

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS OF IOWA,

Plaintiff,

v.

IOWA SECRETARY OF STATE
PAUL PATE, in his official capacity, and
IOWA ATTORNEY GENERAL
THOMAS MILLER, in his official capacity,

Defendants.

No. _____

PETITION IN LAW
AND EQUITY

COMES NOW Plaintiff League of United Latin American Citizens (“LULAC”) of Iowa praying for permanent injunctive relief restraining Defendants Iowa Secretary of State Paul Pate (the “Secretary”) and Iowa Attorney General Thomas Miller from enforcing and implementing various provisions of Senate File 413 (2021) (the “Voter Suppression Bill” or the “Bill”), as well as a declaratory judgment that implementing the challenged provisions of the Bill violates the Iowa Constitution. In support thereof, Plaintiff states the following:

STATEMENT OF THE CASE

1. Last year, voter turnout broke records in Iowa. Over 1.7 million Iowans—more than 75 percent of all registered voters—participated in the 2020 general election. More than 1 million of those voters cast absentee ballots, setting another record. Each of Iowa’s 99 counties had voter turnout rates that surpassed the national average of 66 percent, and voter turnout surpassed 80 percent in six counties. The record turnout was reflected across many demographics but was especially notable among the 15 percent of Iowans who are members of minority groups, including Iowa’s Latino community, which constitutes around 6 percent of the state’s population.

2. These historic levels of direct engagement in the democratic process should be lauded. Yet one of the Iowa Legislature’s top post-election priorities was to pass an omnibus election bill that restricts nearly every form of voting that Iowans—particularly minority voters—relied on in 2020. Among its provisions, the Voter Suppression Bill:

- Reduces the number of days when voters can register before elections (Section 22);
- Significantly reduces the number of days when voters can request absentee ballots (Sections 43 and 45);
- Shortens the absentee voting period by more than one week (Section 47);
- Reduces the number of days when county auditors can send out absentee ballots (Sections 45 and 47);
- Reduces the number of days for most voters to return their absentee ballots and applies ballot-receipt deadlines unequally (Sections 1, 52, 54, and 66);
- Inhibits or eliminates the ability of election officials to establish convenient opportunities for absentee voting at satellite voting stations, county auditors’ offices, and drop boxes (Sections 50–51 and 53);
- Criminalizes the act of assisting voters with returning their absentee ballots and prevents voters from using a person of their choice to return their ballots (Section 65);
- Shortens the length of time when polls are open on election day (Section 36); and
- Reduces the amount of time that employers must provide to certain employees on election day so they can vote (Section 41).

3. What makes the Bill baffling—and fatally unconstitutional—is that it lacks any cognizable justification for these burdensome effects on the franchise. The Bill is largely a grab-

bag of amendments and new restrictions that lack any unifying theme other than making both absentee *and* election day voting more difficult for lawful Iowa voters.

4. The Bill’s sponsors have emphatically and repeatedly asserted that it is not meant to combat voter fraud, which has been virtually nonexistent in Iowa. Instead, its stated purpose is only to “ensure election integrity.” But according to the Secretary—Iowa’s chief election official—*and* prominent Republican officials, Iowa’s elections are already secure; there is nothing inherent in the system that would call the integrity of the state’s elections into question or require remedial action from the Legislature, let alone these extreme measures that will impose significant burdens on voters.

5. The Bill’s sponsors also do not deny that Iowa’s elections are secure. Instead, they have asserted that additional measures are necessary to *reassure* Iowans—who turned out in record numbers in 2020—that this is the case. But to the extent any Iowans are concerned about the security of the state’s elections, it is the result of efforts to plant and sow baseless mistrust, not because there is any evidence that the integrity of the state’s elections is legitimately in doubt.

6. Moreover, none of the Bill’s challenged provisions will actually serve to make elections more secure or increase the public’s confidence in the electoral process. Instead, they will impose undue and unjustified burdens on a wide range of lawful voters, including some of the state’s most vulnerable and underrepresented citizens: minority voters, elderly voters, disabled voters, voters with chronic health conditions, voters who work multiple jobs, and voters who lack access to reliable transportation or consistent mail service. If the concept of “election integrity” encompasses secure elections in which *all* voters have fair opportunities to participate so that the results accurately reflect the will of Iowa’s electorate, then the Voter Suppression Bill directly hinders that goal.

7. This is because the Bill is an exercise in voter suppression, one disguised as a solution for a problem that exists only in the fertile imaginations of its creators. It is not a response to voter fraud; its sponsors have said as much, and at any rate, there is no evidence of widespread fraud in Iowa's elections that requires a response (much less as draconian a response as this). Nor is it a remedy for diminished confidence in elections; the state's elections are secure, and a record number of Iowans were able to make their voices heard in last year's election.

8. Instead, the Voter Suppression Bill is a cynical manipulation of the electoral process, one that *creates* problems—burdens for both absentee and in-person voters that do not serve any articulable state interests—without solving any.

9. Because these unnecessary voting restrictions independently and collectively impose an undue burden on the fundamental right to vote and violate multiple provisions of the Iowa Constitution, they should be declared unconstitutional and permanently enjoined.

JURISDICTION AND VENUE

10. This Court has jurisdiction under Iowa Code § 602.6101.

11. Venue in Polk County is proper under Iowa Code § 616.3(2) because the cause or some part thereof arose in the county.

PARTIES

12. League of United Latin American Citizens of Iowa is part of LULAC, an organization that has approximately 150,000 members throughout the United States and Puerto Rico and more than 600 members in Iowa. LULAC is the largest and oldest Latino civil rights organization in the United States. It advances the economic condition, educational attainment, political influence, health, housing, and civil rights of all Hispanic nationality groups through community-based programs operating at more than 1,000 LULAC councils nationwide. LULAC

of Iowa is comprised of 22 councils located throughout the state. Its members and constituents and each of its councils include voting-age Latino citizens of Iowa who are disproportionately burdened by the Voter Suppression Bill. LULAC of Iowa must also divert substantial resources and attention from other critical missions to address the adverse impacts the challenged provisions will have on its members and constituents and assist them in attempting to surmount these new barriers to voting. Moreover, but for the Voter Suppression Bill's criminalization of most forms of assistance for absentee voters, LULAC of Iowa would support programs to help voters return their absentee ballots. The criminalization of that activity effectively forecloses an additional opportunity for LULAC of Iowa to engage in one-on-one communication with voters about the importance of voting and further undermines its ability to effectively associate with its members and constituents. Because of the Voter Suppression Bill, LULAC of Iowa has suffered and will continue to suffer irreparable harm. Unless set aside, the state's enforcement of the challenged provisions will inflict injuries for which LULAC of Iowa has no adequate remedy at law.

13. Iowa Secretary of State Paul Pate is named as a Defendant in his official capacity. He is Iowa's chief state election official, state commissioner of elections, and state registrar of voters and, as such, is responsible for the administration of elections. *See* Iowa Code §§ 47.1(1)–(3), 47.7(1). His responsibilities include, but are not limited to, setting forth “uniform election practices and procedures” and supervising local election officials regarding the proper methods of conducting elections. *Id.* § 47.1(1)–(3).

14. Iowa Attorney General Thomas Miller is named as a Defendant in his official capacity. He is Iowa's chief legal officer and, among other duties, “[s]upervise[s] county attorneys in all matters pertaining to the duties of their offices” and “[i]nform[s] prosecuting attorneys and assistant prosecuting attorneys to the state of all changes in law and matters pertaining to their

office.” *Id.* § 13.2(1). In this capacity, he supervises prosecutions of violations of the Voter Suppression Bill.

FACTUAL ALLEGATIONS

I. Iowa has a long history of secure elections with robust voter participation.

15. For decades, Iowa’s voter turnout rate has consistently been higher than the national average. The citizens of this state have a strong tradition of direct participation in the democratic process, and since Iowa enacted no-excuse absentee voting in 1990, voters have increasingly demonstrated their preference to vote absentee.

16. Under Iowa law, any registered voter may vote absentee, either in person or by mail.

17. Voters who wish to vote absentee in person may do so by requesting and casting an absentee ballot at the county auditor’s office or at a satellite absentee voting station.

18. Voters who prefer to vote absentee by mail must first request that an absentee ballot be mailed to them. These voters can then return their absentee ballots in one of several ways. They can (1) mail their ballots back to county auditors’ offices; (2) return their ballots to county auditors’ offices in person; (3) place their ballots in drop boxes, where available; or (4) return their ballots in person to satellite absentee voting stations.

19. Between 2000 and 2020, Iowans’ use of absentee ballots rose from 21.2 percent of all voters to *63 percent*. This phenomenon preceded the widely observed uptick in absentee voting during the 2020 general election: in 2016 and 2018, more than 40 percent of Iowa voters cast their ballots absentee.

20. Although many Iowans have opted to use the state’s no-excuse absentee voting, in-person voting on election day also remains an option.

21. Both methods of voting—absentee and election day in-person—have helped facilitate increasing rates of electoral participation. Indeed, Iowa’s 76 percent voter turnout rate in 2020 was among the highest in the nation. More than *1.7 million* Iowans voted in the 2020 presidential election, which broke all previous state records for voter participation. *See* Erin Murphy, *Iowa Had Record Turnout in the 2020 Election, Driven by Early Voting. New Bills Would Scale Early Voting Back.*, Dispatch Argus (Feb. 21, 2021), https://qconline.com/news/state-and-regional/govt-and-politics/iowa-had-record-turnout-in-the-2020-election-driven-by-early-voting-new-bills-would/article_2adc9b33-fc23-5345-907f-a6df5a6f4a8f.html.

22. In the wake of this historic turnout, the Secretary—the state election commissioner—proclaimed that “the [voting] process went very smoothly in Iowa” and that the state was able to “provide safe and secure elections.” *Iowa Shatters General Election Turnout Record*, Office of Iowa Sec’y of State (Nov. 4, 2020), https://sos.iowa.gov/news/2020_11_04.html.

23. The Secretary’s approbation echoed statements made by other election administrators and elected officials, like Senator Chuck Grassley’s glowing endorsement of Iowa’s election system: “I have confidence in Iowa’s ability to conduct a fair, secure and free election. Our state takes election integrity seriously, earning credibility among the electorate for its absentee ballot system, including service members in the military. Whether voting by absentee ballot or in person, Iowa’s Secretary of State and 99 county auditors have a proven track record that Iowans trust.” *Q&A: Election Integrity*, Office of Sen. Chuck Grassley (Oct. 9, 2020), <https://www.grassley.senate.gov/news/news-releases/qa-election-integrity>.

24. Iowa’s media outlets concurred: the 2020 election produced “record-breaking turnout with no reported cases of election fraud.” Murphy, *supra*.

II. The Iowa Legislature enacts sweeping restrictions designed to impede access to the franchise.

25. The record-breaking turnout among voters and the testimonials of the Secretary, Senator Grassley, and other officials make clear that Iowa’s elections are secure and inspire confidence in the Hawkeye State.

26. But even though Iowa’s laws created an environment for secure elections and record turnout, the Legislature hurriedly voted to pass a fast-tracked bill that reduces or eliminates many of the provisions that made it possible for Iowans to exercise their fundamental right to vote.

27. Republican lawmakers introduced the Voter Suppression Bill on February 18, 2021.

28. County auditors—who are charged with implementing Iowa’s election laws in their respective counties—quickly announced their opposition to various provisions of the Bill, including the restrictions it places on their discretion to set up satellite absentee voting stations.

29. The Iowa State Association of County Auditors opposed the Bill, with its president, Sioux County Auditor Ryan Dokter, explaining, “Not being able to plan ahead for satellites, and being under the pressure of a shortened absentee window of 18 days creates that potential to create errors, because there’s just so much more people coming to your building all at once versus a little more spread out.”

30. Linn County Auditor Joel Miller called the legislation—particularly new penalties it imposes on election officials—“[a]n affront to every county auditor in the state with a passion for creativity, election integrity and increasing voter turnout.”

31. And, at the public hearing on the Bill, Adams County Auditor Becky Bissell testified that “[s]maller rural counties have a large elderly population who typically choose to vote absentee because of weather or health concerns. Why are we making it harder for them to vote?”

Auditor Bissell further remarked—in reference to the elimination of the postmark deadline for absentee ballots in favor of a strict election day receipt deadline—that “[t]o rely solely on the postal system puts our voters at risk.”

32. Faith leaders opposed the Bill, questioning whether limiting accessibility to voting opportunities serves the interests of a democratic society.

33. Public opposition also ran strong. Of the more than 1,200 public comments lodged in response to the House iteration of the Voter Suppression Bill, fewer than three dozen expressed support for its enactment. *See Iowa Legislature Public Hearings: HF 590*, Iowa Legislature, <https://www.legis.iowa.gov/committees/publicHearings?meetingID=33202&action=viewComments> (last visited Mar. 8, 2021).

34. At the public hearing on the Bill, representatives from organizations dedicated to elderly, disabled, and minority voters spoke out against many of the challenged provisions.

35. Iowa City Councilor Janice Weiner—a former U.S. Foreign Service officer who, when serving abroad, had pointed to Iowa as a shining example of democratic opportunity—observed that reducing the window for absentee voting will disadvantage the elderly, snowbirds, victims of domestic violence, and rural voters. She also noted that she had previously assisted voters with returning their signed and sealed absentee ballots to election officials because these voters had no one else to help them, and that she will now be prohibited from doing so.

36. Despite this opposition, the Voter Suppression Bill passed the Iowa Senate and House of Representatives along strict party lines within days of its introduction: the Senate passed the legislation on February 23, with the House following on February 24.

37. Governor Kim Reynolds signed the Bill into law on March 8, 2021. It took effect immediately. *See SF 413 § 73*.

38. The Voter Suppression Bill imposes unjustified burdens on lawful Iowa voters at every step of the voting process, reducing their opportunities to register, vote absentee, and vote in person on election day.

A. Voter Registration Restrictions

39. Prior to enactment of the Voter Suppression Bill, new voters had until ten days before a general election (and 11 days before other elections) to register to vote. The Bill now requires that registration now be closed 15 days prior to any election. *See id.* § 22 (amending Iowa Code § 48A.9(1)); *see also id.* §§ 24, 45.

B. Absentee Voting Restrictions

40. The Voter Suppression Bill drastically reduces the time period during which voters can request absentee ballots. Under the prior law, Iowans could request an absentee ballot up to 120 days before an election. Now, they can request absentee ballots only 70 days prior to an election. *See id.* § 43 (amending Iowa Code § 53.2(1)). Because the Bill also requires county auditors to stop processing mailed absentee ballot requests 15 days prior to election day—as opposed to the previous requirement that they stop ten days before general elections—it reduces the amount of time voters have to request absentee ballots by mail from 110 days to 55 days. *See id.* § 45 (adding Iowa Code § 53.2(11)).

41. The Voter Suppression Bill shortens the absentee voting period. Under the prior law, Iowans had up to 29 days to cast an absentee ballot, either in person or by mail. The Voter Suppression Bill reduces this period to only 20 days. *See id.* § 47 (amending Iowa Code § 53.8(1)(a)).

42. The Voter Suppression Bill reduces the number of days allotted for election administrators to distribute absentee ballots. Previously, county auditors could mail absentee

ballots beginning 29 days before an election and ending ten days before election day, giving county auditors a total of 19 days to mail ballots. But the Bill leaves county auditors with just five days to complete the same process: now, absentee ballots can only be mailed during the period starting 20 days before election day and ending 15 days before election day. *See id.* §§ 45, 47 (adding Iowa Code § 53.2(11) and amending Iowa Code § 53.8(1)(a)).

43. Not only does the Voter Suppression Bill significantly reduce the amount of time voters have to obtain absentee ballots, it also makes it more difficult for voters to return those ballots by mail. In previous elections, absentee ballots returned by mail were considered timely if they were received by officials before the polls closed on election day *or* if they were postmarked by the day before the election and delivered to officials by the Monday following election day. Accordingly, absentee voters could mail their ballots at any point up until the day before the election and trust that they would be counted.

44. The Voter Suppression Bill, by contrast, provides that most absentee ballots will be counted *only* if they are received before the polls close on election day. *See id.* § 54 (amending Iowa Code § 53.17(2)); *see also id.* §§ 52, 55. According to lawmakers, if this election day receipt deadline had been in place for the 2020 general election, over 6,500 *Iowans* would have been disenfranchised.

45. The former postmark deadline for absentee ballots still applies, however, to ballots submitted by Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) voters and voters participating in the Secretary’s Safe at Home address secrecy program—but *not* to any other absentee voters. *See id.* §§ 1, 66.

46. Voters who cast their absentee ballots in person are also burdened by the Voter Suppression Bill.

47. Previously, county auditors could exercise their discretion and apply their specialized knowledge of their communities to set up satellite absentee voting stations at senior centers and other high-traffic locations. Iowans could also petition county auditors to open satellite voting sites in certain areas. Satellite absentee voting stations were used throughout Iowa during the 2020 general election, with some counties establishing multiple locations.

48. The Voter Suppression Bill eliminates county auditors' discretion to open satellite voting stations based on their expertise; instead such locations can be established *only* "upon receipt of a petition signed by not less than one hundred eligible electors requesting that a satellite absentee voting station be established at a location to be described on the petition." *Id.* § 51 (amending Iowa Code § 53.11(1)).

49. Restricting the authority of county auditors to open satellite offices in convenient locations means that absentee voters will either need to drive farther to vote in person at county auditors' offices or cast their absentee ballots by mail—which, as discussed above, now runs the risk that the ballots will not be received in time to be counted.

50. The Bill also restricts in-person absentee voting by limiting the number of days that satellite absentee voting stations can be open from 29 days to only 20 days. *See id.* § 50 (amending Iowa Code § 53.10(1)).

51. Finally, the Voter Suppression Bill restricts the use of ballot drop boxes, another vehicle that Iowa voters used to safely and securely return their absentee ballots during the 2020 general election. Specifically, it permits each county auditor to establish only *one* drop box—regardless of the county's size or population—and only at the auditor's office. *See id.* § 53 (adding Iowa Code § 53.17(1)(c)). Previously, Iowa law did not expressly limit the number of drop boxes that auditors could establish.

52. The burdens the Bill imposes on absentee voting are compounded by its new restrictions on voter assistance. Previously, voters could enlist anyone of their choosing, from friends and members of their churches to colleagues and neighbors, to return their absentee ballots to election officials. Such assistance was particularly useful for vulnerable voters like elderly Iowans, victims of domestic violence, and voters who live alone. The Bill, by striking contrast, prohibits all but a limited set of individuals—immediate family members, housemates, and caretakers—from providing such assistance to voters (the “Voter Assistance Ban”). *See id.* § 65 (adding Iowa Code § 53.33); *see also id.* §§ 48, 53, 56, 62. Anyone outside these narrow categories who assists another voter by returning the voter’s absentee ballot is now guilty of election misconduct in the third degree, *see id.* § 8—a serious misdemeanor under Iowa law. *See Iowa Code § 39A.4(2).*

C. Election Day Voting Restrictions

53. The Voter Suppression Bill also targets Iowans who vote in person on election day.

54. Previously, polling places stayed open from 7:00 a.m. until 9:00 p.m. on election day during general elections. But the Voter Suppression Bill now mandates a closing time of 8:00 p.m. for *all* elections. *See SF 413 § 36* (amending Iowa Code § 49.73(2)).

55. The Bill cuts back on protections for workers who need to take time off to vote on election day. Previously, voters who did not have three consecutive non-working hours to vote when polls were open were entitled to take time off, without fear of penalty. Under the Voter Suppression Bill, however, that protection extends only to voters who do not have *two* consecutive non-working hours to vote when the polls are open. *See id.* § 41 (amending Iowa Code § 49.109).

D. Other Provisions

56. Other provisions of the Voter Suppression Bill are designed, in ways big and small, to make the voting process more difficult and less accessible for Iowans.

57. Previously, Iowa voters were marked “inactive,” and thus put at risk that their registrations would be canceled, if postage paid preaddressed return cards sent by county auditors—“on which the registered voter may state the registered voter’s current address”—were returned as either undeliverable or indicating that the voters no longer lived at the addresses on record. Iowa Code § 48A.29. A voter’s registration would then be canceled if the voter remained inactive for two successive general elections. *See id.* § 48A.30(1)(g).

58. Under the Voter Suppression Bill, this process is accelerated and puts voters at greater risk of unwarranted cancelation. Voters who do not vote in even a *single* general election are automatically marked “inactive,” kickstarting a process that may ultimately result in their removal from the voter rolls. SF 413 § 25 (amending Iowa Code § 48A.28(1)–(2)).

59. The Voter Suppression Bill also prohibits county auditors from proactively sending absentee ballot applications to voters. Now, absentee ballot applications can be distributed only in response to a voter’s request, *see id.* § 43 (amending Iowa Code § 53.2(1))—a restriction that serves no purpose other than to inhibit county auditors’ attempts to expand access to the franchise in their communities.

60. Historically, county auditors and organizations have prefilled certain background sections of absentee ballot applications—by entering the voter’s name and address, for example—to streamline the application process. But the Bill bars that practice and permits only the types and dates of elections to be prefilled. *See id.* § 44 (adding Iowa Code § 53.2(2)(d)).

61. The Voter Suppression Bill’s burdens extend to election officials as well. Upon the Secretary’s notice of a *technical infraction* committed by a county auditor—which could be *any* “apparent technical violation of a provision of” the state’s election code, no matter how minor, Iowa Code § 39A.6(1)—the auditor must pay a fine of up to \$10,000, and the matter is referred to the Attorney General for potential criminal proceedings. *See* SF 413 §§ 9–10 (amending Iowa Code § 39A.6(3) and adding Iowa Code § 39A.6(4)).

62. Moreover, it is now a serious misdemeanor for an election official to interfere with poll watchers and other partisan challengers, *see id.* § 7 (adding Iowa Code § 39A.4(1)(b)), even if those individuals attempt to disrupt or otherwise impede the electoral process.

63. Finally—and ominously—the Voter Suppression Bill now deputizes law enforcement agencies and the state patrol to “prevent” violations of the election code. *Id.* § 42 (adding Iowa Code § 50.52). By moving beyond investigation and enforcement and into prevention, the Bill implicitly sanctions voter intimidation by law enforcement.

III. The Legislature’s justification for the Voter Suppression Bill lacks any support, is pretextual, and is insufficient to justify burdens on the fundamental right to vote.

64. Each provision of the Voter Suppression Bill challenged in this lawsuit burdens Iowa voters, making the voting process more difficult and making it less likely that every vote will be counted. Taken as a whole, the Bill targets and restricts virtually *every aspect* of the voting process—registering to vote, requesting and submitting absentee ballots, and even in-person voting on election day.

65. These burdens are not justified by any legitimate, much less compelling, state interests.

66. According to the Voter Suppression Bill’s House sponsor, “[t]his bill has never had nor does it have anything to do with fraud.” The purpose of the bill, its supporters claim instead,

is to ensure election integrity; prevent voters from casting early votes they later regret; and reduce the length of each election season because their constituents are purportedly tired of being contacted by candidates.

67. But nothing in the challenged provisions of the Bill actually serves any of these ostensible interests. Instead, the Bill simply makes it harder for Iowans to cast ballots and have those ballots counted.

68. There is no evidence of widespread unlawful voting in Iowa, let alone attributable to the methods of voting targeted by the Voter Suppression Bill.

69. Nor do any of the challenged provisions actually address Iowans' purported weariness with campaigns or reduce the amount of unwanted interaction between voters and candidates. And even if this justification were genuine, the fact that some voters are tired of politicians does not justify imposing a burden on Iowans' opportunities to vote and make their voices heard.

70. Because the Iowa Constitution safeguards the right to vote and the freedom to engage in political expression, it prohibits the enforcement of laws—like the Voter Suppression Bill—that attempt to impede the exercise of these sacred constitutional rights.

CAUSES OF ACTION

COUNT I

Violation of Article II, Section 1 of the Iowa Constitution (Right to Vote):

71. Plaintiff realleges and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

72. Article II, Section 1 of the Iowa Constitution mandates that all adult residents “shall be entitled to vote at all elections,” except those otherwise disqualified by Article II, Section 5.

“Voting is a fundamental right in Iowa,” and “regulatory measures abridging the right to vote ‘must be carefully and meticulously scrutinized.’” *Chiodo v. Section 43.24 Panel*, 846 N.W.2d 845, 848, 856 (Iowa 2014) (quoting *Devine v. Wonderlich*, 268 N.W.2d 620, 623 (Iowa 1978)).

73. The challenged provisions of the Voter Suppression Bill impose burdens on voters generally, with particularly severe impacts on the right to vote for minority voters, elderly voters, rural voters, young voters, poor voters, new voters, and voters with disabilities. These voters are more likely to vote absentee or lack flexible schedules that allow them to vote on election day.

74. These burdens are not justified by correspondingly weighty interests.

75. The impact of the Voter Suppression Bill is substantial, severe, and unnecessary. The Iowa Legislature gutted the well-functioning absentee voting system that facilitated record turnout in 2020, when—for the first time in a general election—more Iowans voted absentee than in person on election day. Iowa’s election system had consistently received bipartisan plaudits for its integrity and security, and that did not change in the run up to the 2020 general election or during its aftermath.

76. Instead of restoring faith in the integrity of Iowa’s elections, the Voter Suppression Bill destroys confidence in the openness, accessibility, and fairness of the state’s elections.

77. Shortening the absentee ballot request and voting timeframes reduces Iowans’ opportunities to vote absentee and places additional, unnecessary strains on voters and election administrators. Moreover, these challenged provisions provide even less time for voters and election officials to address voter or administrative errors.

78. These burdens are not theoretical; if the Voter Suppression Bill’s requirement that all but two narrow categories of absentee ballots be received by county officials by the close of polls on election day had been in place during the 2020 general election, thousands of Iowans who

voted absentee would have been disenfranchised because their ballots—which were indisputably cast before election day—arrived at county auditors’ offices after the polls closed.

79. Restricting the number of drop boxes and the ability of county auditors to establish opportunities for absentee voting at their offices and satellite absentee voting stations places undue burdens on voters who wish to cast their absentee ballots in person instead of through the mail.

80. Iowans who vote on election day now have less time to do so—not only because the polls will close earlier, but also because they are guaranteed fewer hours off of work to cast their ballots.

81. Many Iowans have traditionally relied on individuals they trust to return their absentee ballots, but the Voter Suppression Bill now criminalizes such assistance when provided by all but a limited group of people, severely restricting the ability of absentee voters to return their ballots. Individuals who live alone and away from immediate family members are especially impacted by the Voter Assistance Ban. This hardship is compounded by the reductions in the absentee ballot request and voting timeframes, as well as the elimination of the postmark receipt deadline for most voters. In short, voters who had previously relied on assistance from individuals other than the limited categories listed in the Bill now have even less opportunity to receive absentee ballots and ensure that their ballots are returned in time to be counted.

82. The individual and collective impacts of the challenged provisions of the Voter Suppression Bill are severe and will substantially burden Iowa voters.

83. None of these provisions serves a compelling or even a legitimate government interest.

84. Absent relief from this Court, the Voter Suppression Bill will burden Iowans’ right to vote in violation of Article II, Section 1 of the Iowa Constitution.

COUNT II

Violation of Article I, Section 7 of the Iowa Constitution (Speech):

85. Plaintiff realleges and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

86. Article I, Section 7 of the Iowa Constitution protects “the liberty of speech.” The Supreme Court of Iowa has “said that ‘the Iowa Constitution generally imposes the same restrictions on the regulation of speech as does the federal constitution.’” *Bierman v. Weier*, 826 N.W.2d 436, 451 (Iowa 2013) (quoting *State v. Milner*, 571 N.W.2d 7, 12 (Iowa 1997)).

87. The Voter Assistance Ban violates the free speech and association guarantees of the Iowa Constitution.

88. The Voter Assistance Ban prohibits core political expression. Efforts to encourage and aid Iowa voters are “the type of interactive communication concerning political change that is appropriately described as ‘core political speech.’” *Meyer v. Grant*, 486 U.S. 414, 421–22 (1988); *see also NAACP v. Button*, 371 U.S. 415, 437 (1963) (“‘Free trade in ideas’ means free trade in the opportunity to persuade to action” (quoting *Thomas v. Collins*, 323 U.S. 516, 537 (1945))).

89. The Voter Assistance Ban violates the Iowa Constitution because it infringes on the rights of free speech and free expression and is not justified by any compelling state interest. In particular, other Iowa laws already criminalize any undue influence or voter fraud that the Voter Assistance Ban might be intended to address. *See* Iowa Code §§ 39A.2–4.

90. Absent relief from this Court, the Voter Assistance Ban will prevent Plaintiff from engaging in constitutionally protected conduct in violation of Article I, Section 7 of the Iowa Constitution.

COUNT III

Violation of Article I, Section 20 of the Iowa Constitution (Assembly):

91. Plaintiff realleges and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

92. Article I, Section 20 of the Iowa Constitution ensures that “[t]he people have the right freely to assemble together to counsel for the common good.”

93. The Voter Assistance Ban violates Article I, Section 20 on its face because it prohibits group action to effect political change.

94. Absent relief from this Court, the Voter Assistance Ban will prevent Plaintiff from engaging in constitutionally protected conduct in violation of Article I, Section 20 of the Iowa Constitution.

COUNT IV

Violation of Article I, Section 6 of the Iowa Constitution (Equal Protection):

95. Plaintiff realleges and incorporates by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

96. “The foundational principle of equal protection is expressed in article I, section 6 of the Iowa Constitution,” *Varnum v. Brien*, 763 N.W.2d 862, 878 (Iowa 2009), which provides that “[a]ll laws of a general nature shall have a uniform operation.” “The essential promise of equal protection is that ‘all persons similarly situated should be treated alike.’” *Clayton v. Iowa Dist. Ct.*, 907 N.W.2d 824, 827 (Iowa Ct. App. 2017) (quoting *Racing Ass’n of Cent. Iowa v. Fitzgerald*, 675 N.W.2d 1, 7 (Iowa 2004)).

97. The Voter Suppression Bill subjects Iowa’s absentee voters to arbitrary and disparate treatment because it mandates that ballots cast under identical circumstances will not be

counted on equal terms. It requires county auditors to reject most—*but not all*—absentee ballots that arrive after 8:00 p.m. on election day. But some absentee ballots will be counted if they arrive at county auditors’ offices by the Monday following election day so long as their envelopes bear adequate postmarks.

98. The Voter Suppression Bill thus treats ballots cast by similarly situated Iowans differently, denying some their fundamental right to vote.

99. Under the Bill, if two Iowa voters—one of whom is a Safe at Home voter, the other of whom is not—live next door to each other and mail their absentee ballots at the same time on the day *before* election day, and the ballots arrive at their county auditor’s office at the same time on the day *after* election day, only one of those absentee ballots would be counted.

100. In a similar vein, UOCAVA voters who reside on the other side of the Canadian border, and whose properly postmarked absentee ballots arrive at their county auditors’ offices by the Monday after election day, would have their votes counted. But Iowans who spend the winter months in locations like Florida or Arizona—or who are abroad during the voting period but ineligible for UOCAVA—would be disenfranchised if they returned their ballots under identical circumstances. This also holds true for college students voting absentee from out-of-state schools.

101. Absent relief from this Court, the Voter Suppression Bill will impose an arbitrary and disparate mechanism for determining whether Iowans’ votes will be counted in violation of Article I, Section 6 of the Iowa Constitution.

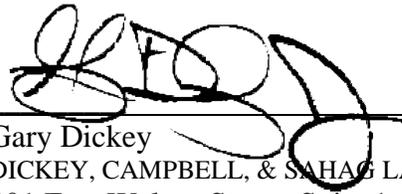
PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter the following relief against the Defendants:

- A. An order declaring that Sections 1, 22, 36, 41, 43, 45, 47, 50–53, 54, and 65–66 of the Voter Suppression Bill, and all other sections incorporating these and the other challenged provisions into the Iowa election laws, violate the Iowa Constitution;
- B. An order enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to the challenged provisions;
- C. An order awarding Plaintiff its costs, disbursements, and reasonable attorneys’ fees incurred in bringing this action pursuant; and
- D. Such other and further relief as the Court deems just and proper.

Dated this 9th day of March, 2021.

Respectfully submitted,



Gary Dickey
DICKEY, CAMPBELL, & SAHA⁶ LAW FIRM, PLC
301 East Walnut Street, Suite 1
Des Moines, Iowa 50309
Tel: (515) 288-5008 Fax: (515) 288-5010
gary@iowajustice.com

Marc E. Elias*

Uzoma N. Nkwonta*

Christopher J. Bryant*

PERKINS COIE LLP

700 Thirteenth Street NW, Suite 600

Washington, D.C. 20005-3960

Telephone: (202) 654-6200

Facsimile: (202) 654-6211

melias@perkinscoie.com

unkwonta@perkinscoie.com

cbryant@perkinscoie.com

Jonathan P. Hawley*

PERKINS COIE LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101-3099

Telephone: (206) 359-8000

Facsimile: (206) 359-9000

jhawley@perkinscoie.com

Counsel for Plaintiff

**Pro hac vice to be filed*