

# Exhibit B

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.

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

**DEFENDANT THE STATE OF NORTH CAROLINA'S OBJECTIONS AND  
RESPONSES TO THE LEAGUE OF WOMEN VOTERS PLAINTIFFS' FIRST SET OF  
REQUESTS FOR PRODUCTION TO DEFENDANT STATE OF NORTH CAROLINA**

Defendants the State of North Carolina ("Defendants"), through counsel, hereby submit the following responses and objections to the North Carolina League of Women Voters, et. al.'s (hereinafter, "Plaintiffs") First Set of Requests for Production to Defendant the State of North Carolina:

**GENERAL OBJECTIONS**

These general objections form a part of the specific objections to each and every discovery request propounded by the Plaintiffs and are set forth below simply to avoid the duplication and repetition of restating them within each individual response.

A. Privilege

Defendants object to these discovery requests to the extent that they call for disclosure of information protected by the attorney-client privilege, work-product privilege, legislative privilege, legislative confidentiality, legislative immunity, executive privilege, and/or other applicable doctrines or privileges. Defendants will not disclose such privileged information absent a Court order.

B. Relevance

Defendants object to these discovery requests to the extent that they seek information or documentation that is not reasonably calculated to lead to the discovery of admissible evidence. Nothing contained in these answers should be construed as an admission by Defendants of the admissibility or relevance of any fact.

C. Beyond The Scope of Discovery Established in Fed. R. Civ. P. 26

Defendants object to these discovery requests to the extent that they seek information that is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, more efficient, and less burdensome, and to the extent that they may be otherwise construed to require responses beyond the scope of discovery established in FED. R. CIV. P. 26. Many of the requests propounded by the Plaintiffs seek documents that are, or reasonably should be, in the possession of the Plaintiffs. Defendants therefore object to the production of such documents.

D. Time-Frame

Defendants object to these discovery requests to the extent they seek information outside of the relevant time frame. In particular, Defendants object to requests that seek information after August 12, 2013, the date on which H.B. 589 was formally enacted, on the grounds that such information is overbroad, insufficiently tailored in time, unduly burdensome, and neither relevant nor likely to lead to the discovery of admissible evidence.

E. No Waiver by Defendants

In providing these objections, Defendants do not in any way waive, but rather intend to preserve:

- (a) All objections as to competency, relevancy, materiality, and admissibility;
- (b) All objections as to vagueness, ambiguity, overbreadth, and undue burdensomeness; and
- (c) All rights to object on any ground to the use of these responses in any proceeding.

F. Objection to Definitions and Instructions

Defendants object to Plaintiffs' Definitions and Instructions to the extent: (a) they seek to change, expand, or enlarge Defendants' obligations under the Federal Rules of Civil Procedure,

the Local Rules of the Middle District of North Carolina, or any other applicable procedural rules; (b) they alter and, therefore, obscure the plain and specific meaning of any words that appear in any request; and (c) a literal application of the Definitions and Instructions as applied to a request would unduly expand the scope of the request to include information irrelevant to this lawsuit and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendants object to preparing a privilege log for the following categories of documents: (1) documents created by or exchanged between counsel for the parties in this litigation; (2) documents exchanged between counsel for the parties and their respective clients once the litigation was initiated (August 12, 2013); and (3) documents created by or exchanged between legislators and their staff at any time, all of which are shielded from disclosure by established doctrines of legislative immunity, privilege, and confidentiality. Defendants' objections are valid for the same reasons outlined in Defendants' Brief in Support of Motion Regarding Order on Electronically Stored Documents, filed January 2, 2014. Defendants object to preparing a privilege log for communications other than those listed above at the current time because, as of the date of the instant objections and responses, the parties have not yet agreed on search terms or custodians of electronic information from whom electronically stored information should be produced.

**Responses and Objections to Requests for Production of Documents**<sup>1</sup>

1. All documents and communications received or created by you concerning the drafting, introduction, passage, and implementation of H.B. 589.

**OBJECTION:** Defendants object to Request No. 1 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible

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<sup>1</sup> Defendant reserves the right to supplement these responses as discovery continues.

evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

2. All documents received or created by you concerning the General Assembly's reasons, justifications, rationales, interests, and/or purposes in enacting any of the provisions of H.B. 589, including but not limited to reports, studies, or analyses issued by or to the General Assembly, its agencies, employees, agents or individual Legislators.

**OBJECTION:** Defendants object to Request No. 2 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

3. All documents received or created by you concerning any analysis, assessment, or review of whether the proposed or enacted provisions of H.B. 589 will have a negative disparate impact, or otherwise will have any retrogressive effect, on the ability of Minority Persons to

participate effectively in the electoral process or which otherwise concern the effect of these changes on Minority Persons' participation in the electoral process.

**OBJECTION:** Defendants object to Request No. 3 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that the term "participate effectively in the electoral process" is vague and ambiguous, such that Defendants are unable to identify the documents sought by this request. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

4. All documents concerning communications between you and members of the public, lobbyists, public interest groups or organizations relating to reports, communications, lobbying and testimony concerning election related legislation proposed, debated, and/or enacted during the 2013 session of the General Assembly.

**OBJECTION:** Defendants object to Request No. 4 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object

to this Request on the grounds that it requests pre-enactment information that is both irrelevant and insufficiently tailored as to time, and to the extent it requests information in the possession of third parties.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

5. All documents concerning communications relating to any reports, studies, estimates, or analyses concerning election related legislation proposed, debated, and/or enacted during the 2013 session of the General Assembly.

**OBJECTION:** Defendants object to Request No. 5 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

6. All documents concerning your communications with North Carolina Executive officials concerning the enactment or implementation of any provision of H.B. 589

**OBJECTION:** Defendants object to Request No. 6 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible



evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time. Defendants finally object to this Request on the grounds that “North Carolina Executive officials” is undefined, vague, and ambiguous.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants’ Initial Disclosures.

7. All documents concerning communications among North Carolina Legislators concerning the enactment or implementation of any provision of H.B. 589.

**OBJECTION:** Defendants object to Request No. 7 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants’ Initial Disclosures.

8. All documents concerning your communications with, to, or from members of the North Carolina State Board of Elections concerning the enactment or implementation of any provision of H.B. 589.

**OBJECTION:** Defendants object to Request No. 8 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

9. All documents and communications received or created by you relating to proposed election reforms or changes to the rules, procedures, or practices for early voting, same-day registration, out-of-precinct voting, or the process of reviewing and counting provisional ballots.

**OBJECTION:** Defendants object to Request No. 9 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that the term "election reforms" is vague and ambiguous. Defendants finally object to this

Request on the grounds that it requests pre-enactment and post-enactment information that is both irrelevant and insufficiently tailored as to time, and to the extent the requested information is already publicly available.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

10. All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, early voting, or potential increased waiting times at polls.

**OBJECTION:** Defendants object to Request No. 10 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that the term "impact" is vague and ambiguous, such that Defendants are unable to discern the documents potentially responsive to this Request. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

11. All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

**OBJECTION:** Defendants object to Request No. 11 on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that the term “procedural irregularities” is vague and ambiguous, such that Defendants are unable to discern the documents potentially responsive to this Request.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants are unaware of any procedural irregularities in enacting H.B. 589, or any documents or communications discussing same.

12. All documents and communications received or created by you relating to any data tracking, recording, or study of voting patterns by race.

**OBJECTION:** Defendants object to Request No. 12 on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that the terms “data tracking” and “recording” are vague and ambiguous, such that Defendants are unable to discern the documents potentially responsive to this Request. Defendants finally object to this Request on the

grounds that it requests pre-enactment information that is both irrelevant and insufficiently tailored as to time.

13. All documents and communications received or created by you relating to complaints or instances of long lines or waiting times during early voting and on Election Day in any county in the state during the 2006, 2008, 2010, and 2012 elections.

**OBJECTION:** Defendants object to Request No. 13 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object to this Request on the grounds that it requests pre-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants are not currently aware of any responsive documents. Defendants will continue to search for any responsive documents and will produce them upon discovery.

14. All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

**OBJECTION:** Defendants object to Request No. 14 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is

subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request to the extent that the terms “incident of in-person voter fraud” and “incident of voter fraud” are vague and ambiguous, such that Defendants are unable to discern the information sought by this Request. Defendants finally object to this Request on the grounds that it requests pre-enactment information that is both irrelevant and insufficiently tailored as to time.

15. All documents and communications received or created by you relating to the General Assembly’s plans and efforts to educate citizens of North Carolina as to the provisions of H.B. 589.

**OBJECTION:** Defendants object to Request No. 15 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants’ Initial Disclosures. Moreover, responsive documents that will be published to the public may be produced or may be already available on the web sites of the North Carolina Department of Transportation or North Carolina State Board of Elections.

16. All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

**OBJECTION:** Defendants object to Request No. 16, which is materially identical in all respects to Request No. 10, on the grounds that it is duplicitous. Accordingly, Defendants object to Request No. 16 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request on the grounds that the term "impact" is vague and ambiguous, such that Defendants are unable to discern the documents potentially responsive to this Request. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

17. All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**OBJECTION:** Defendants object to Request No. 17 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request to the extent that the terms “election law” and “administering” are vague and ambiguous, such that Defendants are unable to discern the information sought by this Request. Defendants finally object to this Request on the grounds that it requests post-enactment information that is both irrelevant and insufficiently tailored as to time.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants’ Initial Disclosures.

18. All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

**OBJECTION:** Defendants object to Request No. 18 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants further object to this Request to the extent that the term “administration” is vague and ambiguous, such that Defendants are unable to discern the information sought by this Request. Defendants finally object to this Request on the grounds that it requests pre-enactment information that is both irrelevant and insufficiently tailored as to time.



19. Any document retention policies that were in effect at the North Carolina General Assembly or individual North Carolina Legislators from 2012 to the present concerning the preservation of public records.

**OBJECTION:** Defendants object to Request No. 19 on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges.

**RESPONSE:** Subject to and without waiving the foregoing objections, responsive documents, if any, will be produced.

20. All documents and communications relating to the claims and defenses the State of North Carolina have raised or intend to raise in response to the Complaint, including all communications and/or documents on which you intend to rely on at trial or otherwise in this case.

**OBJECTION:** Defendants object to Request No. 20 on the grounds that it is premature, overly broad, and unduly burdensome. This “catch-all” Request constitutes a fishing expedition because it is not tailored to address the specific factual issues presented in this case. In addition, Defendants object to the extent this Request seeks the disclosure of information that is subject to legislative immunity or confidentiality, or protected by the legislative, executive, attorney-client, and/or work-product privileges. Defendants also object to this Request to the extent that it seeks to discover the mental impressions and conclusions of counsel.

**RESPONSE:** Subject to and without waiving the foregoing objections, Defendants refer Plaintiffs to Defendants' Initial Disclosures.

Respectfully submitted, this the 22nd day of January, 2014

ROY COOPER  
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**CERTIFICATE OF SERVICE**

I, Thomas A. Farr, hereby certify that I have this day served the foregoing **Defendant the State of North Carolina's Objections and Responses to the League of Women Voters Plaintiffs' First Set of Requests for Production to Defendant State of North Carolina** by United States Mail in accordance with the Federal Rules of Civil Procedure to the following:

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This the 22nd day of January, 2014.

OGLETREE, DEAKINS, NASH  
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