

October 26, 2021

Submitted by email

Michigan Governor Gretchen Whitmer
Office of the Governor
George W. Romney Building
111 South Capitol Avenue
Lansing, Michigan 48909

Re: Support for Vetoes of S.B. 303 and S.B. 304

Dear Governor Whitmer:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) and Attorney Janey J. Lamar write to encourage you to continue your record of leadership in protecting the right to vote by vetoing Senate Bills (“S.B.”) 303 and 304.¹ The two bills burden, deny, and/or abridge this fundamental right for all Michiganders, and particularly for Black voters. S.B. 303 and S.B. 304 impose significant and unjustified barriers to the franchise, especially for Black and low-income voters, who disproportionately lack access to the specified identification or the underlying documents necessary to obtain it, forcing more voters to cast provisional ballots that may not be counted.² The bills also impair access to eligible Michiganders’ constitutional right to vote absentee, potentially violating the Michigan Constitution.³ And S.B. 303’s provisions restricting election funding from non-governmental sources will likely prevent jurisdictions from attaining critical resources they need for secure, accessible, and transparent election administration.⁴ Together, these burdens infringe on all eligible Michiganders’ voting rights, potentially violating the U.S. Constitution, the Michigan Constitution, and Section 2 of the Voting Rights Act of 1965.

Moreover, the two bills impose these onerous restrictions on the right to vote in the service of a lie. According to Senator Lana Theis, a sponsor of both S.B. 303 and S.B. 304, these bills have been advanced to “deter and avoid election fraud.”⁵ Yet elections in the United States—and particularly in

¹ See Mich. Leg., Senate Bill No. 303, 101st Leg. (Enrolled) (Oct. 20, 2021) (“S.B. 303”); Mich. Leg., Senate Bill No. 304, 101st Leg. (Enrolled) (Oct. 20, 2021) (“S.B. 304”).

² S.B. 303 (amending Mich. Comp. Laws § 168.523); *id.* (amending Mich. Comp. Laws §§ 168.759, 168.759a, 168.759b, and 168.761, and adding a new § 168.760a).

³ *Id.* (amending Mich. Comp. Laws § 168.759(10) to forbid election officials and governmental employees “from sending an absent voter ballot application to an elector for an election unless that elector has first requested an absent voter ballot application for that election”).

⁴ *Id.* (amending Mich. Comp. Laws § 168.946(1)).

⁵ Sergio Martínez-Beltrán, *Michigan GOP passes voter ID bill to deter ‘fraud.’ Critics call it ‘garbage’*, Bridge Michigan (June 16, 2021), <https://www.bridgemi.com/michigan-government/michigan-gop-passes-voter-id-bill-deter-fraud-critics-call-it-garbage>.

Michigan—are already highly secure.⁶ Indeed, the U.S. Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency described the 2020 election as “the most secure in American history.”⁷ Similarly, a thorough review by the Michigan Senate Oversight Committee “found no evidence of widespread or systematic fraud in Michigan’s prosecution of the 2020 election.”⁸ The Committee’s “clear finding” was that “citizens should be confident the results represent the true results of the ballots cast by the people of Michigan.”⁹ S.B. 303 and S.B. 304 contribute nothing to Michigan’s already-secure conduct of elections. Instead, by burdening access to the franchise for eligible voters—and by blocking critical funding for election administration—they will likely reduce access to and participation in the State’s political processes and undermine election security and confidence.

We applaud your recent statement that you will exercise the full power of your office to “protect our civil rights and stand up for our democracy that countless Americans have fought to preserve.”¹⁰ Consistent with these words and your leadership on voting rights, we ask that you veto these harmful bills.

I. S.B. 303’s Strict Voter ID Provisions Burden the Right to Vote for All Michiganders and Likely Disproportionately Harm Black Voters.

S.B. 303 rewrites Michigan’s voter identification requirements to make them far more restrictive.¹¹ It achieves this result, first, by striking the mitigating provision in existing Michigan law that enables in-person voters to cast a regular ballot if they attest in an affidavit that they are not in possession

⁶ Jocelyn Benson, *SOS Jocelyn Benson: Michigan knows how to run a secure election*, Detroit Free Press (Oct. 30, 2020), <https://www.freep.com/story/opinion/contributors/2020/10/30/michigan-sos-jocelyn-benson-election-security/6067155002/> (Sec’y of State Benson explaining that “Michigan’s elections are among the most secure in the country”); *see also* Off. of Sec’y of State Jocelyn Benson, *Election Security in Michigan*, https://www.michigan.gov/sos/0,4670,7-127-1633_100423---,00.html (last visited Oct. 20, 2021) (collecting resources and information on election security in Michigan).

⁷ U.S. Dep’t of Homeland Security, Cybersecurity & Infrastructure Security Agency, Joint Statement from Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁸ Mich. Senate Oversight Comm., *Report on the November 2020 Election in Michigan* 3 (June 2021), https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport_2.pdf.

⁹ *Id.* at 35; *see also id.* (“The Committee strongly recommends citizens use a critical eye and ear toward those who have pushed demonstrably false theories for their own personal gain”).

¹⁰ https://www.michigan.gov/whitmer/0,9309,7-387-90499_90640-569666--,00.html.

¹¹ S.B. 303 (amending Mich. Comp. Laws § 168.523); *id.* (amending Mich. Comp. Laws §§ 168.759, 168.759a, 168.759b, and 168.761, and adding a new § 168.760a to require identification from absent voters).

of photo identification¹²—an option that thousands of Michiganders, including at least one state senator, have used in past elections.¹³ Second, it adds a new and unnecessary identification requirement to the application process for absent-voter ballots.¹⁴ If these measures are implemented, the only option for voters unable to produce an approved form of photo identification will be to vote with a provisional ballot. However, in Michigan, provisional ballots are far more likely to be rejected than counted. According to the U.S. Election Assistance Commission, 71% of provisional ballots cast by Michigan voters in the 2018 general election were rejected—over three times the rate at which provisional ballots were rejected nationwide.¹⁵ In 2016, the most recent presidential election for which such data is available, Michigan’s rejection rate for provisional ballots was even higher, at 82%—meaning that four provisional ballots were rejected for every one that was counted.¹⁶

Requiring all in-person or absentee voters to produce photo ID or cast a provisional ballot needlessly, and severely, burdens the right to vote. The affidavit option under Michigan’s current voter ID law for in-person voting—which S.B. 303 abolishes—is a particularly important safeguard for voters who lack access to any approved form of photo ID or to the underlying documents necessary to obtain such ID. In addition, interposing a new and unnecessary ID requirement into the process of requesting an absent-voter ballot, as S.B. 303 does, inappropriately impairs the right to vote absentee.

There is no evidence of fraud related to the affidavit option for in-person voting. A spokesperson for former Secretary of State and current Michigan

¹² S.B. 303 (amending Mich. Comp. Laws § 168.523); see Mich. Sec’y of State, *Affidavit of Voter Not in Possession of Picture Identification*, Michigan.gov (last visited Oct. 20, 2021), https://www.michigan.gov/documents/sos/Affidavit_of_Voter_in_Possession_209344_7.pdf?20130614121635.

¹³ Jonathan Oosting, *GOP targets no-ID ballots to cut fraud. Only 0.2% voted that way in Michigan.*, Bridge Michigan (May 19, 2021), <https://www.bridgemi.com/michigan-government/gop-targets-no-id-ballots-cut-fraud-only-02-voted-way-michigan> (“I have voted at times by filling out an affidavit because I forgot my driver’s license,’ [Senator Ed] McBroom said in 2016. ‘And now I’m going to be told that I have got to find time when my clerk’s at the office because she’s not in the office on most days.’”).

¹⁴ S.B. 303 (amending Mich. Comp. Laws §§ 168.759, 168.759a, 168.759b, and 168.761, and adding a new § 168.760a).

¹⁵ U.S. Election Assist Comm’n, *Election Administration and Voting Survey: 2018 Comprehensive Report* 33-34 (June 2019), https://www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf (reporting that 70.98% of provisional ballots cast in the 2018 general election in Michigan were rejected, as compared to 20.78% nationwide).

¹⁶ U.S. Election Assistance Comm’n, *The Election Administration and Voting Survey: 2016 Comprehensive Report* 27, 29 (2017), https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf (82.13% of provisional ballots cast in the 2016 general election in Michigan were rejected, as compared to 25.02% nationwide).

Senator Ruth Johnson confirmed this point in 2016,¹⁷ and no evidence has been presented in any more recent election either. As discussed above, a review of the 2020 election by the Michigan Senate Oversight Committee “found no evidence of widespread or systematic fraud” at any stage of the electoral process, including absentee voting.¹⁸ Indeed, the Committee’s chair, Senator Ed McBroom, described claims to the contrary as “ludicrous when compared to the actual facts.”¹⁹ Furthermore, voting absentee is a constitutional right for all registered Michigan voters and an increasingly important means of accessing the franchise.²⁰

Black voters face particularly severe burdens under S.B. 303’s revised Voter ID procedures and S.B. 304’s changes to the process of perfecting provisional ballots. In Michigan, Black voters are six times more likely than white voters to lack photo ID.²¹ Many low-income and homeless voters, who in Michigan are disproportionately Black, may also lack access to underlying documentation, such as a birth certificate, which substantially increases the costs and burdens of obtaining even a purportedly “free” photo ID.²² In recent elections, voters in Detroit, where Black residents are 79% of the population,²³ have signed a disproportionate number of affidavits attesting to a lack of photo ID.²⁴ Thus, as a recent study found, implementing a strict voter ID law in

¹⁷ Jonathan Oosting, *Strict voter ID law approved in Michigan House*, Detroit News (Dec. 7, 2016), <https://www.detroitnews.com/story/news/local/2016/12/07/strict-voter-law-approved-michigan-house/95127394/> (“We are not aware of fraud related to the affidavit’ option, said Fred Woodhams, a spokesman for Republican Secretary of State Ruth Johnson . . .”).

¹⁸ Mich. Senate Oversight Comm., *supra* note 8, at 3.

¹⁹ Jonathan Oosting, *GOP investigation finds no Michigan vote fraud, deems many claims ‘ludicrous’*, Bridge Michigan (June 23, 2021), <https://www.bridgemi.com/michigan-government/gop-investigation-finds-no-michigan-vote-fraud-deems-many-claims-ludicrous>.

²⁰ Mich. Const. art. 2, § 4; see Lauren Gibbons, *One big winner in Michigan’s 2020 election cycle: No-reason absentee voting*, MLive.com (Nov. 11, 2020), <https://www.mlive.com/politics/2020/11/one-big-winner-in-michigans-2020-election-cycle-no-reason-absentee-voting.html>.

²¹ Phoebe Henninger, et al., *Who Votes Without Identification? Using Individual-Level Administrative Data to Measure the Burden of Strict Voter Identification Laws* 13 (Sept. 29, 2020), https://scholar.harvard.edu/files/morse/files/mich_voter_id.pdf.

²² See Joel Kurth & Ted Roelofs, *Poor in Michigan with no ID. “I am somebody. I just can’t prove it.”*, Bridge Michigan (Sept. 26, 2017), <https://www.bridgemi.com/urban-affairs/poor-michigan-no-id-i-am-somebody-i-just-cant-prove-it>.

²³ Julia Mack & Scott Levin, *See list of Michigan cities with most African American residents, and geographic shifts since 1970*, MLive.com (June 23, 2020), <https://www.mlive.com/public-interest/2020/06/see-list-of-michigan-cities-with-most-african-american-residents-and-geographic-shifts-since-1970.html>.

²⁴ Oosting, *GOP targets no-ID ballots*, *supra* note 13 (reporting that approximately “1 in 4” of the 11,417 affidavit voters in Michigan in the November 2020 election “were signed in Detroit”); Mike Wilkinson, *Voting without an ID? Not a big problem in most of Michigan*, Bridge Michigan (Dec. 13, 2016), <https://www.bridgemi.com/michigan-government/voting-without-id-not-big-problem-most-michigan> (“By far, the voters most likely not to have ID lived in counties and cities with larger minority populations: 30 percent of all voters statewide without ID voted in Detroit; 39 percent were in Wayne County (which comprises just 17 percent of all active registered voters in the state).”).

Michigan that “requir[es] people to have access to ID in order to vote will have a disparate racial impact.”²⁵ These disenfranchising effects will fall hardest on Black voters, who “are particularly likely to lack access to ID.”²⁶

II. S.B. 303 Impedes Effectuation of the Michigan Constitution’s Right to Vote an Absent-Voter Ballot.

S.B. 303 also prohibits the Michigan Secretary of State, clerks of counties, cities, or towns, and “all individuals employed by this state or a political subdivision of this state” from “sending an absent voter ballot application to an elector for an election unless that elector has first requested an absent voter application for that election.”²⁷ These restrictions on how a Michigan voter may receive or gain access to an absent-voter ballot application raise significant concerns under Article 2, § 4 of the Michigan Constitution. This provision, ratified by a supermajority of voters in 2018, grants to all registered Michiganders a constitutional right “to vote an absent voter ballot without giving a reason,”²⁸ and requires that the provision’s text “be liberally construed in favor of voters’ rights in order to effectuate its purposes.”²⁹ As the Michigan Court of Appeals held last year, affirmatively providing absent-voter applications to registered Michigan voters is consistent with the Secretary of State’s “constitutional obligation” to effectuate Article 2, § 4’s purposes.³⁰

By requiring voters to request absent-voter ballot applications affirmatively for each election, and to apply again for each future election, S.B. 303 increases the burdens involved in obtaining an absent-voter ballot. Such a result undermines Article 2, § 4’s text and stated purposes. Thus, S.B. 303’s measures burdens the exercise of Michigan voters’ constitutional rights and impedes the performance of election officials’ constitutional obligations.³¹ Furthermore, because this provision in S.B. 303 imposes an unnecessary additional burden on the exercise of the right to vote, the bill also raises concerns under the First and Fourteenth Amendments to the United States Constitution and Article 1, § 2 of the Michigan Constitution.³² These harmful and needless

²⁵ Henninger, et al., *supra* note 21, at 3.

²⁶ *Id.* at 15.

²⁷ S.B. 303 (amending Mich. Comp. Laws § 168.759(10)).

²⁸ Mich. Const. art. 2, § 4(1)(g); *see Davis v. Sec’y of State*, No. 354622, 2020 WL 5552822, at *3 (Mich. Ct. App. Sept. 16, 2020), *appeal denied*, 951 N.W.2d 911 (Mich. 2020).

²⁹ Mich. Const. art. 2, § 4(1).

³⁰ *Davis*, 2020 WL 5552822 at *6.

³¹ *See* Mich. Const. art. 2, § 4; *League of Women Voters of Michigan v. Sec’y of State*, No. 353654, 2020 WL 3980216 at *8 (Mich. Ct. App. 2020) (“Voting is not the single act of marking a ballot, but the entire process,” including having absent-voter ballots counted).

³² *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); Mich. Const. art. 1 § 2; *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 740 N.W.2d 444, 463 (Mich. 2007).

provisions will only reduce participation by eligible Michiganders and undermine election integrity and security by harming voter confidence.

III. S.B. 303 Denies Critical Election Funding, Including for Under-Resourced and Majority-Black Jurisdictions.

S.B. 303 also imposes restrictions on election funding from nongovernmental sources, which may prevent cities and other local jurisdictions from being able to adequately fund their elections.³³ In 2020, private citizens, foundations, and at least 49 sports franchises across the nation volunteered to donate their time, money, resources, expertise, and facilities to support election administration in counties and cities facing the extraordinary challenge of conducting a presidential election during a global pandemic.³⁴ In Michigan, the contributions of civically minded sports teams, as well as these teams' athletes and employees, helped local election officials avoid polling-place consolidations and provided access to absent-voter drop boxes in majority-Black cities such as Detroit and Flint.³⁵

S.B. 303 prohibits jurisdictions from accepting these commendable forms of assistance. The bill makes it illegal for the State of Michigan, any state “department, agency, commission, or board,” or any “county, city, or township” to “accept or use any private funds, in-kind contributions, or other consideration, from any individual or entity, either directly or indirectly, to conduct or administer an election.”³⁶ The bill’s broadly drafted language applies to “any election related activities”³⁷ and appears to ban, among other things, all volunteer activities and donations and any unremunerated use of private facilities—such as church buildings, VFW posts, or private schools—as voting locations or training centers. If, during an election, an employee in a county

³³ S.B. 303 (adding a new Mich. Comp. Laws § 168.946(1)).

³⁴ See Kenneth P. Vogel, *Short of Money to Run Elections, Local Authorities Turn to Private Funds*, N.Y. Times (Sept. 25, 2020), <https://www.nytimes.com/2020/09/25/us/politics/elections-private-grants-zuckerberg.html>; Nolan D. McCaskill, *Election sites at pro sports venues draw voters — but also pushback*, Politico (Nov. 2, 2020), <https://www.politico.com/news/2020/11/02/sports-venues-election-voting-sites-crowds-432522>.

³⁵ *Id.* (“Michigan would’ve had to consolidate polling places . . . if not for partnerships with Detroit’s sports teams”); Vince Ellis, *Why the Detroit Pistons are earning praise for voter galvanization efforts*, NBA.com (Sept. 25, 2020), <https://www.nba.com/pistons/features/why-detroit-pistons-are-earning-praise-voter-galvanization-efforts> (describing a drop box location and voter-education volunteering efforts made possible by the Detroit Pistons); *‘True community champions’: Mayor Neeley thanks Kyle Kuzma Foundation and the NBPA Foundation for their generous donation to make every vote count*, City of Flint (Oct. 27, 2020), <https://www.cityofflint.com/2020/10/27/true-community-champions-mayor-neeley-thanks-kyle-kuzma-foundation-and-the-nbpa-foundation-for-their-generous-donation-to-make-every-vote-count-in-flint/> (announcing a donation of \$10,000 from Flint native and NBA Laker Kyle Kuzma and the National Basketball Players Association “to help install and secure additional absentee voter drop boxes throughout the [C]ity” of Flint).

³⁶ S.B. 303 (adding a new Mich. Comp. Laws § 168.946(1)).

³⁷ *Id.*

clerk's office brought donuts or coffee to work to share with colleagues and paid for them with her own money, or if an election inspector's spouse drove her to work, even those benign actions would arguably violate S.B. 303's restrictions.

Concerningly, S.B. 303 fails to appropriate any funds to offset the likely loss of resources its enactment will cause for cities such as Detroit, Flint, and others. Denying an essential source of election funding, without doing anything to offset that loss for local jurisdictions, undermines the secure and transparent conduct of elections, decreases access to the fundamental right to vote, and will likely reduce both participation by Michigan voters and voter confidence in election administration. These foreseeable and harmful outcomes underscore the importance of vetoing these bills.

IV. S.B. 304's Provisional Ballot Rules Impose Needless Burdens.

S.B. 304 extends the harms of S.B. 303, requiring voters who cast provisional ballots to take action within six days after Election Day in order to make those provisional ballots count.³⁸ As discussed above, this requirement imposes an additional hurdle for those voters who, under the restrictions imposed by S.B. 303, are forced to cast a provisional ballot because they are unable to present photo ID. However, S.B. 304 also extends this needless requirement to other categories of provisional-ballot voters, including voters who present photo ID but are unable to document their current address and some same-day voter registrants whose names are not yet on the voter registration lists, if election workers cannot verify their registration status.³⁹

These changes will create discriminatory harms. Already, Black voters and other voters of color are more likely to be forced to vote by provisional ballot,⁴⁰ and more likely to have those provisional ballots rejected.⁴¹ By burdening the process of perfecting a provisional ballot, S.B. 304 heightens the

³⁸ S.B. § 304 (amending Mich. Comp. Laws § 168.523a).

³⁹ See Mich. Legislature, House Fiscal Agency, *Legislative Analysis: Provisional Ballots 2* (June 24, 2021), <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-0303-3F1C4843.pdf> (summarizing effects of S.B. 303 and S.B. 304, as reported from the House Elections and Ethics Committee).

⁴⁰ Daron Shaw, *Report on Provisional Ballots and American Elections* (June 21, 2013), http://web.mit.edu/supportthevoter/www/files/2013/08/Provisional-Ballots-Shaw-and-Hutchings.docx_.pdf; Joshua Field et al., *Uncounted Votes: The Racially Discriminatory Effects of Provisional Ballots*, Center for American Progress (Oct. 2014), https://cdn.americanprogress.org/wp-content/uploads/2014/10/ProvisionalBallots-report.pdf?_ga=2.111276417.42375908.1621859427-264694957.1618767359.

⁴¹ Thessalia Merivaki & Daniel A. Smith, *A Failsafe for Voters? Cast and Rejected Provisional Ballots in North Carolina*, Sage Journals (Sept. 19, 2019) <https://journals.sagepub.com/doi/10.1177/1065912919875816>; Joshua Field et al., *Uncounted Votes: The Racially Discriminatory Effects of Provisional Ballots*, Center for American Progress (Oct. 2014), https://cdn.americanprogress.org/wp-content/uploads/2014/10/ProvisionalBallots-report.pdf?_ga=2.111276417.42375908.1621859427-264694957.1618767359.

burdens caused by S.B. 303’s voter ID provisions for Black voters and low-income voters, who are less likely to possess the specified photo ID.⁴²

V. Potential Violations of Michigan and Federal Law

For these reasons, S.B. 303 and S.B. 304 produce harmful results and may lead to at least three violations of the United States Constitution, the Michigan Constitution, and the Voting Rights Act of 1965.

First, by abolishing the affidavit option for voters who lack photo identification, S.B. 303 calls into question the constitutionality of Michigan’s voter ID law as a whole. In 2007, the Michigan Supreme Court relied on the existence of “the affidavit alternative” to uphold the statute from challenge under the Michigan and U.S. Constitutions as a severe burden on the right to vote or an impermissible poll tax.⁴³ Removal of the affidavit option renders Michigan’s voter ID law subject to renewed challenge on similar grounds—and significant elements of the Court’s 2007 analysis will not apply.

Second, because the combined effects of S.B. 303 and S.B. 304 will disenfranchise a disproportionate number of Black voters from participating in elections or cause a disproportionate number of Black voters to cast provisional ballots that are likely to remain uncounted,⁴⁴ the two bills may violate the Fourteenth and Fifteenth Amendments to the United States Constitution and the Voting Rights Act of 1965,⁴⁵ which prohibit discriminatory denial or abridgment of the right to vote, a right that “includes the right to have the ballot counted.”⁴⁶

Third, by burdening all Michiganders’ right to vote and imposing this burden without serving a legitimate state interest, S.B. 303 and S.B. 304 may

⁴² Henninger et al., *supra* note 21 at 13.

⁴³ *In re Request for Advisory Opinion*, 740 N.W.2d at 456–57 (holding that Michigan’s current voter ID law does not impose a severe burden because “the statute explicitly provides that an elector without photo identification need only sign an affidavit in the presence of an election inspector before being ‘allowed to vote’”); *id.* at 464–65 (holding that the law “is not an unconstitutional poll tax” because “[a] voter who does not otherwise possess adequate photo identification is not required to incur the costs of obtaining photo identification as a condition of voting” and may instead “simply sign an affidavit in the presence of an election inspector”).

⁴⁴ *See, e.g.*, U.S. Election Assistance Comm’n, *supra* note 15, at 33–34 (reporting that 70.98% of provisional ballots cast by Michigan voters in the 2018 general election were rejected).

⁴⁵ *See* U.S. Const. amends. XIV, XV; 52 U.S.C. § 10301.

⁴⁶ *Reynolds v. Sims*, 377 U.S. 533, 555 n. 29 (1964). Under the Voting Rights Act, voting is specifically defined to include: “all action necessary to make a vote effective in any . . . election, including, but not limited to . . . having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.” 52 U.S.C. § 10310(c)(1).

violate the First and Fourteenth Amendments to the United States Constitution and Article 1, § 2 of the Michigan Constitution.⁴⁷

* * *

For these reasons, and consistent with your leadership on voting rights and your principled vetoes of recent harmful voting legislation, we encourage you to veto S.B. 303 and S.B. 304, as well as any future bills the Legislature may pass that needlessly or discriminatorily burden the right to vote. Please feel free to contact Steven Lance at (347) 947-0522 or by email at slance@naacpldf.org with any questions or to discuss these concerns in more detail.

Sincerely,

/s/ Steven Lance

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⁴⁷ See *Burdick*, 504 U.S. at 434 (“A court considering a challenge to a state election law must weigh ‘the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiffs seeks to vindicate’ against ‘the precise interest 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.’”) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)); Mich. Const. art. 1 § 2; *In re Request for Advisory Opinion*, 740 N.W.2d at 463 (adopting the *Anderson-Burdick* test for equal-protection challenges to voting laws under Article 1, § 2 of the Michigan Constitution).

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.