



February 25, 2021

By Fedex and By Email to: nick.davis@governor.iowa.gov

Governor Kim Reynolds
Office of the Governor
Iowa State Capitol
1007 East Grand Avenue
Des Moines, IA 50319

Re: Constitutionality of Pending Legislation – HF590 and SF413

Dear Governor Reynolds,

I am writing to urge you not to sign the above-referenced legislation on the ground that it is likely unconstitutional under the precedent of the Supreme Court of the United States. The Iowa House passed HF590 and the Iowa Senate passed SF413 on February 24, 2021, and reports in the news media indicate that you intend to sign this legislation. Due to the time-sensitive nature of this matter, therefore, I am sending a copy of this correspondence by email to your Deputy Legal Counsel, Nick Davis, at nick.davis@governor.iowa.gov.

HF590 and SF413 would make several changes to Iowa election law, including the imposition of a new requirement that candidates of a “nonparty political organization” who seek to qualify for Iowa’s general election ballot submit nomination petitions with a specified number of signatures from voters residing in a specified number of counties. The Supreme Court held such county-based signature requirements unconstitutional in 1969. *See Moore v. Ogilvie*, 394 US 814 (1969) (striking down Illinois law requiring that nomination petitions for independent candidates for president include signatures from at least 200 voters in each of 50 different counties). The Court concluded that the challenged requirements violated the “one person, one vote” principle established by its prior voting rights decisions. *Id.* at 819.

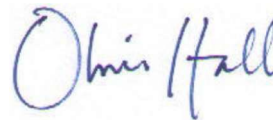
Since the Supreme Court’s decision in *Moore*, federal courts have consistently held county-based distribution requirements unconstitutional. *See Blomquist v. Thomson*, 739 F.2d 525 (10th Cir. 1984) (striking down Wyoming law requiring that minor party nomination petitions include signatures from at least 8,000 registered electors, a majority of whom could not reside in the same county); *Libertarian Party of Nebraska v. Beermann*, 598 F. Supp. 57 (D. Neb. 1984) (striking down Nebraska law requiring that nomination petitions for new parties include signatures of at least one percent of the persons voting in the most recent gubernatorial election in each of at least one-fifth (or 19) of the counties in the state); *Elliott v. Shapp*, No. 76-cv-1277 (E.D. Pa. 1979) (unreported) (striking down Pennsylvania law requiring candidates for President and United States Senator to obtain signatures of 100 registered voters from each of 10 counties); *McCarthy v. Garrahy*, 460 F. Supp. 1042 (D. R.I. 1978) (striking down Rhode Island law requiring that nomination petitions for independent candidates include 1,000 signatures, with at least 25

signatures from each of the state's five counties); *Communist Party v. State Board of Elections of Illinois*, 518 F.2d 517 (7th Cir. 1975), *cert. denied*, 423 U.S. 986 (1975) (striking down Illinois law requiring that nomination petitions for new parties include 25,000 signatures, not more than 13,000 of which can be from any one county); *Baird v. Davoren*, 346 F. Supp. 515 (D. Mass. 1972) (striking down Massachusetts law requiring that nomination petitions for new parties include signatures equal to 3 percent of the last vote for governor, and that no more than one-third of the signatures be from any one county); *Socialist Labor Party v. Rhodes*, 318 F. Supp. 1262 (S.D. Oh. 1970) (striking down Ohio law requiring that nomination petitions for independent candidates for statewide office include signatures from at least 200 electors in each of at least 30 counties); *Socialist Workers Party v. Rockefeller*, 314 F. Supp. 984 (S.D. N.Y. 1970), *aff'd*, 400 U.S. 806 (1970) (striking down New York law requiring that nomination petitions for minor party candidates for statewide office include signatures from at least 50 voters in each county of the state, with the exception of one small county); *Socialist Workers Party v. Hare*, 304 F. Supp. 534 (E.D. Mich. 1969) (striking down Michigan law requiring that nomination petitions for new parties include signatures from 100 residents in each of at least 10 counties of the state, and providing that not more than 35 percent of the minimum required number of the signatures may be by resident electors of any one county).

In 2016, the Commonwealth of Pennsylvania sought to impose new county-based distribution requirements on minor party candidates seeking access to the general election ballot. Based on the foregoing precedent, the Center for Competitive Democracy challenged the constitutionality of those requirements on behalf of a group of minor parties and voters, and the Third Circuit Court of Appeals vacated the District Court decision upholding them. *See Constitution Party of Pa. v. Cortes*, 877 F.3d 480 (3rd Cir. 2017). We believe that the courts will reach the same result if HF590 and SF413 are signed into law and litigation is needed to challenge their constitutionality. Accordingly, we urge you not to sign HF590 and SF413.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,



Oliver B. Hall
Founder and Legal Counsel

cc: Nick Davis, Deputy Legal Counsel