; (d) “[s]ubstantive departures” from what might typically might be expected, “particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached”; (e) “[t]he legislative . . . history” of the enactment; and (f) trial testimony by members of the decisionmaking body “concerning the purpose of the official action.” *Id.* at 266-68.

40. “Once racial discrimination is shown to have been a ‘substantial’ or ‘motivating’ factor behind enactment of the [challenged] law, the burden shifts 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).

41. In addition, in *Rogers v. Lodge*, the Supreme Court held that courts can rely on the evidentiary factors later listed in the Senate Report to find that a challenged practice has been adopted or maintained for a racially discriminatory purpose. *See* 458 U.S. 613, 620-21 (affirming that district court applied the proper legal standard when it found discriminatory purpose based on the evidentiary factors outlined in *Zimmer v. McKeithen*, 485 F.2d 1297 (5th Cir. 1973), and derived from *White v. Regester*, 412 U.S. 755 (1973)). In light of the conclusions of law regarding the Section 2 results test, the Senate Factors in this case point to an improper motive that targeted the methods of registering and voting disproportionately relied upon by African American voters.

42. The evidence in this case supports a finding of discriminatory purpose, whether under the *Arlington Heights* framework, or consideration of the Senate Factors, as in *Rogers v. Lodge*.

A. The Legislature Intended to Minimize Minority Political Participation

43. The evidence demonstrates that HB 589 was motivated, at least in part, by an intent to minimize the opportunity of African Americans and, increasingly, Latinos to participate in the political process. The facts in this case bear a striking resemblance to those in *LULAC v. Perry*, 548 U.S. 399 (2006), where the Supreme Court affirmed a finding of a violation of Section 2 against a backdrop of “a troubling blend of race and politics” in the State of Texas. *Id.* at 442. The evidence in that case showed that, on the eve of Hispanic voters gaining potential control over a particular congressional district, the Texas Legislature made voting changes to lessen that power and prevent Hispanic voters from threatening the re-election prospects of a Representative who was a member of the party that controlled the Legislature. *Id.* at 423-25, 438-40 (finding that the changes to the congressional district “undermined the progress of a racial group that has been subject to significant voting-related discrimination and that was becoming increasingly politically active and cohesive” and that the “State took away the Latinos’ opportunity because Latinos were about to exercise it”). Similarly, the evidence in this case showed that in HB 589, the General Assembly responded to increased black political power and the growing Latino voting population by making voting changes to lessen that power and prevent African American and Latino voters from threatening the political prospects of candidates who are members of the party that controlled the General Assembly.

44. In the specific context of North Carolina, a person’s race is a better predictor of how he or she will vote than even formal party identification, and the

majority leaders in the North Carolina legislature understood that they would have difficulty retaining their majorities if minority voters continued to register and vote in numbers approaching their 2008 and 2012 performance.

45. Supporters of HB 589 were well aware of the entirely foreseeable disproportionate impact of the challenged provisions and the voter photo ID provisions would have on minority voters, both through data they specifically requested and data provided to them during the truncated floor debates. Despite this evidence, supporters never substantively addressed concerns that the challenged provisions would harm African American and Latino voters.

46. Both individually and collectively, all of the challenged provisions bear more heavily on African Americans and Latinos. For example, African American voters were more likely than their white counterparts to rely on early voting, and African Americans and Latinos were more likely to use SDR, and to cast OOP provisional ballots. Accordingly, the Court can draw the “normal inferences to be drawn from the foreseeability of defendants’ action.” *See McMillian v. Escambia Cnty.*, 748 F.2d 1037, 1047 (5th Cir. 1984) (quoting Senate Report at 27 n. 108); *see also Washington v. Davis*, 426 U.S. 229, 253 (1976) (Stevens J, concurring) (“[N]ormally the actor is presumed to have intended the natural consequences of his deeds.”).

47. Regarding the historical background and sequence of events leading up to passage of HB 589, North Carolina has a long and repeated history of cutting back on African American voting strength after a surge in African American political power. HB 589 is only the most recent example.

48. After a decade of expanded opportunities to vote in North Carolina, the legislature in early 2013 reversed course, initially with a proposal for a more limited voter photo ID law. On June 25, 2013, the Supreme Court decided *Shelby Cnty. v. Holder*, 133 S. Ct. 2612 (2013), which struck down the formula used to determine which jurisdictions were subject to preclearance. Senator Tom Apodaca told the press that the legislature could now move forward with a “full bill,” without revealing publicly the specific provisions would be included in the full bill.

49. Following *Shelby*, the process adopted by the legislature included multiple “[d]epartures from the normal procedural sequence.” *Arlington Heights*, 429 U.S. at 267. For example, the General Assembly rushed the bill through the Senate and House in only three days, without sufficient time or opportunity to assess on the record the likely impact of the bill. The changes included in HB 589 were not simple amendments to existing law, but dramatic overhauls to the election code involving the elimination of practices hundreds of thousands of voters were using. Other departures included the referral of an elections bill to the Senate Rules Committee rather than the Judiciary Committee, and the failure to hold a conference committee vote on a bill that reflected major changes to an important piece of legislation. In addition, the legislature took pains to hide its process and its motivations, offering rationales that do not hold up to scrutiny, as discussed earlier in the findings of fact. Every African American in the General Assembly voted against the passage of HB 589.

50. The rationales provided by proponents of HB 589 at the time of enactment were pretextual and designed to hide their true motives. Post hoc rationales given after

enactment cannot be considered in determining the intent of a legislative enactment. *Veasey v. Abbott*, 2015 WL 4645642, at *7-8 (5th Cir. Aug. 5, 2015). As set out in the findings of fact, the few reasons offered by sponsors and proponents are either nonexistent (OOP, preregistration, challengers), “merely imaginable” (addressing fraud and risk of fraud), conjectural and contrary to known facts (reducing costs, reducing administrative havoc, or restoring public confidence), or out of alignment with the means the legislation used (uniformity)

51. If, as hinted by Representative Lewis, the actual motive for HB 589 was partisan or political, this does not make targeting African Americans and Latinos any less a purposefully, racially discriminatory intent. The Constitution and Section 2 prohibit racial intent in the means to attain a goal, as well as in the goal itself. Thus, making it harder for African Americans and Latinos to vote as a partisan strategy is still a racially discriminatory purpose.

52. In sum, the evidence demonstrates that, more likely than not, HB 589 was enacted in part with a discriminatory purpose, to lessen the political power of African American voters, by attacking the methods of registering and voting disproportionately used by African Americans. The evidence shows that the legislature adopted HB 589 because of, and not simply in spite of, its discriminatory impact on minority voters. Defendants have failed, under the *Arlington Heights* framework, to meet their burden to

show that this law, with these features impacting minority voters, would have been adopted had the General Assembly lacked a racial motivation.¹⁵

III. HB 589 Unduly Burdens Voters in Violation of Fourteenth and Fifteenth Amendments

53. The Fourteenth Amendment prohibits any encumbrance on the right to vote that is not adequately justified by the State's asserted interests. *See Anderson v. Celebrezze*, 460 U.S. 780, 788–89 (1983); *Burdick v. Takushi*, 504 U.S. 428, 433–34 (1992).

54. To make this determination, courts must apply a balancing test, set forth in *Anderson*, 460 U.S. at 788–89, and *Burdick*, 504 U.S. at 433–34, which requires a reviewing court to “weigh ‘the character and magnitude of the asserted injury to the rights . . . that the plaintiff seeks to vindicate’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789); *see also Obama for Am. v. Husted*, 697 F.3d 423, 433 (6th Cir. 2012) (“*OFA IP*”).

¹⁵ The evidence in this case therefore differs from the considerations addressed by the Fifth Circuit in *Veasey v. Abbott*, 2015 WL 4645642 (Aug. 5, 2015). There, the Fifth Circuit vacated and remanded the district court’s finding on discriminatory purpose because the court relied too extensively on Texas’ history of enacting racially discriminatory measures. *Id.* at *6. Here, the adoption of the challenged provisions of HB 589 occurred against a historical backdrop of repeated efforts in North Carolina to counteract growing African American electoral strength. More importantly, the specific legislative process at issue in HB 589 represented a troubling mix of race and politics, where the legislative majority targeted the methods of registering and voting disproportionately used by African Americans, at a time when rising black political strength could threaten the ability of Republicans to retain political power in a state that was increasingly becoming a political battleground.

55. The *Anderson-Burdick* framework is a “flexible” sliding scale, in which the state’s asserted rationales for instituting a restriction that imposes burdens on voters are subject to a *sliding scale* of scrutiny, in which “the rigorousness of [the court’s] inquiry” increases with the severity of the burden. *Burdick*, 504 U.S. at 434. At the two extremes, strict scrutiny is applied to severe restrictions on the right to vote, and rational basis review is reserved for regulations that impose no or merely incidental burdens. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 190, 202 (2008) (controlling opinion). The majority of cases that fall in between are “subject to ad hoc balancing,” such that “a regulation which imposes only moderate burdens could well fail the *Anderson* balancing test when the interests that it serves are minor, notwithstanding that the regulation is rational.” *McLaughlin v. N.C. Bd. of Elections*, 65 F.3d 1215, 1221 & n.6 (4th Cir. 1995).

56. Where a heightened form of scrutiny applies, the court must probe the “legitimacy and strength” of the state’s asserted justifications, taking into account “the extent to which those interests make it necessary to burden the plaintiff’s rights.” *Anderson*, 460 U.S. at 789. To satisfy this level of scrutiny, the state’s proffered interest must be logically linked to the voting restriction, sufficiently supported by actual *evidence*, and important enough to outweigh the burden imposed on the right to vote. *See, e.g., OFA II*, 697 F.3d at 434; *see also McLaughlin*, 65 F.3d at 1221 n.6.

57. When assessing the severity of the burden, courts must consider the effects of the restriction on those voters who are *actually* affected by it. *See, e.g., Crawford*, 553 U.S. at 198, 201 (controlling opinion) (in assessing severity of burdens imposed by voter

ID law, holding that relevant burdens “are those imposed on persons who are eligible to vote but do not possess a current photo identification” and “indigent voters”); *Anderson*, 460 U.S. at 793-94 (ballot access burden “that falls unequally on new or small political parties or on independent candidates . . . discriminates against those candidates and—of particular importance—against those voters”); *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 666 (1966) (observing that poll taxes, even if it not burdensome for average voter, violate Fourteenth Amendment because of burdens they impose on poor voters); *cf. Los Angeles v. Patel*, 135 S. Ct. 2443, 2451 (June 22, 2015) (facial validity of a statute must be assessed by focusing on cases in which the law applies, not on those in which the law is irrelevant). Thus, a law that affects a subgroup of voters that constitute only a relatively modest percentage of total voters may nevertheless be sufficient to trigger heightened scrutiny. *See Anderson*, 460 U.S. at 784-86; *LWV*, 769 F.3d at 244 (“even one disenfranchised voter—let alone several thousand—is too many”); *Ne. Ohio Coal. for Homeless v. Husted*, 696 F.3d 580, 593 (6th Cir. 2012) (law likely unconstitutional even though it affected only 0.248% of total ballots cast). Where, as here, plaintiffs challenge multiple, simultaneously-imposed voting restrictions, the effects must be measured cumulatively, not in isolation, and must be justified with evidence of correspondingly weighty interests. *See, e.g., Pisano v. Strach*, 743 F.3d 927, 933 (4th Cir. 2014) (“[W]e evaluate the combined effect” of ballot access rules); *Wood v. Meadows*, 207 F.3d 708, 713 (4th Cir. 2000) (considering other statutory provisions when analyzing constitutionality of filing deadline).

A. HB 589 Impose Substantial to Severe Burdens on the Right to Vote

58. Plaintiffs have established that the challenged provisions of HB 589, independently and cumulatively, impose burdens ranging from substantial to severe on North Carolina voters, warranting heightened scrutiny under *Anderson-Burdick*.

59. The repeal of SDR has resulted and will continue to result in the *complete disenfranchisement* of thousands of eligible voters by removing a vital failsafe that protects voters from errors outside their control and eliminates registration obstacles faced primarily by transient, low-income, and young voters as laid out in the detailed findings of fact. This burden under the *Anderson-Burdick* framework is severe.

60. As detailed in the findings of fact, because voting is habitual, the disruption caused by eliminating seven days of early voting raises the cost of voting for the substantial number of North Carolina voters who had relied on these now-eliminated early voting days, especially low income voters who will find it particularly difficult to vote in the more compressed early voting time period. The elimination of early voting days will also exacerbate congestion on the remaining early voting days and on Election Day, increasing waiting times to vote, especially in higher turnout presidential years, a substantial obstacle particularly for voters with inflexible schedules and responsibilities. These increased costs on voting and waiting times are substantial burdens for the many North Carolina voters who, for over a decade, have relied on a 17-day early voting period. *See, e.g., Florida v. United States*, 885 F. Supp. 2d 299, 328-29 (D.D.C. 2012) (reducing early voting period from discretionary range of 12-14 days to 8 days constitutes a “materially increased burden on African-American voters’ effective exercise of the

electoral franchise,” which “would impose a sufficiently material burden to cause some reasonable minority voters not to vote”).

61. Because OOP provisional ballots will not be counted at all, HB 589’s prohibition on the counting of OOP provisional ballots results in disenfranchisement—a severe burden—on voters who try to avail themselves of this mechanism. The only way to mitigate the effect of this burden—*i.e.*, managing somehow to get to the assigned precinct before poll closing—is not realistically available for voters who appear late in the day, who lack transportation, and who are directed to the wrong precinct by poll workers. The burden imposed by HB 589’s prohibition on counting OOP ballots is thus severe.

62. As detailed in the findings of fact, the elimination of preregistration and mandatory high school voter-registration drives will force tens of thousands of young North Carolinians each year to register to vote in a more burdensome manner, will increase confusion, and will result in a reduction in youth registration (particularly among African American and Latino citizens) and in turnout. The burden from the elimination of these programs is severe.

63. Plaintiffs have also established that prior to the enactment of HB 589, CBOEs occasionally used their discretion to keep polling locations open for an extra hour and thereby reduced the burdens on voters at the polling locations where this option was utilized. The removal of this discretion will thus burden some voters.

B. Justifications Proffered Do Not Justify the Substantial Burdens

a) Repeal of SDR

64. The State’s justifications for the repeal of SDR—a purported fear that a same-day registrant might fraudulently register and cast a vote without enough time for the mail verification to complete before the ballot is counted and administrative burden—do not justify the burdens it imposes.

65. As detailed in the findings of fact, the inability to verify a voter’s registration status does *not* mean that the voter’s ballot is fraudulent, as mail to a voter’s registration address can be returned to the sender for a host of benign reasons, such as administration or postal worker error or an intervening change in residence caused by graduation or deployment, among other reasons. Moreover, North Carolina law explicitly contemplates the counting of unverified-address ballots in numerous situations, ranging from voters who registered too close to the election to complete initial mail verification, to voters who cast provisional ballots on Election Day because of an unreported move. Thus, the justification for repealing SDR based on a desire to avoid counting unverified-address ballots is inconsistent with other provisions of North Carolina law and does not outweigh the severe burdens on voters.

66. The State’s claim that implementing SDR is an administrative burden not only is contradicted by live testimony from election administrators, but is, in any event, insufficient to justify the state action given the heightened scrutiny applicable in this case. *See Carrington* 380 U.S. at 96 (“‘The right . . . to choose,’ *United States v. Classic*, 313 U.S. 299, 314, that this Court has been so zealous to protect, means, at the least, that

States may not casually deprive a class of individuals of the vote because of some remote administrative benefit to the State.”); *see also* *Beaumont v. Fed. Election Comm'n*, 278 F.3d 261, 274-75 (4th Cir. 2002), *rev'd on other grounds*, 539 U.S. 146 (2003) (“Although administrative convenience constitutes a legitimate state interest where rational basis scrutiny of regulatory enactments is involved, such convenience is insufficient to justify state action that triggers any level of heightened scrutiny.”).

b) Reduction in early voting

67. Defendants’ proffered justifications for the cut to early voting—uniformity and cost savings to the SBOE or CBOES— do not counterbalance the burdens the early voting cut places on voters. As laid out in the findings of fact, both an interest in statewide “uniformity” and cost savings are factually untenable. As such, these justifications do not outweigh the burdens imposed on voters.

c) Elimination of OOP provisional voting

68. Defendants’ justifications for the ban on counting OOP provisional ballots, *i.e.*, that doing so is an administrative burden and causes mass confusion, overwhelming delays, or fraud, do not satisfy the heightened scrutiny required for the burden the ban imposes.

69. A claim of administrative burden is not, on its own, sufficient to survive any level of heightened scrutiny. *See Carrington*, 380 U.S. at 96; *Beaumont v. Fed. Election Comm'n*, 278 F.3d at 274-75. In any event, HAVA requires North Carolina to provide provisional ballots to voters who assert they are eligible in federal elections, and the State has not and cannot claim that such rules add a burden. Insofar as the State’s

administrative burden arguments are centered on *counting* such ballots, the State has previously pointed out to this Court, counting is “easy,” 10/7/14 Status Conf. Tr. 6:16-7:9 (Peters), and has provided no evidence that future elections “will be more onerous than the numerous other elections that have been successfully administered.” *OFA II*, 697 F.3d at 433. Rather, as set forth in the findings of fact, the discarding of OOP ballots results in marginal administrative savings or efficiencies, because the State remains legally required to provide OOP voters with provisional ballots and to subsequently review those ballots, regardless of whether they will ultimately be counted.

70. The State’s proffered interest in averting mass confusion, overwhelming delays, or fraud, also fails heightened scrutiny as the State has not offered any evidence that counting OOP ballots has ever caused such problems.

d) Elimination of preregistration

71. There was no material justification for the elimination of preregistration. While one senator claimed that eliminating preregistration would reduce confusion, the evidence overwhelmingly establishes that the elimination of preregistration increased confusion. There also was no significant burden associated with the administration of preregistration. Moreover, no rationale has been provided for the elimination of mandatory high school voter-registration drives—nor is one evident. Thus, any state interest in the elimination of preregistration and mandatory high school voter-registration drives is far outweighed by the burdens imposed by the elimination of those programs.

e) *Elimination of CBOE discretion*

72. The State failed to supply any justification for the removal of CBOE discretion to extend polling hours. Because even a “slight burden [on voting] . . . must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation,” *see Crawford*, 553 U.S. at 191 (controlling opinion) (internal quotation marks omitted), this change in the law must be invalidated.

73. In conclusion, particularly when evaluated against the cumulative burdens that the challenged provisions of HB 589 impose, the State’s justifications cannot survive the heightened scrutiny that the *Anderson-Burdick* framework demands. Accordingly, the challenged provisions of HB 589 violate the Fourteenth Amendment.

IV. Several Provisions of HB 589 Violate the Twenty-Sixth Amendment

74. Under the 26th Amendment, “[t]he right of citizens of the United States, who are eighteen years of age or older, shall not be denied or abridged by . . . any State on account of age.” The language of that amendment is modeled on that of the 15th and 19th Amendments, *see* S. Rep. No. 92-26 at 2 (1971), because the framers of the 26th Amendment sought not only to grant the right to vote to citizens between the ages of 18 and 20 but also to ensure “that citizens who are 18 years of age or older shall not be discriminated against on account of age” in the voting context. 117 Cong. Rec. 7534 (statement of Rep. Richard Poff). The text of the 26th Amendment serves that broad anti-discriminatory purpose by proscribing the abridgement, as well as the denial, of the right to vote. *See Jolicoeur v. Mihaly*, 5 Cal. 3d 565, 571, (Cal. 1971) (“The word ‘abridge’ means diminish, curtail, deprive, cut off, reduce.”).

75. The 26th Amendment's broad scope reflects the historical context in which it was enacted. "America's youth entreated, pleaded for, demanded a voice in the governance of this nation. . . . And in the land of Vietnam they lie as proof that death accords youth no protected status." *Jolicoeur*, 5 Cal. 3d at 572-73. The amendment's backers argued "that the frustration of politically unemancipated young persons, which had manifested itself in serious mass disturbances, occurring for the most part on college campuses, would be alleviated and energies channeled constructively through the exercise of the right to vote." *Walgren v. Howes*, 482 F.2d 95, 100-01 (1st Cir. 1973). Accordingly, "[t]he goal was not merely to empower voting by our youths but was affirmatively to encourage their voting, through the elimination of unnecessary burdens and barriers, so that their vigor and idealism could be brought within rather than remain outside lawfully constituted institutions." *Worden v. Mercer Cnty. Bd. of Elections*, 61 N.J. 325, 345-46 (1972); accord *Jolicoeur*, 5 Cal. 3d at 575 (the Senate Report for SJR 7, later enacted as the 26th Amendment, "indicates that Congress . . . disapproved of . . . treatment . . . that it [feared] would give youth 'less of a sense of participation in the election system' and 'might well serve to dissuade them from participating in the election,' a result inconsistent with the goal of encouraging 'greater political participation on the part of the young'") (quoting S. Rep. 92-26, 1971 U.S.C.C.A.N. 362).

76. Consistent with its broad language and history, courts interpreting the 26th Amendment have explained that it guards against both blatant and subtle forms of discrimination. See *Jolicoeur*, 5 Cal. 3d at 571 ("The [26th] Amendment . . . 'nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous

procedural requirements which effectively handicap exercise of the franchise . . . although the abstract right to vote may remain unrestricted[.]” (quoting *Lane v. Wilson*, 307 U.S. 268, 275 (1939) (15th Amendment case)); see also *Walgren v. Bd. of Selectmen*, 519 F.2d 1364, 1367-68 (1st Cir. 1975) (no 26th Amendment violation where “defendants acted in good faith in a crisis atmosphere,” but court “would not wish the end result of this . . . litigation to be construed as authority for setting critical election dates during college recesses in communities having a very large if not majority proportion of students who are also eligible voters in the 18-20 year age group, without a showing of some substantial justification”); *Colo. Project-Common Cause v. Anderson*, 178 Colo. 1, 8 (1972).

77. HB 589 is directly at odds with the purpose of the 26th Amendment. The elimination of preregistration and mandatory high school voter-registration drives, SDR, OOP voting, and CBOE discretion to extend polling hours and the reduction in the early voting period plainly do not encourage youth voting “through the elimination of unnecessary burdens and barriers, so that [youth voters’] vigor and idealism c[an] be brought within rather than remain outside lawfully constituted institutions.” *Worden*, 61 N.J. at 345-46. To the contrary, the evidence demonstrates that these changes to North Carolina election law were enacted, at least in part, with the intent to discriminate against young voters. The challenged provisions violate the 26th Amendment.

V. Remedy

78. For the reasons set forth, this Court therefore enters judgment in favor of Plaintiffs by (a) declaring the relevant challenged provisions of HB 589 (found in parts

11, 12, 16, 19, 20, 25, 33, 49) violate Section 2, and the Fourteenth, Fifteenth, and Twenty-Sixth Amendments to the U.S. Constitution; (b) permanently enjoining the challenged provisions of HB 589; (c) authorizing the appointment of Federal observers, pursuant to Section 3(a) of the Voting Rights Act; (d) retaining jurisdiction and subjecting North Carolina to a preclearance requirement pursuant to Section 3(c) of the Voting Rights Act;¹⁶ and (e) granting other such relief that may be just and proper.

79. Pursuant to Section 3(c), the State must submit voting changes adopted or implemented by Defendants for preclearance for a 10-year period, beginning with the filing of the United States' complaint on September 30, 2013. *See* Complaint, 13-CV-861. Pursuant to Section 3(a), the court authorizes the appointment of federal observers through January 31, 2019.

¹⁶ Since the adoption of the Voting Rights Act in 1965, courts in at least 19 different cases have ordered relief under Section 3(c), requiring jurisdictions to obtain preclearance of some or all proposed voting changes. *See Jeffers v. Clinton*, 740 F. Supp. 585 (E.D. Ark. 1990) (three-judge court) (State of Arkansas); *Sanchez v. Anaya*, No. 82-0067 (D.N.M. Dec. 17, 1984) (State of New Mexico); *Allen v. City of Evergreen, Alabama*, 13-CV-107 (S.D. Ala. 2014); *Blackmoon v. Charles Mix Cnty.*, No. 05-CV-4017 (D.S.D. Dec. 4, 2007); *Kirkie v. Buffalo Cnty.*, No. 03-CV-3011 (D.S.D. Feb. 10, 2004); *United States v. Bernalillo Cnty.*, No. 93-156-BB/LCS (D.N.M. Apr. 22, 1998); *United States v. Alameda Cnty.*, No. C95-1266 (N.D. Cal. Jan. 22, 1996); *United States v. Vill. of Port Chester*, No. 06-15173 (S.D.N.Y. Dec. 22, 2006); *United States v. Cibola Cnty.*, No. 93-1134 (D.N.M. Apr. 21, 1994); *Cuthair v. Moteczuma-Cortez Sch. Dist. No. RE-1*, No. 89-C-964 (D. Col. Apr. 8, 1990); *United States v. Socorro Cnty.*, No. 93-1244 (D.N.M. Apr. 11, 1994); *Brown v. Bd. of Comm'rs*, No. CIV-1-87-388 (E.D. Tenn. Jan. 18, 1990) (City of Chattanooga); *Garza v. Cnty. of Los Angeles*, No. 88-5143 (C.D. Cal. Apr. 25, 1991); *United States v. Sandoval Cnty.*, No. 88-1457 (D.N.M. May 17, 1990); *United States v. McKinley Cnty.*, 86-0029-C (D.N.M. Jan. 13, 1986); *NAACP v. Gadsden Cnty. Sch. Bd.*, 589 F. Supp. 953 (N.D. Fla. Mar. 6, 1984); *Woodring v. Clarke*, No. 80-4569 (S.D. Ill. Oct. 31, 1983) (Alexander County); *McMillan v. Escambia Cnty.*, No. 77-0432 (N.D. Fla. Dec. 3, 1979); *United States v. Thurston Cnty.*, No. 78-0-380 (D. Neb. May 9, 1979).

Dated: August 17, 2015

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
ADVANCEMENT PROJECT
Suite 850
1220 L Street, N.W.
Washington, DC 20005
Phone: (202) 728-9557
phair@advancementproject.com

Irving Joyner (N.C. State Bar # 7830)
P.O. Box 374
Cary, NC 27512
Phone: (919)319-353
ijoyner@ncsu.edu

By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
Of Counsel
TIN FULTON WALKER & OWEN, PLLC
312 West Franklin Street
Chapel Hill, NC 27516
Phone: (919) 240-7089
astein@tinfulton.com

Daniel T. Donovan
Bridget K. O'Connor
Susan M. Davies
Michael A. Glick
K. Winn Allen
Jodi Wu
KIRKLAND & ELLIS LLP
655 Fifteenth St., N.W.
Washington, DC 20005
Phone: (202) 879-5000
ddonovan@kirkland.com

Attorneys for Plaintiffs in North Carolina State Conference of the NAACP, et al. v. McCrory, et al.

By: /s/ Allison Riggs

Laughlin McDonald*
ACLU Voting Rights Project
2700 International Tower
229 Peachtree Street, NE
Atlanta, GA 30303
(404) 500-1235
lmcDonald@aclu.org
* appearing pursuant to Local Rule
83.1(d)

Anita S. Earls (State Bar # 15597)
Allison J. Riggs (State Bar # 40028)
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707
Telephone: 919-323-3380 ext. 115
E-mail: anita@southerncoalition.org

Christopher Brook (State Bar
#33838) ACLU of North Carolina
Legal Foundation
P.O. Box 28004
Raleigh, NC 27611-8004
Telephone: 919-834-3466
E-mail: cbrook@acluofnc.org

Dale Ho*
Julie A. Ebenstein*
ACLU Voting Rights Project
125 Broad Street
New York, NY 10004
(212) 549-2693
E-mail: dale.ho@aclu.org
**appearing pursuant to Local Rule 83.1(d)*

Attorneys for Plaintiffs in League of Women Voters of North Carolina, et al. v. North Carolina, et al.

Gill P. Beck (State Bar # 13175)
Special Assistant United States
Attorney
OFFICE OF THE UNITED
STATES ATTORNEY
United States Courthouse
100 Otis Street
Asheville, NC 28801
Telephone: (828) 259-0645
E-mail: gill.beck@usdoj.gov

By: /s/ Elizabeth Ryan

T. Christian Herren, Jr.
John A. Russ IV
Catherine Meza
David G. Cooper
Spencer R. Fisher
Jenigh J. Garrett
Elizabeth Ryan
Avner Shapiro
Ernest A. McFarland
Attorneys, Voting Section
Civil Rights Division
U.S. DEPARTMENT OF JUSTICE
Room 7254-NWB
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Telephone: (800) 253-3931
E-mail: catherine.meza@usdoj.gov

Attorneys for Plaintiffs in United States v. North Carolina, et al.

Marc E. Elias
Bruce V. Spiva
John M. Devaney
Elisabeth C. Frost
Joseph Wenzinger
Amanda Callais
700 Thirteenth St., N.W., Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
E-mail: melias@perkinscoie.com
Email: bspiva@perkinscoie.com
E-mail: jdevaney@perkinscoie.com
E-mail: efrost@perkinscoie.com

By: /s/ Edwin M. Speas, Jr.

Edwin M. Speas, Jr. (State Bar # 4112)
John W. O'Hale (State Bar # 35895)
Caroline P. Mackie (State Bar # 41512)
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
Telephone: (919) 783-6400
Facsimile: (919) 783-1075
E-mail: espeas@poynerspruill.com
E-mail: johale@poynerspruill.com
E-mail: cmackie@poynerspruill.com

Joshua L. Kaul
Wisconsin Bar No. 1067529
1 East Main Street, Suite 201
Madison, WI 53703
Telephone: (608) 294-4007
Facsimile: (608) 663-7499
JKaul@perkinscoie.com

Attorneys for Plaintiff-Intervenors in League of Women Voters of North Carolina, et al. v. North Carolina, et al.

CERTIFICATE OF SERVICE OF DISCOVERY

I hereby certify that on August 17, 2015, I electronically filed the foregoing **Plaintiffs' Proposed Findings of Fact and Conclusions of Law**, using the CM/ECF system in case numbers 1:13- cv-658, 1:13- cv-660, and 1:13-cv-861, which will send notification of such filing to all counsel of record.

/s/ Elizabeth Ryan
ELIZABETH RYAN
U.S. Department of Justice
Civil Rights Division - Voting Section
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
Phone: (800) 253-3931
Email: elizabeth.ryan@usdoj.gov

Exhibit A

Exhibit A. Plaintiffs' Admitted Exhibits

<u>Exhibit No.</u>	<u>Doc. Date</u>	<u>Description</u>	<u>JA Range/ Dep. Ex. No.</u>	<u>Date Admitted</u>
<i>Declarations of Fact Witnesses</i>				
PX0001	4/25/2014	Declaration of Kay Gordon Brandon	JA0001 - JA0009	7/20
PX0002	5/15/2014	Declaration of Sarah Bufkin	JA0010 - JA0013	7/20
PX0003	4/25/2014	Declaration of Bessie Carrington	JA0014 - JA0021	7/20
PX0004	4/28/2014	Declaration of Masac Dorlouis	JA0022 - JA0029	7/20
PX0005	5/1/2014	Declaration of Plaintiff Rosanell Eaton	JA0030 - JA0037	7/20
PX0006	5/14/2014	Declaration of Plaintiff Armenta Eaton	JA0038 - JA0048	7/20
PX0007	5/14/2014	Declaration of Nicole Little	JA0049 - JA0051	7/20
PX0008	4/25/2014	Declaration of Renee Michaux	JA0052 - JA0060	7/20
PX0009	4/27/2014	Declaration of Melvin Montford	JA0061 - JA0067	7/20
PX0010	5/16/2014	Declaration of NAACP	JA0068 - JA0085	7/20
PX0011	4/29/2014	Declaration of Plaintiff Maria Teresa Unger Palmer	JA0086 - JA0095	7/20
PX0012	4/28/2014	Declaration of Bob Phillips	JA0096 - JA0110	7/23
PX0013	4/28/2014	Declaration of Octavia Rainey	JA0111 - JA0117	7/20
PX0014	4/24/2014	Declaration of Hugh Stohler	JA0118 - JA0126	7/20
PX0015	4/28/2014	Declaration of Goldie Wells	JA0127 - JA0134	7/20
PX0016	4/24/2014	Declaration of Gary Bartlett	JA0135 - JA0158	7/20
PX0017	4/23/2014	Declaration of Henry M. Michaux	JA0159 - JA0176	7/20
PX0018A	5/1/2014	Declaration of Joshua Stein (COLOR)		7/20
PX0019	4/15/2014	Declaration of George Gilbert	JA0216 - JA0233	7/20
PX0020	4/28/2014	Declaration of Alma Adams	JA0234 - JA0247	7/20
PX0021	5/8/2014	Declaration of Daniel T. Blue, Jr.	JA0248 - JA0258	7/20
PX0022	5/9/2014	Declaration of Larry D. Hall	JA0259 - JA0268	7/20
PX0023	4/29/2014	Declaration of Earline Parmon	JA0269 - JA0286; Parmon Dep. Ex. 155	7/20
PX0024	4/24/2014	Declaration of Shelly Willingham	JA0287 - JA0296	7/20
PX0025	3/26/2014	Declaration of Rick Glazier	JA0297 - JA0320; Glazer Dep. Ex. 150	7/20
PX0026	4/1/2014	Declaration of Mary Price Taylor Harrison	JA0321 - JA0336	7/20
PX0027	4/24/2014	Declaration of Kenneth Goodman	JA0337 - JA0351	7/20
PX0028	4/2/2014	Declaration of Floyd McKissick	JA0352 - JA0370	7/20
PX0029	4/29/2014	Declaration of Eleanor Kinnaird	JA0371 - JA0383	7/20
PX0030	5/14/2014	Declaration of Angela R. Bryant	JA0384 - JA0393	7/20
PX0031	3/25/2014	Declaration of Grier Martin	JA0394 - JA0412	7/20
PX0032	4/16/2014	Declaration of Jacqueline Taylor	JA0413 - JA0419	7/20
PX0033	4/16/2014	Declaration of Marilyn Harris	JA0420 - JA0426	7/20
PX0034	4/28/2014	Declaration of Harry L. Sawyer	JA0427 - JA0433	7/20
PX0035	4/29/2014	Declaration of Ion V. Sancho	JA0434 - JA0445	7/20
PX0036	4/27/2014	Declaration of Dawson Blaire Gould	JA0446 - JA0452	7/20
PX0166	6/26/2014	Second Declaration of Gary Bartlett	JA2776 - JA2781	7/20
PX0173	6/30/2014	Declaration of Jacqueline Willoughby Cannon	JA2821 - JA2824	7/20
PX0174	6/30/2014	Declaration of Samuel Cannon	JA2825 - JA2827	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0175	6/30/2014	Declaration of Shineka Marie Jones	JA2828 - JA2830	7/20
PX0176	6/30/2014	Declaration of Rev. Jimmie R. Hawkins	JA2831 - JA2844	7/20
PX0177	6/30/2014	Declaration of Lorrie A. Fleming	JA2845 - JA2847	7/20
PX0226	7/10/2014	Declaration of Louis M. Duke	Duke Dep. Ex. 1	7/20
PX0227	7/10/2014	Declaration of Josue Berduo		7/20
PX0228	7/11/2014	Declaration of Nancy J. Lund	Lund Dep. Ex. 1	7/20
PX0676	7/2/2014	Declaration of Carolyn Coleman		7/24
PX0677	7/2/2014	Declaration of Rev. J. Mendez		7/24
PX0717		Josh Stein Declaration Ex. A at p. 2		7/21 (Stein)
Expert Witness Reports and Related Exhibits				
PX0040	5/2/2014	Paul Gronke Amended Expert Report and Sur-Rebuttal Report	JA0591 - JA0684	7/16 (Gronke Direct)
PX0042	5/2/2014	Charles Stewart Expert Report and Sur-Rebuttal Report	JA0779 - JA1035	7/16 (Stewart Direct)
PX0043	4/11/2014	Lorraine Minnite Expert Report	JA1036 - JA1092	7/23 (Minnite Direct)
PX0045	4/10/2014	Cynthia Duncan Expert Report	JA1142 - JA1175	7/23 (Duncan Direct)
PX0046	4/10/2014	J. Morgan Kousser Report	JA1176 - JA1246	7/14 (Kousser Direct)
PX0049	4/11/2014	Theodore Allen Expert Report	JA1400 - JA1428	7/21 (Allen Re-Direct)
PX0050A	4/11/2014	Peter Levine, Seth Avakian, and Kei Kawashima-Ginsberg Expert Report (COLOR)		7/20 (Levine Direct)
PX0167	6/27/2014	Second Sur Reply Declaration of Paul Gronke	JA2782 - JA2789	7/16 (Gronke Direct)
PX0168	6/28/2014	Supplemental Declaration of Charles Stewart	JA2790 - JA2807	7/16 (Stewart Direct)
PX0169	6/29/2014	Supplemental Declaration of Barry Burden	JA2808 - JA2814	7/15 (Burden Direct)
PX0170	6/29/2014	Declaration of Lorraine Minnite	JA2815 - JA2816	7/23 (Minnite Direct)
PX0229	2/12/2015	Expert Report of Barry C. Burden, Ph.D.		7/15 (Burden Direct)
PX0230	2/12/2015	Expert Report of James L. Leloudis II, Ph.D.		7/24 (Leloudis Direct)
PX0231	2/12/2015	Expert Report of Allan J. Lichtman, Ph.D.		7/21 (Lichtman)
PX0232	2/12/2015	Expert Report of Lorraine C. Minnite, Ph.D.		7/23 (Minnite Direct)
PX0233	2/12/2015	Expert Report and Declaration of Theodore T. Allen, Ph.D.		7/21 (Allen Direct)
PX0234	2/12/2015	Expert Report and Declaration of Paul W. Gronke, Ph.D.		7/16 (Gronke Direct)
PX0235	2/12/2015	Expert Report of D. Sunshine Hillygus, Ph.D. and John B. Holbein, M.A.		7/15 (Hillygus Direct)
PX0236	2/12/2015	Expert Report of Drs. Peter Levine and Kei Kawashima-Ginsberg		7/20 (Levine Direct)

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0237	2/12/2015	Declaration of Charles T. Clotfelter, Ph.D.		7/14 (Clotfelter Direct)
PX0238	2/12/2015	Declaration of Steven F. Lawson, Ph.D.		7/20 (Lawson Direct)
PX0239	2/12/2015	Declaration of Kathryn Summers, Ph.D.		7/15 (Summers)
PX0240	2/12/2015	Declaration of Lynne Vernon-Feagans, Ph.D.		7/15 (Vernon- Feagans)
PX0241	2/12/2015	Declaration of Gerald R. Webster, Ph.D.		7/20 (Webster Direct)
PX0696	2/12/2015	Table of Youth Voter Registration and Turnout Rates and Ranking in North Carolina 2000-2012 (Table 1 from Levine and Kawashima-Ginsberg 2/12/2015 Expert Report, page 10).		7/24 (Levine)
PX0697	2/12/2015	Table of Comparison of States with SDR to States without SDR (from Levine and Kawashima-Ginsberg 2/12/2015 Expert Report, page 18-19).		7/24 (Levine)
PX0698	2/12/2015	Table of North Carolina Youth Vote Summary 2010 and 2014 (Table 2b from Levine and Kawashima-Ginsberg 2/12/2015 Expert Report, page 14-15).		7/24 (Levine)
PX0699	2/12/2015	Table of In-Person Early Voting Among Young Voters and Table of In-Person Early Voting in 2010 and 2014 (Tables 4b and 4c from Levine and Kawashima-Ginsberg 2/12/2015 Expert Report, page 22-23).		7/24 (Levine)
PX0242	2/18/2015	Declaration of Charles H. Stewart III, Ph.D. (Amended)		7/16 (Stewart Direct)
PX0243	3/9/2015	Supplemental Expert Report of Drs. Peter Levine and Kei Kawashima-Ginsberg		7/20 (Levine Direct)
PX0244	3/24/2015	Surrebuttal Expert Report of Barry C. Burden, Ph.D.		7/15 (Burden Direct)
PX0245	3/24/2015	Surrebuttal Expert Report of Allan J. Lichtman, Ph.D.		7/21 (Lichtman)
PX0246	3/24/2015	Surrebuttal Expert Report and Declaration of Theodore T. Allen, Ph.D.		7/21 (Allen Direct)
PX0247	3/24/2015	Surrebuttal Expert Report and Declaration of Paul W. Gronke, Ph.D.		7/16 (Gronke Direct)
PX0248	3/24/2015	Surrebuttal Expert Report of Drs. Peter Levine and Kei Kawashima-Ginsberg		7/20 (Levine Direct)
PX0249	3/24/2015	Surrebuttal Declaration of Charles T. Clotfelter, Ph.D.		7/14 (Clotfelter Direct)
PX0251	3/24/2015	Surrebuttal Declaration of Kathryn Summers, Ph.D.		7/15 (Summers)
PX0252	3/24/2015	Surrebuttal Declaration of Lynne Vernon-Feagans, Ph.D.		7/15 (Vernon- Feagans)
PX0253	3/24/2015	Surrebuttal Declaration of Gerald R. Webster, Ph.D.		7/20 (Webster Direct)

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0254	3/24/2015	Surrebuttal Report of Charles Stewart III, Ph.D.		7/16 (Stewart Direct)
PX0255	4/1/2015	Webster Corrected Appendix 1	Webster Dep. Ex. 3	7/20 (Webster Direct)
PX0257	6/9/2015	Supplemental Expert Report of Allan J. Lichtman, Ph.D.		7/21 (Lichtman)
PX0044	4/11/2014 and 5/2/2014	Barry Burden Expert Report and Sur-Rebuttal Report	JA1093 - JA1141	7/15 (Burden Direct)
PX0047	4/11/2014 and 5/2/2014	Steven Lawson Expert Report and Sur-Rebuttal Report	JA1247 - JA1337	7/20 (Lawson Direct)
PX0048	4/11/2014 and 5/2/2014	James Leloudis Expert Report and Sur-Rebuttal Report	JA1338 - JA1399	7/24 (Leloudis Direct)
PX0509		Graph, Access to a Working Vehicle, Family Life Project (North Carolina)	Vernon-Feagans Dep. Ex. 3	7/16 (Vernon-Feagans)
PX0510		Graph, Access to Technology, Family Life Project (North Carolina)	Vernon-Feagans Dep. Ex. 4	7/16 (Vernon-Feagans)
PX0511		Graph, Literacy Level, Family Life Project (North Carolina)	Vernon-Feagans Dep. Ex. 5	7/16 (Vernon-Feagans)
PX0512		Graph, Residential Instability Indicators, Family Life Project (North Carolina)	Vernon-Feagans Dep. Ex. 6	7/16 (Vernon-Feagans)
PX0513		Graph, Hardship Experiences Since 2008, Family Life Project (North Carolina)	Vernon-Feagans Dep. Ex. 7	7/16 (Vernon-Feagans)
PX0684		Updated Table 15 from Stewart Report		7/16 (Stewart Direct)
PX0685		Report of Turnout in North Carolina for Blacks and Whites Overall		7/16 (Stewart Direct)
PX0686		Fluidity or Actual Churn		7/16 (Stewart)
PX0687		Updated Table 14B from Stewart Report		7/16 (Stewart)
PX0716		Allan Lichtman Demonstratives		7/21
PX0729		LWV Duncan Demonstratives		7/23 (Duncan)
PX0731		James Leloudis Demonstratives		7/24 (Leloudis)
Deposition Designations				
PX0679		Yvonne Washington Video Designations Script		7/14 (Y. Washington)
PX0680		Carnell Brown Video Designations Script		7/14 (Brown)
PX0681		Lynne Vernon-Feagans Video Designations Script		7/15 (Vernon-Feagans)
PX0683	4/14/2015	Vernon-Feagans Highlighted Deposition Designations		7/16 (Vernon-Feagans)
PX0688	6/5/2015	Lynnette Garth Video Designations Script		7/16 (Garth)
PX0712		Lue Alice Abercrombie Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/20 (Abercrombie)

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0713		Alexander Ealy Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Blue, Video Designations in Yellow)		7/24 (Ealy)
PX0721		Sherry Durant Highlighted Excerpts		7/24 (Durant)
PX0732		Becky Mock Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0751		Emma Carr Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0754		Allison Deters Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0755		Cherise Dill Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0758		Elizabeth Gignac Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0759		Patricia-Anne Harris Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0760		Jorgen Jensen Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0761		Paul Kearns Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0762		Kathleen Kennedy Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0764		James Manley Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0765		Bryan McGowan Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0766		Jane Meadows Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0767		Yolanda Paylor Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0768		Tawanda Pitt Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/20
PX0769		Marcia Pleasant Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0770		April Sidbury Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0771		Brandi Smith Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0772		Lynne Walter Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0773		Bessie Ward Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0774		Marianne Weant Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0776		Malcolm Wilson Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0777		Courtney Woodard Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0778		Victoria Banks Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0779		Sandra Beatty Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0780		Tracy Bucholtz Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0781		Jason Chislom Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0782		Carolyn Coleman Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0783		Armenta Eaton Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0784		Robin Ellis Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0786		Lonnie Gene Hatley Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0787		Jimmie Hawkins Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0788		Carlton Augustus Jordan, Jr. Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0789		Carolyn Justice Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0790		Elizabeth Kuniholm Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0791		Nancy Lund Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0792		Quisha Mallette Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/21
PX0793		John Mendez Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0794		Brian Miller Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0795		Mary Perry Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0796		Susan Schaffer Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0797		Timothy Washington Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/23
PX0798		Tawanda Pitt Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/23 (Pitt)
PX0799		Marc Burris Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/24 (Burriss)
PX0800		Gary Sims Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/23 (Sims)
PX0801		Stephanie Williams Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0802		Joseph Windsor Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/23 (Windsor)
PX0803		Kate Cosner Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/23 (Cosner)
PX0804		Jay DeLancy Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red, Video Designations in Yellow)		7/23 (DeLancy)
PX0806		Barbara Webb Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0807		Charlotte Boyd-Malette Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0808		Doris Burke Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0809		Erika Churchill Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0810		Brian Neesby Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0811		Michael Dickerson Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0813		Brian LiVecchi Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0814		George McCue Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0815		Ted Fitzgerald Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0816		Marshall Tutor Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0817		Cherie Poucher Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0818		Candi Rhinehart Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0819		Dean Roberts Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0820		Gerrick Suggs Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0821		Kelly Thomas Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
PX0822		Hakeem Dykes Transcript Excerpts (Pls.' Affirmative Designations in Blue, Defs.' Counter-Designations in Red)		7/24
<i>Exhibits Relating to Specific Voter Witnesses</i>				
PX0305	6/15/2015	First Stipulation re Information in the SEIMS Database		7/13 (Farrington Direct)
PX0306	6/15/2015	Second Stipulation re Information in the SEIMS Database: Publically Available Information Accessible Through the North Carolina Public Voter Information Website		7/13 (Farrington Direct)

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0678	7/1/2015	Stipulation Regarding the Completion of Depositions of Affected Voters/Law Witnesses		7/14
PX0307A	5/27/2015	NC Public Voter Information re Emma Janice Carr (REDACTED)		7/20
PX0308		Photograph of Terrilin Cunningham	Cunningham Dep. Ex. 1	7/20
PX0310A	5/27/2015	NC Public Voter Information re Terrilin Claiborne Cunningham (REDACTED)		7/20
PX0309	11/4/2014	Printout from Facebook Account for Terrilin Cunningham	Cunningham Dep. Ex. 2	7/14 (Cunningham Direct)
PX0328A		NC Public Voter Information re James P. Manley (REDACTED)		7/20
PX0304	4/15/2015	NC Public Voter Search re Anna Martin	Sims Dep. Ex. 451	7/23
PX0314A	5/7/2015	NC Public Voter Information re Gerrick Jamele Suggs (REDACTED)		7/24
PX0316A	1/18/2001	Voter Registration Document re Gerrick Jamele Suggs (REDACTED)		7/24
PX0317A		Authorization to Vote re Gerrick Jamele Suggs (REDACTED)		7/24
PX0318A		Provisional Voting Registration/update Form re Gerrick Jamele Suggs (REDACTED)		7/24
PX0319A	5/1/2008	Application to Register to Vote re Gerrick Jamele Suggs (REDACTED)		7/24
PX0320A	10/26/2012	North Carolina Voter Registration Application re Gerrick Jamele Suggs (REDACTED)		7/24
PX0321A	10/31/2014	Provisional Voting Registration / Update Form (REDACTED)		7/24
PX0311A	5/4/2015	NC Public Voter Information re Malcolm Jerome Wilson (REDACTED)		7/21
PX0312A	10/4/2014	Provisional Voting Application re Malcolm Jerome Wilson (REDACTED)		7/21
North Carolina General Assembly Legislative Record Materials				
PX0140	4/25/2001	North Carolina House HB 977 Transcript Roll Call Votes (2001)	JA2627	7/20
PX0141	7/18/2001	North Carolina HB 831 House Roll Call Votes (2001)	JA2628	7/20
PX0142	7/25/2001	North Carolina HB 831 Senate Roll Call Vote (2001)	JA2629	7/20
PX0143	7/25/2001	North Carolina SB 836 Senate Roll Call Vote (2001)	JA2630	7/20
PX0207	2003	HB 3 Summary/S.L. 2003-434		7/20
PX0208	11/25/2003	HB 3 Roll Call for Concurrence Vote		7/20
PX0145	2/22/2005	North Carolina SB 133 House Roll Call Vote (2005)	JA2632	7/20
PX0551	2/24/2005	Transcript of House Committee on Election Law and Campaign Finance Report		7/21
PX0144	3/1/2005	North Carolina SB 133 Senate Roll Call Vote (2005)	JA2631	7/20
PX0146	3/2/2005	North Carolina Session Law 2005-2 (Senate Bill 133)	JA2633 - JA2640	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0147	2007	North Carolina HB 91 Bill History (2007)	JA2641 - JA2642	7/20
PX0148	7/11/2007	North Carolina HB 91 House Roll Call Vote (2007)	JA2643	7/20
PX0149	7/11/2007	North Carolina HB 91 Senate Roll Call Vote (2007)	JA2644	7/20
PX0150	7/27/2007	North Carolina Session Law 2007-253 (House Bill 91)	JA2645 - JA2647; Strach Dep. Ex. 43	7/20
PX0127	3/12/2013	House Election Committee Transcript of Proceedings (Excerpt)	JA2388 - JA2392	7/20
PX0542	3/12/2013	House Elections Committee Transcript of Proceedings		7/21
PX0128	3/13/2013	House Election Committee Transcript of Proceedings (Excerpt)	JA2393 - JA2416	7/20
PX0543	3/13/2013	House Elections Committee Transcript of Proceedings		7/21
PX0201	4/2/2013	S.B. 666 as Filed	JA3289 - JA3295	7/20
PX0129	4/3/2013	House Election Committee Transcript of Proceedings (Excerpt)	JA2417 - JA2423	7/20
PX0105	4/4/2013	HB 589 as filed	JA2101 - JA2112	7/20
PX0151	4/4/2013	North Carolina SB 667	JA2648 - JA2649	7/20
PX0106	4/8/2013	HB 589 version 5	JA2113 - JA2128	7/20
PX0130	4/10/2013	House Election Committee Transcript of Public Hearing on Voter Identification (Excerpt)	JA2424 - JA2428	7/20
PX0131	4/10/2013	House Election Committee Transcript of Proceedings (Excerpt)	JA2429 - JA2431	7/20
PX0544	4/10/2013	House Elections Committee Transcript of Public Hearing on Voter Identification		7/21
PX0545	4/10/2013	House Elections Committee Transcript of Proceedings		7/21
PX0132	4/17/2013	House Election Committee Transcript of Proceedings (Excerpt)	JA2432 - JA2443	7/20
PX0546	4/17/2013	House Elections Committee Transcript of Proceedings		7/21
PX0552	4/18/2013	House Finance Committee Transcript of Proceedings		7/21
PX0133	4/23/2013	House Appropriations Committee Transcript of Proceedings (Excerpt)	JA2444 - JA2445	7/20
PX0547	4/23/2013	House Appropriations Committee Transcript of Proceedings		7/21
PX0123	4/24/2013	HB 589 House Roll Call Vote	JA2370	7/20
PX0134	4/24/2013	House Floor Session Transcript of the Proceedings (Excerpt)	JA2446 - JA2451	7/20
PX0548	4/24/2013	House Floor Session Transcript of the Proceedings		7/21
PX0107	7/23/2013	HB 589 version 6	JA2129 - JA2185	7/20
PX0135	7/23/2013	Senate Rules Committee Transcript of Proceedings (Excerpt)	JA2452 - JA2466	7/20
PX0202	7/23/2013	Senate Debate on HB 589 VIVA/Election Reform, Rules Meeting	JA3296 - JA3373	7/20
PX0108	7/24/2013	HB 589 version 7	JA2186 - JA2241	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0705	2013	HB 589 Senate Amendment 1		7/21
PX0114	7/24/2013	HB 589 Senate Amendment 2	JA2343	7/20
PX0706	2013	HB 589 Senate Amendment 3		7/21
PX0115	7/24/2013	HB 589 Senate Amendment 4	JA2344 - JA2345	7/20
PX0707	2013	HB 589 Senate Amendment 5		7/21
PX0708	2013	HB 589 Senate Amendment 6		7/21
PX0116	7/24/2013	HB 589 Senate Amendment 7	JA2346	7/20
PX0117	7/24/2013	HB 589 Senate Amendment 8	JA2347 - JA2348	7/20
PX0118	7/24/2013	HB 589 Senate Amendment 9	JA2349 - JA2350	7/20
PX0709	2013	HB 589 Senate Amendment 10		7/21
PX0119	7/24/2013	HB 589 Senate Amendment 11	JA2351 - JA2352	7/20
PX0710	2013	HB 589 Senate Amendment 12		7/21
PX0711	2013	HB 589 Senate Amendment 13		7/21
PX0120	7/24/2013	HB 589 Senate Amendment 14	JA2353	7/20
PX0136	7/24/2013	Senate Floor Session Transcript of Proceedings (Excerpt)	JA2467 - JA2483	7/20
PX0549	7/24/2013	Senate Floor Session Transcript of Proceedings		7/21
PX0124	7/25/2013	HB 589 Senate Roll Call Vote	JA2371	7/20
PX0137	7/25/2013	Senate Floor Session Transcript of Proceedings (Excerpt)	JA2484 - JA2504	7/20
PX0550	7/25/2013	Senate Floor Session Transcript of Proceedings		7/21
PX0111	7/25/2013	HB 589 House Amendment 7	JA2340	7/20
PX0112	7/25/2013	HB 589 House Amendment 8	JA2341	7/20
PX0113	7/25/2013	HB 589 House Amendment 10	JA2342	7/20
PX0125	7/25/2013	HB 589 House Roll Call Vote	JA2372	7/20
PX0138	7/25/2013	House Floor Session, Transcript of Proceedings	JA2505 - JA2626	7/20
PX0126	7/25/2013	HB 589 Fiscal Note	JA2373 - JA2387	7/20
PX0216	7/25/2013	Legislative Fiscal Note, HB 589, Seventh Ed.	Glazier Dep. Ex. 151	7/20
PX0109	7/26/2013	HB 589 as ratified	JA2242 - JA2290	7/20
PX0153	2013-2014	North Carolina Senate Demographics for the 150th Session	JA2653 - JA2654	7/20
PX0154	2013-2014	North Carolina House of Representative Demographics for the 150th Session	JA2655 - JA2655	7/20
PX0203	2013-2014	Bill History - H.B. 451 (2013-2014 Session)	JA3374	7/20
PX0204	2013-2014	Bill History - H.B. 913 (2013-2014 Session)	JA3375	7/20
PX0205	2013-2014	Bill History - S.B. 428 (2013-2014 Session)	JA3376	7/20
PX0206	2013-2014	Bill History - S.B. 666 (2013-2014 Session)	JA3377	7/20
PX0541	2013-2014	Bill History - H.B. 451 (2013-2014 Session)	Justice Dep. Ex. 179	7/23
PX0555	2013-2014	Bill History - S.B. 666 (2013-2014 Session)	Justice Dep. Ex. 180	7/23
PX0110		HB 589 Session Law version	JA2291 - JA2339	7/20
PX0121		HB 589 Bill History (2013)	JA2354 - JA2355	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0122		VIVA House Floor Votes	JA2356 - JA2369	7/20
PX0152		Rule 10(b) of the 2013 North Carolina General Assembly House Rules	JA2650 - JA2652	7/20
PX0718		Legislative Transcripts Vol. 1 of 3: PX0542 - PX0546		7/21
PX0719		Legislative Transcripts Vol. 2 of 3: PX0547 - PX0551		7/21
PX0720		Legislative Transcripts Vol. 3 of 3: PX0552 - PX0553		7/21
Correspondence Between SBOE Staff and North Carolina General Assembly Members and Staff				
PX0183	1/20/2011	Email from J. McLean to S. Nichols re Legislative request for information - Voter identification and Voter Registration Cards	JA3079 - JA3083	7/20
PX0058	2/9/2011	Memorandum re State Board of Elections and North Carolina Department of Motor Vehicles Voter Registration Database Identification Analysis	JA1538 - JA1539; Strach Dep. Ex. 46	7/20
PX0458	3/22/2011	Email from V. Degraffenreid to E. Churchill et al. re HB 351 - Outstanding Questions from 3/15 House Election Laws	Churchill Dep. Ex. 529	7/23
PX0603	3/30/2011	Memo from G. Bartlett to Rep. D. Lewis re State Board of Elections' Comments on House Bill 351		7/23
PX0582	4/19/2011	Memo from J. McLean to Sen. M. Nesbitt re Preliminary One-Stop Data Analysis and attaching L. Owensby Memo		7/23
PX0583	4/19/2011	One-Stop, In-Person Absentee Voter Turnout Spreadsheet		7/23
PX0584	4/19/2011	County One Stop Site Voter Counts Spreadsheet		7/23
PX0184	1/25/2012	Email from M. Burris to E. Churchill re 2008 statewide and federal stats	JA3084 - JA3112	7/20
PX0459	1/25/2012	Email from M. Burris to E. Churchill et al. re 2008 Statewide and Federal Stats	Churchill Dep. Ex. 528	7/23
PX0437	2/8/2012	Email from M. Burris to D. Sheerin et al. re 2008 Statewide and Federal Stats	Churchill Dep. Ex. 525	7/23
PX0436	2/9/2012	Email from E. Churchill to M. Burris et al. re 2008 Statewide and Federal Stats	Churchill Dep. Ex. 524	7/23
PX0185	2/24/2012	Email from E. Churchill to M. Burris re 2008 statewide and federal stats	JA3113 - JA3116	7/20
PX0441	3/7/2012	Email from B. Garrett-Jones to E. Churchill et al. re Straight Party Voting Demographics	Churchill Dep. Ex. 531	7/23
PX0438	10/17/2012	Email from E. Churchill to V. Degraffenreid et al. re 2008 Same Day Registration Stats	Churchill Dep. Ex. 526	7/23
PX0439	10/17/2012	Email from V. Degraffenreid to G. Bartlett et al. re 2008 Same Day Registration Stats	Churchill Dep. Ex. 527	7/23
PX0186	10/22/2012	Email from G. Cohen to M. Burris re new voter registration	JA3117 - JA3119	7/20
PX0460	1/9/2013	Email from E. Churchill to G. Bartlett et al. re DMV - Unlicensed Voters	Churchill Dep. Ex. 522	7/23

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0070	3/5/2013	Email from V. Degraffenreid to G. Bartlett, J. McLean and M. Burris attaching January 2013 DMV ID Matching Report and March 2013 Supplemental Report	JA1669 - JA1675; Strach Dep. Ex.47	7/20
PX0385	3/6/2013	Email from V. Degraffenreid to Rep. H. Warren attaching DMV & SBOE ID Analysis 2013 Supplement Tables		7/24
PX0071	3/11/2013	State Board of Elections Memorandum & Attachments to House Elections Committee and House Appropriations Subcommittee on General Government	JA1676 - JA1709; Strach Dep. Ex. 16	7/20
PX0072	3/12/2013	Email from V. Degraffenreid to Representatives Warren, Murry, and Samuelson re Request	JA1710 - JA1781; Strach Dep. Ex. 49	7/20
PX0073	3/13/2013	Email from G. Bartlett to S. Mooneyham re Supplemental Tables for Representative Warren	JA1782 - JA1785	7/20
PX0074		Spreadsheet of Racial Data Prepared at the Request of Rep. D. Lewis	JA1786 - JA1797	7/20
PX0187	3/13/2013	Email from R. Starling to J. McLean re Interview of Gary Bartlett	JA3120 - JA3124	7/20
PX0435	3/15/2013	Email from V. Degraffenreid to G. Bartlett et al. re On-Line Registration and Same Day Registration	Churchill Dep. Ex. 523	7/23
PX0188	3/18/2013	Email from V. Degraffenreid to G. Bartlett attaching Agenda for HB589 Sponsor Meeting	JA3125 - JA3126	7/20
PX0069		Emails from Sponsors of H.B. 589 to SBOE re: Data on Photo ID, One-Stop and Provisional Voting by Race, Age, Gender	JA1627 - JA1668; Burris Dep. Ex. 74	7/20
PX0427	3/20/2013	Email from J. McLean to S. Nichols et al. re Interview of Gary Bartlett		7/23
PX0429	3/20/2013	Email from R. Starling (Speaker Tillis' Office) to J. McLean et al. re Interview of Gary Bartlett		7/23
PX0428	3/21/2013	Email from R. Starling (Speaker Tillis' Office) to J. McLean et al. re Interview of Gary Bartlett		7/23
PX0440	3/27/2013	Email from G. Bartlett to R. Starling (Speaker Tillis' Office) et al. re DMV Audit Items	Churchill Dep. Ex. 521	7/23
PX0189	3/28/2013	Email and letter attachment from Rep. Lewis to G. Bartlett re Voter Registration Database and DMV Database Analysis	JA3127 - JA3137	7/20
PX0426	3/28/2013	Email from T. Farr to S. Nichols et al. re DMV Audit Items		7/23
PX0424	4/3/2013	Email from S. Nichols to G. Bartlett et al. re DMV Audit Items		7/23
PX0190	4/4/2013	Email from R. Starling re DMV Audit Items	JA3138 - JA3141	7/20
PX0434	4/4/2013	Email from R. Starling (Speaker Tillis' Office) to M. Burris et al. re DMV Audit Items		7/23
PX0425	4/5/2013	Email from M. Burris to R. Starling (Speaker Tillis' Office) et al. re DMV Audit Items		7/21 (Lichtman)
PX0078	4/8/2013	Email from E. Churchill to G. Bartlett, J. McLean, V. Degraffenreid, and M. Burris re Absentee Ballots	JA1817	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0430	4/8/2013	Email from R. Starling (Speaker Tillis' Office) to M. Burris et al. re DMV Audit Items		7/23
PX0423	4/10/2013	Email from R. Starling (Speaker Tillis' Office) to V. Degraffenreid et al. re Absentee Ballots		7/23
PX0447	4/10/2013	Email from G. Bartlett to R. Starling (Speaker Tillis' Office) et al. re Absentee Ballots		7/23
PX0191	4/11/2013	Email from R. Starling to T. Farr re Absentee Ballots	JA3142 - JA3147	7/20
PX0192	4/11/2013	Letter from SBOE to Rep. Lewis re Voter Registration Database and DMV Database Analysis	JA3148 - JA3166	7/20
PX0345	4/11/2013	Email from V. Degraffenreid to M. Burris re Absentee Ballots	Degraffenreid Dep. Ex. 352	7/24
PX0421	4/11/2013	Email from R. Starling (Speaker Tillis' Office) to M. Burris et al. re Additional Analysis		7/23
PX0193	4/12/2013	Email from T. Farr to M. Burris re Additional Analysis	JA3167 - JA3169	7/20
PX0194	4/12/2013	Email from N. Baddour to M. Burris re Information Request	JA3170 - JA3230	7/20
PX0422	4/12/2013	Email from M. Burris to T. Farr et al. re Additional Analysis		7/23
PX0195	4/16/2013	Email from M. Burris to R. Starling re Additional Analysis	JA3231 - JA3246	7/20
PX0196	4/17/2013	Email from R. Starling to G. Bartlett re Comments on PCS	JA3247 - JA3248	7/20
PX0346	4/17/2013	Email from G. Bartlett to R. Starling et al. re Comments on PCS	Degraffenreid Dep. Ex. 353	7/24
PX0197	7/18/2013	Email from N. Baddour to K. Strach re HB589-CSLB-110	JA3249 - JA3264	7/20
PX0198	7/25/2013	Email from K. Strach to Rep. Lewis re SDR	JA3265 - JA3284	7/20
PX0457	8/2/2013	Email from D. Wright to E. Churchill re SBE Meeting	Churchill Dep. Ex. 530	7/23
<i>Other Correspondence and Statements to and from North Carolina General Assembly Members and Staff</i>				
PX0393	1/25/2013	Email from B. Jones to El Churchill et al. re Voter ID Bill		7/23
PX0399	2/7/2013	Email from Rep. H. Warren to A. Latos re Hi from WSOC		7/23
PX0392	2/20/2013	Email from Rep. D. Lewis to D. Molinaro et al. re Voter ID		7/23
PX0415	2/28/2013	Email from Rep. D. Lewis to H. von Spakovsky et al. re Hearing		7/23
PX0347	3/5/2013	Email from J. DeLancy to P. Stam re Emancipation Defined by Voter Registration	DeLancy Dep. Ex. 3	7/24
PX0408	3/7/2013	Email from Rep. D. Lewis to B. Tyler et al. re Voter ID		7/23
PX0416	3/7/2013	Email from G. Rogers (Rep. D. Lewis) to H. von Spakovsky et al. re Hearing		7/23
PX0405	3/8/2013	Email from M. Fliss to Rep. D. Lewis re Voter ID Laws		7/23
PX0413	3/13/2013	Email from J. DeLancy to Rep. D. Lewis et al. re House Election Committee		7/23

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0401A	3/15/2013	Email from Rep. H. Warrant o J. Rhodes re NC Voter ID Law - Indiana State Photo ID Law Upheld by the US Supreme Court (REDACTED)		7/23
PX0533	3/16/2013	Speaker Tillis Comments on H.B. 589, available at http://www.wral.com/news/state/nccapitol/video/12231808/		7/21 (Lichtman)
PX0352	3/25/2013	Email from J. DeLancy to merlin1246@aol.com et al. re Student Dependents	DeLancy Dep. Ex. 4	DEFERRED 7/24
PX0354	4/1/2013	Email from J. DeLancy to J. Blaine et al. re Equalize Voter Rights (Draft Bill & VIP-NC Leg Advsry)	DeLancy Dep. Ex. 8	DEFERRED 7/24
PX0414	4/2/2013	Email from B. Clyne to Rep. R. Brawley et al. re H.B. 451		7/23
PX0353	4/4/2013	Email from J. DeLancy to A. Shreve (Sen. B. Cook) et al. re Press Release, Senators Propose Bill to Ensure Voter Integrity	DeLancy Dep. Ex. 7	DEFERRED 7/24
PX0420	4/4/2013	Email from T. Pittman (Rep. L. Pittman) to hoover@mygInc.com re Representative Larry G. Pittman's April 3rd Newsletter		7/23
PX0389	4/7/2013	Email from Rep. H. Warren o D. Rasmussen et al. re Absentee Ballot - Two Witnesses Versus Current One?		7/23
PX0407A	4/9/2013	Email from D. Williams to Rep. D. Lewis et al. re Voter ID (REDACTED)		7/23
PX0466	4/9/2013	Email from Rep. D. Lewis to T. Oudeh re Protect Voting in NC		7/23
PX0350	4/15/2013	Email from J. DeLancy to A. Shreve (Sen. B. Cook) re ElectionOnlineWeekly - March 7, 2013 Colleges & Elections	DeLancy Dep. Ex. 12	DEFERRED 7/24
PX0402	4/16/2013	Email from G. Gebhardt to J. Bonnet et al. re North Carolina Voter ID Law - Public Hearing Next Week		7/23
PX0410	4/18/2013	Email from Rep. H. Warren to D. Dvoracek re Tribes NOT Recognized		7/23
PX0391	4/23/2013	Email from J. DeLancy to Rep. T. Murray re If All Else Fails		7/23
PX0334	4/24/2013	Email from A. Moretz to Rep. D. Lewis re Fall 2012 Enrollment Report		7/21 (Lichtman)
PX0397A	5/3/2013	Email from M. Coggins (Rep. D. Lewis) to G. Cappy re Comment on Voter ID Proposals (REDACTED)		7/20 (Lawson Direct)
PX0388	6/14/2013	Email from merlin1246@aol.com to Rep. H. Warren et al. re How Do You Explain This? and attaching SC Photo ID Law		7/23
PX0396A	6/17/2013	Email from Sen. T. Goolsby to S. Thompson re Article in Macon News (REDACTED)		7/20 (Lawson Direct)
PX0394	6/26/2013	Email from C. Gooden to P. Hirschhorn re CBS Evening News: NC Voter ID		7/24

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0400A	7/5/2013	Email from T. Tillis to D. Lewis et al. re Meeting with RNC Field Director/Moral Mondays (REDACTED)		7/24
PX0084	7/18/2013	Press Release re Senate Releases Photo ID Proposal	JA1873	7/20
PX0431A	7/23/2013	Email from T. Bragg to L. Beller re Save the Vote! Say NO to HB-589 (REDACTED)		7/24
PX0085	7/24/2013	Press Release re Senate Approves Bill Requiring Photo ID to Vote	JA1874	7/20
PX0351	7/24/2013	Email from J. DeLancy to Rep. D. Lewis et al. re HB 589	DeLancy Dep. Ex. 13	DEFERRED 7/24
PX0390	7/24/2013	Email from Rep. H. Warren to A. Maestas re Media Request, NBC Latino re NC Voter ID Bill		7/23
PX0418	7/24/2013	Email from N. Evans to Rep. H. Warren re VIVA		7/14 (Kousser Direct)
PX0419	7/24/2013	Email from Rep. H. Warren to N. Evans re VIVA		7/23
PX0404	7/25/2013	Email from Rep. H. Warren to B. Ware re Voter ID Bill		7/23
PX0533A		Transcript of Video Clip re Speaker Tillis Comments on H.B. 589 from http://www.wral.com/news/state/nccapitol/video/12231808/		7/23
PX0714		Apodaca Video		7/23
Early Voting Sites and Hours, 2004-2014				
PX0586	2004	OneStop Sites and Times for the General Election November 2, 2004	Strach Dep. Ex. 4	7/23
PX0593	2006	2006 General Election One Stop Locations		7/23
PX0587	2008	One-Stop Voting Sites for the November 4, 2008 General Election	Strach Dep. Ex. 5	7/23
PX0214	5/4/2010	One-Stop Voting Sites for the May 4, 2010 Primary Election	Strach Dep. Ex. 174	7/20
PX0588	2010	One-Stop Voting Sites for the May 4, 2010 Primary Election	Strach Dep. Ex. 6	7/23
PX0589	2010	One-Stop Voting Sites for the November 2, 2010 General Election	Strach Dep. Ex. 7	7/23
PX0590	2012	One-Stop Voting Site List, 2012 Primary (May 8, 2012)	Strach Dep. Ex. 8	7/23
PX0591	2012	One-Stop Voting Sites for the November 6, 2012 General Election	Strach Dep. Ex. 9	7/23
PX0592	2014	NC One-Stop Voting Sites for the May 6, 2014 Election	Strach Dep. Ex. 10	7/23
PX0594	2014	NC One-Stop Voting Sites for the November 4, 2014 Election		7/23
Other SBOE Reports, Memoranda, and Correspondence				
PX0585	4/8/1996	Memo from G. Bartlett et al. to County Board of Elections re Provision Ballots, SBOE Memorandum No. 96-13		7/23
PX0051	2/13/1997	State Board of Elections report re Traffic Jam: Election Day Long Lines	JA1468 - JA1475; Strach Dep. Ex. 11	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0473	11/2/2004	Email from M. Tutor to C. Rhinehart re Possible Absentee Fraud	Rhinehart Dep. Ex. 3	7/23
PX0496	5/30/2007	Email from M. Tutor to G. Bartlett et al. re Double Voting, Deceased Voter Check	Tutor Dep. Ex. 316	7/23
PX0578	6/13/2007	Letter from G. Barrett to Auditor L. Merritt re Response to Findings and Recommendations Flowing from Strategic Review of Registered Voter Database and Voter History Database	Tutor Dep. Ex. 317	7/24
PX0596	1/28/2008	Memo from J. McLean to Directors re Revised Procedure for Denial Letters and Certified Mail-Voter Scan, State Board of Elections Memo No. 2008-02		7/23
PX0602	4/4/2008	Memo from G. Bartlett and V. Degraffenreid to Directors, County Boards of Elections re Post-May Verification of College/University Students' Campus Residency, State Board of Elections Memo No. 2008-06		7/23
PX0433	4/23/2008	Email from V. Degraffenreid to Directors.boe re 2008-2009 attaching Memo from G. Bartlett to Directors, County Boards re One-Stop Rejections		7/23
PX0054	10/30/2008	State Board of Elections Memorandum to County Board of Elections re One-Stop Absentee Voting Hours - November 1, 2008 (2008-25)	JA1525	7/20
PX0339	11/4/2008	Email from G. Bartlett to J. Kearney et al. re Election Day Update	Degraffenreid Dep. Ex. 330	7/24
PX0567	1/12/2009	Memo from M. Burris to Director, County Board of Elections re DL# Validation, SSN Validation and Unique ID Processing, SEIMS Numbered Memo: 2009-0003	Degraffenreid Dep. Ex. 340	7/22 (Strach)
PX0497	2/9/2009	Email from G. Bartlett to M. Tutor et al. re '08 General Election Double Voters	Tutor Dep. Ex. 319	7/23
PX0056	3/31/2009	State Board of Elections Report on Implementation of Same Day Registration	JA1528 - JA1536; Strach Dep. Ex. 42	7/20
PX0560	5/28/2009	Memo from V. Degraffenreid to B. Lucas re North Carolina's Response to Early Voting Survey for Hubert Humphrey Policy Fellows Program at the University of Minnesota	Strach Dep. Ex. 15	7/24
PX0507	6/2/2009	Email from G. Bartlett to Rep. T. Cotham attaching letter re HB 1260		7/23
PX0343	1/21/2010	Email from S. Carbo to G. Bartlett et al. re Thank You!	Degraffenreid Dep. Ex. 346	7/23
PX0471	9/29/2010	Email from M. Tutor to C. Rhinehart et al. re Voter Fraud Actions Needed Now	Rhinehart Dep. Ex. 1	7/23
PX0472	9/29/2010	Email from D. Wright to C. Rhinehart et al. re Voter Fraud Actions Needed Now	Rhinehart Dep. Ex. 2	7/23
PX0474	10/27/2010	Email from D. Wright to M. Tutor re NC Voter Fraud Revised Addition	Rhinehart Dep. Ex. 4	7/23
PX0224	1/21/2011	SBOE Response to Voter Fraud Inquiry	Strach Dep. Ex. 51	7/20
PX0057	2/7/2011	Same Day Registration Summary: 2010 General Election	JA1537; Strach Dep. Ex. 44	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0059	2/16/2011	Memorandum re State Board of Elections and North Carolina Department of Motor Vehicles Voter Registration Database Identification Analysis	JA1540; Burris Dep. Ex. 73	7/20
PX0060	5/18/2011	State Board of Elections Memorandum re House Bill 658	JA1541 - JA1543; Strach Dep. Ex. 17	7/20
PX0335	6/16/2011	Email from D. Wright to V. Degraffenreid attaching Concerns About S47	Strach Dep. Ex. 18	7/23
PX0367	8/5/2011	Email from G. Bartlett to J. McLean re NC State Board of Elections Research Inquiry	Poucher Dep. Ex. 464	7/24
PX0601	9/2011	Provisional Voting Administrative Procedures		7/23
PX0061	8/28/2012	State Board of Elections Numbered Memorandum re Proof of Residence for Same Day Registrants (2012-20)	JA1544	7/20
PX0622	8/28/2012	Memo from G. Bartlett to Directors re Proof of Residency for Same Day Registrants, NC State Board of Elections Memo No. 2012-20	Strach Dep. Ex. 38	7/22 (Strach)
PX0062	10/22/2012	State Board of Elections Numbered Memorandum re Recommendations and Reminders to Facilitate the 2012 One- Stop Voting Process (2012-22)	JA1545 - JA1546; Strach Dep. Ex. 13	7/20
PX0063	10/23/2012	State Board of Elections Numbered Memorandum re 2012 One-Stop Voting Process (2012-23)	JA1547; Strach Dep. Ex. 14	7/20
PX0535	1/2013	North Carolina State Board of Elections, 2013 SBOE-DMV ID Analysis		7/21 (Lichtman)
PX0066	1/7/2013	State Board of Elections 2013 Department of Motor Vehicles Identification Analysis	JA1611 - JA1613	7/20
PX0067	1/30/2013	State Board of Elections Analysis of Same Day Registrations in 2012 Primary and General Election	JA1614 - JA1620; Strach Dep. Ex. 45	7/20
PX0068	2/11/2013	State Board of Elections Data from the 2012 Elections: Mail Verification Analysis of New Voters	JA1621 - JA1626; Strach Dep. Ex. 41	7/20
PX0068A	2/11/2013	State Board of Elections Data from the 2012 Elections: Mail Verification Analysis of New Voters (COLOR)		7/21 (Lichtman)
PX0565	3/2013	NC State Board of Elections List Maintenance Summary: Voter Fraud Prevention and Managing the Voter Lists in North Carolina	Degraffenreid Dep. Ex. 325	7/29 (Strach)
PX0575	3/2013	NC State Board of Elections List Maintenance Summary: Voter Fraud Prevention and Managing the Voter Lists in North Carolina	Tutor Dep. Ex. 311	7/24
PX0494	3/27/2013	Email from D. Wright to V. Degraffenreid et al. re VR Guidelines SEIMS HAVA	Strach Dep. Ex. 39	7/23
PX0075	4/1/2013	State Board of Elections Numbered Memos 4-578 to 4-596 re Early Voting Project	JA1798 - JA1807	7/20
PX0534	4/2013	North Carolina State Board of Elections, 2013 SBOE-DMV ID Analysis		7/21 (Lichtman)
PX0577	4/12/2013	NC SBOE Documented Cases of Voter Fraud in North Carolina	Tutor Dep. Ex. 313	7/24

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0080	4/17/2013	Email from V. Degraffenreid to V. Degraffenreid re ID Analysis attaching DMV ID Matching Report	JA1821 - JA1830; Strach Dep. Ex. 48	7/20
PX0469	6/28/2013	Email from G. McCue to SBOE-Grp - Directors.BOE re Survey: CBE Director Input on Prospect of Reduced One-Stop Voting Period		7/23
PX0082	7/1/2013	Email from G. McCue to K. Strach attaching One-Stop Survey Report Data	JA1833 - JA1867; Strach Dep. Ex. 19	7/20
PX0083	7/1/2013	Email from G. McCue to K. Strach attaching Analysis of Reducing One-Stop Period: House Bill 451	JA1868 - JA1872; Strach Dep. Ex. 20	7/20
PX0088	8/4/2013	Email from V. Degraffenreid to B. Webb re House Bill 589 & Preregistrations	JA1880; Strach Dep. Ex. 56	7/20
PX0501	8/13/2013	Email from D. Wright to K. Strach re another complaint about Watauga County's early voting plan		7/23
PX0502	8/13/2013	Email from D. Wright to M. Robinson responding to complaint about Watauga County's early voting plan		7/23
PX0449	8/15/2013	Email from K. Campbell to K. Strach et al. re Watauga County Board of Elections, One-Stop Implementation Plan for 2013 Municipal Elections and attaching One-Stop Implementation Plan for November 5, 2013 Municipal Election		7/23
PX0503	8/28/2013	Email exchange between V. Degraffenreid and L. Lovedahl re whether HB 589 changes students' dependent status if they register at college		7/23
PX0504	8/28/2013	Email from V. Degraffenreid explaining that high school student could not preregister students in high school voter-registration drive because preregistration ends 9/1/2013		7/23
PX0092	8/30/2013	Email from K. Strach to T. Forsberg re Registration for 18 Year Old	JA1890; Strach Dep. Ex. 57	7/20
PX0223	9/13/2013	SBOE Numbered Memo 2013-02	Strach Dep. Ex. 55	7/20
PX0597	10/2013	North Carolina Voter Registration Application (in color)		7/23
PX0616	10/17/2013	Memo from K. Strach to County Boards of Elections re One-Stop Early Voting in the 2014 Primary and Session Law 2013-381's Hours-Matching Requirement, NC State Board of Elections Memo No. 2013-05	Strach Dep. Ex. 22	7/23
PX0363	10/25/2013	Email from D. Wright to V. Degraffenreid et al. re Question on Voter ID	McCue Dep. Ex. 471	7/23
PX0506	10/25/2013	Email string re transfer of out-of-state license after obtaining a North Carolina ID card		7/24
PX0442	11/12/2013	Email from V. Degraffenreid to K. Strach et al. re Archive		7/23
PX0443	11/12/2013	Email from V. Degraffenreid to C. Collicut re Archive		7/23

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0444	11/13/2013	Email from V. Degraffenreid to C. Collicutt re Archive		7/23
PX0445	11/13/2013	Email from C. Collicutt to V. Degraffenreid re Archive		7/23
PX0093	11/14/2013	Email from V. Degraffenreid to B. Webb re Change Request	JA1891; Strach Dep. Ex. 59	7/20
PX0094	11/25/2013	Email from B. Webb to V. Degraffenreid attaching H.B. 589 (VIVA)	JA1892; Strach Dep. Ex. 60	7/20
PX0562	12/11/2013	Letter from M. Murphy to K. Strach re Allegheny County Board of Elections and attaching Resolution and One Stop Implementation Plan	Cosner Dep. Ex. 285	7/23
PX0095	12/18/2013	Presentation re 2013 Election Directors Conference: VIVA Update	JA1893 - JA1899	7/20
PX0580	12/20/2013	Hearing Transcript, <i>In re 2013 Pembroke Town Council Election</i>	Strach Dep. Ex. 367	7/22 (Strach)
PX0617	1/7/2014	Memo from K. Strach to County Boards of Elections re One-Stop Implementation Plans: May 2014 Primary, NC State Board of Elections Memo No. 2014-01	Strach Dep. Ex. 25	7/23
PX0618	1/10/2014	Memo from K. Strach to County Boards of Elections re May 2014 Primary One-Stop Hours Reduction Requests, NC State Board of Elections Memo No. 2014-02	Strach Dep. Ex. 26	7/23
PX0446	1/14/2014	Email from V. Degraffenreid to A. Penny attaching Notice re Incomplete Voter Registration Application Template, Request for Identification Information Template, Absentee Ballot Request Template, and Petition Change Letter Template		7/23
PX0621	3/2014	NC State Board of Elections, Provisional Voting Post HB 589	Strach Dep. Ex. 36	7/23
PX0096	Apr-14	State Board of Elections Presentation to Joint Legislative Elections Oversight Committee	JA1900 - JA1957; Strach Dep. Ex. 30	7/20
PX0553	4/2/2014	Joint Legislative Elections Oversight Committee Transcript of Proceedings	Roberts Dep. Ex. 1	7/21
PX0365	4/4/2014	Email from D. Wright to C. Poucher re Election Bills	Poucher Dep. Ex. 460	7/23
PX0340	4/17/2014	Email from B. Webb to V. Degraffenreid et al. re DMV Missing Images for March 31, 2014	Degraffenreid Dep. Ex. 331	7/22 (Strach Direct)
PX0368	5/9/2014	Email from C. Poucher to J. Howard et al. re U.S. Postal Service Disenfranchised a Chief Judge	Poucher Dep. Ex. 465	7/24
PX0498	5/12/2014	Email from K. Holland to M. Tutor et al. re Duplicate Voters	Tutor Dep. Ex. 321	7/23
PX0097	5/13/2014	<i>Voter Registration in NC</i> , a page from the North Carolina State Board of Elections Website	JA1958 - JA1959	7/20
PX0098	5/13/2014	<i>Changing Your Voter Registration in North Carolina</i> , a page from the North Carolina State Board of Elections Website	JA1960 - JA1961	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0487	5/28/2014	Email from G. McCue to K. Strach et al. re Lara Files on One-Stop Voting and attaching One-Stop Absentee Site Analysis Memoranda and Voter Turnout Spreadsheet	Degraffenreid Dep. Ex. 332	7/24
PX0615	6/10/2014	Memo from K. Strach to County Boards of Elections re One-Stop Voting for the 2014 General Election, NC State Board of Election Memo No. 2014-08	Plaintiff's Dep. Ex. 468	7/23
PX0499	6/16/2014	Email from M. Tutor to D. Wright attaching MT Administrative Investigations	Tutor Dep. Ex. 322	7/23
PX0360	7/29/2014	Email from G. McCue to B. LiVecchi re One-Stop Hours Reduction Requests	McCue Dep. Ex. 465	7/24
PX0361	7/29/2014	Email from G. McCue to K. Strach et al. re State Board Meeting Materials Revised	McCue Dep. Ex. 467	7/24
PX0569	7/29/2014	State Board of Elections Official Meeting Minutes	McCue Dep. Ex. 463	7/24
PX0359	7/30/2014	Email from B. LiVecchi to J. Howard et al. re One-Stop Early Voting Hours Reduction Requests Summary 7/30/14	McCue Dep. Ex. 464	7/24
PX0570	8/21/2014	State Board of Elections Official Meeting Minutes	McCue Dep. Ex. 466	7/24
PX0337	8/25/2014	Email from V. Degraffenreid to J. Jones et al. re VIVA Requirements and Direction	Burris Dep. Ex. 300	7/23
PX0571A	9/3/2014	Letter from K. Strach to Z. Keaton re Opportunity to Register to Vote (REDACTED)		7/24
PX0357	9/12/2014	Email from G. McCue to G. Michalek et al. re Voter Moves Within County Versus Between Counties	Fitzgerald Dep. Ex. 279; Strach Dep. Ex. 368	7/24
PX0342	10/10/2014	Email from A. Giddens to V. Degraffenreid re Voter Registration	Degraffenreid Dep. Ex. 339	7/24
PX0470	10/12/2014	Email from V. Degraffenreid to B. LiVecchi et al. re Citizenship Review Voters Processed		7/23
PX0384	10/21/2014	Email from V. Degraffenreid to C. Boyd-Malette re Voter Registration Mismanagement	Gignac Dep. Ex. 5	7/23
PX0362	10/22/2014	Email from V. Degraffenreid to SBE)Grp - Directors.BOE et al. re Voter Moves and attaching Flow Charts	McCue Dep. Ex. 469	7/24
PX0604	10/24/2014	Press Release, <i>Board of Elections Finalizes Citizenship Audit</i> , NC State Board of Elections		7/23
PX0448	10/25/2014	Email from M. Perry to V. Degraffenreid re Curb Side Voting Made Difficult		7/23
PX0338	10/29/2014	Email from K. Strach to K. Cosner re Upset Voter	Cosner Dep. Ex. 296	7/24
PX0563	10/30/2014	Memo from K. Cosner to K. Strach re Robeson Status Report	Cosner Dep. Ex. 289	7/23
PX0452	11/1/2014	Email from M. McFadyen to K. Strach re Guidance		7/23
PX0605	11/1/2014	Email from K. Strach to SBOE_Grp - Directors.BOE re Citizenship Audit Results		7/23
PX0366	11/5/2014	Email from C. Poucher to V. Degraffenreid re Willow Oak Polling Location	Poucher Dep. Ex. 463	7/24

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0375	11/5/2014	Email from D. Wright to C. Poucher et al. re Voter Problems - Paul Kearns District 20-11	Sims Dep. Ex. 456	7/24
PX0344	11/6/2014	Email from V. Degraffenreid to K. Strach et al. re Halifax Absentee Ballot Issues	Degraffenreid Dep. Ex. 351	7/24
PX0490	11/7/2014	Email from B. Neesby to K. Strach re Preliminary Verification Mailing Analysis	Neesby Dep. Ex. 445	7/29 (Strach)
PX0358	11/17/2014	Email from V. Degraffenreid to G. McCue re Voter Registration/Provision Vote Not Counted	McCue Dep. Ex. 460	7/24
PX0100		Survey Report re Requests for Reduction of Cumulative Hours of One-Stop Voting, 2014 Primary	JA1976 - JA1978; Strach Dep. Ex. 27	7/20
PX0212A		North Carolina Voter Registration Application (Clean Copy)		7/20
PX0213		North Carolina State Absentee Ballot Request Form	Strach Dep. Ex. 173	7/20
PX0222		Screenshot of FTP Directory, SBOE Numbered Memos		7/20
PX0557		Administration of Voter Registration, Policies and Procedures for the Implementation of the National Voter Registration Act of 1993 and Article 7A, Chapter 163 of the North Carolina General Statutes	Strach Dep. Ex. 40	7/23
PX0568		NC SBOE Report: Clarification on Same Day Registration Process and the Handling of Legacy Voters	Degraffenreid Dep. Ex. 347	7/24
PX0574		State Board of Elections' Staff Review of HB587		7/23
PX0576A		Voter Fraud Referrals to DAs (REDACTED)		7/24
PX0595		Letter Template re Incomplete Voter Registration Application		7/23
PX0598		2014 Provisional Ballot Envelope (Durham County)		7/23
PX0599		2014 Provisional Voter Instructions (Durham County)		7/23
PX0600		2014 Provisional Voting Application (Durham County)		7/23
PX0619		Letters from CBOEs to K. Strach re Requests for Reduction in Hours	Strach Dep. Ex. 28	7/24
PX0620		Orders, <i>In re One-Stop Absentee Voting Required Hours Reduction May 6, 2014 Primary</i> , State Board of Elections	Strach Dep. Ex. 29	7/23
PX0634		NC State Board of Elections Registration Applications Submitted from NVRA Public Assistance Agencies, by Year (compilation of NVRA data from SBOE FTP site)		7/23
PX0647		Voter Registration Applications		7/23
PX0689		Statewide Provisional Results	Strach Dep. Ex. 689	7/22 (Strach)
PX0694		SBOE Mail Verification Analysis 2015 - SDR Failed	Neesby Dep. Ex. 694	7/30
PX0725		Data from SBOE File "Public Assistance Activity 2008 to 2014"		7/22 (Strach)

Other CBOE Documents

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0572	5/11/2009	Minutes from Wake County Board of Commissioners Work Session	Poucher Dep. Ex. 466	7/24
PX0210	9/13/2011	Statistics for Fist and Last Vote	Dickerson Dep. Ex. 163	7/20
PX0209	11/5/2013	Mecklenburg County Board of Elections Election Day Summary	Dickerson Dep. Ex. 161	7/20
PX0450	7/18/2014	Email from C. Kreuger to M. Perry et al. re Voter Registration Question		7/24
PX0371	10/17/2014	Email from G. Sims to C. Poucher et al. re Wake - DMV	Sims Dep. Ex. 449	7/24
PX0372	10/17/2014	Email from C. Poucher to G. Sims et al. re Wake - DMV	Poucher Dep. Ex. 450; Sims Dep. Ex. 450	7/24
PX0374	10/23/2014	Email from R. Anderson to G. Sims et al. re USPS - Absentee Mail	Poucher Dep. Ex. 453; Sims Dep. Ex. 453	7/24
PX0373	11/5/2014	Email from C. Poucher to R. Anderson et al. re Absentee Envelopes	Sims Dep. Ex. 452	7/24
PX0581	4/13/2015	Wake County Polling Place Changes	Sims Dep. Ex. 457	7/23
PX0101		Mecklenburg County Board of Elections Early In-Person Voting Project Report	JA1979 - JA2002	7/20
PX0182		Written Comments of Cherie Poucher Before the Elections Assistance Commission	JA3062 - JA3078	7/20
PX0628		Written Comments of Cherie Poucher Before the Elections Assistance Commission re Implementation and Use of Provisional Voting	Poucher Dep. Ex. 207	7/24
Federal Legislative, Agency, and Court Documents				
PX0155	8/7/1965	Determination of the Attorney General Pursuant to Section 4(b)(1) of the Voting Rights Act of 1965 (30 Federal Register 9897)	JA2656	7/20
PX0156	1/4/1966	Department of Commerce Determination of the Director Regarding Voting Rights (31 Fed. Reg. 19)	JA2657	7/20
PX0157	3/2/1966	Department of Commerce Determination of the Director Regarding Voting Rights (31 Fed. Reg. 3317)	JA2658 - JA2709	7/20
PX0158	3/29/1966	Department of Commerce Determination of the Director Regarding Voting Rights (31 Fed. Reg. 5080)	JA2710 - JA2711	7/20
PX0160	1971	S. Rep. No. 92-26	JA2721 - JA2738	7/20
PX0159	3/23/1971	Excerpts from the 117th House of Representatives' Congressional Record	JA2712 - JA2720	7/20
PX0161	4/21/1992	U.S. Department of Justice Objection Letter	JA2739 - JA2741	7/20
PX0162	11/16/1993	U.S. Department of Justice Objection Letter	JA2742 - JA2744	7/20
PX0515	12/2006	U.S. Election Assistance Commission Report, <i>Election Crimes: An Initial Review and Recommendations for Future Study</i>		7/23
PX0052		<i>Distribution of Licensed Drivers- 2006 by Sex and Percentage in Each Age Group and Relation to Population</i> , a report of the US Department of Transportation Federal Highway Administration	JA1476 - JA1523	7/20

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0163	10/19/2011	<i>Allen v. City of Evergreen, Alabama (1:13-cv-00107)</i> Order	JA2745 - JA2750	7/20
PX0164	4/30/2012	U.S. Department of Justice Objection Letter	JA2751 - JA2755	7/20
PX0064	11/2/2012	<i>Justice Department to Monitor Polls in 23 States on Election Day</i> , U.S. Department of Justice Press Release	JA1548 - JA1550	7/20
PX0635	6/30/2013	U.S. Election Assistance Commission, <i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2011-2012</i>		7/23
PX0165	1/13/2014	<i>US v. Alameda County, Cal. (3:11-cv-03262)</i> Consent Decree, Judgment, and Order	JA2756 - JA2775	7/20
PX0099	5/15/2014	Declaration of Peyton McCrary	JA1962 - JA1975	7/20
PX0558	9/2014	United States Government Accountability Office Report to Congressional Requester, <i>Elections: Issues Related to State Voter Identification Laws</i> , GAO-14-634	Hood Dep. Ex. 385	7/23
PX0630		U.S. Department of Justice, <i>The National Voter Registration Act of 1993 (NVRA), Questions and Answers</i> , available at http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php		7/23
Discovery Documents and Pleadings				
PX0672	12/2/2013	Defendant's Answer		7/23
PX0675	1/22/2014	Defendants' Objections and Responses to the League of Women Voters' 1st Request for Production		7/23
PX0665	2/3/2014	Defendants' Objections and Responses to the United States' First Set of Request for Production to Defendants		7/23
PX0666	2/25/2014	Defendants' Objections and Responses to the Plaintiffs' League of Women Voters' First Interrogatories to Defendants		7/23
PX0225	4/16/2014	Plaintiffs' Joint Notice of Rule 30(b)(6) Deposition of the North Carolina State Board of Election	Strach Dep. Ex. 1	7/20
PX0670	12/17/2014	Defendants' Objections and Responses to the United States' Second Set of Interrogatories to Defendants		7/23
PX0667	1/16/2015	Defendants' Objections and Responses to the NAACP Plaintiffs' Second Set of Interrogatories to Defendants No. 12,13,16, and 17		7/23
PX0673	1/16/2015	Defendants' Objections and Responses to the United States' Third Set of Interrogatories No. 12 and No. 14		7/23
PX0669	1/22/2015	Defendants' Objections and Responses to the United States' Third Set of Interrogatories No. 10,11, and 13		7/23
PX0662	2/24/2015	Defendants' Third Amended Initial Disclosures	Poucher Dep. Ex. 458	7/23

<u>Exhibit No.</u>	<u>Doc. Date</u>	<u>Description</u>	<u>JA Range/ Dep. Ex. No.</u>	<u>Date Admitted</u>
PX0663	3/23/2015	Defendants' Objections and Responses to Plaintiff United States' First Set of Request for Admission		7/23
PX0668	3/23/2015	Defendants' Objections and Responses to the United States' Fourth Set of Interrogatories		7/23
PX0664	4/24/2015	Defendants' Supplemental and Amended Objections and Responses to Requests for Admission		7/23
PX0633	6/15/2015	Third Stipulation re Information in the SEIMS Database		7/24
PX0671	6/26/2015	United States' Request for Judicial Notice with Exhibits A-H		7/23
PX0726	7/12/2015	Parties' Joint Stipulation re 2,726 Letters Sent by the North Carolina State Board of Elections with Attached Letter		7/22 (Strach - Kaul Direct)
Other Exhibits				
PX0221	1/18/2005	Analysis of Out-of-Precinct Provisional Votes by Race in NC General Election, Nov. 2004		7/20
PX0053	7/14/2008	Letter from Stevie Lawrence to Larry Shaw re Early Voting for Fayetteville State University Students	JA1524	7/20
PX0055	11/3/2008	<i>Voting Rights Watch: NAACP Wants Probe After Casket with Obama Picture is Displayed N.C. Polling Station</i> , Institute for Southern Studies article	JA1526 - JA1527	7/20
PX0081	6/25/2013	<i>NC Voter ID Bill Moving Ahead with Supreme Ruling</i> , article	JA1831 - JA1832	7/24 (For limited purposes)
PX0217	7/26/2013	Letter from R. Cooper to P. McCrory		7/20
PX0090	8/8/2013	Email from J. Felts to R. Tronovitch and K. Genardo attaching Election reform One-Pager	JA1884 - JA1885	7/20
PX0199	5/5/2014	Letter from M. Elias to A. Peters and T. Farr re DMV Registration of Voters Who Will be 18 By the Next General Election	JA3285 - JA3286	7/20
PX0200	5/16/2014	Letter from A. Peters to M. Elias re DMV Registration	JA3287 - JA3288	7/20
PX0220	7/6/2014	Email from A. Peters to J. Devaney	Webb Dep. Ex. 223	7/20
PX0573	8/6/2014	Memo from B. Webb to Driver Services Field and Support Staff re Verification of Voter Information Act (VIVA)	Webb Dep. Ex. 221	7/24
PX0089	8/8/2014	Email from J. Felts to R. Tronovitch and K. Genardo attaching Election Reform One-Pager	JA1881 - JA1883	7/20
PX0478	9/11/2014	Email from T. Bucholtz to NCDOT - DMV Outages re Forest City Office	Bucholtz Dep. Ex. 502	7/24
PX0479	9/18/2014	Email from T. Bucholtz to NCDOT - DMV Outages re Cary	Bucholtz Dep. Ex. 503	7/24
PX0336	10/23/2014	Email from C. Boyd-Malette to T. McLawhorn re Voter Registration Mismanagement	Boyd-Malette Dep. Ex. 496	7/24
PX0579	3/19/2015	Index of NVRA/NVRA Reports	Degraffenreid Dep. Ex. 327	7/24
PX0609	5/18/2015	NCDOT: Non-Operator ID Cards, Voter ID, and No-Fee ID Cards	Boyd-Malette Dep. Ex. 494	7/24

Exhibit No.	Doc. Date	Description	JA Range/ Dep. Ex. No.	Date Admitted
PX0646	6/27/2015	Durham County Voter Information - Precinct Level		7/23
PX0065		<i>All Together Now: Collaboration and Innovation for Youth Engagement</i> , A report of the Commission on Youth Voting and Civic Knowledge	JA1551 - JA1610	7/20
PX0102		Southern Coalition for Social Justice Graph re Total Accepted One-Stop Early Votes	JA2003 - JA2006	7/20
PX0103		<i>Race as a Tool in the Struggle for Political Mastery: North Carolina's 'Redemption' Revisited 1870-1905 and 2011-2013</i> , a Law and Inequality article	JA2007 - JA2098	7/20
PX0104		<i>Governor McCrory Signs Popular Voter ID into Law</i> , a Governor P. McCrory Newsroom Article	JA2099 - JA2100	7/21
PX0211		2014-2010 Primary Data, native file available at http://democracy-nc.org/downloads/2014-2010PrimaryBlackVoters.xls		7/20
PX0682		Annotated Page from E. Churchill Affidavit		7/15 (Burden Re-Direct)
PX0700		Non-Objected to PI Stip Vol. 1 of 5: PX0001 - PX0011, PX0013 - PX0017, PX0018A, PX0019 - PX0036		7/20
PX0701		Non-Objected to PI Stip Vol. 2 of 5: PX0051 - PX0075, PX0078, PX0080, PX0082 - PX0085, PX0088 - PX0090, PX0092 - PX0099		7/20
PX0702		Non-Objected to PI Stip Vol. 3 of 5: PX0100 - PX0103, PX0105 - PX0130		7/20
PX0703		Non-Objected to PI Stip Vol. 4 of 5: PX0131 - PX0166, PX0173 - PX0177, PX0182 - PX0185		7/20
PX0704		Non-Objected to PI Stip Vol. 5 of 5: PX0186 - PX0211, PX0212A, PX0213 - PX0214, PX0216 - PX0217, PX0220 - PX0228		7/20
PX0723		N.C.G.S. § 163-82.7		7/29
PX0727		NAACP Strach Demonstratives		7/22 (Strach)
PX0733	12/2009	Charles S. Bullock, III et al., <i>A Survey of Georgia Voters in the 2008 General Election</i> , Pew Charitable Trusts' Make Voting Work		7/27
PX0734	3/2012	M.V. Hood III & William Gillespie, <i>They Just Do Not Vote Like They Used To: A Methodology to Empirically Assess Election Fraud</i> , Social Science Quarterly		7/27
PX0735	2012	M.V. Hood III & Charles S. Bullock III, <i>Much Ado About Nothing? An Empirical Assessment of the Georgia Voter Identification Statute</i> , State Politics & Policy Quarterly		7/27
PX0738	5/9/2013	Sean Trende, <i>Sweeping Conclusions from Census Data Are a Mistake</i> , Real Clear Politics		7/28
PX0739	11/8/2012	Sean Trende, <i>The Case of the Missing White Voters</i> , Real Clear Politics		7/28
PX0740	6/25/2013	Sean Trende, <i>Does GOP Have to Pass Immigration Reform?</i> , Real Clear Politics		7/28

<u>Exhibit No.</u>	<u>Doc. Date</u>	<u>Description</u>	<u>JA Range/ Dep. Ex. No.</u>	<u>Date Admitted</u>
PX0741	2014	Jan E. Leighley & Jonathan Nagler, <i>Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States</i>		7/28
PX0742		Blowup of Durham County Row from Survey Monkey Exhibit (DX0236)		7/29
PX0743		Blowup of Durham County Comments from Survey Monkey Exhibit (DX0236)		7/29
PX0745		Copy of George Orenthel Bailey, IV Voter Reg. Card		7/30
PX0747		Voter Registrations by Public Assistance Agencies		7/30
PX0748		Monthly NVRA reports		7/30
PX0749		NCFast Rollout Reports		7/30
PX0826		Lichtman Rebuttal Demonstratives AL 19, AL 22, AL 23		Admitted as demonstratives

General Information

Court	United States District Court for the Middle District of North Carolina; United States District Court for the Middle District of North Carolina
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	1:13-cv-00660