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June 22, 2021

Sent via email

The Honorable John Bel Edwards
Governor, State of Louisiana
c/o Matthew Block, Executive Council
Office of the Governor
Louisiana State Capitol
900 North Third Street
Baton Rouge, LA 70804
matthew.block@la.gov

RE: Louisiana Voter Suppression Legislation

Dear Governor Edwards,

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) writes in opposition to SB224, HB704, and HB138.¹ Following the 2020 election, our nation has seen an unprecedented rise in restrictive voting rights bills, many of which target Black communities and other communities of color seeking to exercise their right to vote. As a nonprofit, nonpartisan civil rights organization, LDF’s aim is to ensure that all voters, particularly Black voters and other voters of color, have full, meaningful, and unburdened access to the ballot box. As such, we strongly and respectfully urge you to veto SB224, HB704, and HB138. Signing these bills into law would erode the voting rights of Louisianians, especially for the nearly 43% of whom are Black and brown.

¹ See S.B. 224, 47th Reg. Sess. (La. 2021), <https://www.legis.la.gov/legis/ViewDocument.aspx?d=1212321>; see H.B. 138, 47th Reg. Sess. (La. 2021), <https://www.legis.la.gov/legis/BillInfo.aspx?i=239943>; see H.B. 704, 47th Reg. Sess. (La. 2021), <https://www.legis.la.gov/legis/BillInfo.aspx?i=240965>.

I. S.B. 224 creates unnecessary burdens on the right to vote for absentee voters by requiring them to write sensitive, personal information on their mail-in ballot.

S.B. 224 is written to undermine progress on efforts to expand voting rights and ballot access in Louisiana, especially for Black voters and other voters of color, voters with disabilities, elderly voters, and low-income voters. S.B. 224 threatens to improperly invalidate ballots and burden voters who qualify to vote absentee by mail and any early in-person voters who do not have a state I.D. or social security number—disproportionately voters of color, young voters, and naturalized citizens.²

Louisiana already limits absentee-by-mail qualifications to a small subset of voters compared to other states.³ Now, S.B. 224 aims to limit critical methods of accessing the vote by adding additional burdens to the process. S.B. 224 requires that voters include the number of their Louisiana driver’s license or special identification card or the last four digits of the voter’s social security number if the voter does not have a Louisiana driver’s license or special identification card on the application for an absentee ballot as well as the outer flap of the return envelope of the ballot. This is *in addition* to a sworn affidavit that voters must sign attesting to their identity and the accuracy of their statements.⁴ Requiring voters to include an ID number or social security number is an arbitrary, cumbersome, and unnecessary burden in light of the standing measures to confirm the identity of the requesting voter.⁵ Proponents of the bill do not address bipartisan security concerns related to exposing sensitive, personal

² Brennan Center for Justice, *Citizens without Proof: A Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification* (2006), http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.

³ See La. R.S. 18:1303; see also National Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Sept. 24, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (last visited June 14, 2021) (noting that two-thirds of states allow any voter to request and absentee-by-mail ballot without offering an excuse); Elaine Kamarck, Yousef Ibreak, Amanda Powers, and Chris Stewart, *Voting by mail in a pandemic: A state-by-state scorecard*, BROOKINGS (Oct. 2020), <https://www.brookings.edu/research/voting-by-mail-in-a-pandemic-a-state-by-state-scorecard/> (grading Louisiana with a “D” on vote-by-mail opportunities during the COVID-19 pandemic).

⁴ La. R.S. 18:1306(E)(1)(f).

⁵ See, e.g., April 15, 2020 Meeting of the La. Comm. on Sen. and Governmental Affairs at 8:50/3:08:32, https://senate.la.gov/s_video/videoarchive.asp?v=senate/2020/04/041520S~G_0 (last visited May 15, 2021) (Sec. of State Kyle Ardoin addressing legislators in reference to a proposed expansion of absentee-by-mail qualifications during the COVID-19 pandemic stated, “Our plan would still require voters to request a ballot, allow us to compare the requester’s signature and addresses to confirm it is the correct voter at the correct address. These are safeguards we have in place to prevent voter fraud in other elections, and we have confidence in them...”).

information of voters. Further, this additional requirement would place a drain on state and local election official resources and time by adding an additional and excessive confirmation process. These new restrictions on absentee-by-mail would risk disenfranchising voters based on procedural technicalities and would thereby deny Louisiana citizens their fundamental right to vote.⁶ And these requirements will cause more voters to attempt to vote in person, leading to longer lines and wait times for all voters on Election Day.

II. H.B. 138 requires the Registrar of Voters execute an arbitrary audit of the voter rolls each year and mandates that registered voters be removed if they are inactive for two federal general election cycles.

H.B. 138 is written to undermine the democratic process by creating a new purge of Louisiana’s voter rolls that unnecessarily removes registered voters from the rolls. Currently, the Louisiana Registrar of Voters conducts an annual canvas to verify the names and addresses of registered voters. H.B. 138 would require the Registrar of Voters to expend limited state resources to execute a superfluous supplemental audit of the voter rolls along with the yearly canvas of registered voters by sending and tracking returns of “supplemental address confirmation cards.”

Legislators and the Secretary of State repeatedly confirmed throughout this legislative session that Louisiana has long maintained efficient and secure elections. There is no reasonable justification to add the burdens of H.B. 138 to an effective system.

There are plenty of reasons why a voter confirmation card may not be received or returned. A recent study from Wisconsin based on a similar card confirmation process found that *at least* 4% (and more likely an estimated 9%) of voters were

⁶ Notably, Section 10101(a)(2)(B) of the Civil Rights Act prohibits anyone, acting under color of law, from “deny[ing] the right to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.”

improperly flagged as having out-of-date addresses.⁷ The rate of such voting was *twice* as high for voters of color than white registrants.⁸

It should be the objective of State leaders to bring more Louisianans into our democratic process, including new voters and infrequent voters. No law should result in pushing people out of the process because they did not receive or return a card in the mail.

III. H.B. 704 empowers state political parties to increase the potential for voter intimidation by appointing poll watchers during early voting and on Election Day.

H.B. 704 permits political parties to appoint poll watchers without providing additional guidance or regulation of poll watcher activity. We are currently seeing a historic rise in both active and passive voter intimidation tactics, which often target Black and brown voters.⁹ H.B. 704 allows for not only campaign poll watchers but also partisan poll watchers to surveil Louisiana voters.

Allowing more poll watchers in the early voting and Election Day processes creates a very concerning increased potential for voter intimidation that can be expected to prevent many voters, especially Black voters and other voters of color, from having unburdened, free access to Louisiana's polling places. In addition, there is no legitimate justification for increasing partisan poll watching. Further, the bill fails to provide essential restrictions on poll watcher activity without which, poll watchers are free to take photos of poll books, record voters in the polling place, and

⁷ Gregory A. Huber, *The racial burden of voter list maintenance errors: Evidence from Wisconsin's supplemental movers poll books*, 7 *Sci. Advances* 1 (2021), <https://advances.sciencemag.org/content/7/8/eabe4498>.

⁸ *Id.* (“[T]here are at least two reasons why minorities may be more likely than whites to be falsely flagged as suspected movers...First, minorities are more likely to reside in multi-unit buildings and more likely to reside in larger households, both of which, we hypothesize, increase the risk that someone who did not move will nevertheless be falsely flagged as moving. We expect registrants in multi-unit buildings to be disproportionately falsely flagged as moving because the additional complexity of addresses in multi-unit buildings increases the chance that two administrative records will represent the same address differently and thus wrongly suggest that a registrant has moved. We also expect registrants in larger households to be disproportionately falsely flagged as moving when other members of a household move, particularly when the movers and nonmovers share a similar name.”).

⁹ NAACP Legal Defense and Educational Fund, Inc., *Democracy Defended Executive Summary* (2021), https://www.naacpldf.org/wp-content/uploads/LDF_02102021_DemocracyDefendedPreview-11.pdf. Southern Poverty Law Center, *Overcoming the Unprecedented: Southern Voters' Battle Against Voter Suppression, Intimidation, and a Virus* https://www.splcenter.org/sites/default/files/splc_vr_report_overcoming_the_unprecedented_mar_2021.pdf.

threaten the privacy and security of confidential voter records. Louisianians cannot have free, unimpeded access to our electoral process unless there is effective and adequate management of poll watcher's activity and of Louisiana's polling places.

For the foregoing reasons, we respectfully urge you to veto SB224, HB138, and HB704. Please feel free to contact Jared Evans at 202-248-8090 or by email at jevans@naacpldf.org with any questions or to discuss these concerns in more detail.

Sincerely,

/s/Jared Evans

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NAACP Legal Defense and Educational Fund, Inc. ("LDF")

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People ("NAACP") since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.