

**State of Minnesota
In Supreme Court**

MINNESOTA ALLIANCE FOR RETIRED AMERICANS EDUCATIONAL FUND, TERESA MAPLES,
AND KHALID MOHAMED,

Appellants,

v.

STEVE SIMON, in his official capacity as Minnesota Secretary of State,
Respondent.

**BRIEF OF *AMICI CURIAE* REPUBLICAN NATIONAL COMMITTEE AND
REPUBLICAN PARTY OF MINNESOTA IN SUPPORT OF RESPONDENT**

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INTEREST OF *AMICI CURIAE*¹

This Court granted the Republican National Committee (“RNC”) and Republican Party of Minnesota (collectively, “Republican Committees”) leave to file an *amici curiae* brief in this appeal on July 15, 2025.

The RNC is the national committee of the Republican Party as defined by 52 U.S.C. § 30101(14). The RNC manages the Republican Party’s business at the national level, including development and promotion of the Party’s national platform, fundraising, and election strategies; supports Republican candidates for public office at the federal, state, and local levels across the country, including those on the ballot in Minnesota; and helps Republican state party organizations throughout the country, including the Republican Party of Minnesota, educate, mobilize, assist, and turn out voters.

The Republican Party of Minnesota is a state “political party unit” of the Republican Party as defined by Minn. Stat. § 19A.01, subd. 30, and a federally registered “State Committee” of the Republican Party as defined by 52 U.S.C. § 30101(15). The Republican Party of Minnesota’s general purpose is to promote and assist Republican candidates who seek election or appointment to partisan federal, state, and local office in Minnesota.

The Republican Committees have several significant interests in upholding the Minnesota Legislature’s duly enacted and longstanding Witness Requirement for mail ballots at issue in this case. In particular, the Committees are interested in helping their

¹ No counsel for a party authored this brief in whole or in part, and no one other than *amici curiae* or their counsel has made a monetary contribution to its preparation or submission.

candidates win elected office and in preserving a fair and competitive environment for those candidates in which all laws related to election integrity and reliability—including the Witness Requirement—are enforced. Through this litigation, Appellants are asking Minnesota courts to declare the Witness Requirement invalid and enjoin its enforcement. Such relief would disadvantage the Republican Committees and the voters and candidates they represent by restructuring the competitive environment in which those voters cast ballots and those candidates seek office, and by exposing the Republican Committees and their voters and candidates to competitive tactics that Minnesota law would otherwise forbid. Changing election laws and procedures would also force the Republican Committees to adjust their campaign strategy and divert their limited resources to supplement the substantial efforts they have already made to educate voters, train staff and volunteers, and turn out the vote in Minnesota.

INTRODUCTION

“States may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.” *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997). Accordingly, the Minnesota Legislature, “fully cognizant of the possibilities of illegal voting, frauds, and dishonesty in elections, prescribed many safeguards in the absent[ee] vot[ing] law[s] to prevent such abuses.” *Bell v. Gannaway*, 227 N.W.2d 797, 803 (Minn. 1975) (cleaned up). Like at least 9 other States, Minnesota combats those possibilities in part by requiring individuals voting by mail to have a witness observe their completion of the mail ballot. *Id.* at 802. Courts around the country have consistently rejected legal challenges to such witness requirements, *see, e.g.*,

Andino v. Middleton, 141 S. Ct. 9, 9-10 (2020); *Thomas v. Andino*, 613 F. Supp. 3d 926, 959-62 (D.S.C. 2020); *People First of Ala. v. Merrill*, 467 F. Supp. 3d 1179, 1223-25 (N.D. Ala. 2020), and a federal court even rejected a previous challenge to Minnesota’s Witness Requirement premised on the COVID-19 pandemic, see *League of Women Voters of Minn. Educ. Fund v. Simon*, No. 20-cv-1205, 2021 WL 1175234, at *1, *6-*9 (D. Minn. Mar. 29, 2021).

Appellants run headlong into this precedent when they claim that the Witness Requirement implicates, and even violates, two federal statutes: Section 201 of the Voting Rights Act (“VRA”) and the Materiality Provision of the Civil Rights Act of 1964. The Court of Appeals rightly followed this precedent, properly construed the statutes, and correctly ordered dismissal of Appellants’ Complaint. *Minn. All. for Retired Ams. Educ. Fund v. Simon*, 19 N.W.3d 480, 494 (Minn. Ct. App. 2025); Appellants’ Add. 25.

Appellants’ outlier stance rests on a fundamental misconception of the voting process and States’ broad authority to enact election laws. Appellants fail to appreciate that “[s]tates have separate bodies of rules for separate stages of the voting process.” *Pa. State Conf. of NAACP v. Sec’y Commw. Of Pa.*, 97 F.4th 120, 129-30 (3d Cir. 2024), *reh’g denied* (Apr. 30, 2024); see also *Minn. All.*, 19 N.W.3d at 489, 492; Appellants’ Add. 14-15, 19-20. “One stage, voter qualification, deals with *who* votes” and is governed by rules designed to answer that question. *Pa. State Conf. of NAACP*, 97 F.4th at 130. Meanwhile, a “different set of rules” “deals with *how* ballots are cast by those previously authorized to vote.” *Id.*; *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983) (distinguishing laws that “govern[] the registration and qualifications of voters” from those regulating “the voting

process itself”); *see also Ritter v. Migliori*, 142 S. Ct. 1824, 1825-26 (2022) (Alito, J., dissent). Such post-registration ballot-casting rules generally have nothing to do with assessing who is qualified to vote. Instead, they pursue other objectives, like specifying how voters complete and cast their ballots, facilitating the “counting of votes,” and “prevent[ing] fraud.” *Smiley v. Holm*, 285 U.S. 355, 366 (1932).

Both Section 201 and the Materiality Provision address only voter-qualification rules delineating *who* may vote, not ballot-casting rules addressing *how* qualified voters vote. Yet the Witness Requirement is a ballot-casting rule; Minnesota election officials use compliance with the Witness Requirement to determine the validity of the ballot, *not* an individual’s eligibility or qualifications to vote. *See* Minn. Stat. § 203B.07 subd. 3; Office of the Minn. Sec’y of State, *2022 Minnesota Absentee Voting Administration Guide* at 43-46 (Updated June 13, 2024) (“Guide”).² Accordingly, the Witness Requirement does not implicate, let alone violate, Section 201 or the Materiality Provision.

Start with Section 201. That statute prohibits any requirement that a voter “prove his *qualifications*” to vote “by the voucher of registered voters or members of any other class.” 52 U.S.C. § 10501 (emphasis added). Because witness requirements for mail ballots do not require the witness to vouch for the voter’s qualifications, it is unsurprising that every court to have considered the question—other than the district court in this case—has ruled that witness requirements do not violate Section 201. *See, e.g., Thomas*, 613 F. Supp. 3d at 959-62; *People First of Ala.*, 467 F. Supp. 3d at 1223-25. The United States

² <https://www.sos.state.mn.us/media/5058/absentee-voting-administration-guide.pdf>, <https://perma.cc/U7YE-V8QN>.

Department of Justice, which has authority to enforce the VRA, agrees. *See* Statement of Interest of the Department of Justice, ECF No. 47, at 7-11, *Thomas v. Andino*, No. 3:20-cv-1552 (D.S.C. May 11, 2020) (“DOJ Br.”).³

Minnesota’s Witness Requirement likewise does not implicate Section 201. None of its applications requires a witness to “vouch[]” for a voter’s qualifications; it permits government officials to serve as witnesses; and it never results in “den[ying] . . . the right to vote” of any individual. 52 U.S.C. § 10501; *see also Thomas*, 613 F. Supp. 3d at 959-62; *People First of Ala.*, 467 F. Supp. 3d at 1223-25; DOJ Br. 7-12. Thus, the Witness Requirement does not and cannot violate Section 201, as the Court of Appeals correctly held. *See Minn. All.*, 19 N.W.3d at 488-91; Appellants’ Add. 12-18.

The Materiality Provision also applies only when an election official “determin[es] whether [an] individual is qualified under State law to vote.” 52 U.S.C. § 10101(a)(2)(B). It does not regulate ballot-casting rules like the Witness Requirement. *See Pa. State Conf. of NAACP*, 97 F.4th at 131-33; *accord Ritter*, 142 S. Ct. at 1825 (Alito, J., dissental); *Vote.Org v. Callanen*, 39 F.4th 297, 305 n.6 (5th Cir. 2022); *United States v. Paxton*, 148 F.4th 335, 340 (5th Cir. 2025) (finding the Third Circuit’s analysis “persuasive”). Thus, the Witness Requirement falls outside the Materiality Provision’s cabined scope, as the Court of Appeals also correctly held. *See Minn. All.*, 19 N.W.3d at 491-94; Appellants’ Add. 18-24; *see also Liebert v. Millis*, 733 F. Supp. 3d 698, 702 (W.D. Wis. 2024) (explaining that a “novel claim[]” that Wisconsin’s Witness Requirement violates the

³ <https://www.justice.gov/crt/case-document/file/1300816/dl>,
<https://perma.cc/5CCT-BKCJ>.

Materiality Provision “attempts to apply federal voting rights law beyond its proper scope”). By contrast, Appellants’ erroneous construction of the Provision would unleash electoral chaos by imperiling paper-based voting rules all across the country, including numerous rules that regulate, and make possible, voting by mail. *See Pa. State Conf. of NAACP*, 97 F.4th at 134-35; *Liebert*, 733 F. Supp. 3d at 698, 718.

The Court should adhere to the plain statutory text of Section 201, the Materiality Provision, and the Witness Requirement and affirm the Court of Appeals’ decision.

ARGUMENT

I. THE COURT OF APPEALS CORRECTLY HELD THAT THE WITNESS REQUIREMENT DOES NOT VIOLATE SECTION 201.

Section 201 states that “[n]o citizen shall be denied . . . the right to vote” because of “his failure to . . . *prove his qualifications by the voucher of registered voters or members of any other class.*” 52 U.S.C. § 10501 (emphasis added). Congress enacted the italicized language to address Jim Crow-era rules requiring “registered voters [to] vouch for new applicants in areas where practically no [African Americans] are registered and where whites [could not] be found to vouch for [African Americans].” S. Rep. No. 89-162, pt. 3, at 16 (1965), *as reprinted in* 1965 U.S.C.C.A.N. 2508, 2553; *see also* H.R. Rep. No. 89-439, at 15 (1965), *as reprinted in* 1965 U.S.C.C.A.N. 2437, 2446. Shortly before Congress enacted Section 201, several federal courts enjoined such procedures because they were applied in a discriminatory manner. *United States v. Logue*, 344 F.2d 290, 291-93 (5th Cir. 1965) (per curiam); *United States v. Ward*, 349 F.2d 795, 799-802 (5th Cir. 1965); *United States v. Manning*, 205 F. Supp. 172, 173-74 (W.D. La. 1962). Congress specifically noted

these cases and southern States' discriminatory application of vouching laws as the basis for enacting this component of Section 201. *See* S. Rep. No. 89-162, pt. 3, at 46 app'x G, *as reprinted in* 1965 U.S.C.C.A.N. at 2549-50; *see also* *Davis v. Gallinghouse*, 246 F. Supp. 208, 217 (E.D. La. 1965).

Accordingly, every court to have addressed the question (except the district court in this case, whose decision the Court of Appeals reversed) has concluded that witness requirements do not violate Section 201. *See, e.g., Minn. All.*, 19 N.W.3d at 488-91; Appellants' Add. 12-18; *Andino*, 141 S. Ct. at 9-10; *Thomas*, 613 F. Supp. 3d at 959-62; *People First of Ala.*, 467 F. Supp. 3d at 1223-25. Appellants nonetheless posit that the Witness Requirement violates Section 201. But as the Court of Appeals explained, the Witness Requirement does not require any voter to "prove his qualifications by the voucher of registered voters or members of any other class." 52 U.S.C. § 10501; *Minn. All.*, 19 N.W.3d at 488-91; Appellants' Add. 12-18. In fact, Section 201's plain text forecloses Appellants' claim in at least four ways.

A. The Witness Requirement Does Not Require Any Voter To "Prove His Qualifications."

Section 201 reaches only certain state-law requirements that a voter "prove his qualifications" to vote. 52 U.S.C. § 10501. When the word "qualifications" appears in federal voting statutes, it refers to the formal criteria a State uses to determine *who* is eligible (and therefore may register) to vote, not to the State's rules governing *how* qualified voters cast their ballots. *See, e.g., Pa. State Conf. of NAACP*, 97 F.4th at 135 (a statute "focus[ed] on voter qualification" addresses the "determin[ation] [of] who may vote"

during voter registration); *Fla. State Conf. of NAACP v. Browning*, 522 F.3d 1153, 1170 (11th Cir. 2008) (discussing “qualifications necessary to be a registered voter” in context of federal voter-registration laws (cleaned up)).

The “qualifications” to vote in Minnesota are age, U.S. citizenship, “residenc[y] in Minnesota for 20 days immediately preceding the election,” felony status, and legal competence. Minn. Stat. § 201.014. As the Court of Appeals explained, the Witness Requirement does not require witnesses to say anything about *any* of those qualifications. *Minn. All.*, 19 N.W.3d at 489; Appellants’ Add. 14-15. Instead, it requires the witness to observe only one thing for registered voters: that the voter filled out the blank ballot and attestation. *See* Minn. Stat. § 203B.07 subd. 3; *see also Minn. All.*, 19 N.W.3d at 489; Appellants’ Add. 15 (“The witness merely attests that they saw the voter perform the three specified voting procedures.”). In other words, the witness “is only standing in” for an election official “to confirm that the voter completes . . . and signs the document.” *Thomas*, 613 F. Supp. 3d at 961; *People First of Ala.*, 467 F. Supp. 3d at 1225 (“The witnesses’ signature indicates only that they observed the voter sign the affidavit,” not that they vouch for the individual’s qualifications.); *see also Howlette v. City of Richmond*, 485 F. Supp. 17, 24 (E.D. Va. 1978) (upholding against Section 201 challenge a requirement that each signature on a petition be notarized because “[t]he notary merely administers an oath” and makes no statement regarding the signer’s qualifications or registration to vote), *aff’d* 580 F.2d 704 (4th Cir. 1978).

The Witness Requirement’s additional convenience for unregistered voters—the witness stating that the voter showed the witness proof of residence, *see* Minn. Stat.

§ 203B.07 subd. 3(3)—does not affect, much less alter, this analysis. Through that convenience, the witness attests only to having *seen* the voter’s proof of residency; the witness does not *verify* that the proof of residence is genuine, nor attest to any personal knowledge regarding the voter’s residence or whether the voter satisfies Minnesota’s residency requirement. *See* Minn. Stat. § 203B.07, subd. 3; *Minn. All.*, 19 N.W.3d at 489; Appellants’ Add. 14-15. In fact, the witness need not even know the voter personally, so the witness does not even necessarily know whether the voter is the same person who applied for the absentee ballot, is an eligible or registered voter, or is who they purport to be.

Thus, in every scenario under the Witness Requirement, only the voter—not the witness—certifies the voter’s eligibility and that the voter meets all the statutory criteria to vote absentee. *Minn. All.*, 19 N.W.3d at 490-91; Appellants’ Add. 17 (explaining that the absentee ballot-return envelope contains a “certificate of eligibility” with space for “a statement to be signed and sworn *by the voter* indicating that the voter meets all of the requirements established by law for voting by absentee ballot”) (quoting Minn. Stat. § 203B.07, subd. 3). Because the Witness Requirement does not require *anyone* but the voter to “prove his qualifications” to vote, Appellants’ Section 201 claim fails. 52 U.S.C. § 10501.

B. The Witness Requirement Does Not Require The “Voucher” Of The Witness.

Section 201 also addresses only certain state-law requirements that the voter prove his qualifications “by the voucher” of another. 52 U.S.C. § 10501. The Witness

Requirement, however, does not require the witness to “vouch[]” for anything. *See Thomas*, 613 F. Supp. 3d at 961-62; *People First of Ala.*, 467 F. Supp. 3d at 1225; DOJ Br. 8-12; Respondent’s Br. 13-18. To “vouch” is “to be able from your knowledge or experience to say that something is true.” Vouch, Cambridge Dictionary (last visited Sept. 18, 2025), dictionary.cambridge.org/us/dictionary/english/vouch. Put another way, “vouching” involves reliance on personal knowledge to “answer for (another); to personally assure” someone else’s assertion. Vouch, Black’s Law Dictionary (12th ed. 2024). When someone vouches for a statement in a document, they “personally assure” the validity of that statement. *Id.*; *accord Minn. All.*, 19 N.W.3d at 489; Appellants’ Add. 14 (explaining that “a voter proves their eligibility to vote by another’s voucher if another person’s assurance is the evidence that proves the voter’s eligibility”). A witness or notary to a document, by contrast, “does not attest to the validity of the statement[] made in the document,” but instead simply “certif[ies] the validity of the signature.” *Butler v. Encyclopedia Britannica, Inc.*, 41 F.3d 285, 293 (7th Cir. 1994).

This ordinary meaning of “vouch” harmonizes with Section 201’s historical context. Section 201 targeted southern States’ demands that registered (mostly white) voters “vouch,” using independent knowledge, that new voters were qualified and not ineligible due to, say, felony status. *See, e.g., Ward*, 349 F.2d at 799 (noting example where registrar told African-American voters “they would need two electors to identify them” and would not accept “any other form of identification”); DOJ Br. 8.

Under the Witness Requirement, the witness does not rely on personal knowledge to assure that anything the voter writes on the certificate of eligibility is true, let alone that

the voter satisfies Minnesota's qualifications to vote. Compare Minn. Stat. § 201.014, with *id.* § 203B.07, subd. 3. After all, the witness need not even know the voter, much less possess personal knowledge regarding the voter's qualifications. See *id.* § 203B.07, subd. 3; see also *Thomas*, 613 F. Supp. 3d at 962 (“There would be no need to, and the [w]itness [r]equirement does not, require the *witness*, who may or may not [even] know the voter, to sign upon the witness line for the purpose of verifying that the voter is registered or ‘qualified’ to vote.”).

The only personal knowledge that the witness offers for a registered voter is the witness's observation of the voter's completion of the ballot. Minn. Stat. § 203B.07, subd. 3. And the only additional piece of personal knowledge that the witness offers for the proof-of-residence convenience for an unregistered voter is the witness's *observation* of the voter's proof of residence. See *id.* In either scenario, the witness offers no personal knowledge regarding the voter's qualifications, including the truthfulness of the proof of residence for previously unregistered individuals. See *id.*; see also *Minn. All.*, 19 N.W.3d at 490; Appellants' Add. 16. For this reason as well, Appellants' Section 201 claim fails.

C. The Witness Requirement Does Not Require The Voucher Of “Registered Voters Or Members Of Any Other Class.”

Even if the Witness Requirement demanded proof of qualifications by the voucher of another, it *still* would not violate Section 201 because it does not require anyone to obtain the “voucher of registered voters or members of any other class.” 52 U.S.C. § 10501(b). This language prohibits conditioning the franchise on proving qualifications through the voucher of registered voters or other categories of private individuals. See *Thomas*, 613 F.

Supp. 3d at 962 (upholding witness requirement because it did “not limit a witness to another qualified voter” but permits “a myriad of competent individuals” to serve as witnesses).

The Witness Requirement does not condition the franchise on the voucher of any “class” of individuals. 52 U.S.C. § 10501(b). This case commenced under a prior statutory regime, which permitted registered voters, notaries public, or persons authorized to administer oaths to witness the oath, Minn. Stat. § 203B.07, subd. 3 (2023), and thus did not restrict witnesses to an identifiable “class,” 52 U.S.C. § 10501(b). The Minnesota Legislature has since expanded the universe of eligible witnesses: As of the new year, any U.S. citizen at least eighteen years old may now serve as a witness. 2024 Minn. Laws, ch. 112, art. 2, § 12, subd. 3. The undifferentiated adult-citizen population of the United States does not constitute a “class,” so Appellants’ Section 201 claim fails under the operative version of the Witness Requirement. *See Thomas*, 613 F. Supp. 3d at 962; Respondent’s Br. 20-22.

At any rate, Minnesota’s Witness Requirement also permits notaries and election officials to witness the oath. *See* 2024 Minn. Laws, ch. 112, art. 2, § 12, subd. 3. This is the functional equivalent of what all individuals registering or voting in person have always had to do: be supervised by government officials. *See Davis*, 246 F. Supp. at 217. Indeed, that Minnesota offers its citizens the *option* of enlisting an adult citizen instead of an election official makes voting *easier*. It certainly does not violate federal law.

Appellants nevertheless insist that the term “class” in Section 201 refers to *any* group of people sharing “common characteristics or attributes,” including *all* adult citizens.

Appellants’ Br. 21. But by that logic, States could *never* have a witness requirement—and they could not even require individuals to prove qualifications to or by government officials, who share official status as “a common characteristic[] or attribute[].” *Id.* That makes no sense, which is why courts have rejected similar arguments. *See Thomas*, 613 F. Supp. 3d at 962; *Davis*, 246 F. Supp. at 217. Once again, Appellants’ Section 201 claim fails on the plain statutory text.

D. The Witness Requirement Does Not Cause Any Person To Be “Denied The Right To Vote” In Any Election.

Nor does the Witness Requirement satisfy the final essential element of a Section 201 claim because it does not “den[y] ... the right to vote” in any election. 52 U.S.C. § 10501(a). This is so in three respects.

First, the statutory “right to vote,” as understood when Section 201 was enacted, did not encompass mail voting, so mail-voting rules like the Witness Requirement necessarily do not deny any individual that right. *See Order Granting Stay Pending Appeal at 5, United States v. Paxton*, No. 23-50885, ECF 80-1 (5th Cir. Dec. 15, 2023) (mail-voting rules “do not deny anyone the right to vote because they only affect the ability of some individuals to vote by mail”). When the VRA was passed, the “right to vote” meant the right to register to vote and to cast a ballot on equal terms with other registered voters. *See McDonald v. Bd. of Election Comm’rs of Chi.*, 394 U.S. 802, 807-08 (1969). It was *not* understood to entail a right to vote by mail, which was limited to a small number of situations. *See, e.g., id.* at 804.

Moreover, just a few years after Section 201 became law, the U.S. Supreme Court

unanimously held that “the right to vote” does not encompass the “right to receive absentee ballots.” *Id.* at 807. This Court reached the same conclusion a few years later. *See Bell*, 227 N.W.2d at 802 (“The opportunity of an absentee voter to cast his vote . . . by mail has the characteristics of a privilege rather than of a right. Since the privilege of absentee voting is granted by the legislature, the legislature may mandate the conditions and procedures for such voting.”). Thus, rejecting a defective mail ballot under the Witness Requirement cannot deny any individual the “right to vote” under Section 201.

Indeed, at least 9 States have requirements like Minnesota’s.⁴ Yet other than the (now-reversed) district court below, no court has ever held that a witness requirement violates Section 201. In fact, the Department of Justice told a federal court in 2020 that it was unaware of any Section 201 challenges to witness requirements filed before that year. *See* DOJ Br. 10. When that case reached the U.S. Supreme Court, it unanimously stayed the preliminary injunction against South Carolina’s witness requirement, and the Fourth Circuit later dismissed the case as moot. *See Andino*, 141 S. Ct. at 9-10; *Middleton v. Andino*, 990 F.3d 768 (4th Cir. 2020). More generally, “the courts of appeals have resisted overturning [witness] laws” when presented with various legal theories. *Middleton*, 990 F.3d at 772 (Wilkinson and Agee, JJ., dissenting from the denial of a stay); *see DNC v. Bostelmann*, 2020 WL 3619499, at *2 (7th Cir. Apr. 3, 2020) (staying injunction against Wisconsin’s witness requirement). But according to Appellants, Congress invalidated all

⁴ *See* Ala. Code § 17-11-7; Alaska Stat. § 15.20.203(b)(2); La. Stat. Ann. § 18:1306(E)(2); Miss. Code Ann. § 23-15-627; Mo. Rev. Stat. § 115.283; N.C. Gen. Stat. § 163-231(a)(5); Okla. Stat. tit. 26, § 14-108; S.C. Code §§ 7-15-220, -380; Wis. Stat. § 6.87(4)(b).

witness requirements almost 70 years ago—everyone simply missed the message. That is plainly implausible.

Second, officials enforcing the Witness Requirement do not “disqualify potential voters,” remove them from the list of registered voters, or prevent them from voting in the current or any future election. *Schwier v. Cox*, 340 F.3d 1284, 1294 (11th Cir. 2003). Instead, they simply decline to accept noncompliant certificates or to count noncompliant ballots “because [individuals] did not follow the rules for” completing the certificate or “casting a ballot.” *Ritter*, 142 S. Ct. at 1825 (Alito, J., dissental); *see also Pa. State Conf. of NAACP*, 97 F.4th at 133. Such individuals are not denied the right to vote; they remain free to register and to vote in any election on equal terms with, and according to the same rules as, all other voters. *See Ritter*, 142 S. Ct. at 1825 (Alito, J., dissental); *accord Rosario v. Rockefeller*, 410 U.S. 752, 757 (1973).

Finally, for yet another reason, the Witness Requirement does not violate the “right to vote” for previously unregistered voters. State requirements that individuals register to vote—and that individuals seeking to vote be residents of the State—are valid and do not violate the “right to vote.” *See, e.g., Rosario*, 410 U.S. at 757-58. Indeed, federal law specifically anticipates that States will require applicants to provide proof of their address to government officials. *See* 52 U.S.C. § 21803(b)(3). The Witness Requirement makes it *easier* for previously unregistered individuals to satisfy Minnesota’s registration and proof-of-residence requirements. In fact, allowing Minnesotans to show a family member, friend, neighbor, or other witness such proof *instead of* using the traditional voter-registration process makes voter registration *easier* than in virtually all other States.

It therefore cannot violate Section 201's protection of the right of qualified individuals to register to vote.

* * *

The Court of Appeals carefully analyzed Section 201 and followed the longstanding consensus among States, Congress, the courts, and the Department of Justice that witness requirements comply with federal law. The Court should affirm.

II. THE COURT OF APPEALS CORRECTLY HELD THAT THE WITNESS REQUIREMENT DOES NOT VIOLATE THE MATERIALITY PROVISION.

The Materiality Provision directs:

No person acting under color of law shall . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2)(B).

Appellants' Materiality Provision claim fails at the threshold because, as explained, the Witness Requirement does not "deny the right of any individual to vote." *Id.*; *see supra* Part I.D.

If more were somehow needed, there is more—much more. As the Third Circuit explained in a comprehensive opinion, and the Fifth Circuit has now agreed, the Materiality Provision applies only to voter-registration rules governing *who* can vote. *Pa. State Conf. of NAACP*, 97 F.4th at 129-33; *Paxton*, 148 F.4th at 340. This limited reach corresponds with the limited (but important) problem Congress sought to solve: southern States' "practice of disqualifying potential voters for their failure to provide information irrelevant

to determining their eligibility to vote” during the voter-registration process. *Schwier*, 340 F.3d at 1294; *Pa. State Conf. of NAACP*, 97 F.4th at 133 (“The legislative history shows the enacting Congress was concerned with discriminatory practices during voter registration, thus in line with what the text reflects.”).

In particular, Congress addressed “the practice of requiring unnecessary information for voter registration”—such as the “exact number of months and days in [the registrant’s] age”—“with the intent that such requirements would increase the number of errors or omissions on the application forms, thus providing an excuse to disqualify potential voters.” *Schwier*, 340 F.3d at 1294 (cleaned up). “Such trivial information served no purpose other than as a means of inducing voter-generated errors that could be used to justify rejecting applicants.” *Browning*, 522 F.3d at 1173. The Provision thus guards against discriminatory application of voter qualification and registration rules. *Id.*; *Pa. State Conf. of NAACP*, 97 F.4th at 131; Respondent’s Br. 22-34.

Of course, States must enact many voting laws that have nothing to do with qualifications or registration. *See, e.g., Anderson*, 460 U.S. at 788 (distinguishing between laws that “govern[] the registration and qualifications of voters, the selection and eligibility of candidates, [and] the voting process itself”). “Casting a vote, whether by following the directions for using a voting machine or completing a paper ballot, requires compliance with certain rules.” *Brnovich v. DNC*, 594 U.S. 647, 669 (2021). As the Third Circuit confirmed and the Fifth Circuit agrees, the Provision does not apply to such ballot-casting rules. *See Pa. State Conf. of NAACP*, 97 F.4th at 134-35; *Paxton*, 148 F.4th at 340. Consistent with this understanding, the Court of Appeals correctly held that the Witness

Requirement does not violate the Provision because its application to registered voters bears no relation to voter qualifications or registration. *Minn. All.*, 19 N.W.3d at 491-94; Appellants’ Add. 18-24. This Court should affirm.⁵

A. The Witness Requirement Is Not Related To An “Application, Registration, Or Other Act Requisite To Voting.”

The Materiality Provision’s scope is limited to immaterial errors on documents related to “any application, registration, or other act requisite to voting.” 52 U.S.C. § 10101(a)(2)(B). These terms refer to documents used “during voter *registration*,” and do “not cover records or papers provided during . . . *vote-casting*.” *Pa. State Conf. of NAACP*, 97 F.4th at 133 (emphases added); *accord Ritter*, 142 S. Ct. at 1825-26 (Alito, J., dissental); *Vote.Org*, 39 F.4th at 305 n.6; Respondent’s Br. 24-26. The legislative history confirms that Congress used “application” and “registration” interchangeably to refer to voter registration. *See, e.g.*, H.R. Rep. No. 88-914, pt. 1, at 19 (1963), *as reprinted in* 1964 U.S.C.C.A.N. 2391, 2394 (provision bars “registration officials” from “disqualifying an

⁵ Appellants initially challenged the Witness Requirement’s proof-of-residence convenience for previously unregistered individuals under the Materiality Provision, but they forfeited any appeal of the district court’s (correct) rejection of that challenge by not raising it in the Court of Appeals. *See* Appellants’ Br. 39-43; Appellants’ Add. 51; Respondent’s Br. 39-41 (explaining that Appellants forfeited this argument by not raising it in the Court of Appeals). In any event, even if the Witness Requirement did implicate the Provision, this challenge still would fail. Residency is a qualification to vote under Minnesota law. Minn. Stat. § 201.014. Thus, under any definition of “material”—whether mere relevance or something more demanding—requiring an individual seeking to register to vote to provide proof of residence is obviously “material in determining whether [an] individual is qualified under State law to vote.” 52 U.S.C. § 10101(a)(2)(B); *see Paxton*, 148 F.4th at 340-41 (holding that Texas’s identification requirements for voting by mail “easily compl[y] with the materiality provision” because those requirements “are obviously designed to confirm that every mail-in voter is indeed who he claims he is”); Respondent’s Br. 34-38.

applicant for immaterial errors or omissions”); *id.* at 77, 1964 U.S.C.C.A.N. at 2445 (referring to “application to register”); *id.*, pt. 2, at 5, 1964 U.S.C.C.A.N. at 2491 (referring to efforts to “defeat [African-American] registration” by “rejecting [African-American] applications” to vote); *Pa. State Conf. of NAACP*, 97 F.4th at 132-33.

The catch-all phrase “other act requisite to voting” likewise refers only to voter registration and similar procedures by which States determine eligibility to vote. 52 U.S.C. § 10101(a)(2)(B); *accord Pa. State Conf. of NAACP*, 97 F.4th at 131-32. “[W]here general words follow an enumeration of specific items,” they reach “other items akin to those specifically enumerated.” *Harrison v. PPG Indus.*, 446 U.S. 578, 588 (1980). Thus, the catch-all phrase must be “controlled and defined by reference to the enumerated categories,” *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 115 (2001), of “application” and “registration,” *see Pa. State Conf. of NAACP*, 97 F.4th at 131-32; *Ball v. Chapman*, 289 A.3d 1, 38 n.11 (Pa. 2023) (opinion of Brobson, J.); Respondent’s Br. 26-27. As the Court of Appeals explained, “[b]ecause the two terms that precede [the catch-all phrase] refer to voter qualification, and voter qualification is a necessary precursor to voting, the general phrase ‘other act requisite to voting’ plainly includes only qualification-related acts.” *Minn. All.*, 19 N.W.3d at 492; Appellants’ Add. 20.

Appellants resist this interpretation on the view that it renders the catch-all phrase superfluous. Appellants’ Br. 24-25. To the contrary, the catch-all phrase still has important work to do: preventing state and local election officials from circumventing the Materiality Provision through creative labeling. *See Liebert*, 733 F. Supp. 3d at 716. Calling a qualification-determining practice something other than a voter “application” or

“registration” does not lift the ban on disqualifying voters for immaterial “error[s] or omission[s]” on paperwork. 52 U.S.C. § 10101(a)(2)(B). The catch-all phrase may also cover forms that citizens must submit to remain registered to vote once deemed qualified, such as a declaration by a released felon that he has paid all outstanding fines or by an inactive voter that she remains at her registered address.

At bottom, the Witness Requirement does not implicate the Materiality Provision because it has nothing to do with registration. *See Minn. All.*, 19 N.W.3d at 494; Appellants’ Add. 24. As Minnesota’s Absentee Voting Administration Guide makes clear, standard mail ballot materials are sent *only* to “registered” voters. *See* Guide at 23. When these already-registered voters submit mail ballots and accompanying envelopes, those documents are obviously not part of the voter-registration process and are thus not covered by the Materiality Provision. *See Pa. State Conf. of NAACP*, 97 F.4th at 132-33. For this reason alone, the Witness Requirement does not implicate the Provision.

B. The Witness Requirement Is Not Used By State Officials “In Determining” Whether Anyone Is Qualified To Vote.

Similarly, the Materiality Provision requires that the document be used “in determining” whether someone is “qualified” to vote. 52 U.S.C. § 10101(a)(2)(B). When paired with a “verbal noun” (like “determining”) the word “in” is typically “equivalent in sense to a temporal clause introduced by *when, while, if.*” *In*, prep., def. 21(b), *Oxford English Dictionary* (3d ed. 2021, rev. online Mar. 2023). Here, that means the Provision applies only to actions taken *when determining* an individual’s eligibility. *See Ball*, 289 A.3d at 38 (opinion of Brobson, J.); *Liebert*, 733 F. Supp. 3d at 707, 714; *see also Ritter*,

142 S. Ct. at 1825-26 (Alito, J., dissent). As the Third Circuit explained, these words “describe a process—namely, determining whether an individual is qualified to vote.” *Pa. State Conf. of NAACP*, 97 F.4th at 131. Voting papers are covered by the Materiality Provision “only” when they are used *during that process* and “in that context.” *Id.*; *see also Paxton*, 148 F.4th at 340.

Minnesota, like virtually every State, determines whether an “individual is qualified [] to vote,” 52 U.S.C. § 10101(a)(2)(B), during the voter-registration process, *see* Minn. Stat. § 201.018. That some Minnesotans are allowed to register at the same time they vote does not change the fact that registration and voting are separate processes with different rules. *See* Guide at 23-24 (laying out different procedures for individuals who want to register to vote at same time as casting mail ballot). When it regulates mail voting for registered voters, the Witness Requirement has nothing to do with determining a voter’s *qualifications* but, instead, is used to determine a ballot’s *validity* only after election officials have *already* found the voter qualified through the voter-registration process.

C. Appellants’ Reasoning Is Flawed.

Appellants’ proposed expansion of the Materiality Provision to cover ballot-casting rules like the Witness Requirement not only is wrong, but also would destabilize election administration in Minnesota and across the country.

1. Appellants try to justify decoupling the Materiality Provision from voter registration by referencing the federal statutory definition of “vote,” but that definition has nothing to do with the Materiality Provision. To be sure, as Appellants explain, the Provision covers mistakes on documents related to any “act requisite to voting,” and the

VRA defines “vote” broadly to mean “all action necessary to make a vote effective including, . . . casting a ballot, and having such ballot counted and included in the appropriate totals [of votes cast].” Appellants’ Br. 24, 27 (citing 52 U.S.C. §§ 10101(a)(2)(B), (e)). But Appellants’ conclusion that the Materiality Provision therefore covers mistakes “at any stage of the voting process,” *id.*, does not follow.

Indeed, Appellants improperly import the statutory definition of “vote” into the phrase “act requisite to voting.” The Court of Appeals persuasively explained why this conflation is error: “[I]t defies logic to say that voting and an ‘act requisite to voting’ are the same thing.” *Minn. All.*, 19 N.W.3d at 493; Appellants’ Add. 22; *see also* Respondent’s Br. 27-28. In fact, in a conspicuous attempt to avoid the implications of their approach, even Appellants concede that the Provision does not apply to “the paper ballot itself.” Appellants’ Br. 29. That admission underscores that “vote” and “act requisite to voting” are not synonymous. Further, the Provision extends only to rules that “deny” the “right” to “vote”—that is, the right to take “all *action* necessary to make a vote effective.” 52 U.S.C. § 10101(a)(2)(B), (e) (emphasis added). It does not apply to rules, like the Witness Requirement, that simply delineate those actions.

2. Moreover, Appellants’ interpretation of the Materiality Provision would imperil a host of election laws. States must provide a “complete code for . . . elections,” regulating not only voter qualifications, but also “supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns,” among other things. *Smiley*, 285 U.S. at 366; *see also Anderson*, 460 U.S. at 788; *Ritter*, 142 S. Ct. at 1825-26 (Alito,

J., dissent). Unsurprisingly, States have often enacted such regulations through paper-based requirements. The Witness Requirement is one such example.

Until quite recently, the Materiality Provision and paper-based ballot-casting rules coexisted peacefully, thanks to the universal understanding that the Provision did not cover “the counting of ballots by individuals *already deemed qualified to vote.*” *Friedman v. Snipes*, 345 F. Supp. 2d 1356, 1371 (S.D. Fla. 2004); *see Pa. State Conf. of NAACP*, 97 F.4th at 127. But over the last few years, activists have invoked the Provision as part of a nationwide campaign to weaken regulations of mail voting. And some lower courts—in one federal district, specifically—have accepted their arguments. *See, e.g., In re Ga. Senate Bill 202*, No. 1:21-mi-55555, 2023 WL 5334582, at *8 (N.D. Ga. Aug. 18, 2023) (requirement to list birthdate on ballot); *Vote.Org v. Ga. State Election Bd.*, 661 F. Supp. 3d 1329, 1334 (N.D. Ga. 2023) (requirement to sign absentee ballot application). But every appellate precedent, save one repudiated by the Third Circuit, has applied the Materiality Provision only to voter-registration rules. *See Pa. State Conf. of NAACP*, 97 F.4th at 127-28 (repudiating *Migliori v. Cohen*, 36 F.4th 153 (3d Cir. 2022)); *see also Paxton*, 148 F.4th at 340; *Minn. All.*, 19 N.W.3d at 493-94; Appellants’ Add. 22-24.

Left unchecked, Appellants’ approach will doom countless statutes across the country. Under Appellants’ logic, many other widespread, commonsense paper-based regulations are now federal civil-rights violations, merely because they further interests besides determining eligibility. *See Liebert*, 733 F. Supp. 3d at 702 (explaining that “Plaintiffs’ expansive interpretation of the law would lead to arbitrary restrictions on states’ authority to regulate elections”); Respondent’s Br. 32-34. These include:

- Mail-ballot signature requirements, *e.g.*, Ariz. Rev. Stat. § 16-547(A), (D); Cal. Elec. Code § 3011(a)(2); Fla. Stat. § 101.65(7); 10 Ill. Comp. Stat. § 5/19-5; Ky. Rev. Stat. § 117.085(2); La. Stat. § 18:1306E.(1)(f); Minn. Stat. § 203B.07, subd. 3; N.J. Stat. § 19:62-11(c); 25 P.S. §§ 3146.6(a), 3150.16(a); Wash. Rev. Code § 29A.40.091(1);
- Mail-ballot application signature requirements, *e.g.*, Ariz. Rev. Stat. § 16-542; Colo. Rev. Stat. § 31-10-1002(1); Ky. Rev. Stat. § 117.085(2); Mass. Gen. Laws ch. 54 § 25B(a)(2); Md. Code § 9-305(a)(3)(i); Minn. Stat. § 203B.04, subd. 1; Tenn. Code § 2-6-202(a)(3);
- Witness requirements for mail ballots or applications, *e.g.*, Ala. Code § 17-11-7; Colo. Rev. Stat. § 31-10-1002(1); Ind. Code § 3-11-10-29; Ky. Rev. Stat. § 117.085(7); La. Stat. §§ 18:1306E.(2)(a); Vt. Stat. 17 § 2542(a); *see also Liebert*, 733 F. Supp. 3d at 720 (rejecting Materiality Provision challenge to witness requirement);
- Requirements to sign early-voting certificate, *e.g.*, Fla. Stat. § 101.657(4)(a); Ga. Comp. R. & Regs. § 183-1-14.02(11); 10 Ill. Comp. Stat. § 5/19A-40, 45; Mass. Gen. Laws ch. 54 § 25B(b)(8), (c)(5);
- Prohibitions on voting for more candidates than there are offices, *e.g.*, Ariz. Rev. Stat. § 16-611; 15 Del. Code § 4972(b)(6); Fla. Stat. § 101.65(3); 25 P.S. § 3063(a);
- Requirements to maintain pollbooks, *e.g.*, Fla. Stat. § 101.23; 10 Ill. Comp. Stat. § 5/17-4; Mass. Gen. Laws ch. 54 § 25B(b)(7); 25 P.S. § 3050; Va. Code § 24.2-611;
- Secrecy envelope requirements, Ala. Code § 17-11-9; Fla. Stat. § 101.64; Ga. Code § 21-2-384(b); Ky. Rev. Stat. § 117.085(3); Mass. Gen. Laws ch. 54 § 25(B)(a)(10); N.J. Stat. § 19:63-12; N.M. Stat. § 1-6-8; 26 Okla. Stat. § 26-14-107(A)(1); 25 P.S. § 3146.4; S.C. Code § 7-15-370; and
- Voter assistance forms, *e.g.*, Fla. Stat. § 101.051(4); Ind. Code § 3-11.5-4-13; Ky. Rev. Stat. § 117.0863; Mass. Gen. Laws ch. 54 § 25B(a)(3), (14); Md. Code § 9-308; 25 P.S. § 3058; Tenn. Code § 2-7-116; Va. Code § 24.2-649(A).

In short, Appellants’ overbroad construction of the Materiality Provision would “tie state legislatures’ hands in setting voting rules unrelated to voter eligibility.” *Pa. State Conf. of NAACP*, 97 F.4th at 134; *see Liebert*, 733 F. Supp. 3d at 715 (“[A] broader

interpretation of the Materiality Provision would mean that numerous rules related to vote casting would be invalid.”). This Court should reject Appellants’ radical theory and preserve the Minnesota Legislature’s authority to ensure secure State elections.

CONCLUSION

The Court should affirm.

Dated: September 22, 2025

Respectfully submitted,

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CERTIFICATE OF DOCUMENT LENGTH

I hereby certify that this brief complies with the requirements of Minnesota Rule of Civil Appellate Procedure 132. This brief was prepared with proportional font using Microsoft Word 365, which reports that it contains 6,955 words, exclusive of caption, tables, and signature block.

Dated: September 22, 2025

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