



Tuesday, April 20, 2021

Honorable Wallace H. "Jay" Jordan, Jr., Chairman, and members of the
Election Laws Subcommittee, House Judiciary
P.O. Box 11867
Columbia, SC 29211

Via email

Re: House Bill 4150 – Absentee Ballot Excuses

Dear Committee Members:

We write to express opposition to House Bill 4150 (H. 4150), specifically with respect to the provisions of the bill which eliminate certain qualifying criteria for casting an absentee ballot. H. 4150's provisions that eliminate absentee voting for certain categories of voters will severely curb the right to vote for countless South Carolinians.

If enacted, H. 4150 in its current form will cause more problems than it solves. While the provisions that establish early voting will be an important benefit to many South Carolina voters, eliminating several qualifiers to vote absentee will leave countless others without a viable option to cast their ballot. This burden will fall disproportionately on voters who already have trouble accessing the ballot box. Finally, there is simply no justification for these cutbacks on absentee voting, which has proven safe, secure, and popular with South Carolina voters.

This committee has an opportunity to eliminate rather than erect barriers to voting by considering H. 3822. By providing for expanded absentee voting, absentee ballot verification procedures, and other voter accessibility provisions, H. 3822 solves many problems that H. 4150 seeks to address, without restricting the right to vote for South Carolinians in the process.

As an organization committed to bolstering Americans access to the right to vote, we urge you to reject H. 4150 in its current form and allow a hearing on H. 3822.

1. H. 4150 Disproportionately Affects Marginalized Voters in South Carolina.

If passed, H. 4150 stands to dramatically reduce the electorate, particularly those voters who have traditionally faced barriers to the ballot box. Eliminating certain qualifying criteria to absentee vote would disproportionately harm voters of color and elderly voters in the state, who tend to vote absentee more than any other group, as well as voters with disabilities, whose caretakers would no longer be able to vote absentee.

Specifically, H. 4150 will preclude the following qualified electors from voting absentee in future elections: voters between age 65 and 74, voters who cannot take off work to vote, poll watchers and election workers, voters who serve as

caretakers to people with disabilities, hospitalized voters, voters who are attending a funeral, and voters serving as jurors.¹ H. 4150 would also preclude all government employees and people on vacation from absentee voting even if they will be out of town on Election Day.²

This represents tens of thousands of voters across the state. For example, more than 21,000 South Carolina residents work for the federal government³ and nearly 60,000 South Carolina residents work for the state government.⁴ More than 28,000 South Carolina residents work as home health and personal care aides (who would qualify as caretakers to people with disabilities).⁵ More than 26 percent of adults in South Carolina live with a disability.⁶ More than 11 percent of the population is between 65 and 74, while about 7 percent of the population is over 75.⁷

Eliminating these qualifiers to vote absentee would burden communities of color, disabled communities, and the elderly. In the 2020 election, about 41 percent of Black voters in South Carolina voted absentee.⁸ Black voters comprised about 29 percent of all returned absentee ballots in the general election, while Black voters comprised about 25 percent of all registered voters.⁹ Nationwide, Black people comprise 28 percent of home care workers¹⁰ and 18 percent of federal government workers.¹¹ Older people between 65 and 74 both comprise most older voters in the South Carolina, and most people who serve as poll workers.¹²

Finally, the early voting provisions in the bill are no replacement for absentee voting access for these voters. Many of these voters—particularly voters who are working while polls are open, voters who are caring for a person with a disability, and poll workers—likely face unavailability during the early voting period for the same reason why they are unavailable to vote in person on Election Day. This bill also eliminates the use of ballot drop boxes, further exacerbating this problem by limiting South Carolina voters’ opportunity to

¹ H. 4150, Section 3(B). Specifically, those voters would be precluded from voting absentee “whether or not they are absent from their county of residence on election day.”

² H. 4150, Section 3(A). These voters are currently allowed to absentee vote if they will be out of their county of residence on Election Day.

³ U.S. OFFICE OF PERSONNEL MANAGEMENT, *Federal Civilian Employment* (Sept. 2017), available at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/reports-publications/federal-civilian-employment>.

⁴ See *South Carolina Careers*, <https://careers.sc.gov/>.

⁵ U.S. BUREAU OF LABOR STATISTICS, *May 2020 State Occupational Employment and Wage Estimates: South Carolina* (last updated Mar. 31, 2021), https://www.bls.gov/oes/current/oes_sc.htm#29-0000.

⁶ CDC, Disability & Health U.S. State Profile Data for South Carolina (Adults 18+ years of age) (last updated Sept. 16, 2020), <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/south-carolina.html>.

⁷ U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates, available at <https://data.census.gov/cedsci/table?q=ACSDP1Y2019.DP05%20South%20Carolina&g=040000US45&tid=ACSDP1Y2019.DP05&hidePreview=true>.

⁸ Matt Moore, *Absentee Voting in South Carolina By the Numbers*, WYFF (Nov. 3, 2020), <https://www.wyff4.com/article/absentee-voting-in-south-carolina-by-the-numbers/34553012#>.

⁹ See SOUTH CAROLINA ELECTION COMMISSION, *Fact Sheets*, <https://www.scvotes.gov/fact-sheets> (calculating registration and absentee ballot rates using data provided by the South Carolina Election Commission).

¹⁰ PHI, *U.S. Home Care Workers: Key Facts* (last visited April 19, 2021), <https://phinational.org/wp-content/uploads/legacy/phi-home-care-workers-key-facts.pdf>.

¹¹ Partnership for Public Service, *Fed Figures 2019* (last visited April 19, 2021), https://ourpublicservice.org/wp-content/uploads/2019/01/FedFigures_19Shutdown.pdf.

¹² *Supra*, note 7; Michael Barthel and Galen Stocking, *Older People Account for Large Shares of Poll Workers and Voters in U.S. General Elections*, PEW (April 6, 2020), <https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/>.

safely and securely deliver their absentee ballots to election officials.¹³ Adding an in-person early vote option will not be sufficient to ensure that the voters who lose the ability to vote absentee will have a viable alternative to cast their ballot.

2. Absentee Voting in South Carolina is Safe and Secure.

In a recent statement regarding the slate of election bills facing this subcommittee, Chairman Rep. Jay Jordan stated “When it comes to elections and making sure all South Carolinians have the right and opportunity to vote and also taking into consideration that vote is protected and secured – it’s one of the most important issues we’ll take up at the State House.”¹⁴ We agree, but H. 4150 fails to live up to that important guarantee.

First, absentee voting in South Carolina and across the country has proven over time to be very secure. There has been one conviction for voter fraud in the state of South Carolina since 2008.¹⁵ And this instance of fraud was committed by an election official *on* the voters, and not by any voter herself.¹⁶ Likewise, vote by mail or absentee ballot fraud is virtually nonexistent in other parts of the country. Nationwide, absentee ballot fraud has occurred at an estimated rate of 0.00006 percent of all votes cast in all states in the last 20 years.¹⁷

Second, eliminating access to absentee voting for certain categories of voters targeted by H. 4150 does not make voting more secure. By eliminating qualifying criteria for voting absentee, H.4150 arbitrarily precludes large swaths of voters from this important voting option. Rather than improving election administration, H. 4150 targets *voters*, none of whom have engaged in any election misconduct.

In reality, voters already have trouble *accessing* the option to vote absentee, both in South Carolina and across the country. South Carolina is one of only seven states that provides no early in-person voting options *and* requires a voter to qualify to vote absentee.¹⁸ The list of existing qualifying criteria already precludes hundreds of thousands of South Carolinians from voting absentee. Further, South Carolina is one of only a handful of states that requires both a witness signature *and* a voter’s signature to vote absentee.¹⁹ This makes the state among the most difficult in the nation to vote.²⁰ Given

¹³ H. 4150, Section 1 (“Notwithstanding another provision of law, a county board of voter registration and elections may not utilize absentee ballot drop boxes for receiving or collecting completed absentee ballots.”).

¹⁴ See Jason Raven, *SC Lawmakers Hold Hearing on Bill That Would Expand Voting Access*, WJBF (April 15, 2021), <https://www.wjbf.com/news/south-carolina-news/sc-lawmakers-hold-hearing-on-bill-that-would-expand-voting-access/>.

¹⁵ See Heritage Foundation, *Election Fraud Cases*, available at https://www.heritage.org/voterfraud/search?combine=&state=SC&year=&case_type=All&fraud_type=All.

¹⁶ *Id.* The defendant-elected official was convicted for allegedly forging 16 absentee ballots and casting those ballots on behalf of unwitting voters.

¹⁷ Amber McReynolds and Charles Stewart III, *Let’s Put the Vote-By-Mail Fraud Myth to Rest*, THE HILL (April, 28, 2020), <https://thehill.com/opinion/campaign/494189-lets-put-the-vote-by-mail-fraud-myth-to-rest>.

¹⁸ Sara Swann, *The 7 States Where Voting Before Election Day Is Most Difficult*, THE FULCRUM (April 13, 2021), <https://thefulcrum.us/voting/early-voting-states>.

¹⁹ National Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Aug. 24, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>. This refers to the law that exists in South Carolina outside of the context of COVID-specific rules during the 2020 election.

²⁰ *Supra*, note 18.

the popularity of absentee voting in the state in 2020,²¹ H. 4150 contravenes the overwhelming preferences of South Carolina voters by arbitrarily restricting an already limited voting option.

3. This Committee Should Look Toward Bills that Expand Absentee Voting, Not Restrict It.

In 2020, more voters voted absentee in South Carolina than ever before.²² It is an accomplishment and a testament to the voters of South Carolina that participation was so high, and voters should not be punished for it by eliminating certain permitted reasons to vote absentee. This is especially true given the disproportionate effect this bill will have on voters who have historically faced barriers to the ballot box. Instead, this committee should turn its focus to bills which affirm the right of South Carolinians to vote absentee, including H. 3822.

Like H. 4150, H. 3822 establishes a form of early voting through its provisions regarding in-person, universal absentee voting. Unlike H.4150, however, H. 3822 both enhances absentee ballot verification and election accessibility by providing for administrative procedures for ballot curing—which results in more accurate and secure elections by guarding against both fraud and the erroneous rejection of validly cast ballots—while also expanding opportunities for South Carolinians to vote absentee. If passed, H. 3822 would expand access to voting for all eligible South Carolinians by creating universal access to absentee voting; providing a procedure for voters to cure their ballots; allowing college students to vote using their student identification; establishing drop boxes where voters can securely deliver absentee ballots to election officials; and more. This list reflects not only the successful use of absentee ballots by South Carolina voters in 2020, but also the popularity of absentee ballots with all South Carolina voters irrespective of political party. In sum, voters of every party vote absentee, and restricting access to absentee voting harms *all* voters.

For these reasons, we urge the Committee to reject H.4150 in its current form.

Sincerely,
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²¹ See, e.g., Thomas Novelly, Record-Breaking Voter Turnout in SC Brings Some Growing Pains With Absentee Voting, POST AND COURIER (Oct. 25, 2020), https://www.postandcourier.com/politics/record-breaking-voter-turnout-in-sc-brings-some-growing-pains-with-absentee-voting/article_83da3d76-1479-11eb-9028-f3c4256abff3.html.

²² See Chris Joseph, SC Sees Record-Breaking Voter Turnout, Even Before Election Day, WISTV (Nov. 2, 2020), <https://www.wistv.com/2020/11/02/sc-sees-record-breaking-voter-turnout-even-before-election-day/>.