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**United States District Court
 District of Utah**

<p>PHIL LYMAN,</p> <p>Plaintiff,</p> <p>v.</p> <p>DEIDRE M. HENDERSON, in her official capacity as the Lieutenant Governor of Utah,</p> <p>Defendant.</p>	<p><u>PLAINTIFF’S MOTION AND MEMORANDUM IN SUPPORT OF FOR SUMMARY JUDGMENT</u></p> <p>Case No. 4:25-cv-00069-DN-PK</p> <p>Judge David Nuffer</p>
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This case seeks to enforce the public disclosure provisions of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. §§ 20501–20511. While this case is in its infancy, the legal question is well developed, and answered affirmatively, by courts across the country. *See, e.g., Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 47-48 (1st Cir. 2024); *Pub. Int. Legal Found., Inc. v. Matthews*, 589 F. Supp. 3d 932, 941 (C.D. Ill. 2022); *Pub. Int.*

Legal Found., Inc. v. Knapp, 749 F. Supp. 3d 563, 572 (D.S.C. 2024). Further, there are no genuine disputes as to any material fact. Mr. Lyman requested Utah’s registration list, including records improperly classified as “withheld.” *See* Doc. 1 ¶ 21. The Lieutenant Governor refused inspection of the requested information, citing state law prohibitions. *See* Doc. 1 ¶ 26. The Lieutenant Governor violated and continues to violate Mr. Lyman’s right to inspect list maintenance documents under federal law. 52 U.S.C. § 20507(i)(1).

Defendant’s refusal to provide the registration list—including records improperly classified as “withheld”—violates the NVRA. Utah state law, to the extent it restricts access to records covered by the NVRA, is preempted, invalid, and unenforceable. For the sake of judicial economy, Mr. Lyman is entitled to judgment as a matter of law without further delay.

STATEMENT OF UNDISPUTED MATERIAL FACTS

Plaintiff Phil Lyman respectfully submits the following statement of undisputed material facts in support of his Motion for Summary Judgment:

1. Under Utah law, the Lieutenant Governor shall: “develop, manage, and maintain a statewide voter registration system to be used by county clerks to maintain an updated statewide voter registration database...” and “regularly update the system with information relevant to voter registration....” Utah Code Ann. § 20A-2-502(1)(a)-(b) (LexisNexis 2025). *See also* “Voter List Maintenance Requirements,” <https://vote.utah.gov/voter-list-maintenance-requirements/>. *See* Doc. 1 ¶ 7.
2. Utah Code Ann. § 20A-2-104 (LexisNexis 2025) governs access to list maintenance records, including Utah’s list of registrants. *See* Doc. 1 ¶ 8.
3. The NVRA mandates that states “make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation

of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). *See* Doc. 1 ¶ 16.

4. Utah has three classifications of registrations: public, self-declared “private”, and “withheld”. *See* Doc. 1 ¶ 9.
5. In Utah, a self-declared “private registration,” is when a registrant requests that his information be classified as “private” by following one of the processes outlined in Utah Code Ann. § 20A-2-104(4)(h)(i-ii) (LexisNexis 2025):

- (h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:
 - (i) submits a written application, created by the lieutenant governor, requesting that the voter’s voter registration record be classified as private;
 - (ii) requests on the voter’s voter registration form that the voter’s voter registration record be classified as a private record...

See Doc. 1 ¶ 10. The lieutenant governor does not have discretion to deny a registrant’s request to have his voter record classified as “private.” *See* § 20A-2-104(4)(h)(i-ii).

6. Any registrant may request that his registration be classified as “private.” *See* Utah Code Ann. § 20A-2-104(4)(h)(i), (ii) (LexisNexis 2025). *See also*, Doc. 1 ¶ 11.
7. Utah law states that self-declared “private” registrations may not be disclosed except to two categories of individuals: (1) “a government official or government employee acting in the government official’s or government employee’s capacity as a government official or government employee;” and (2) “a person described in Subsection (4)(a)(v) or (vi) for a political purpose.” Utah Code Ann. § 20A-2-104(4)(d)(i)-(ii) (LexisNexis 2025). As to the second category, Subsection (4)(a)(v) or (vi) refer to: (a) “a political party, or an agent, employee, or independent contractor of a political party,” Utah Code Ann. § 20A-2-104(4)(a)(v) (LexisNexis 2025), and (b) “a candidate for public office, or an employee,

independent contractor, or volunteer of a candidate for public office,” Utah Code Ann. § 20A-2-104(4)(a)(vi) (LexisNexis 2025). *See also*, Doc. 1 ¶ 12.

8. “Withheld registrations” are those of a “protected individual” under Utah law. Utah Code Ann. § 20A-2-104(1)(e) (LexisNexis 2025). A “protected individual” is a registrant:

(i) who submits a withholding request form with the individual’s voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence;

(ii) who submits a withholding request form with the individual’s voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is a law enforcement officer, a member of the armed forces as defined in Section 20A-1-513, a public figure, or protected by a protective order or protection order; or

(iii) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

Utah Code Ann. § 20A-2-104(1)(e)(i)-(iii) (LexisNexis 2025). *See also*, Doc. 1 ¶ 13.¹

9. “Withheld registrations” are not provided to political parties or candidates. *See* Utah Code Ann. § 20A-2-104(2)(a) (LexisNexis 2025) (“A person may request that identifying information on the person’s voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk . . .”) and Utah Code Ann. § 20A-2-104(7) (LexisNexis 2025). *See also*, Doc. 1 ¶ 13.

¹ To be clear, Mr. Lyman does *not* seek any data related to subparagraph (i) about domestic violence victims or their cohabitants or even information related to subparagraph (ii) about those in sensitive positions such as law enforcement. Because some in the media have erroneously reported this mistake, Mr. Lyman makes plain that he does *not* seek this information in this lawsuit.

10. Every “voter registration record [that] was classified as a private record at the request of the individual before May 12, 2020” is now treated as a “withheld voter registration.” Utah Code Ann. § 20A-2-104(1)(e)(iii) (LexisNexis 2025). Because of this, there are registrants who are classified as “withheld,” who are not victims of domestic violence or dating violence, law enforcement officers or in one of the other categories listed in § 20A-2-104(1)(e)(i) and (ii). *See also*, Doc. 1 ¶ 14.
11. In 2021, in response to a request for a list of registrants in Salt Lake County, the Salt Lake County Clerk withheld almost 34% of the records because they were classified as self-declared “private” or “withheld.” *See* Doc. 1 ¶ 45 and Doc. 1-1 at 25-26.
12. Mr. Lyman cannot meaningfully assess if Utah’s voter roll is current and accurate in accordance with federal and state law if he, as a member of the public, cannot review such a large percentage of the voter registrations. *See* Declaration of Phil Lyman at ¶ 3.
13. Utah law prohibits the disclosure of a registrant’s date of birth to the public but allows a “qualified person” to obtain a registrant’s year of birth. Utah Code Ann. § 20A-2-104(4)(b) (LexisNexis 2025). State law defines “qualified person,” as including political parties and candidates, among others. Utah Code Ann. § 20A-2-104(4)(a) (LexisNexis 2025). *See also*, Doc. 1 ¶ 15.
14. **Plaintiff’s Request:** On September 22, 2024, Mr. Lyman submitted a written request to the Utah Lieutenant Governor’s Office seeking access to Utah’s list of registrants, including records self-declared “private” or “withheld” under Utah law. *See* Declaration of Phil Lyman at ¶ 4. *See also*, Doc. 1 ¶ 21; Doc. 1-1 at 1-2.
15. Mr. Lyman seeks list maintenance documents to assess if Utah’s voter roll is current and accurate in accordance with federal and state law. Where necessary, Mr. Lyman intends

to use his findings to pursue legal action to enforce the NVRA and/or state list maintenance requirements. Mr. Lyman also intends to use his findings to propose and promote best practices and solutions for specific and general list maintenance problems faced by election officials in Utah. *See* Declaration of Phil Lyman at ¶ 2. *See also*, Doc. 1 ¶ 3.

16. After receiving no response, Mr. Lyman contacted the Chief Administrative Officer of the Lieutenant Governor’s Office in October 2024 to follow up on his request.

Declaration of Phil Lyman at ¶ 5. *See also* Doc. 1 ¶ 25; Doc. 1-1 at 3-8.

17. On November 4, 2024, a representative from the Lieutenant Governor’s Office, Brody Bailey, replied to Mr. Lyman, directing him to the limited publicly available voter roll and denying access to the complete list, citing Utah law as justification. Declaration of Phil Lyman at ¶ 6. *See also*, Doc. 1 ¶ 26; Doc. 1-1 at 3.

18. On March 7, 2025, the Public Interest Legal Foundation, on behalf of Mr. Lyman, sent a letter to the Lieutenant Governor providing notice of violation under 52 U.S.C. § 20510(b) of the NVRA. Declaration of Phil Lyman at ¶ 7. *See also*, Doc. 1 ¶¶ 27-29; Doc. 1-1 at 9-14.

19. Mr. Lyman does not request records that are properly classified as “withheld” because they are registrations of a “protected individual” under Utah Code Ann. § 20A-2-104(1)(e)(i) or (ii) (LexisNexis 2025). Mr. Lyman only seeks records that have improperly been classified as “withheld” under Utah Code Ann. § 20A-2-104(1)(e)(iii) (LexisNexis 2025). *See* Declaration of Phil Lyman at ¶ 8. *See also*, Doc. 1 Count I, ¶ 47, Prayer for Relief ¶ 3.

20. To date, the Lieutenant Governor has not responded to the March 7th notice of violation letter or produced the requested registration list. *See* Declaration of Phil Lyman at ¶ 9.

See also Doc. 1 ¶¶ 30-32.

21. The Lieutenant Governor did not cure the violations of the NVRA within 90 days of receiving the March 7th letter as required by the NVRA. *See* 52 U.S.C. § 20510(b)(2).

See Doc. 1 ¶¶ 34-35.

22. Mr. Lyman intends to request similar records from the Defendant in the future. *See* Declaration of Phil Lyman at ¶ 10. *See also*, Doc. 1 ¶ 53.

STANDARD OF REVIEW

Summary judgment is proper when there is “no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Estate of B.I.C. v. Gillen*, 710 F.3d 1168, 1172 (10th Cir. 2013) (quoting Fed. R. Civ. P. 56(a)). Rule 56 “allows a motion for summary judgment to be filed at the commencement of an action...” Fed. R. Civ. P. 56, subdivision (b), Notes of Advisory Committee on 2010 Amendments. The nonmoving party “must set forth specific facts showing that there is a genuine issue for trial as to those dispositive matters for which it carries the burden of proof.” *Applied Genetics Int’l, Inc. v. First Affiliated Sec., Inc.*, 912 F.2d 1238, 1241 (10th Cir. 1990) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986)).

ARGUMENT

I. Utah’s Registration List Is a “Record” Covered by the NVRA’s Public Disclosure Provision.

Section 8(i)(1) of the NVRA provides that each state “shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1) (hereinafter, the “Public

Disclosure Provision.”) The statute’s language is deliberately broad and unqualified, as it encompasses “all” such records. *Id*; see, e.g., *Pub. Int. Legal Found., Inc. v. Griswold*, 2023 U.S. Dist. LEXIS 176231, *11 (D. Colo. Sept. 29, 2023) (“The Court agrees with the Foundation that the NVRA’s disclosure provision should be construed in favor of broad disclosure. The use of the term ‘all records’ in the NVRA’s disclosure provision ‘suggests an expansive meaning because “all” is a term of great breadth.’”). Courts across the country have recognized that statewide registration lists fall squarely within this mandate. See *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 47 (1st Cir. 2024) (explaining that the “Voter File plainly relates to the carrying out of Maine’s voter list registration and maintenance activities and is thereby subject to disclosure under Section 8(i)(1).”); see also *Pub. Int. Legal Found., Inc. v. Matthews*, 589 F. Supp. 3d 932, 941 (C.D. Ill. 2022) (concluding that, “the phrase ‘all records,’ as used in the Public Disclosure Provision, necessarily includes the statewide voter registration list.”); *Pub. Int. Legal Found., Inc. v. Knapp*, 749 F. Supp. 3d 563, 572 (D.S.C. 2024) (concluding that “the South Carolina Statewide Voter Registration List is a record subject to inspection pursuant to the NVRA, and that the NVRA preempts any South Carolina law limiting access to the Statewide Voter Registration List to South Carolina registered voters.”); *Judicial Watch, Inc. v. Lamone*, 399 F. Supp. 3d 425, 439-40 (D. Md. 2019) (explaining that “voter registrations are clearly records that concern the implementation of the program and activity of maintaining accurate and current eligible voter lists” and a “voter list is simply a pared down compilation of voter registrations.”).

The First Circuit recently held that registrant lists are covered by the Public Disclosure Provision. The court noted that “[s]imilar to the word ‘any,’ the word ‘all’ reflects a ‘broadly

inclusive intent,’ giving Section 8(i)(1) an expansive meaning.” *Bellows*, 92 F.4th at 48 (citation modified). The First Circuit concluded that

[W]hether voter registration rolls are accurate and current cannot be determined without inspecting the Voter File, which contains the voter registration information necessary to examine whether Maine and other states are properly evaluating applicants and registering voters, as well as timely processing applications and submissions of new voter registration information. In other words, the evaluation of voter registration rolls would be impossible if the results of Maine’s voter list registration and maintenance activities were not subject to public disclosure.

Id. at 49.

The district court in *Public Interest Legal Foundation v. Knapp* similarly concluded that South Carolina’s Statewide Voter Registration List is subject to the NVRA’s disclosure requirement. 749 F. Supp. 3d at 572. There, the state argued that “the list is not utilized for ensuring accuracy and currency.” *Id.* at 568. The court rejected that defense. It held “the fact that the list is an output or summary of the input records does not somehow mean it is any less ‘concerning’ of maintenance efforts.” *Id.* at 569. The court stated that the list “represents the end-product of the State’s list maintenance activities” and, therefore, “concerns those maintenance activities.” *Id.*

Utah’s statewide registration list is functionally indistinguishable from the records at issue in *Bellows*, *Knapp*, *Matthews*, and *Lamone*. Defendant maintains a centralized database containing all registrant information for the State of Utah. *See* Utah Code Ann. § 20A-2-502 (LexisNexis 2025). Election officials use this system—and the data derived from it—to add new registrants, flag and remove ineligible registrants, and otherwise administer the state’s list maintenance program. *See id.* The statewide list reflects the real-time results of these programs and is thus “concerning the implementation” of voter roll accuracy efforts. *See* 52 U.S.C. §

20507(i)(1); *see also* “Voter List Maintenance Requirements,” <https://vote.utah.gov/voter-list-maintenance-requirements/>.

Mr. Lyman’s request to inspect Utah’s statewide registration list, including records self-declared “private” or improperly “withheld” under Utah Code Ann. § 20A-2-104(1)(e)(iii) (LexisNexis 2025), squarely fits within the NVRA’s language and purpose. Just as in *Bellows*, where the court held that “public inspection, and thus public release, of Voter File data is necessary to accomplish the objectives behind the NVRA,” 92 F.4th at 54, the requested list here is essential to accomplishing the NVRA’s objectives as to Utah.

II. The NVRA Preempts Utah Law to the Extent It Limits Access to the Statewide Registration List.

Utah law prevents the *public* inspection the NVRA requires. Laws that conflict with the NVRA are invalid under the Constitution’s Elections Clause. *See Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 13-14 (2013) (“*ITCA*”).

As the First Circuit recently held, when evaluating whether a law is preempted, courts usually “‘start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.’” *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th at 51 (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996)). But when Congress acts pursuant to the Elections Clause, “[s]uch assumption... ‘does not hold.’” *Id.* (quoting *ITCA*, 570 U.S. at 14.) With the Elections Clause, the Founders gave Congress the “‘authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, 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[.]” *Smiley v. Holm*, 285 U.S. 355, 366 (1932); *see also ITCA*, 570 U.S. at 8-9 (explaining that Elections Clause

authority includes “registration” laws). A “complete code” for voter “registration,” “protection of voters,” and the “prevention of fraud and corrupt practices” necessarily includes a basic oversight mechanism like Section 8(i), which is designed to ensure the process is working lawfully and effectively.

Because Elections Clause legislation must be read to “mean what it says,” *ITCA*, 570 U.S. at 15, this Court need not look past the text’s command to find frustration of Congress’s intent by Utah state law. The NVRA’s text requires “public” inspection. 52 U.S.C. § 20507(i)(1). Utah law prohibits “public” inspection of self-declared “private” registrations by restricting disclosure to certain “qualified persons.” Utah Code Ann. § 20A-2-104(4)(d) (LexisNexis 2025). Utah law also prohibits “public” inspections of self-declared “private” registrations that were summarily and without explanation converted to “withheld” by the Utah Legislature on May 12, 2020.² *See* Utah Code Ann. § 20A-2-104(1)(e)(iii) (LexisNexis 2025). *See also*, Utah Code Ann. § 20A-2-104(7) (LexisNexis 2025). Just as South Carolina’s law restricting voter roll access to South Carolina registered voters was preempted because the law “prevent[ed] compliance with the plain language mandates of the NVRA,” *Knapp*, 749 F. Supp. 3d at 572, the same is true of Utah’s law. *See also ITCA*, 570 U.S. at 9 (explaining that where state law conflicts with Elections Clause legislation, “the state law, ‘so far as the conflict extends, ceases to be operative.’”) (*quoting Ex parte Siebold*, 100 U.S. 371, 384 (1880)).

² Under Utah Code Ann. § 20A-2-104(e)(i), (ii), a voter has to “submit[] a withholding request form” if he seeks to be classified as “withheld” due to his status as a victim or domestic or dating violence, a member of the armed forces, a law enforcement officer, etc. In contrast, the Utah Legislature converted voters who self-declared as “private” before May 12, 2020, to “withheld” without requiring them to submit a withholding form or make any sort of justification (*e.g.*, member of the military, law enforcement) to be re-classified as “withheld.” *See* Utah Code Ann. § 20A-2-104(e)(iii).

With the NVRA, Congress intended, among other things, to “protect the integrity of the electoral process” and “ensure that accurate and current voter registration rolls are maintained.” 52 U.S.C. § 20501(b)(3)-(4). As the Fourth Circuit explains, “It is selfevident that disclosure will assist the identification of both error and fraud in the preparation and maintenance of voter rolls.” *Project Vote / Voting for Am., Inc. v. Long*, 682 F.3d 331, 339 (4th Cir. 2012). By excluding Mr. Lyman—and every other non “qualified person”—from inspecting the requested list maintenance records, fewer errors will be discovered, and fewer errors will be fixed.

This is why the district court in Maryland invalidated a state law that restricted access to the state’s list of registrants only to Maryland registered voters. *See Lamone*, 399 F. Supp. 3d at 445. The Maryland Court prudently recognized that access bans pose “obstacle[s] to the accomplishment of the NVRA’s purposes” because they “undermine[] Section 8(i)’s efficacy.” *Id.* The same is true here.

The First Circuit in *Bellows* echoed that conclusion. Maine’s “Use Ban” prohibited certain uses of its list of registrants. *Bellows*, 92 F.4th at 54. The court held that these limitations “erect an impenetrable barrier for those seeking to use the Voter File to evaluate and enforce compliance with the NVRA nationwide” and were “preempted by the NVRA.” *Id.*

Utah’s state statutory classification of self-declared “private” (or “withheld” registrations of those that were self-declared “private” prior to May 12, 2020) prevents public oversight of the State’s list maintenance procedures by denying access to precisely those records that reflect implementation of federal requirements. Utah’s state law access limitations are an obstacle to the accomplishment of the NVRA’s purposes and are therefore preempted by the NVRA.

III. Utah’s Refusal to Provide Year-of-Birth Information Also Violates the NVRA.

List maintenance cannot be done accurately without accurate year-of-birth information. It is how one “John Paul Smith” is differentiated from a second “John Paul Smith.” That’s why Mr.

Lyman also sought access to year-of-birth data. Utah law prohibits disclosure of year-of-birth information to the public, reserving access to a limited group of “qualified persons,” including political parties and candidates. *See* Utah Code Ann. § 20A-2-104(4)(a), (b), (c)(i) (LexisNexis 2025). This policy contravenes the NVRA. Section 8(i)(1) contains no limitation on the types of records that must be disclosed—nor does it carve out any exception for year-of-birth data.

Utah’s refusal to release year of birth information to Mr. Lyman, while selectively granting it to others, undermines the NVRA’s transparency goals and violates the statute. For the reasons explained above, Utah’s prohibitions on the release of the year of birth information to the public are preempted by federal law.

CONCLUSION

For the foregoing reasons, Mr. Lyman respectfully requests that this Court grant his motion for Summary Judgment and issue an order:

1. Declaring that Defendant is in violation of Section 8(i) of the NVRA for refusing to allow Mr. Lyman to inspect and copy the requested list of registrants.
2. Declaring that Section 8(i) of the NVRA preempts and supersedes any requirement or restriction in Utah Code Ann. § 20A-2-104 (LexisNexis 2025), and any other Utah statute, regulation, practice, or policy that prevents Mr. Lyman from inspecting and copying the statewide registration list.
3. Ordering Defendant to produce to Mr. Lyman the full and complete statewide registration list, including registrations that are self-declared “private” or improperly classified from self-declared “private” to “withheld” pursuant to Utah Code Ann. § 20A-2-104(1)(e)(iii) (LexisNexis 2025), or otherwise ordering Defendant to allow Mr. Lyman to inspect and copy the same information.

4. Permanently enjoining Defendant from denying requests to inspect the statewide registration list or similar registration lists in the future.
5. Ordering the Defendant to pay Mr. Lyman's reasonable attorney's fees, including litigation expenses and costs, pursuant to 52 U.S.C. § 20510(c); and,
6. Granting Mr. Lyman further relief that this Court deems just and proper.

Dated: July 29, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2025, true and correct copies of the (1) Motion for Summary Judgment, (2) Declaration of Phil Lyman in Support of Plaintiff's Motion for Summary Judgment, and (3) Appendix were electronically filed with the clerk of the court utilizing the CM/ECF system, and mailed via U.S. Postal Service, first-class postage prepaid to the following:

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