NAACP
North Carolina
STATE CONFERENCE

June 21, 2023

House Speaker Tim Moore
President Pro Tempore Phil Berger
Members of the Senate Committee on Redistricting and Elections
Members of the House Committee on Elections and Campaign Finance Reform
16 West Jones Street
Raleigh, NC 27601

Via Electronic Mail

Re: Senate Bill 747 (Elections Law Changes)

Dear Speaker Moore and President Pro Tempore Berger,

The North Carolina State Conference of the National Association for the Advancement of Colored People (NAACP North Carolina) respectfully submits this letter regarding our great concern about the discriminatory impact that Senate Bill 747 (Elections Law Changes)[1] would have on Black and brown voters across the state of North Carolina.

1. This Bill Will Disproportionately Impact Voters of Color

NAACP North Carolina is a grassroots, non-profit, civil rights organization composed of more than 100 branches and 20,000 individual members stretched across every county within the state of North Carolina. NAACP North Carolina relies on a fair and effective electoral process to help achieve its organization's missions of improving civic engagement, education, criminal justice, environmental justice, economic opportunity, and healthcare. NAACP North Carolina has historically been at the forefront of fighting against laws and legislation that negatively impact the rights of North Carolina's Black voters. No right is more worthy of this legislature's vigilant protection than the right to vote. As NAACP North Carolina leaders have testified for decades, this right is a sacred one; it is the cornerstone of a healthy democracy and in the history of this state and nation, it has been won through the blood, sweat, and tears of many of the same voters whose rights are again under threat today.

Below is a summary of several provisions in SB 747 that the NAACP is gravely concerned about, should they become law. However, what is most concerning is the **cumulative impact** that this deluge of changes to election law will have on those seeking to cast a ballot in 2023 and beyond, particularly Black and brown voters. This bill will make it harder for voters to cast a regular ballot and to have that ballot counted, and will also expose voters to new avenues through which they may be harassed or intimidated while doing so.

[1] All references to the text of SB 747 refer to the Proposed Committee Substitute that was adopted on June 15, 2023, which is accessible here: https://webservices.ncleg.gov/ViewBillDocument/2023/6249/0/S747-PCS35291-BK-31.

Furthermore, this Legislature has not provided the funding that is necessary for the North Carolina State Board of Elections ("NCSBE") to implement the unfunded changes in the proposed legislation, threatening further discriminatory results. For example, in order to implement the novel signature verification requirements of SB 747 alone, NCSBE would need significant additional funding that has not yet been provided in the most recent versions of either the House or the Senate budgets. In addition to not providing adequate public funding for election administration, Sections 1 and 2 of SB 747 also impose a prohibition on state and county boards of elections, and county commissioners, denying them the ability to receive private funding (either directly or indirectly) for either conducting elections or employing individuals on a temporary basis. Thus, SB747 independently denies any alternative avenues to adequately fund changes proposed for the first time on the eve of municipal elections in the first election where a new discriminatory photo voter ID requirement (SB 824) is expected to be implemented – a requirement NAACP North Carolina is currently challenging in Federal Court for violating Section 2 of the Voting Rights Act of 1965, based on its intent and effects.[2]

2. The Proposed Changes to Vote by Mail are Unnecessary and Discriminatory

North Carolina has a political history that is riddled with racism, discrimination, and inequities that have targeted Black voters statewide. Throughout our state's history, "facially neutral" barriers to voting access have disproportionately disenfranchised Black and brown voters. Barriers to mail-in voting access are no different, and these proposed barriers are especially concerning in light of the fact that many Black North Carolinians shifted to voting by mail in the 2020 elections, but their ballots were rejected at a much higher rate.[3] SB 747 proposes that the deadline for receipt of absentee ballots be cut by three days, meaning that thousands of valid ballots received after Election Day would be essentially thrown away, simply because of USPS mail delays that are outside of the voter's control.[4] The only justification that has been asserted for this proposal is that it is "needed so voters know the results on election night"[5] – but this is not a sufficient justification for the large-scale disenfranchisement this will cause.

Section 21(b) of SB 747 would require that North Carolina institute a novel electronic signature verification requirement for mail-in absentee ballots, whereby every voter's signature on their absentee ballot return envelope would have to be matched to their original signature on file from their application to register to vote. North Carolina already imposes other discriminatory verification processes, such as the requirement that the voter complete the container-return envelope in the presence of two witnesses or a notary public (N.C.G.S. § 163-231(a)). North Carolina is one of only 12 states that require the signature of a witness or notary in addition to the voter's signature on an absentee ballot return envelope.[6] If SB 747 were to pass in its current form, North Carolina would become the only state in the country to require both signature verification and witness signatures on all mail-in ballots.[7]

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[2] *NC NAACP v. Circosta*, No. 1:18-CV-01034 (M.D.N.C.).

[3] Bryan Anderson and Nicholas Riccardi, "Early vote shows signs of Black voters' shift to mail voting," Associated Press, Sept. 6, 2020, https://apnews.com/article/election-2020-race-and-ethnicity-north-carolina-elections-voting-2020-40a44a85e544366b8e3c428ff375ff21; Sophie Chou and Tyler Dukes, "In North Carolina, Black Voters' Mail-In Ballots Much More Likely to Be Rejected Than Those from Any Other Race," ProPublica, Sept. 23, 2020, https://www.propublica.org/article/in-north-carolina-black-voters-mail-in-ballots-much-more-likely-to-be-rejected-than-those-from-any-other-race.

[4] Rep. Joe John asserted that this provision would have disenfranchised over 13,000 voters had it been in effect in 2020. David Bass, "Election Integrity Bill Moves Forward in NC House," Carolina Journal, April 4, 2023, https://www.carolinajournal.com/election-integrity-bill-moves-forward-in-nc-house/

[5] *Id*.

[6] "Voting Outside the Polling Place," National Conference of State Legislatures, https://www.ncsl.org/elections-and-campaigns/voting-outside-the-polling-place

[7] "How States Verify Voted Absentee Ballots," National Conference of State Legislatures, https://www.ncsl.org/elections-and-campaigns/table-14-how-states-verify-voted-absentee-mail-ballots.

In the 2018 midterms, North Carolina's Black voters were more than twice as likely as white voters to have their absentee ballots rejected; and the data from 2020 showed a similar pattern.[8] A signature verification requirement would impose yet another unreliable and discriminatory method of discarding valid votes that disproportionately impacts younger voters, older voters, voters with disabilities and voters of color. Numerous studies and lawsuits have found that, in states where election officials engage in signature verification, voters of color have their absentee ballots rejected at a much higher rate than white voters.[9] This unjustified denial of equal access to the ballot should be rejected.

3. This Bill Will Lead to an Increase in Voter Intimidation

SB 747 exposes voters to the possibility of greater harassment and intimidation in several ways: (1) it seeks to make information about voters' citizenship status publicly accessible;[10] (2) it seeks to make information about the type of identification provided by mail-in absentee voters publicly accessible;[11] (3) it seeks to have election officials keep a log of any individual who assists another voter that is not a near relative;[12] (4) it allows for a greater number of voter challenges, allowing any individual who resides in the same county as a voter to challenge that voter's mail-in ballot;[13] and (5) it puts the State Bureau of Investigations in charge of investigating election crimes.[14]

The cumulative effect of these provisions is that more voter data will be publicly accessible than ever before, which will lead to targeted harassment of individuals in order to intimidate them from showing up to the polls or rendering assistance to other voters who are entitled to that assistance by law. These provisions also open the door for even more voter challenges and investigations into alleged election crimes than ever before, which are a tactic used by proponents of "the Big Lie" to intimidate voters. The legislature should reject this suite of provisions that together threaten to increase intimidation and harassment, particularly of voters of color in this state.

4. This Bill Guts the Right of North Carolinians to Utilize Same Day Registration

NAACP North Carolina has consistently fought against restrictions to same-day registration, and supports the use of same-day registration in all elections at the federal, state and local level. SB 747 seeks

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[8] Sophie Chou and Tyler Dukes, "In North Carolina, Black Voters' Mail-In Ballots Much More LIkely to Be Rejected Than Those from Any Other Race," ProPublica, Sept. 23, 2020, https://www.propublica.org/article/in-north-carolina-black-voters-mail-in-ballots-much-more-likely-to-be-rejected-than-those-from-any-other-race

[9] David A. Graham, "Signed, Sealed, Delivered – Then Discarded," The Atlantic, https://www.theatlantic.com/ideas/archive/2020/10/signature-matching-is-the-phrenology-of-elections/616790/; "Vote-By-Mail Ballots Cast in Florida," ACLU of Florida, https://www.aclufl.org/sites/default/files/aclufl_-_vote_by_mail_-_report.pdf

[10] Section 30(d) of SB 747 requires that, if a person is excused from jury duty because the person is not a citizen, the clerk of court shall send that person's information to the NCSBE. Mandating a voter purge program of this type will unjustly target people suspected of being non-citizens based solely on unreliable jury excusal lists maintained by clerks of court.

[11] Section 13 of this bill would require that public voter rolls now list the type of identification provided by mail-in absentee voters.

[12] Section 12 of the bill would require for the first time that precinct officials "maintain a log of any individual who is not a near relative of the voter who goes into the voter booth to render assistance to a voter" and this will include the individual's name and address. This would open the door to harassment of community leaders, particularly those who help voters that need translation support in order to read their ballot.

[13] Section 8 of this bill would allow for any individual residing in the same county as a voter to challenge that voter's mail-in ballot. This is a change from the prior law which only permitted challenges to another individual within your same precinct.

[14] Section 28.(c).

to make a drastic change to same-day registration in North Carolina, whereby many same-day registrants would have to vote a provisional ballot instead of a regular ballot:

> *An individual registering and voting under subsection (a) of this section shall vote by provisional ballot unless one of the following applies:*
>
> *(1) The address on the individual's photo identification required under G.S. 163-166.16 is the same as the address listed on a copy of a HAVA document.*
>
> *(2) The individual's photo identification required under G.S. 163-166.16 lacks an address and the individual provides a document from the institution issuing the photo identification showing the name and address of the individual and a copy of a HAVA document showing the same name and address for that individual.*

This language appears to require that an individual produce *two separate documents* at a minimum - one to comply with G.S. 163-166.16 and one to comply when HAVA. However, there is nothing in either statute that requires this – and in fact, an individual should be able to utilize a single document (such as a North Carolina driver's license) to satisfy the requirements of both statutes.

This new requirement will needlessly cause significant delays and long lines at the polls, burden election officials, and subject individuals to having to verify their identity again in a way that is too burdensome for the average voter to comply with, and which serves no legitimate purpose. The additional wait times anticipated because of the addition of this unjustified requirement represent another threat to equal access to the ballot. Further, the requirement as written fails to take into consideration that many forms of photo identification do not have an address printed on them and conflicts with other federal and state law requirements.

But most importantly, the real-world consequence of these changes is that a large number of eligible North Carolina voters will not have their ballot counted at all, a consequence that this legislature could easily avoid. To have a provisional ballot counted, under the proposed statute, the voter must make a separate trip to their County Board of Elections Office with multiple forms of identification.[15] This change would disproportionately affect Black voters. As the General Assembly is well aware, the Fourth Circuit Court of Appeals held in *NC NAACP v. McCrory,* that "it is indisputable that African American voters disproportionately used [same-day registration] when it was available" and this Legislature's previous decision to eliminate SDR in North Carolina would not have been done but for "its disproportionate effect on African Americans."[16]

In conclusion, the provisions described above in the current version of SB 747 will have a widespread disenfranchising effect, as North Carolinians seeking to exercise their sacred Constitutional right will be faced with a myriad of new barriers, some of which will unfortunately be insurmountable. These barriers will disproportionately impact Black voters and voters of color in this state. NAACP North

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[15] Section 6 of SB 747 states that a provisional ballot shall only be counted if the voter, by close of business the day before canvass, (1) brings to their CBOE office a photo ID required under GS 163-166.16 and a copy of their HAVA document showing their name and address, and the address on both forms of ID is the same; OR (2) brings to the CBOE office a copy of any two of the following and the name and address on both documents are the same: current utility bill, current bank statement, current government check, current paycheck, another government document showing name and address of the voter or a document from the institution issuing the photo ID showing the name and address of the individual.

[16] 831 F.3d 204, 217, 237 (4th Cir. 2016).

Carolina respectfully requests that the House and the Senate vote no on this omnibus election bill and reject further efforts to abridge or deny the equal right to vote in North Carolina.[17]

Respectfully Submitted,

Ms. Deborah Dicks Maxwell

President, North Carolina State Conference of the NAACP

Attorney Irv Joyner

Legal Redress Chair of the North Carolina State Conference of the NAACP

[17] NAACP North Carolina does support Section 29 of SB 747, which proposes that the intent requirement of G.S. 163-275(a) be changed regarding voting while on felony supervision in order to incur criminal penalties. We would request that this proposal be drafted as stand-alone legislation, and that it be further strengthened by changing the intent standard to ”willfully and knowingly.”