

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

LEAGUE OF WOMEN VOTERS OF)
 NORTH CAROLINA; A. PHILIP)
 RANDOLPH INSTITUTE; UNIFOUR)
 ONESTOP COLLABORATIVE;)
 COMMON CAUSE NORTH)
 CAROLINA; GOLDIE WELLS; KAY)
 BRANDON; OCTAVIA RAINEY;)
 SARA STOHLER; and HUGH)
 STOHLER,)

Plaintiffs,

and

LOUIS M. DUKE; ASGOD)
 BARRANTES; JOSUE E. BERDUO;)
 CHARLES M. GRAY; NANCY J.)
 LUND; BRIAN M. MILLER; BECKY)
 HURLEY MOCK; MARY-WREN)
 RITCHIE, LYNNE M. WALTER, and)
 EBONY N. WEST,)

Plaintiff-Intervenors,

v.

THE STATE OF NORTH CAROLINA;)
 JOSHUA B. HOWARD, in his official)
 capacity as a member of the State Board)
 of Elections; RHONDA K. AMOROSO,)
 in her official capacity as a member of the)
 State Board of Elections; JOSHUA D.)
 MALCOLM in his official capacity as a)
 member of the State Board of Elections;)
 PAUL J. FOLEY, in his official capacity)
 as a member of the State Board of)
 Elections; MAJA KRICKER, in her)
 official capacity as a member of the State)
 Board of Elections; and PATRICK L.)
 MCCRORY, in his official capacity as)
 the Governor of the State of North)
 Carolina,)

Defendants.

Civil Action No. 1:13-CV-00660-TDS-

JEP

**COMPLAINT IN INTERVENTION
 OF LOUIS M. DUKE, ASGOD
 BARRANTES, JOSUE E. BERDUO,
 CHARLES M. GRAY, NANCY J.
 LUND, BRIAN M. MILLER, BECKY
 HURLEY MOCK, MARY-WREN
 RITCHIE, LYNNE M. WALTER,
 AND EBONY N. WEST SEEKING
 DECLARATORY AND
 INJUNCTIVE RELIEF**

LOUIS M. DUKE, ASGOD BARRANTES, JOSUE E. BERDUO, CHARLES M. GRAY, NANCY J. LUND, BRIAN M. MILLER, BECKY HURLEY MOCK, MARY-WREN RITCHIE, LYNNE M. WALTER and EBONY N. WEST (“Plaintiffs”), hereby intervene in this action and bring this complaint against Defendants. Plaintiffs seek declaratory and injunctive relief and allege as follows:

NATURE OF ACTION

1. This action is brought pursuant to 42 U.S.C. § 1983 to secure equitable relief for Defendants’ unlawful deprivation of Plaintiffs’ rights, privileges, and immunities guaranteed by the Fourteenth and Twenty-Sixth Amendments to the Constitution and the laws of the United States.

2. Plaintiffs are citizens and residents of North Carolina, including several young voters eager to participate in their representative democracy, whose right to vote will be denied or unreasonably infringed by the discriminatory and unduly burdensome changes to North Carolina’s election laws in House Bill 589 (2013) (“HB 589”), also known as the Voter Information Verification Act (“VIVA”). The unlawful changes resulting from the VIVA include imposing onerous voter ID requirements; sharply reducing the availability of early voting (also known as “one stop” voting); eliminating same-day registration; eliminating out-of-precinct voting; taking away the discretion of local boards of elections to keep polling locations open for an extra hour on Election Day; and eliminating the availability of early registration for 16 and 17-year-olds. Together, these changes to North Carolina’s election laws have the purpose and effect of suppressing

Plaintiffs' right to vote, in violation of the Equal Protection Clause of the Fourteenth Amendment, the Twenty-Sixth Amendment, and the laws of the United States.

3. To protect themselves and thousands of North Carolinians like them from the denial or infringement of their right to vote, Plaintiffs seek a declaratory judgment that the challenged provisions of VIVA are unconstitutional, together with a preliminary and permanent injunction prohibiting Defendants from implementing these provisions.

JURISDICTION AND VENUE

4. This Court has jurisdiction to hear Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and 1357, and 42 U.S.C. §§ 1983 and 1988.

5. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

6. This Court has personal jurisdiction over Defendants, all of whom are sued in their official capacities and are either elected officials in North Carolina or members of the North Carolina State Board of Elections ("SBE"). All Defendants work or reside in the State of North Carolina.

7. Venue in this district is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district and in this division.

PARTIES

8. Plaintiff LOUIS M. DUKE is a white North Carolina resident registered to vote in Harnett County. He is 20 years old and is currently a sophomore at Campbell University.

He originally registered to vote in Rockingham County, which is where his family resides. When he returned to campus in the Fall of 2012, he submitted a new registration form to change his registration address to his on-campus apartment. When he attempted to utilize early voting in the 2012 election, however, local election officials told him that he was not registered and would have to use one stop voting to cast his ballot. Mr. Duke ultimately was only able to vote using one stop voting. Had VIVA been the law in North Carolina at the time, it would have deprived Mr. Duke of his right to vote entirely. Mr. Duke is also very active in civic engagement in North Carolina and has engaged in extensive activities to help others register to vote and exercise their right to vote. The challenged provisions of VIVA will eliminate modes of registration and voting relied upon by Mr. Duke in the past, and will unduly burden his future right to vote and his efforts to promote voter participation in future elections.

9. Plaintiff ASGOD BARRANTES is a Hispanic North Carolina resident registered to vote in Mecklenburg County. He is 20 years old and is currently a student at the University of North Carolina - Charlotte. He has used one stop voting and early voting. Mr. Barrantes is also very active in civic engagement in North Carolina and has engaged in extensive activities to help others register to vote and exercise their right to vote. The challenged provisions of VIVA will eliminate modes of registration and voting relied upon by Mr. Barrantes in the past, and will unduly burden his future right to vote and his efforts to promote voter participation in future elections.

10. Plaintiff JOSUE E. BERDUO is a Hispanic North Carolina resident registered to vote in Wake County. He is 20 years old and currently a sophomore at North Carolina State University. He first registered to vote when he was 17 years old in Buncombe County, where he lived with his family before moving to Raleigh in Wake County. He has used one stop voting and early voting. Mr. Berduo is also very active in civic engagement in North Carolina and has engaged in extensive activities to help others register to vote and exercise their right to vote, including pre-registration drives at his and other area high schools. The challenged provisions of VIVA will eliminate modes of registration and voting relied upon by Mr. Berduo in the past, and will unduly burden his future right to vote and his efforts to promote voter participation in future elections.

11. Plaintiff CHARLES M. GRAY is an African-American North Carolina resident registered to vote in Durham County. He is 20 years old and is currently a junior at North Carolina Central University. Mr. Gray originally registered to vote in Winston-Salem, where he lived with his family. Because it would have been a challenge for him to travel back to Winston-Salem to vote, he re-registered in Durham County, where he currently lives and attends school. He has utilized out-of-precinct voting and one stop voting. Mr. Gray is also very active in civic engagement in North Carolina and has engaged in extensive activities to help others register to vote and exercise their right to vote. The challenged provisions of VIVA will eliminate modes of registration and voting relied upon by Mr. Gray in the past, and will unduly burden his future right to vote and his efforts to promote voter participation in future elections.

12. Plaintiff NANCY J. LUND is a North Carolinian resident registered to vote in Rowan County. Ms. Lund has regularly used early voting. Ms. Lund is also actively involved in civic engagement; early voting allows her to cast her ballot and then concentrate on helping others who may have difficulties getting to the polls participate in the election. Ms. Lund previously lived in New York State, which did not have early voting and where she regularly experienced long waits at the polls on election day. The challenged provisions of VIVA will eliminate modes of voting relied upon by Ms. Lund in the past and will unduly burden her future right to vote and her efforts to promote voter participation in future elections.

13. Plaintiff BRIAN M. MILLER is a white North Carolina resident registered to vote in Wake County. He is 20 years old and currently a sophomore at North Carolina State University. He first registered to vote in Buncombe County, where he lived with his family. He re-registered in Wake County when he moved to Raleigh to attend school. He has used one stop and early voting. The challenged provisions of VIVA will eliminate modes of voting relied upon by Mr. Miller in the past and unduly burden his future right to vote.

14. Plaintiff BECKY HURLEY MOCK is a white North Carolina resident registered to vote in Alamance County. Ms. Mock has regularly used early voting and one-stop voting. Ms. Mock has also long been actively involved in civic engagement, including with North Carolina Women United and with the Women's Resource Center in Alamance County where she helped others obtain access to the polls using programs such as early

voting, same-day registration, and out-of-precinct voting, which she found to be particularly valuable for her clients who were low income and had inflexible work schedules and women attempting to escape abusive relationships. Ms. Mock has also been a candidate for local office and has promoted other candidates for office. The challenged provisions of VIVA will eliminate modes of voting relied upon by Ms. Mock and unduly burden her future right to vote and her efforts to promote voter participation in future elections.

15. Plaintiff MARY-WREN RITCHIE is a North Carolina resident registered to vote in Mecklenburg County. She is 21 years old and currently a senior at University North Carolina - Charlotte. Ms. Ritchie has had to re-register on several occasions because, as a college student, her address has changed every year. Ms. Ritchie has also used early voting. Ms. Ritchie has participated in voting drives to help other North Carolinians vote and intends to do so again in the future. The challenged provisions of VIVA will eliminate modes of voting relied upon by Ms. Ritchie and unduly burden her future right to vote and her efforts to promote voter participation in future elections.

16. Plaintiff LYNNE M. WALTER is a North Carolina resident registered to vote in Wake County. Ms. Walter has used early voting and intends to do so in the future. Ms. Walter is also very active in civic engagement in North Carolina and has engaged in extensive activities to help others register to vote and exercise their right to vote. The challenged provisions of VIVA will eliminate modes of registration and voting relied

upon by Ms. Walter in the past and unduly burden her future right to vote and her efforts to promote voter participation in future elections.

17. Plaintiff EBONY N. WEST is an African-American North Carolina resident registered to vote in Pitt County. She is 19 years old and currently a sophomore at East Carolina University. Ms. West first registered to vote when she was 17 years old, using the preregistration program. She has had to re-register several times since then because, as a college student, her address has changed every year. Ms. West has also used early voting. In addition, Ms. West is very active in civic engagement in North Carolina and has engaged in extensive activities to help others register to vote and exercise their right to vote. The challenged provisions of VIVA will eliminate modes of registration and voting relied upon by Ms. West in the past and unduly burden her future right to vote and her efforts to promote voter participation in future elections.

18. Defendant JOSHUA B. HOWARD is the Chairman and a member of the SBE, which is responsible for administering North Carolina's election laws. Mr. Howard is sued in his official capacity.

19. Defendant RHONDA K. AMOROSO is the Secretary and a member of the SBE, which is responsible for administering North Carolina's election laws. Ms. Amoroso is sued in her official capacity.

20. Defendant JOSHUA D. MALCOLM is a member of the SBE, which is responsible for administering North Carolina's election laws. Mr. Malcolm is sued in his official capacity.

21. Defendant PAUL J. FOLEY is a member of the SBE, which is responsible for administering North Carolina's election laws. Mr. Foley is sued in his official capacity.

22. Defendant MAJA KRICKER is a member of the SBE, which is responsible for administering North Carolina's election laws. Ms. Kricker is sued in her official capacity.

23. Defendant PATRICK L. MCCRORY is sued in his official capacity as Governor of the state of North Carolina.

FACTUAL ALLEGATIONS

24. In 1991, North Carolina had one of the lowest rates of voter participation in the nation, ranking 47th out of 50. In the years that followed, North Carolina extensively reformed its voting laws, with the specific purpose of making it easier for all of the state's qualified voters to participate in their representative democracy. The reforms were highly effective and, by 2012, North Carolina boasted one of the highest rates of voter participation in the country.

25. Through VIVA, the Republican-controlled General Assembly repeals many of these reforms, with the purpose and effect of making it more difficult for certain groups of voters to cast their ballots. In particular, the new laws are intended to and have the effect of denying or unreasonably infringing upon the voting rights of African-Americans and young people -- both groups that tend to vote Democratic.

26. The youth vote in North Carolina is significant: North Carolina is home to more than 500,000 students, including a significant number who have moved here from other states to attend school. All of these students are legally entitled to vote in North Carolina

and to register where they attend school. *See Symm v. United States*, 439 U.S. 1105 (1979).

A. History of HB 589

27. HB 589 was first introduced in the North Carolina House of Representatives on April 4, 2013.

28. In its original form, HB 589 was a short bill that proposed some changes to the state's requirements for proving identity when voting in person, as well as to how absentee ballots are requested and submitted.

29. The original bill identified as acceptable for voter ID any identification card that contains a photo of the registered voter, bearing either a date of expiration or a date of issuance, that was issued by a branch, department, agency or entity of any state.

30. The original bill also expressly included student IDs issued by the University of North Carolina, its constituent institutions, or a North Carolina community college, as acceptable forms of voter ID.

31. The original bill did not contain any provisions affecting early voting or one stop voting, same-day registration, or out-of-precinct voting.

32. HB 589 passed Third Reading in the House and was referred to the North Carolina Senate's Committee on Rules and Operations on April 24, 2013. At that point, the bill still permitted the use of out-of-state identification cards and student IDs as acceptable voter ID. It also did not contain any provisions affecting early voting, one stop voting, same-day registration, or out-of-precinct voting.

33. The Senate took no action on HB 589 for months.
34. On June 25, 2013, the U.S. Supreme Court issued its decision in *Shelby County v. Holder*, 570 U.S. ___, 133 S. Ct. 2612 (2013).
35. Prior to the decision in *Shelby County*, 40 North Carolina counties were “covered jurisdictions” under Section 5 of the Voting Rights Act of 1965 (“VRA”), 42 U.S.C. § 1973c. Covered jurisdictions were required to obtain “preclearance” from the Department of Justice or the United States District Court for the District of Columbia before “enact[ing] or seek[ing] to administer” any alteration of their practices or procedures affecting voting. *Id.* at 1973c(a).
36. In *Shelby County*, a majority of the Court held that the formula used to determine which jurisdictions were covered under Section 5 was unconstitutional.
37. As a result, after *Shelby County*, those North Carolina counties previously subject to preclearance under Section 5 were no longer required to seek approval before changing their voting laws.
38. One month after *Shelby County* was decided and only four days before the end of the legislative session, the Senate began to introduce dramatic changes to significantly expand the scope and breadth of HB 589.
39. Through proposed amendments and substitute bills, HB 589 was modified to include stricter government-issued photo ID requirements for in-person voters (e.g., student IDs were no longer acceptable and out-of-state identification cards were only acceptable if the voter registered within 90 days of the election); drastic reductions in

early voting; the elimination of same-day registration; the elimination of out-of-precinct voting; the elimination of the discretion of county boards of elections to open early voting sites at different hours within a county; the elimination of the discretion of county boards to keep the polls open for one extra hour on Election Day; the elimination of straight ticket voting; and the elimination of pre-registration for 16- and 17-year olds.

40. All of these changes were made within the three days leading to the close of the legislative session: July 23, 24, and 25.

41. The Senate also tabled an amendment that would have permitted ID cards issued by any accredited college or university in North Carolina to be used as acceptable voter ID.

42. In the end, the relatively simple House bill addressing limited voter ID and absentee ballot issues ballooned in length, scope, and breadth. An inordinate amount of the amendments -- discussed in further detail, below -- have the purpose and effect of detrimentally impacting young voters.

43. On July 25, the General Assembly voted to enact this greatly expanded version of HB 589 by a vote of 33-14 in the Senate and 73-41 in the House, both along party lines.

44. On July 26, HB 589 was signed by House and Senate leaders in preparation for its delivery to Governor McCrory.

45. The Governor signed HB 589 into law on August 12.

B. The Law's Challenged Provisions

Voter ID Requirements

46. HB 589 requires that, beginning in 2016, North Carolina voters wishing to cast their ballots in person at a polling site, through early voting or on Election Day, present one of a limited list of government-issued photo ID to vote.

47. Prior to the enactment of HB 589, there was no requirement that registered voters in North Carolina present identification to vote at a polling site.

48. In its original form, HB 589 would have permitted voters to identify themselves using college ID or an out-of-state government-issued identification card.

49. The enacted version of the bill, however, severely curtails the forms of acceptable identification, eliminating the use of both college and out-of-state government-issued IDs, except under very limited circumstances.

50. If a properly registered voter attempts to vote at the polls without first presenting one of the listed forms of ID, the voter will be permitted to vote only by provisional ballot. In order for a provisional ballot to be counted, the voter must travel to the county board of elections and present one of the forms of listed photo ID no later than noon of the day prior to the scheduled canvassing of ballots. If a voter does not possess one of the forms of ID listed in the law, or if a voter is unable to travel to the county board of elections to present their ID within this short timeframe, his or her ballot will not be counted.

51. VIVA's restrictive voter ID requirements do not apply to voters who cast their absentee ballots by mail. Those voters are not required to present photo ID at any point during the voting process, provided they submitted an accurate driver's license number or social security number during the registration process.

52. The voter ID requirement abridges, and in some cases will effectively deny, the right to vote of thousands of North Carolinians. This is especially true of young voters, who are less likely than other members of the public to have a valid state-issued ID, the means or access to transportation to travel to obtain an ID, or the means or access to transportation to travel to the local board of elections if they forget to present their ID when they go to vote at the polls.

53. Studies have demonstrated that voter ID laws in general have a significant and disproportionate detrimental impact on the turnout of young voters, especially young African-American and Hispanic voters. VIVA's exclusion of student IDs will only exacerbate this effect, and is itself evidence of the General Assembly's intent to suppress young voters in North Carolina's elections.

Reduction In Early Voting

54. From 2001 until the enactment of VIVA in 2013, North Carolina provided 17 days of early voting during each election, beginning on the third Thursday before Election Day and ending on the last Saturday before the election.

55. VIVA reduces the total number of early voting days to ten, starting on the second Thursday before the election. The law also eliminates each county's option of offering four additional hours of early voting on the last Saturday before the election.

56. Research has demonstrated that younger, and first-time voters are disproportionately likely to utilize early voting on weekends at the end of the early voting period.

57. The new law facially requires jurisdictions to offer the same overall number of hours of early voting in presidential general elections as were offered in 2012, and the same overall number of early voting hours in non-presidential federal general elections as were offered in 2010, unless the county and state boards unanimously agree to change the number of hours. It does not, however, provide the counties with funding for complying with this requirement.

58. The new law also requires all voting locations in a county, except the county board of elections office, to be open on the same days and during the same hours as every other location in the county.

59. North Carolinians have utilized in-person early voting in extremely large numbers. During the November 2008 election cycle, 2,402,394 voters cast ballots this way; during the November 2010 election cycle, 901,457 voters utilized in-person early voting; and during the November 2012 election cycle, 2,556,228 voters utilized in-person early voting.

60. VIVA's curtailment of early voting abridges and, in some cases will effectively deny, the right to vote of thousands of North Carolinians. This is especially true of young voters, who used early voting extensively during the 2012 election, casting their votes at early voting sites located on college campuses (of which there were at least 16 in the 2012 election), and nearby (at least ten additional early voting sites were located within half a mile from college campuses in the 2012 election).

61. Accessible early voting is particularly critical to young voters who are more likely than members of the general public to have limited access to transportation and demanding, inflexible school and work schedules. Without the flexibility that early voting provides, it is likely that many young voters would find it highly difficult -- and in some cases impossible -- to make it to the polls to cast their ballots.

62. Furthermore, as experiences in other states such as Florida have conclusively demonstrated, reductions in early voting correlate with significantly longer lines and waits for the voters that are able to make it to the polls. These added burdens are likely to discourage many young voters from attempting to vote at all.

63. By reducing early voting opportunities, VIVA also makes it substantially more difficult for Plaintiffs to engage in get-out-the-vote and voter-registration activities.

Elimination of Same-Day Voter Registration

64. Same-day voter registration was introduced in North Carolina in 2007, following the lobbying efforts of voting rights activists, including the Young Democrats of North Carolina.

65. Same-day registration allowed qualified applicants to register to vote at the polls during the early voting period by producing a driver's license, government photo identification, utility bill, bank statement, government check, paycheck, or other government document. The voter could then cast a ballot at the early voting site, and local election officials would verify the registration within two business days. If the voter was deemed qualified to register to vote, the ballot would be counted. If the voter's registration was deemed not valid, the ballot would be cancelled.

66. In 2008, over 250,000 North Carolinians took advantage of same-day registration, with almost 105,000 registering to vote on the same day they cast their ballot, and over 148,000 using same-day registration to update their addresses or other registration information.

67. Last fall, almost 100,000 North Carolina voters utilized same-day registration to register for the first time; over 150,000 used same-day registration to update their address or other information.

68. Studies have demonstrated that allowing people to register to vote on the same day that they vote has a positive effect on youth turnout.

69. VIVA eliminates same-day voter registration entirely.

70. VIVA's elimination of same-day voter registration abridges and, in some cases will effectively deny, the right to vote of thousands of North Carolinians. This is especially true of young voters, who are more likely to change residences than general members of the public.

71. In particular, many of North Carolina's students come from out-of-state to attend college, or move from one precinct to another to attend school and may not have the opportunity to update their registration in time to participate in the following election. Students are also more likely than other members of the general public to have their registration forms rejected or challenged, particularly if they use their on-campus addresses to register. Same-day registration helped to guarantee the enfranchisement of these young voters -- as well as others who have inflexible schedules due to work and school obligations -- to register at the same time and in the same place that they cast their ballots.

72. By eliminating same-day registration, VIVA also makes it substantially more difficult for Plaintiffs to engage in get-out-the-vote and voter-registration activities.

Elimination of Out-of-Precinct Provisional Voting

73. Before VIVA, a voter could cast a provisional ballot at any precinct located in the county in which the voter was registered to vote, and the votes cast on such a ballot were counted for all contests in which the voter would have been eligible to vote. In other words, the voter was treated as though the ballot had been cast as a regular ballot in his or her home precinct.

74. Out-of-precinct voting was authorized by law in 2004 and revised and reenacted in 2005. When reenacted in 2005, the General Assembly affirmatively found that “[i]t would be fundamentally unfair to discount the provisional official ballots cast by properly registered and duly qualified voters” S.L. 2005-2, §1.

75. VIVA eliminates out-of-precinct provisional voting.

76. Last November, over 23,000 North Carolinians were able to cast a legal, official provisional ballot despite having appeared at the wrong polling precinct or encountering some other difficulty in casting a regular ballot. The elimination of out-of-precinct provisional voting will result in the rejection of thousands of votes that would have been counted in prior elections.

77. The elimination of out-of-precinct voting abridges and, in some cases will effectively deny, the right to vote of thousands of North Carolinians. This is especially true of young voters, who are more likely than other members of the public to find themselves outside of their precinct during an election due to school obligations, and to lack the time or the funds to travel to the precinct in which they are registered to cast their ballots.

Elimination of Discretion to Keep the Polls Open One Extra Hour on Election Day

78. Prior to the enactment of VIVA, local boards of elections had the discretion to keep the polls open an extra hour on Election Day.

79. VIVA eliminates that discretion, permitting only the SBE to modify closing times of the polls, and only where the polls are delayed in opening for more than 15 minutes or are interrupted for more than 15 minutes after opening. Under such circumstances, the SBE is permitted -- but not required -- to extend the closing time by an equal number of minutes.

80. As a result, neither the local boards nor the SBE retain any discretion to keep the polls open to combat extraordinarily long lines or wait times. These added burdens unduly infringe upon the right to vote of thousands of North Carolinians, including young voters with inflexible schedules who may be discouraged from or rendered unable to vote at all.

Elimination of Pre-Registration For 16- and 17-Year-Olds

81. Of all age groups in North Carolina, 18 to 24 year olds have the lowest voter-registration rate.

82. In recognition of the importance of encouraging and enabling the participation of young voters in the political process, pre-registration for 16- and 17-year-olds was enacted by the North Carolina General Assembly in 2009 as part of a larger election bill that received broad, bipartisan support.

83. As a result of the pre-registration program, young voters 16 years of age and older were able to pre-register to ensure that they would be able to vote in the general election after they turned 18.

84. The pre-registration law also entitled young voters to vote in party primaries and non-partisan primaries, if they were going to be 18 years old by the time of the general election.

85. The pre-registration law also required the SBE to conduct voter registration and pre-registration drives at public high schools. Local boards of education were encouraged to adopt policies to promote student voter registration and pre-registration, including

through collaboration with county boards of elections to conduct voter registration and pre-registration in high schools.

86. The pre-registration law was highly successful: more than 160,000 young people utilized the program to register.

87. The elimination of pre-registration is one of the first provisions of VIVA that will go into effect. Beginning on September 1, 2013, 16- and 17-year-olds will no longer be allowed to pre-register to vote. VIVA also eliminates the requirement that the SBE conduct any voter registration drives, including those at public high schools. As a result, the right to vote of young North Carolinians will be seriously infringed and, in some cases, denied entirely.

88. By eliminating pre-registration, VIVA also makes it substantially more difficult for Plaintiffs to engage in get-out-the-vote and voter-registration activities.

C. Post-Enactment Targeting of Young Voters

89. Since the enactment of VIVA, the assault on young voters' rights in North Carolina has continued.

90. For example, the Watauga County Board of Elections acted in August to move an early voting site off the Appalachian State University campus in Boone, North Carolina.

91. At a public hearing before the State Board of Elections, Kathleen Campbell, the only Democratic member of the Watauga Board, stated that the Republican members had violated open meetings laws and gathered without her in order to discuss new policies and procedures that she believes to be part of a state-wide effort to suppress young voters.

92. The local Board of Elections in Pasquotank County purged the voting rolls of over 50 students at the historically black Elizabeth City State University, claiming that they cannot register at their on-campus addresses.

93. The Chairman of the Pasquotank Republican Party announced that he plans to challenge the voter registrations of additional students at Elizabeth City State University and has urged his counterparts in other parts of the state to do the same.

94. The Chairman of the Forsyth County Board of Elections announced his intention to shut down the early voting site at the Anderson Center at historically black Winston-Salem State University.

CAUSES OF ACTION

COUNT I

(Denial of Equal Protection Under the Fourteenth Amendment of the United States Constitution and Violation of 42 U.S.C. § 1983)

95. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1 through 89 above, as though fully set forth herein.

96. The right to vote is fundamental and one of the most important rights in our democratic society. It is protected by several different provisions in the United States Constitution, including the Fourteenth and Twenty-Sixth Amendments.

97. The Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution provides in relevant part: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any

State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

98. The Equal Protection Clause guarantees qualified voters a substantive right to participate equally with other qualified voters in the electoral process. It applies to the right to vote in state elections and protects the state electoral franchise. *See Harper v. Va. Bd. of Elections*, 383 U.S. 663, 665 (1966) (“[O]nce the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.”); *Greidinger v. Davis*, 988 F.2d 1344, 1349-50 (4th Cir. 1993).

99. Thousands of North Carolina voters, including Plaintiffs, will suffer, or are at risk of suffering, direct and irreparable injury from Defendants’ implementation of the challenged provisions of VIVA. For example, voters who lack one of the limited acceptable forms of voter ID, lose or forget to bring an acceptable form of voter ID to the polls, or who previously relied upon early voting, same-day registration, and out-of-precinct provisional voting, or who would have registered to vote using the pre-registration program, face serious infringement of their right to vote. Indeed, many of these voters may lose the ability to vote in an upcoming election entirely.

100. The challenged provisions in VIVA are irrational and not justified by an important government interest.

101. Based on the foregoing, Defendants, acting under color of state law, have deprived and will continue to deprive Plaintiffs of equal protection under the law secured to them

by the Fourteenth Amendment to the United States Constitution and protected by 42 U.S.C. § 1983.

COUNT II

(Violation of the Twenty-Sixth Amendment to the United States Constitution and 42 U.S.C. § 1983)

102. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1 through 96 above, as though fully set forth herein.

103. The Twenty-Sixth Amendment to the U.S. Constitution provides in relevant part: “The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by . . . any State on account of age.”

104. The Twenty-Sixth Amendment guarantees young, qualified voters a substantive right to participate equally with other qualified voters in the electoral process. The Amendment was meant to override the Supreme Court’s decision in *Oregon v. Mitchell*, 400 U.S. 112 (1970), which invalidated the provision in the newly-enacted Voting Rights Act that lowered the minimum age of voters in both state and federal elections from 21 to 18. As a result, laws that have the purpose of denying or abridging the right to vote on account of age are unconstitutional.

105. The challenged provisions of VIVA have the purpose and effect of abridging or denying the right to vote of thousands of North Carolinians on account of their age.

106. Based on the foregoing, Defendants, acting under color of state law, have deprived and will continue to deprive Plaintiffs of rights secured to them by the Twenty-Sixth Amendment to the United States Constitution and protected by 42 U.S.C. § 1983.

PRAYER FOR RELIEF

Accordingly, Plaintiffs respectfully request that this Court enter the following equitable relief:

1. An order declaring that:
 - a. the challenged provisions of VIVA violate the Equal Protection Clause of the Fourteenth Amendment and the Twenty-Sixth Amendment to the United States Constitution; and
 - b. the rights and privileges of Plaintiffs will be irreparably harmed without the intervention of this Court.

2. An order preliminarily and permanently enjoining Defendants, their respective agents, officers, employees, successors, and all persons acting in concert with each or any of them from implementing, enforcing, or giving any effect to the challenged provisions of VIVA, specifically including voter ID requirements; reductions in early voting or “one stop” voting; the elimination of same-day registration; the elimination of out-of-precinct voting; the elimination of the discretion of local boards of elections to keep polling locations open for an extra hour on Election Day; and the elimination of early registration for 16 and 17-year-olds.

3. An order awarding Plaintiffs their costs, disbursements and reasonable attorneys' fees incurred in bringing this action pursuant to 42 U.S.C. §§ 1988, 1973l(e); and
4. Such other or further relief as the Court deems just and proper.

Dated: January 28, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date I served a copy of the foregoing **COMPLAINT IN INTERVENTION** to be made by electronic filing with the Clerk of the Court using the CM/ECF System, which will send a Notice of Electronic Filing to all parties with an e-mail address of record, who have appeared and consent to electronic service in this action.

This the 28th day of January, 2014.

/s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.