

“There’s An Iowa Kind of Special”: Opportunities for Women in State Government in the Wake of SF 2096

Henry Dambach

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I. INTRODUCTION

The United States Constitution seeks to “promote the general Welfare” and “secure the Blessings of Liberty”¹ for citizens of the United States. The State of Iowa’s Constitution echoes the words of the Founding Fathers in its own constitution. It recognizes that the government’s purpose is to work for the benefit of the people.² To achieve this, the writers of the Iowa Constitution ensured that “[a]ll political power is inherent in the people.”³

The Iowa State Government has attempted to ensure that political power rests with the people by instituting state boards and commissions.⁴ The function of these state boards and commissions is to engage citizens in government.⁵ Members of these boards advise the Governor, Kim Reynolds, and Lieutenant Governor, Chris Cournoyer, and members of the state legislature about significant issues Iowans are facing.⁶ Today, the state government is rapidly shrinking the number of boards and commissions available for Iowans to serve on, and is influencing state policy by cutting eighty-three boards and commissions.⁷ In April 2024, the state legislature and the governor instituted another broad policy shift toward state boards and commissions. Governor Reynolds signed Senate File (SF) 2096 into law, removing gender balancing requirements from the appointment process for state boards and commissions.⁸ She also detailed plans to 1) require boards and commissions to undergo a five-year review to be reinstated, 2) require a three-fifths vote of the Legislature to create a new board or commission, 3) eliminate defunct, duplicative, ineffective, or inefficient boards and commissions, 4) consolidate or merge related boards into a single board that focuses more broadly on an industry, profession, or group.⁹

¹ U.S. CONST. pmbl.

² IOWA CONST. art. 1, § 2.

³ *Id.*

⁴ *State of Iowa Boards and Commissions*, IOWA TALENT BANK, <https://talentbank.iowa.gov/boards/f9dd01d9-9981-412d-a7ae-f3294be61f58/1> [https://perma.cc/6TSE-GYM8].

⁵ *Join a Board or Commission*, OFF. STATE OF IOWA WEBSITE, <https://governor.iowa.gov/join-board-or-commission> [https://perma.cc/8JCT-6U4X].

⁶ *Id.*

⁷ S. File 2385, 90th Gen. Assemb., Reg. Sess. (Iowa 2024); Katarina Sostaric, *Reynolds Signs Law Eliminating 83 State Boards and Commissions*, IOWA PUB. RADIO (May 17, 2024, 3:37 PM CDT), <https://www.iowapublicradio.org/state-government-news/2024-05-17/reynolds-signs-law-eliminating-83-state-boards-and-commissions> [https://perma.cc/GVA3-ZSYP].

⁸ S. File 2096, 90th Gen. Assemb., Reg. Sess. (Iowa 2024).

⁹ BDS. & COMM’NS REV. COMM., *A REVIEW OF IOWA’S BOARDS & COMMISSIONS: FINAL REPORT WITH FINDINGS & RECOMMENDATIONS* (2023).

On April 3, 2024, the Iowa Legislature used SF 2096 to strike § 69.16A from the Iowa Code, thereby removing gender balancing requirements.¹⁰ It is possible, as some advocates for the bill have suggested, that this will increase female participation in government.¹¹ The argument by SF 2096’s supporters is that the gender balancing language prevented the most qualified candidates, many of whom are women, from being appointed.¹² It also makes it more difficult to find members for some boards, such as those that serve industries dominated by one gender.¹³ However, the repeal is more likely to push women into certain commissions and push others away, engaging in discrimination akin to the pre-§ 69.16A-era, reducing their political participation overall. Gender balancing was not a perfect system in Iowa, but it appears to be a more concrete avenue to uplift a variety of male and female voices on state boards and commissions. Reinstating § 69.16A, or similar language, would ensure stronger opportunities for women in politics. This Note will examine the possible effects of the new law in the following sections:

Section II.A will examine the history of gender balancing board legislation in Iowa, as well as the women’s liberation movement of the 1970s and 1980s, which played a significant role in getting the gender balancing law on the books in the 1980s. Section II.B will look at the effects of Iowa’s gender balancing legislation to establish a starting point to consider how the passage of the new law could change the composition of state boards and commissions in the state. Section II.C will analyze mistrust of the government in the second half of the twentieth century, which has worsened in the twenty-first century and could continue to worsen if people feel they have less of a voice in state government. Section II.D will investigate the concept of merit and its place in the conversation surrounding gender balancing legislation. Supporters of the new law view it as a way to ensure that the most meritorious candidate, whether male or female, can have a place on the board.

Section III.A will examine how Iowa has gone from being the only state to require gender balancing at all levels to having no gender balancing. Other

¹⁰ EZRA JOSEPH TEMKO, NAVIGATING THE PATH TO PRESENCE: IDEOLOGY, POLITICS, AND THE CAMPAIGN FOR GENDER BALANCED BOARDS AND COMMISSIONS IN IOWA (MAY 2019) (PH.D. DISSERTATION, UNIVERSITY OF NEW HAMPSHIRE) (PROQUEST).

¹¹ Robin Opsahl, *Gov. Kim Reynolds Signs Law Repealing Gender-Balance Requirement for Boards*, IOWA CAP. DISPATCH (Apr. 3, 2024, 4:06 PM), <https://iowacapitaldispatch.com/2024/04/03/gov-kim-reynolds-signs-law-repealing-gender-balance-requirement-for-boards> [<https://perma.cc/VWK9-C7TL>] (discussing opposing views about the effect of the bill’s passage on the number of women in state boards and commissions).

¹² *Id.*

¹³ *Id.*

states have recognized that having a variety of voices is significant—Iowa is now swimming against the tide, making it more difficult to appoint a balanced number of men and women.

Overall, gender balancing legislation has not been found to increase the number of women involved in politics over time.¹⁴ If a mechanism guaranteed to place women in positions of power did not result in higher numbers of women in politics, removing those guaranteed spots will likely not move the needle, particularly on boards for traditionally male-dominated industries. Section III.B will examine possible mechanisms to increase women's participation in politics, such as a strong emphasis on service in higher education or stronger family support policies in the workplace and government.

Section III.C will examine contemporary mistrust of the government and other institutions, something that the removal of gender balancing language could negatively affect. Americans already have serious misgivings in 2024 about the efficacy of government and its interest in truly serving its citizens. With the repeal of gender balancing language, those feelings could increase dramatically in Iowa and further erode trust in the state and federal governments and other institutions.

Section III.D will interrogate the concept of merit. “Merit,” for positions of political power, has traditionally been seen more in men.¹⁵ It could be difficult for politicians and activists to break this cultural stereotype, particularly now that “merit” is presumably the dominant factor in placing people on state boards and is not tempered by a concern for representation of many groups.

Part IV will conclude the Note with a recommendation to the Iowa Legislature and the Governor. Iowa's repeal of gender balancing language does not bode well for women's participation on state boards and commissions or in higher elected political offices, where such boards could serve as a springboard. § 69.16A or similar language should be reinstated in the Iowa Code.

¹⁴ See Shannon McQueen, *Pipeline or Pipedream: Gender Balance Legislation's Effect on Women's Presence in State Government*, 21 STATE POL. & POL'Y Q. 243, 244–45 (2021).

¹⁵ Rainbow Murray, *Merit vs Equality? The Argument that Gender Quotas Violate Meritocracy is Based on Fallacies*, LONDON SCH. OF ECON. & POL. SCI.: BRIT. POL. & POL'Y (Dec. 7, 2015) <https://blogs.lse.ac.uk/politicsandpolicy/merit-vs-equality-argument> [<https://perma.cc/X6LZ-7A2E>] (discussing that recruitment without gender quotas is based on male gender and privilege).

II. BACKGROUND

A. *The History of Gender Balancing Board Legislation in Iowa*

This section will include a history of gender balancing in Iowa from the mid-twentieth century to the present. It will include the recent attack on gender balancing laws in *Hurley v. Gast* and the subsequent repeal of gender balancing legislation.¹⁶ Then it will discuss the effect of gender balancing legislation on the number of women serving on state boards and commissions in Iowa. It will then discuss the history of mistrust in the U.S. government from the revolutionary period to the present. Finally, it will discuss the concept of merit in U.S. political appointments.

The realm of American politics has traditionally been, and is still, dominated by men.¹⁷ Iowa was ahead of the broader women’s liberation movement in fighting for change on this front. State boards and commissions were at the forefront of this effort from its early stages. In 1963, a new commission, the Commission on the Status of Women (Commission), was formed to push for the appointment of women in government.¹⁸ By the mid-1970s, Iowa became a national leader in women’s participation on state boards and commissions, but overall numbers were still low, so gender balancing became the new goal.¹⁹

Progress on this front was initially slow. In 1974, a gender balancing bill was passed, but it was restricted to just the Civil Rights Commission.²⁰ The women on the Commission were dissatisfied with the meager progress on one commission; therefore, a more ambitious goal of expanding gender balancing to all boards was championed. In 1977, an Iowa delegation, led by State Senator Minnette Doderer, went to the National Women’s Conference and made an ambitious “National Plan of Action” to have gender balanced state boards and commissions by 1985.²¹ In hindsight, the delegation was only a couple of years off with their goal. By 1987, the Iowa Legislature passed Iowa Code § 69.16A into law. This law mandated gender balancing on

¹⁶ *Hurley v. Gast*, 711 F. Supp. 3d. 1069, 1074 (S.D. Iowa 2024).

¹⁷ See Karen Nikos-Rose, *Is There (Still) a Gender Gap in Politics*, U.C. DAVIS (Jan. 7, 2020), <https://www.universityofcalifornia.edu/news/there-still-gender-gap-politics> [<https://perma.cc/7227-WXEW>] (discussing the continued small numbers of women in political office).

¹⁸ Dianne Bystrom et al., *Gender Balance Legislation in Iowa and Beyond*, IOWA STATE UNIV.: CARRIE CHAPMAN CATT CTR. FOR WOMEN & POL. (Apr. 2024), <https://iastate.app.box.com/v/GenderBalanceBrief4-4-2024> [<https://perma.cc/S2V3-EV4S>] (discussing the history of gender balance legislation in Iowa).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

all state boards and committees.²² For almost twenty-five years, that law was the status quo.

In 2009, the Iowa Legislature extended Iowa Code § 69.16A to all levels of government starting in 2012.²³ At the time, affirmative action laws were being challenged throughout the country.²⁴ There had been failed attempts between 1991 and 2006 to implement gender balancing at the local level.²⁵ The Commission, Executive Director Rachel Scott, and Representative Mary Mascher led a successful effort to extend gender balancing to the local level.²⁶ With this move, Iowa became the only state in the country to require gender balancing on boards at all levels of government.²⁷ This egalitarian status quo would not last for very long.

In 2024, dissent began to grow within the state against the gender balancing requirement for state boards and commissions. Before the passage of SF 2096, *Hurley v. Gast* went up before the Federal District Court for the Southern District of Iowa.²⁸ The plaintiff, Charles Hurley, sought nomination to the Judicial Nominating Commission but alleged he was denied due to the gender balancing policy.²⁹

The state, in response, argued that the law furthered multiple state interests. These include remedying past unequal elections of women to the commission; improving the quality and integrity of the commission deliberation; fostering diversity in the merit selection process; maintaining public confidence in the selection and legitimacy of Iowa's courts; promoting better outcomes from commission deliberations by a more diverse decision-making body; enhancing democratic legitimacy; and ensuring women do not continue to be underrepresented on the commission.³⁰

The court ruled that the statute did not further government interests or protect against current discrimination.³¹ The arguments above were once considered valid, but they were no longer necessary to remedy past discrimination against women's appointment to the Judicial Nominating

²² IOWA CODE § 69.16A (2024) (repealed 2024).

²³ *Id.*

²⁴ Temko, *supra* note 10, at 42.

²⁵ *Id.* at 69.

²⁶ *Id.*

²⁷ *Id.* at 2.

²⁸ *Hurley v. Gast*, 711 F. Supp. 3d. 1069, 1074 (S.D. Iowa 2024).

²⁹ *Id.*

³⁰ *Id.* at 1076.

³¹ *Id.* at 1082.

Commission.³² State nominating commissions in merit selection systems fall into three categories: governor-controlled, bar-controlled, and hybrid.³³ These groups are based on how seats are divided to select people to serve on the commission.³⁴ Iowa’s Judicial Nominating Commission is now considered a governor-controlled commission because nine members were appointed by the governor, and eight were appointed by the bar.³⁵ It could not be determined based on the research presented to the court whether other governor-controlled judicial nominating commissions were structured similarly.³⁶ The court stated that, therefore, Iowa’s system could not be compared to systems in other states.³⁷

The state compared the commission’s makeup in Kansas, where 66.7% of its members are women.³⁸ The court rejected this comparison because the nominating commission has a majority of seats controlled by the bar.³⁹ The court stated that, “[t]he situation in Kansas undermines Defendant’s argument that Iowa women face the same or similar barriers in the Commission today as they did prior to the enactment of Iowa Code § 46.2(1).”⁴⁰ The court observed that Iowa Code § 46.2 (1)⁴¹ prevented two women from the same congressional district from serving on the nominating commission.⁴² Gender discrimination, the court conceded, does exist, but not on the Judicial Nominating Commission.⁴³ Immediately after the case, Laura D’Agostino, counsel for Hurley, made her view on Iowa’s gender balancing laws plain, stating, “We are hopeful that the Iowa legislature takes this cue from the court and repeals the state’s remaining gender balance laws.”⁴⁴ The case marked the start of the attack in Iowa on gender balancing laws for state boards and commissions.

³² *Id.* at 1079.

³³ *Id.* at 1078.

³⁴ *Hurley*, 711 F. Supp. 3d. at 1078.

³⁵ *Id.* at 1079.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Hurley*, 711 F. Supp. 3d. at 1079.

⁴¹ The statute has since been amended to remove the different gender requirement.

⁴² *Hurley*, 711 F. Supp. 3d at 1079.

⁴³ *Id.*

⁴⁴ Nate Raymond, *Iowa Judicial Nominating Panel’s Gender Quotas are Unconstitutional, US Judge Says*, REUTERS (Jan. 11, 2024, 4:15 PM CST), <https://www.reuters.com/legal/government/iowa-judicial-nominating-panels-gender-quotas-are-unconstitutional-us-judge-says-2024-01-11> [https://perma.cc/H9R4-HXRF].

In April 2024, Governor Reynolds signed SF 2096 into law, removing § 69.16A from the Iowa Code.⁴⁵ This law removed gender balancing language from boards and commissions in Iowa; however, the state government was not through with its transformation of boards and commissions. The executive branch took another swing at state boards and committees by releasing a comprehensive report seeking to eliminate or consolidate many of them.⁴⁶ The Boards and Commissions Review Committee was a ten-person bipartisan committee. However, the board was majority male by an eight-to-two margin.⁴⁷ This report recommended merging or consolidating a variety of boards and commissions. For example, they recommended that the Board of Behavioral Science, the Board of Psychology, and the Board of Social Work be consolidated into one board.⁴⁸

Similarly, the Commission on the Status of African Americans, Commission of Asian and Pacific Islanders, Commission of Persons with Disabilities, Latino Affairs Commission, Commission of Native American Affairs, and the Commission on the Status of Women stand to be consolidated with the Human Rights Board, with the goal of preventing groups without a dedicated commission from having their concerns silenced and a continued siloing of the concerns.⁴⁹ The report also recommends that some boards be reorganized. The Iowa State Civil Rights Commission, for example, would be reduced from seven to five members should the state government accept the recommendations of this report.⁵⁰ Under these recommendations, members of the State Board of Regents would begin receiving a \$10,000 annual salary increase over their current salary.⁵¹ Some boards are slated to be eliminated, such as the Community College Faculty Advisory Committee, which will be converted into an ad hoc advisory committee to the director of the Department of Education.⁵² Gender balancing legislation for state boards and commissions has had a significant positive impact on Iowa politics, and such sweeping changes stand to radically change the amount of citizen voices in the state's government.

⁴⁵ S. File 2096, 90th Gen. Assemb., Reg. Sess. (Iowa 2024).

⁴⁶ BDS. & COMM'NS REV. COMM., *supra* note 9, at 33–52.

⁴⁷ *Id.* at 2.

⁴⁸ *Id.* at 33.

⁴⁹ *Id.* at 49–50.

⁵⁰ *Id.* at 35.

⁵¹ *Id.* at 45.

⁵² BDS. & COMM'NS REV. COMM., *supra* note 9, at 45.

B. *The Effects of Gender Balancing on Women in the Iowa State Government*

Gender balancing on Iowa state boards and commissions has had a significant impact on the presence of women on those boards and commissions. In the 1970s, women were overrepresented on some boards, underrepresented on others, and absent from some.⁵³ In 2024, that substantially changed in Iowa. 64.26% of county boards⁵⁴ and 61.64% of municipal boards⁵⁵ are gender balanced as of 2023–24. In total, women held 37.08% of seats on county boards and commissions, down from 38.16% in 2021–22.⁵⁶ Twelve counties had gender balance on all boards in the study: Bremer, Buchanan, Chickasaw, Dallas, Floyd, Madison, Mills, Mitchell, Muscatine, Scott, Warren, and Winneshiek.⁵⁷ The overall percentage of gender balanced county boards is 64.26%.⁵⁸ This is an increase from 2021–22, when the number stood at 61.24%.⁵⁹

Women held 34.09% of chair positions, an increase from 32.28% in 2021–22.⁶⁰ At the municipal level, twelve cities had gender balance on all boards studied: Adel, Bettendorf, Bondurant, Dallas Center, Davenport, Fairfax, Fort Dodge, Independence, Iowa City, Le Mars, Walcott, and Windsor Heights.⁶¹ Women hold 42.29% of seats, holding steady from 2021–22, when that number was 42.96%.⁶² 61.64% of municipal boards are gender balanced. This is a small decrease from 2021–22, when 62.26% of boards were balanced.⁶³ As for chair positions, women hold 34.43% of reported positions, up from 32.28% in 2021–22.⁶⁴ There has been a great increase in gender equity from the scattershot 1970s to today. Whether these numbers will hold in the wake of SF 2096 is an open question.

⁵³ Bystrom et al., *supra* note 18, at 1–2.

⁵⁴ CARRIE CHAPMAN CATT CTR. FOR WOMEN & POL., GENDER BALANCE PROJECT: COUNTY BOARDS 2023–2024 DATA SUMMARY 1 (2024) [hereinafter CATT CTR. COUNTY DATA], <https://iastate.app.box.com/v/2024CountyBoardFactsheet> [https://perma.cc/BB6K-GKNN].

⁵⁵ CARRIE CHAPMAN CATT CTR. FOR WOMEN & POL., GENDER BALANCE PROJECT: CITY BOARDS 2023–2024 DATA SUMMARY 1 (2024) [hereinafter CATT CTR. CITY DATA], <https://iastate.app.box.com/v/2024CityBoardFactsheet> [https://perma.cc/L9WV-XPT6].

⁵⁶ CATT CTR. COUNTY DATA, *supra* note 54, at 1.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ CATT CTR. CITY DATA, *supra* note 55, at 1.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

Recommendations to the governor might seem insignificant, but these committees have the ear of the governor and other members of the state government. Boards, by their nature, have multiple members. This helps foster diverse viewpoints and debates about the proper policies for the state government to adopt.⁶⁵ Having more members from a variety of backgrounds helps more people in the state have their voices heard on policy matters they care about. Women think differently from men about societal issues, and this can impact public policy.⁶⁶ The state government could solve more problems facing the state with a more even split of men and women, given the diversity of thought processes. Gender balancing legislation for state boards and commissions could also affect the number of women in elected political roles with greater responsibility, such as senators, representatives, and executive branch roles like governor or lieutenant governor. In fact, “[a] recent case study found that a third of Iowa’s women state representatives and half of its women state senators had prior experience on public boards.”⁶⁷ Over the long history of gender balancing legislation in Iowa, the state government has made significant strides to ensure that women’s voices are included on state boards and commissions. That stands to potentially change with the passage of SF 2096.

C. Mistrust of the Government in Recent American History

Mistrust in the federal government has been a concern for decades.⁶⁸ In 1958, 73% of people said they could trust the federal government always or most of the time.⁶⁹ In 1964, that number peaked at 77%.⁷⁰ A precipitous decline occurred after that year. By 1974, largely because of the government’s mishandling of the Vietnam War, resulting unrest, and the Watergate scandal, that number stood at 36%.⁷¹ There have been periods where trust in the government improved. In the 1980s and the late 1990s, trust in the government stopped falling and began to rise.⁷² However, in the wake of the September 11, 2001, terrorist attacks, trust in the federal government began

⁶⁵ BDS. & COMMISSIONS REV. COMM., *supra* note 9, at 6.

⁶⁶ Lyn Kathlene, *In a Different Voice: Women and the Policy Process*, in *WOMEN AND ELECTIVE OFFICE PAST, PRESENT, AND FUTURE* 213, 229 (Sue Thomas & Clyde Wilcox eds., 2d ed. 2005).

⁶⁷ Bystrom et al., *supra* note 18, at 6.

⁶⁸ PEW RSCH. CTR., *BEYOND DISTRUST: HOW AMERICANS VIEW THEIR GOVERNMENT* 18 (2015).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 2.

⁷² *Id.*

to fall and has not risen significantly since.⁷³ As is likely obvious, since the 1970s, trust in government tends to be higher among members of the political party that currently holds the White House. Across generations of Americans, there is generally little variation in how much they trust the government.⁷⁴

In addition to a general decline of trust in the government, there has been a significant change in whether Americans believe that the government is run for the benefit of all Americans. In 1964, 64% of those surveyed thought the government was run for the benefit of all Americans; in 2015, that number sat at 19%.⁷⁵ The 2015 Pew Research Survey also compared the number of people who thought the federal government had a positive effect on their lives. Only 25% said it did.⁷⁶ For comparison, small businesses (82%), technology companies (71%), universities (63%), religious organizations (61%), the energy industry (48%), labor unions (45%), banks (40%), large corporations (33%), the entertainment industry (32%), and the administration of President Obama (41%) all rated more positively.⁷⁷ This extensive list reveals a serious problem for the United States government. Diverse industries and elements of modern American life rate more positively than the federal government, which people should have confidence in and believe has a positive effect on society.⁷⁸ Since the middle of the twentieth century, distrust in government institutions has increased.⁷⁹ Small reversals in trust in state government are partly to blame, and the reversal of gender balancing requirements on state boards and committees could increase this distrust in the years to come.

Distrust in the government is not just a twentieth- and twenty-first-century problem; the issue extends back to the founding of the country in the eighteenth and nineteenth centuries.⁸⁰ Extensive fights occurred about whether the Constitution should be adopted.⁸¹ Samuel Bryan, writing anonymously as “Centinel” stated conspiratorially in the Philadelphia

⁷³ *Id.*

⁷⁴ PEW RSCH. CTR., *BEYOND DISTRUST: HOW AMERICANS VIEW THEIR GOVERNMENT 2* (2015).

⁷⁵ *Id.* at 18.

⁷⁶ *Id.* at 124.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 18.

⁸⁰ Stephen Mihm, *Don’t Panic: Distrusting Government Is an American Tradition*, BLOOMBERG (Sept. 12, 2024), <https://www.bloomberg.com/graphics/2024-opinion-history-government-trust> [<https://perma.cc/8XCM-USE6>].

⁸¹ *Id.*

Independent Gazetteer about the Constitution, “The evil genius of darkness presided at its birth, it came forth under the veil of mystery, its true features being carefully concealed, and every deceptive art has been and is practi[c]ing to have this spurious brat received as the genuine offspring of heaven-born liberty.”⁸² Bryan was certainly not alone in his distrust of this document drafted behind closed doors, as Americans wrote other documents against and in defense of the Constitution.⁸³ During the Nullification Crisis in 1832, South Carolina threatened to secede from the United States over the “Tariff of Abominations,” which protected Northern and Western states, but left the South, whose dominant industries were cotton and tobacco, unprotected.⁸⁴ During the crisis, George McDuffie, a man at its center, called the federal government, “a foul monster, which those who worship, after seeing its deformity, are worthy of their chains.”⁸⁵ South Carolina bucked against the federal government’s control again in 1860, seceding and starting the Civil War. Obviously, the South also mistrusted the federal government during Reconstruction.⁸⁶ The history of the United States reveals that the early twentieth-century period of relative trust in government was an aberration. Today’s modern mistrust of government is a return to the status quo that existed in the early twentieth century and earlier periods in American history. Discontent with the government has always existed in the United States, and making it more difficult for people to have a voice in Iowa’s state government could exacerbate this longstanding American issue.

⁸² Centinel IV, INDEPENDENT GAZETTEER, Philadelphia, Nov. 30, 1787, *reprinted in* 14 THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION 317, 321 (John P. Kaminski, Gaspare J. Saladino & Richard Leffler eds., vol 2 1983).

⁸³ *See generally* THE DEBATE ON THE CONSTITUTION: FEDERALIST AND ANTIFEDERALIST SPEECHES, ARTICLES, AND LETTERS DURING THE STRUGGLE OVER RATIFICATION: PART ONE, SEPTEMBER 1787–FEBRUARY 1788 (Bernard Bailyn ed., 1993) (collecting documents involved in the debate over the ratification of the U.S. Constitution).

⁸⁴ *Nullification Crisis*, AM. BATTLEFIELD TR., <https://www.battlefields.org/learn/articles/nullification-crisis> [<https://perma.cc/9ZXH-Q7CM>].

⁸⁵ Mihm, *supra* note 80, (quoting George McDuffie).

⁸⁶ *See generally* *The Travails of Reconstruction*, LIBR. OF CONG., <https://www.loc.gov/classroom-materials/united-states-history-primary-source-timeline/civil-war-and-reconstruction-1861-1877/travails-of-reconstruction> [<https://perma.cc/4T5P-UF6P>] (discussing the fact that the Civil War was fought mostly in the South, Southerners expected, but did not get, a quick return to a white supremacist status quo, and military rule was established).

D. *Merit and Its Role in Gender Balancing Legislation Changes*

The concept of a merit system for government positions, or “the best person for the job,” has a long history in the United States.⁸⁷ In 1883, civil service exams were established to “regulate and improve the civil service of the United States.”⁸⁸ The idea of the government hiring the best person for the job remains prevalent today. Federal law states that,

Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.⁸⁹

When she signed SF 2096 into law, Governor Reynolds invoked the concept of merit indicated in the statute. She stated, “[O]ur focus should always be on appointing the most qualified people.”⁹⁰ She added, “that [the most qualified people] includes engaged citizens with a genuine interest in serving their state or local government, as well as individuals with valuable experience that directly relate[s] to that position.”⁹¹ Lieutenant (Lt.) Governor Chris Cournoyer, who supported the bill, implicitly backed up Governor Reynolds’ emphasis on merit’s place in boards and commissions. She stated, “Our foremothers who fought hard over many, many years to get us a seat at the table . . . They got us to the table and it has been up to us to show that we belong there. And we have.”⁹² Governor Reynolds and Lt. Governor Cournoyer emphasize merit in support of this bill, but their concept of the best person for the job strays from the historical justification of merit. Merit-based hiring systems arose not only to get qualified people into government but also in response to national tragedy, rampant opportunism, and corruption.

⁸⁷ See *Toward a Merit-Based Civil Service*, STATE UNIV. OF N.Y., <https://courses.lumenlearning.com/atd-monroecc-american-government/chapter/toward-a-merit-based-civil-service> [https://perma.cc/X2VX-QB3P].

⁸⁸ Pendleton Civil Service Reform Act, 22 Stat. 403 (1883).

⁸⁹ 5 U.S.C. § 2301 (2024).

⁹⁰ Opsahl, *supra* note 11 (quoting Governor Reynolds).

⁹¹ Stephen Gruber-Miller, *Kim Reynolds Signs Law Repealing Gender Balance Requirement for Iowa Boards and Commissions*, DES MOINES REG. (April 3, 2024, 3:11 PM CST), <https://www.desmoinesregister.com/story/news/politics/2024/04/03/kim-reynolds-signs-law-repealing-gender-balance-rule-iowa-boards-commissions/73169839007> (on file with author) (quoting Governor Reynolds).

⁹² *Id.*

In the nineteenth century, the concept of merit when awarding government positions became a significant concern with the passage of the Pendleton Civil Service Act (Act).⁹³ The Act transformed political positions from those gained through connections to a merit-based system in response to dissatisfaction with the dominant system of making political appointments: the spoils system, also called patronage.⁹⁴ In the 1880s, patronage was common.⁹⁵ Congressmen offered supporters jobs in exchange for their votes and support.⁹⁶ Employees who received jobs this way were expected to do political work for the politician who hired them, and part of their salaries went toward campaign funding.⁹⁷ Presidents even allowed Congressmen to control jobs inside their home states and districts.⁹⁸ In the nineteenth century, patronage was the dominant system of appointing politicians until the end of James A. Garfield's presidency in 1881.⁹⁹

During Garfield's presidency, he saw about 100 people per day seeking political positions, much to his consternation.¹⁰⁰ A line of job seekers formed on his first day in office on March 5, 1881.¹⁰¹ Mere months later, President Garfield was shot and killed by Charles Guiteau, a spurned job seeker.¹⁰² After the assassination of President Garfield, Americans immediately expressed outrage at the spoils system.¹⁰³ President Chester Arthur, Garfield's successor, called for reform to the civil service at his first address.¹⁰⁴ The next year, he signed the Act into law.¹⁰⁵ Through tragedy and legislation, merit became enshrined as a major value in political appointments. In the twenty-first century, corruption is no longer a major

⁹³ See Pendleton Civil Service Reform Act, 22 Stat. 403 (1883).

⁹⁴ CANDICE MILLARD, *DESTINY OF THE REPUBLIC: A TALE OF MADNESS, MEDICINE AND THE MURDER OF A PRESIDENT* 250 (2011).

⁹⁵ Alan Gephardt, *The Federal Civil Service and the Death of President James A. Garfield*, NAT'L PARK SERV. (Sept. 2012), <https://www.nps.gov/articles/000/the-federal-civil-service-and-the-death-of-president-james-a-garfield.htm> [<https://perma.cc/2NNR-G85R>].

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ KENNETH D. ACKERMAN, *DARK HORSE: THE SURPRISE ELECTION AND POLITICAL MURDER OF PRESIDENT JAMES A. GARFIELD* 318 (2003).

⁹⁹ Gephardt, *supra* note 95.

¹⁰⁰ Millard, *supra* note 94, at 88.

¹⁰¹ *Id.*

¹⁰² Ackerman, *supra* note 98, at 378–406.

¹⁰³ Millard, *supra* note 94, at 249.

¹⁰⁴ *Id.* at 250.

¹⁰⁵ *Id.* at 250.

public concern, as merit-based appointments have shifted from preventing corruption and cronyism to promoting qualified candidates.¹⁰⁶

III. ANALYSIS

This Note will argue that Governor Reynolds, Lt. Governor Cournoyer, and the Iowa State Legislature should reexamine their efforts to reshape state commissions and boards with SF 2096 and its other efforts to merge, consolidate, or eliminate boards and commissions in the future. Additionally, this Note argues for reexamining their efforts to reshape state commissions and boards, including reinstatement of § 69.16A into the Iowa Code. SF 2096 stands to hinder or prevent representation for issues that Iowans care about. With the abrogation of gender balancing requirements in Iowa’s government, there will be fewer opportunities for many groups, particularly women, to engage with state government and make their voices heard by those in power. This Note will examine Iowa’s place as a pioneer of gender balancing legislation that other states have followed. This Note will then look at other ways women can participate in government. If the Iowa State Government does not readopt gender balancing language for state board and commission appointments, other avenues for women to participate in government will prove significant, even if they could be strengthened by a return to prior gender balancing language.

This Note then examines a significant potential side effect of the repeal of gender balancing legislation on state boards and commissions—increased distrust in the government. This issue has been present in the United States since its founding and has become particularly acute in the last twenty years. Making this shift in state government representation might have major ramifications for citizens’ trust in government and for the job security of current members of the Iowa State Government. Lastly, this Note will examine how the concept of merit has shifted from the nineteenth-century focus on preventing corruption and cronyism, detailed in the background, to insulating powerful people and continuing the appointment of people in a similar mold to power. Examining this aspect of political rhetoric helps to understand the repeal of gender balancing beyond its face value and the possible ulterior political motivations beyond getting motivated and qualified people onto influential platforms in state government. To conclude, this Note will advocate for the reinstatement of the language in Iowa Code § 69.16A, or the adoption of similarly drafted new language into the code, to address potential inequities in state government produced by SF 2096.

¹⁰⁶ Opsahl, *supra* note 11.

A. The Leader Becomes a Follower: Other States Follow Iowa's Example

As established above, Iowa led the way in promoting and securing women's voices in state government. Iowa was the first state to have gender balancing on boards and commissions at all levels of government.¹⁰⁷ However, Iowa was not alone in recognizing the importance of women's voices on state boards and commissions. Twelve states have recognized the significance of including women's voices, as well as men's, on state boards and commissions and have modeled their statutes on Iowa's pioneering efforts with § 69.16A. Those twelve states include Connecticut, Florida, Illinois, Montana, New Hampshire, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Tennessee, and Utah.¹⁰⁸ These states span the entire U.S. and political spectrum.¹⁰⁹ The breadth and diversity of these states reveal widespread support among many different types of people for gender balancing legislation. The influential section of the Iowa Code reads:

All appointive boards, commissions, committees, and councils of the state established by the Code, if not otherwise provided by law, shall be gender balanced. . . . All appointive boards, commissions, committees, and councils of a political subdivision of the state . . . shall be gender balanced as provided by subsection 1 unless the political subdivision has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in compliance with subsection 1 for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this subsection, political subdivisions shall utilize a fair and unbiased method of selecting the best qualified applicants.¹¹⁰

Two states' acts are illustrative of Iowa's pioneering influence: Illinois and Connecticut. In Illinois, the law reads:

All appointments to boards, commissions, committees and councils of the State created by the laws of this State and after the effective date of this Act shall be gender balanced to the extent possible and to the extent that appointees are

¹⁰⁷ Temko, *supra* note 10, at 40.

¹⁰⁸ *Id.* at 67–68.

¹⁰⁹ See *2024 Presidential Election Results*, AP NEWS (Jan. 27, 2025, 11:58 AM), <https://apnews.com/projects/election-results-2024> [https://perma.cc/EY7D-U735] (discussing the results of the presidential election by state).

¹¹⁰ IOWA CODE § 69.16A (repealed 2024).

qualified to serve on those boards, commissions, committees and councils. If gender balance is not possible, then appointments shall provide for significant representation of both sexes to boards, commissions, committees, councils governed by this Act. . . . If there are multiple appointing authorities for a board, commission, committee, or council, they shall each strive to achieve gender balance in their appointments.

Appointments made in accordance with this Act should be made in a manner that makes a good faith attempt to seek gender balance based on the numbers of each gender belonging to the group from which appointments are made.¹¹¹

What constitutes a good faith attempt to seek gender balance is not further defined in Iowa’s or Illinois’ statute. However, the Connecticut statute provides further guidance on this requirement. That statute reads, in part,

Appointing authorities, in cooperation with one another, shall make a good faith effort to ensure that, . . . the membership, . . . of each state appointive board, commission, committee and council having members appointed by the Governor or appointed by members of the General Assembly is qualified and closely reflects the gender and racial diversity of the state according to the most recent United States census population data. . . . Appointing authorities for any board, commission, committee or council described in subdivision (1) of this subsection shall, . . . (A) consider each recommendation for appointment of a public member to any such board, commission, committee or council made by any community or other similar organization representing the interests of gender and racial diversity, and (B) make a good faith effort to seek out individuals for such appointment that reflect such diversity. *The Governor, . . . shall coordinate public education and outreach strategies with such community or other similar organizations to increase awareness of, and recruit diverse applicants for, such appointments.*¹¹²

It appears that making a good-faith effort under the Connecticut statute does not necessarily require adhering to strict, mechanistic guidelines for

¹¹¹ 5 ILL. COMP. STAT. ANN. 310 / 2 (West 2024).

¹¹² CONN. GEN. STAT. § 4-9b (2021) (emphasis added).

what constitutes good faith, but rather involves reaching out to and listening to members of community organizations to identify qualified candidates. It could also include not just listening to members of those organizations but reaching out to them to get the word out.¹¹³ Alternatively, this could involve reaching out to women a board member admires, to see if they are willing to serve or hold information sessions in places where people already gather.¹¹⁴ The existence of these statutes reveals Iowa's influence on other states in achieving gender equity in government. Other states have recognized the importance of making sure that women have a seat at the table on boards and commissions.¹¹⁵ This has had concrete effects on the number of female appointments and representation on state boards and commissions.

Some states with gender balancing legislation have seen an increase in the participation of women on state boards and commissions in recent years. Rhode Island, Utah, Connecticut, Illinois, and North Carolina all have gender balancing legislation for their boards and commissions.¹¹⁶ In Rhode Island, the percentage of women appointed to state boards and commissions increased to 34% in 2013.¹¹⁷ This was an increase from the previous measure in 2010, which was 15%.¹¹⁸ In Utah, the percentage of women on boards in 2016 was 28.1%.¹¹⁹ In 2019, that number increased to 32.7%.¹²⁰ Four years later, in 2023, it had increased again, to 38.8%.¹²¹ Illinois has had success in this area as well. In 2019, the percentage of female appointees sat at 39.4%.¹²²

¹¹³ AM. ASS'N U. WOMEN IOWA ET AL., RECRUITING GENDER BALANCED

BOARDS AND COMMISSIONS: A GUIDE FOR CITIES AND COUNTIES 3 (2017), <https://winneshiekcounty.iowa.gov/wp-content/uploads/2017/01/A-Guide-for-Recruiting-Gender-Balanced-Boards-Commissions.pdf> [<https://perma.cc/2QFV-JY6E>].

¹¹⁴ *Id.* at 4–5.

¹¹⁵ Temko *supra* note 10, at 40, 67–68.

¹¹⁶ CARRIE CHAPMAN CATT CTR., FOR WOMEN & POL., STATES WITH GENDER BALANCE LAWS 1–3 (2024).

¹¹⁷ Press Release, R.I. Off. of the Governor, RI GAP Report Says Governor Chafee Continues to Increase Female Representation on Boards, Commissions, and in Staff and Cabinet Level Positions (Oct. 21, 2013), <https://www.ri.gov/press/view/20519> [<https://perma.cc/UPU6-9K3Z>].

¹¹⁸ *Id.*

¹¹⁹ UTAH WOMEN & LEADERSHIP PROJECT, THE STATUS OF WOMEN ON UTAH STATE BOARDS & COMMISSIONS: A 2023 UPDATE 2 (2023).

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² ILL. OFF. OF THE GOVERNOR, GUBERNATORIAL BOARDS AND COMMISSIONS ACT REPORT 2 (2019).

By 2022, the percentage had greatly increased to 49.33%.¹²³ The most recent data, as of the time of writing, show that female appointees have surpassed 50%, reaching 52.73%.¹²⁴ Connecticut had a dip between 2021 and 2023; the state’s share of female appointees fell from 44.9% to 41.3%.¹²⁵ North Carolina is a slightly different story from Rhode Island, Utah, Illinois, and Connecticut. There, 2009 was a high point; 28% of appointees on the 11 boards surveyed were female.¹²⁶ That number decreased to 23% in 2013.¹²⁷ Then, it leveled out at 24% in 2015 and 25% in 2018.¹²⁸ Overall, though, these states, with gender balancing legislation in place, saw an increase in women appointed to state boards and commissions over the last decade.

Data from these states show that, across the nation, gender balancing legislation has generally helped shed light on inequities in female representation on state boards and commissions. State officials recognize, in the words of Connecticut Secretary of State Stephanie Thomas, that “[g]overnment functions best when it is made up of the people it serves.”¹²⁹ The data from North Carolina, with its decline and subsequent leveling off, raises the possibility that gender balancing legislation can help increase the representation of women on boards and commissions. Yet it is still not enough—further efforts by the state government and its citizens might be necessary to increase opportunities for women to serve. Gender balancing legislation can push governments to consider and appoint more women, but it is certainly not a cure-all solution.

Iowa used to recognize the significance of a variety of citizens’ voices in state boards and commissions. The later actions of other states that followed Iowa’s example, and the literature cited above, demonstrate that the political situation in Iowa has not changed with respect to the significance of women’s voices in government. Iowa has gone down the wrong path; it is fighting against a tide of evidence that supported staying the course with the § 69.16A language and should not have stripped it from the Iowa code. The truth has not changed; the actions of other states prove that having women in these

¹²³ ILL. OFF. OF THE GOVERNOR, GUBERNATORIAL BOARDS AND COMMISSIONS ACT REPORT 2 (2022).

¹²⁴ ILL. OFF. OF THE GOVERNOR, GUBERNATORIAL BOARDS AND COMMISSIONS ACT REPORT 2 (2023).

¹²⁵ CONN. OFF. OF THE SEC’Y OF THE STATE, 2023 GENDER AND RACIAL COMPOSITION OF CONNECTICUT STATE BOARDS, COMMISSIONS, COMMITTEES AND COUNCILS 7 (2024).

¹²⁶ WOMEN’S F. OF N.C., REPORT BY THE WOMEN’S FORUM OF NORTH CAROLINA, UPDATE ON WOMEN’S PARTICIPATION ON KEY BOARDS AND COMMISSIONS IN NORTH CAROLINA CALL TO ACTION 6 (2018).

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ CONN. OFF. OF THE SEC’Y OF THE STATE, *supra* note 125, at 3.

crucial advisory positions will help the government better reflect the will and concerns of Iowans. The issues that matter to many female constituents, such as abortion¹³⁰ or domestic violence,¹³¹ are less likely to be seen as a priority by the governor and the legislators if fewer women take opportunities to serve on state boards and commissions. It is possible that, with the variety of responsibilities the governor must deal with, and the influence of representatives, business interests, and the varied views and concerns of constituents, issues that many women in Iowa consider important will be swept under the rug. With fewer women on state boards and commissions, other flashy issues that might not be the same issues Iowa women care about can take center stage.¹³²

Examining issues that women care about can help Iowa and its politicians. In part, putting stronger emphasis and bringing attention to issues, such as domestic violence, for example, can help politicians better serve their constituents and reduce domestic violence rates. Iowa's rates of domestic violence are not low. In 2024, in Iowa, 35.3% of women and 29.3% of men were victims of domestic violence.¹³³ Continued advocacy by women on this issue would keep this issue at the forefront of state politicians' minds and improve these violence rates. Additionally, placing greater emphasis on issues that constituents care about would help politicians when they are up for reelection. Therefore, increasing women's participation in government through boards and commissions would help not only to solve social problems in Iowa but also give people greater confidence in their politicians. Then, potentially leading to stronger job security for politicians currently in office by keeping important issues at the forefront of politicians' minds. Increasing emphasis on issues important to women would be a win-win for

¹³⁰ Lyz Lenz, *Iowa Women's Anger at Abortion Bans Wasn't Enough to Get Harris the Win*, MSNBC (Nov. 6, 2024), <https://www.msnbc.com/opinion/msnbc-opinion/iowa-abortion-ban-women-voters-rcna178703> [<https://perma.cc/RQ7W-UWV7>].

¹³¹ *Issues: Women's Rights*, ACLU IOWA, <https://www.aclu-ia.org/en/issues/womens-rights> [<https://perma.cc/DUZ4-VWAN>].

¹³² See generally Isabella Luu & Grant Gerlock, *Republican Lawmakers Continue to Target DEI at Iowa Universities Through House Higher Ed Committee*, IOWA PUB. RADIO (Feb. 3, 2025, 12:11 PM CDT), <https://www.iowapublicradio.org/state-government-news/2025-02-03/republican-lawmakers-continue-to-target-dei-at-iowa-universities-through-house-higher-ed-committee> [<https://perma.cc/8566-HTPK>] (discussing Iowa targeting the national hot button issue of diversity, equity, and inclusion in education). See also Robin Opsahl, *What to Expect From the 2025 Iowa Legislative Session*, IOWA CAP. DISPATCH (Dec. 30, 2024, 8:00 AM CDT), <https://iowacapitaldispatch.com/2024/12/30/what-to-expect-from-the-2025-iowa-legislative-session> [<https://perma.cc/9GXP-QBZZ>] (discussing issues the Iowa Legislature is tackling, such as immigration, property taxes, and cellphone use in schools).

¹³³ Milena J. Wisniewska, *Domestic Violence Statistics by State 2024*, BREAK THE CYCLE (Nov. 1, 2024), <https://www.breakthecycle.org/domestic-violence-statistics-by-state> [<https://perma.cc/3P7F-4S9S>].

the state of Iowa and for its politicians. If these sorts of issues are ignored, which they might be with fewer women on boards and commissions, everyone in Iowa loses.

A diminution of issues that female constituents value can have dire consequences for people throughout the state. Women might face situations where they are unable to get the medical care or supplies that they might need, or sufficient help from police and medical personnel in domestic violence situations. With fewer women on state boards and commissions advising the governor on these issues, it is possible that funds and government attention that would be allotted to issues such as domestic violence will be allotted elsewhere. Such issues might not even be ones women are specifically concerned about, but rather issues that many people are, such as the economy, taxes, or health care.¹³⁴ If the state government attempts to address every issue, it will be unable to operate. The state government will either cease to function effectively or grow to an unacceptably large size, intruding on residents’ lives. No citizen wants the government to be a constant irritating presence in their life. However, when citizens raise issues that are significant to them, the government should respond quickly and thoroughly, if not out of a sense of civic duty and morality, then out of a pragmatic desire to retain votes for reelection and campaign funding. It is in the best interest of state politicians to listen intently and respond promptly to the concerns of half of their constituents.

While not directly analogous to boards and commissions, research has shown that female legislators are more likely to introduce bills on gender equality and issues affecting families or children.¹³⁵ Women of color often advance agendas that address the concerns of women and their communities.¹³⁶ A reduction in the number of women would likely lead to a lesser emphasis on these issues, ultimately hurting Iowans over the long term. The importance of this issue is not that there should be an equal number of men and women on the board just for the sake of fairness, but instead to ensure that issues that women care about, and have expertise in, are represented in Iowa’s “fourth branch of government.”¹³⁷

¹³⁴ Megan Brenan, *Economy Most Important Issue to 2024 Presidential Vote*, GALLUP (Oct. 9, 2024), <https://news.gallup.com/poll/651719/economy-important-issue-2024-presidential-vote.aspx> [<https://perma.cc/5AP7-TX5G>].

¹³⁵ Saskia Brechenmacher, *Tackling Women’s Underrepresentation in U.S. Politics: Comparative Perspectives from Europe*, CARNEGIE ENDOWMENT FOR INT’L PEACE (Feb. 20, 2018), <https://carnegieendowment.org/research/2018/02/tackling-womens-underrepresentation-in-us-politics-comparative-perspectives-from-europe> [<https://perma.cc/BU8E-VL2K>].

¹³⁶ *Id.*

¹³⁷ BDS. & COMM’NS REV. COMM., *supra* note 9, at 6.

B. *Other Avenues to Increase Women's Participation in Government*

Although this Note advocates reinstating gender balancing language in the Iowa Code for Iowa boards and commissions, it makes sense to consider other possibilities to increase women's involvement in government. Even with SF 2096 having passed into law, women will still be able to participate in state government. Given the current composition of Iowa's state government, it is likely that gender balancing on state boards and commissions will not return in force any time soon. Iowa, currently, is a deeply Republican state.¹³⁸ The Republican Party currently holds the Senate, the House, and the Governor's Office.¹³⁹ Given the fact that the repeal of gender balancing legislation happened in 2024, and the next chance to change the composition of the Iowa government will be in the 2026 midterm elections, it is unlikely that a significant effort will be made to reinstate that language in the Code. That would likely lead to an effort to oust any politician who supports that measure from power, either because dissent from the party means they are a Democrat rabble rouser or they are a traitor to the values and efforts of the Republican party.

For example, Iowa Senator Joni Ernst did not immediately back President Trump's pick for Secretary of Defense, Pete Hegseth, wanting to hear more about sexual assault allegations and his views on women's roles in the armed forces.¹⁴⁰ Ernst immediately faced pressure to support Hegseth's nomination.¹⁴¹ Ernst ultimately decided to support Hegseth's nomination.¹⁴² Using similar pile-on tactics, Dave Millage, Scott County Republican Party chair, was ousted from his position and branded as a traitor in 2021 for stating

¹³⁸ *2024 Election Results*, AP NEWS, <https://apnews.com/projects/election-results-2024/iowa> [<https://perma.cc/ALF7-9JMZ>] (demonstrating current Republican support in Iowa where President Donald Trump won 94 of 99 counties in the 2024 Presidential Election).

¹³⁹ *Party Control of Iowa State Government*, BALLOTPEDIA, https://ballotpedia.org/Party_control_of_Iowa_state_government [<https://perma.cc/TT59-YARF>].

¹⁴⁰ Tara Copp, *Sen. Joni Ernst Wants to Hear from Hegseth on Sex Assault in the Military and Women in Combat*, AP NEWS (Dec. 7, 2024, 7:46 PM CST), <https://apnews.com/article/ernst-hegseth-nominee-trump-vetting-assault-pentagon-138c79c9199c8525d43b77417674d81e> [<https://perma.cc/2E9G-XJ6M>].

¹⁴¹ Jill Colvin et al., *Pressure on Iowa Senator Shows Consequences for Republicans Who Oppose Donald Trump*, PBS NEWS (Dec. 12, 2024, 11:33 AM EST), <https://www.pbs.org/newshour/politics/pressure-iowa-senator-shows-consequences-for-republicans-who-oppose-trump> [<https://perma.cc/23HE-FGZA>].

¹⁴² Frank Thorp V et al., *Republican Senator Previously Seen as a Roadblock to Pete Hegseth's Nomination Says She'll Back Him to Lead the Pentagon*, NBC NEWS (Jan. 14, 2025, 6:44 PM CST), <https://www.nbcnews.com/politics/congress/joni-ernst-says-will-support-pete-hegseths-nomination-defense-secretar-rcna187717> [<https://perma.cc/L8LS-3P43>].

that he thought Donald Trump should be impeached for his role in the January 6th, 2021, attack on the Capitol.¹⁴³

Republicans are particularly disincentivized from attempting to reinstate this language because it was enacted during a period of Republican strength in Iowa. If a member of the legislature were to support the reinstatement of gender balancing language, it would likely destroy their rapport with other legislators and, consequently, their chances of reelection. The other states that have enacted gender balancing legislation have not repealed such language, so there are currently no state examples of what the gender balance on state boards and commissions looks like upon repeal. Iowa stands alone with its repeal. If Iowa’s repeal of gender balancing laws negatively affects the number of women on state boards and commissions, alternative pathways for women to enter government positions should be considered.

Despite various avenues and solutions to involve women in state politics, barriers make it more difficult for them to participate. Barriers such as these do not exist, or exist to a lesser extent, for men. For example, since women can carry children, choosing to have children can prevent a woman from participating in state government during the pregnancy, but also during the post-partum recovery period. For a woman who wishes to have children, the high-pressure environment of politics can make it overly difficult to balance motherhood and being a politician. Female politicians can also receive significant threats of death, rape, and violence.¹⁴⁴ Men can face these kinds of threats as well, but they can be particularly prevalent for female politicians. Some political parties can be resistant to women in leadership positions. Parties might choose, in systems with a winner-take-all approach to elections, to run a male candidate rather than step outside the box and nominate a female candidate.¹⁴⁵ That might be seen as a riskier bet. Women can also lack the financial or political backing necessary to mount a successful political campaign.¹⁴⁶ More broadly, some political leadership refuses to challenge the male-dominated status quo, making simple inertia a major difficulty many women face when participating in government.¹⁴⁷ These challenges are not insurmountable with the proper policies and changes in societal attitudes in

¹⁴³ Associated Press, *Scott County GOP Chair Called ‘Traitor,’ Ousted for Saying Trump Should be Impeached*, GAZETTE (Jan. 31, 2021, 10:21 AM CST), <https://www.thegazette.com/government-politics/scott-county-gop-chair-called-traitor-ousted-for-saying-trump-should-be-impeached> [https://perma.cc/ERZ6-RCS4].

¹⁴⁴ *Why So Few Women are in Political Leadership, and Five Actions to Boost Women’s Political Participation*, U.N. WOMEN (Sept. 10, 2024), <https://www.unwomen.org/en/news-stories/explainer/2024/09/five-actions-to-boost-womens-political-participation> [https://perma.cc/BVF9-ZT6T].

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

place, but the guarantee of a seat on boards and commissions for a set amount of women can help alleviate these barriers.

Getting more women onto state boards and commissions could provide women in Iowa with the confidence and experience needed to run for state office and become more involved in government.¹⁴⁸ However, it has not proven particularly effective at getting women to actually run for state office rather than just serving on boards and commissions. Shannon McQueen surveyed all Iowa state legislators in 2019 and found that only 33% served on state boards before going on to elected office.¹⁴⁹ She ultimately found that gender balancing legislation on state boards and commissions had little effect on the number of women running for and winning seats in state legislatures.¹⁵⁰ This might be because board positions are ineffective as a stepping stone to elected office.

Other methods have proven effective in getting women to consider running for office. The recruitment of women to run for a particular office has proved important. In a 2008 study by the Center for American Women in Politics, 53% of women had not thought seriously about running before it was suggested to them.¹⁵¹ Strong support from established political parties has also served as both a key motivator and a key source of discouragement for women and men to run. From the same study, 24% of women saw a political actor as the most influential source of recruitment.¹⁵² For 30% of women, a political actor was the most common source of discouragement.¹⁵³ Participation in organizations also encourages women to run. Particularly, participating in women's groups (53% of Democratic women and 56% of Republican women were involved before running for the legislature), business groups (49% and 56%), and youth organizations (50% and 54%).¹⁵⁴ Recruitment outside the fields of business and law could also prove more effective. Women are more likely to come to public office from health and education occupations than from business and law, as compared to men.¹⁵⁵

¹⁴⁸ McQueen, *supra* note 14, at 244.

¹⁴⁹ *Id.* at 249.

¹⁵⁰ *Id.* at 261.

¹⁵¹ KIRA SANBONMATSU ET AL., POISED TO RUN: WOMEN'S PATHWAYS TO STATE LEGISLATURES, CENTER FOR AMERICAN WOMEN AND POLITICS 8 (2009), https://cawp.rutgers.edu/sites/default/files/resources/poisedtorun_0.pdf [<https://perma.cc/CWU2-3MVF>].

¹⁵² *Id.* at 11.

¹⁵³ *Id.* at 12.

¹⁵⁴ *Id.* at 16.

¹⁵⁵ *Id.* at 20.

Unfortunately, despite these strategies, women still face obstacles to their candidacy for state boards, commissions, and other political offices.

Gendered perceptions about qualifications for office might also keep women from serving in political offices. Of American voters surveyed in the World Values Survey, 15% thought that men make better political leaders than women do.¹⁵⁶ Democratic voters generally respond more favorably to female candidates and to a more feminine presentation. Republican voters tend to respond more negatively to feminine presentation for either gender.¹⁵⁷ At times, voters will not object to a female candidate on principle, but they view a male candidate as more broadly electable, so a male candidate will receive the nomination.¹⁵⁸ This is “strategic discrimination.”¹⁵⁹ Leadership in the executive branch is associated with typically male traits, such as toughness or decisiveness.¹⁶⁰ Women must appear warm and competent, which is difficult.¹⁶¹ A wrinkle to this issue is that some people might not object to a female leader; they might just have issues with that particular candidate.¹⁶²

Since the 2024 Presidential election featured both a male and female candidate, it is a useful example of gendered perceptions in action. In the election, 25% of voters who disliked Donald Trump, the Republican candidate, looked past that dislike and voted for him anyway.¹⁶³ Voters were much less willing to do that for Kamala Harris, the Democratic candidate.¹⁶⁴ Likeability only matters so much, however. Voters found Harris to be more likable than Trump, 60% to 38%.¹⁶⁵ Despite her apparent advantage in likability, Harris lost the 2024 election, both the popular vote and the

¹⁵⁶ Sara Savat, *WashU Expert: How Gender Bias Influences Perceptions, Votes in Elections*, WASHU: THE SOURCE (Aug. 1, 2024), <https://source.washu.edu/2024/08/washu-expert-how-gender-bias-influences-perceptions-votes-in-elections> [https://perma.cc/5EDA-TER5].

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² Savat, *supra* note 156.

¹⁶³ Jennifer De Pinto, *Harris v. Trump CBS News Poll: Ahead of Debate, Here’s What Voters Are Saying About the Candidates*, CBS NEWS (Sept. 10, 2024, 1:20 PM EDT), <https://www.cbsnews.com/news/harris-trump-poll-before-first-debate> [https://perma.cc/X7E8-XG5M].

¹⁶⁴ *Id.*

¹⁶⁵ Lydia Saad, *Voters See a Choice Between Character, Leadership Skill*, GALLUP (Oct. 10, 2024), <https://news.gallup.com/poll/651692/voters-choice-character-leadership-skill.aspx> (on file with the author).

Electoral College.¹⁶⁶ Harris appeared warmer and more likable to voters, but she was unable to appear competent and decisive, considered an important traditionally male trait in executive branch politics, at the same time to many voters.¹⁶⁷ Of those surveyed, 61% thought Trump could “get things done” compared to 49% for Harris.¹⁶⁸ Perceptions of Harris as less competent might stem in part from her status as a Black and South Asian woman running for President. Trump immediately questioned how Black Harris was as an attempt to divide the electorate and win voters away from Harris.¹⁶⁹ Trump and his allies also questioned Harris’ qualifications and posited that she only got her political positions because of her race.¹⁷⁰ He also stated that foreign leaders would say, “We [the foreign leaders] can’t believe we got so lucky.”¹⁷¹ However, the survey did not ask participants why they thought she was unlikely to get things done, so it is unclear to what extent, if at all, race played a role in voters’ perception of her as less competent. There are clearly many factors that led to Donald Trump’s victory in the 2024 election beyond the gendered perception of Harris’ candidacy. Her inability to separate herself from former President Biden,¹⁷² or her overemphasis on Donald Trump, as opposed to an emphasis on her plans for the country,¹⁷³ are among other potential factors. But gendered perceptions of Trump as a more decisive and competent leader certainly contributed to her loss.

The 2024 election illustrates the campaign difficulties women face when seeking elected office. Many voters are already primed to view male candidates as more qualified to lead. Some voters will penalize a candidate’s feminine presentation from the get-go, so female candidates running for elected office offset this phenomenon by presenting themselves in a more

¹⁶⁶ *Election 2024: Presidential Results*, CNN POL. (Nov. 9, 2024), <https://www.cnn.com/election/2024/results/president> [<https://perma.cc/9SNR-HJFB>].

¹⁶⁷ Saad, *supra* note 165.

¹⁶⁸ *Id.*

¹⁶⁹ RASHAWN RAY & GABRIEL R. SANCHEZ, *RACE IS A KEY FACTOR IN THE 2024 PRESIDENTIAL ELECTION*, BROOKINGS (OCT. 10, 2024), [HTTPS://WWW.BROOKINGS.EDU/ARTICLES/RACE-IS-A-KEY-FACTOR-IN-THE-2024-PRESIDENTIAL-ELECTION](https://www.brookings.edu/articles/race-is-a-key-factor-in-the-2024-presidential-election) [[HTTPS://PERMA.CC/99VX-Q74C](https://perma.cc/99VX-Q74C)].

¹⁷⁰ Amanda Terkel & Alex Tabet, *Even if Harris Isn’t Talking About Gender, Everyone Else Is*, NBC NEWS (Oct. 25, 2024, 3:00 PM CDT), <https://www.nbcnews.com/politics/2024-election/kamala-harris-talking-gender-election-rcna177139> [<https://perma.cc/HJJD7-5ALX>].

¹⁷¹ *Id.*

¹⁷² Christopher Cadelago & Holly Otterbein, *Why Kamala Harris Lost the Election*, POLITICO (Nov. 6, 2024, 6:21 AM EST), <https://www.politico.com/news/2024/11/06/how-bidens-vulnerabilities-led-to-a-bloodbath-for-harris-00187807> [<https://perma.cc/3PXD-HBSQ>].

¹⁷³ Courtney Subramanian, *Why Kamala Harris Lost: A Flawed Candidate or a Doomed Campaign?*, BBC (Nov. 6, 2024), <https://www.bbc.com/news/articles/cjr415j2v9do> [<https://perma.cc/E9QQ-VJAA>].

traditional, masculine way. In doing so, they risk being seen as cold and overly professional. Women might feel that the balance among professional competence, likeability, and warmth is impossible to sustain. Women may see high-profile losses by female politicians, such as Kamala Harris, as evidence of an insurmountable difficulty in attaining political office and not even attempt to run. Gendered perceptions of women in electoral politics do not have an easy fix, as it is a broader cultural issue that cannot be solved by the election of any one politician. However, exploring avenues to remove other barriers to women serving in politics could lead to an influx of women willing to run for office and challenge these perceptions.

McQueen also posits that gender balancing legislation itself might be ineffective due to a lack of enforcement mechanisms.¹⁷⁴ These issues existed in Iowa before the repeal of gender balancing legislation, even though Iowa had the most stringent requirements for gender balance. If women desire greater political opportunities in Iowa and elsewhere, alternative avenues to expand them would be useful.

A major obstacle for women running, and eventually working in, political office is the gendered expectation that, as mothers, they should stay home with their children. Women are often viewed as the default parent, most responsible for child-rearing.¹⁷⁵ Many women feel they must decide whether to prioritize their careers and hire someone else to care for their children, or forgo a strenuous and inflexible career. They could try to do both, but that can be a difficult route for parents. Thus, one way to increase opportunities for women in politics would be to institute stronger maternity leave policies. This could prevent women from having to choose between having a child and working in government, an often high-stress, high-demand job. Iowa has not implemented paid mandatory family leave policies.¹⁷⁶ While most other countries around the world do, the United States is one of a handful of countries that does not require paid family leave.¹⁷⁷ Federal employees have paid twelve weeks of parental leave;¹⁷⁸ however, a similar policy has not been

¹⁷⁴ McQueen, *supra* note 14, at 260.

¹⁷⁵ Emily Azzarito, *Lunch Ladies and Pink-Collar Crime: The Gender Stereotype That Costs Companies Millions*, 27 J. GENDER, RACE, & JUST. 481, 499 (2024).

¹⁷⁶ *State Paid Family Leave Laws Across the U.S.*, BIPARTISAN POL’Y CTR. (Jan. 16, 2024), <https://bipartisanpolicy.org/explainer/state-paid-family-leave-laws-across-the-u-s> [<https://perma.cc/2GBL-9A7Z>].

¹⁷⁷ Joya Misra, *US Is Way Stingier with Maternity Leave and Child Care Than the Rest of the World*, N.H. BULL. (May 14, 2024, 4:55 AM EST), <https://newhampshirebulletin.com/2024/05/14/us-is-way-stingier-with-maternity-leave-and-child-care-than-the-rest-of-the-world> [<https://perma.cc/N4ZV-5VUS>].

¹⁷⁸ *Paid Parental Leave Is Available to Most Federal Employees—but Some May Not Know About It*, U.S. GOV’T ACCOUNTABILITY OFF.: WATCHBLOG: FOLLOWING THE FED. DOLLAR (Jan. 25,

enacted in every state. In Iowa, state employees are entitled to twelve weeks of parental leave.¹⁷⁹ For many women, this might prove insufficient to have children and the rigorous demands of a political career.

Looking at other nations is helpful in identifying a policy framework for the U.S. to follow. In Denmark, for example, women get almost twenty-two weeks of paid leave and an optional nineteen weeks of unpaid leave.¹⁸⁰ A policy with a longer period to spend with their child, and additional flexibility, could help more women consider political office, whether on boards and commissions or in higher elected office. Political office positions can include emergencies that occur suddenly and require complete attention. Providing women with newborn babies more flexibility through parental leave to navigate emergencies and high-stress situations could help more women feel comfortable taking board positions or running for office, as they might be less concerned about balancing work and home life with the greater flexibility that parental leave provides. Alternatively, giving men more extensive parental leave could allow them to take on a more significant parenting role than they might otherwise, thereby giving their spouses more flexibility in these types of situations.

Increasing mentoring relationships in politics could also help more women apply for state boards and higher offices. Mentorship can help women have support from more experienced female politicians, gain more experience, and improve their relevant political skills.¹⁸¹ These mentoring relationships do not have to be career-long relationships to be effective and helpful. Two types of fast mentoring can provide some of the benefits of long-term mentoring: first, flash mentoring is a one-time meeting in which a less experienced professional learns from a more experienced professional;¹⁸² second, speed mentoring helps individuals receive advice from multiple mentors in a timed setting, like speed dating.¹⁸³ Of course, longer mentor relationships would be preferable, but these shorter and faster mentoring relationships could be a simpler and more efficient way for women to become comfortable serving in government positions, without putting

2024), <https://www.gao.gov/blog/paid-parental-leave-available-most-federal-employees-some-may-not-know-about-it> [<https://perma.cc/WRZ6-U5LA>].

¹⁷⁹ H.F. 2557, 90th Gen. Assemb., Reg. Sess. (Iowa 2024).

¹⁸⁰ Misra, *supra* note 177.

¹⁸¹ Nadiya Babynska-Virna, *Five Effective Ways to Involve Women in Politics*, U.N. DEV. PROGRAMME (Feb. 19, 2021), <https://www.undp.org/ukraine/news/five-effective-ways-involve-women-politics> [<https://perma.cc/DV78-667B>].

¹⁸² *Mentoring in Government*, U.S. OFF. OF PERS. MGMT., <https://www.opm.gov/wiki/training/mentoring-and-coaching.ashx> [<https://perma.cc/Y68P-YS62>].

¹⁸³ *Id.*

pressure on either the mentee or the mentor to sink tons of time into a relationship on top of other responsibilities. Mentoring relationships *would* require a willingness from the mentor to enter the relationship and the initiative of the mentee to seek these relationships; however, they could work in tandem with policy changes, like parental leave, to get women involved in politics and to make more women consider serving on boards, commissions, and in elected office.

Ultimately, the difficulty of bringing women into political power and the variety of avenues that would be necessary to achieve gender balance demonstrate that the gender balancing framework for state boards and commissions, supplemented with further measures to increase female political participation, can have a positive effect on the number of women in Iowa’s state government.

C. Contemporary Distrust in American Government

In 2022, the number of citizens who said that they trusted the government to do the right thing rose slightly from 19% in 2015¹⁸⁴ to 20%.¹⁸⁵ Unlike the 2015 report, the 2022 survey details differences among generations of Democratic voters about their trust in government. For Democrats 65 and older, the number was 57%; 50–64, 69%; 35–49, 72%; and 18–34, 78%.¹⁸⁶ The survey found no substantial differences between age groups on this issue for Republican voters.¹⁸⁷ As for state governments, Americans have consistently had a more favorable view of them than they do of the federal government.¹⁸⁸ Of those surveyed, 54% had a favorable view of state government, and 66% viewed their local government positively.¹⁸⁹ In Iowa specifically, Governor Reynolds’s approval rating sat at 45% in 2024, with 50% of people disapproving of her performance as governor.¹⁹⁰ This was the lowest her approval rating has been during her time in office, which began in 2017.¹⁹¹

¹⁸⁴ PEW RSCH. CTR., *supra* note 68, at 4.

¹⁸⁵ PEW RSCH. CTR., AMERICANS’ VIEWS OF GOVERNMENT: DECADES OF DISTRUST, ENDURING SUPPORT FOR ITS ROLE 4 (2022).

¹⁸⁶ *Id.* at 10.

¹⁸⁷ *Id.* at 13.

¹⁸⁸ *Id.* at 44.

¹⁸⁹ *Id.*

¹⁹⁰ Kevin Baskins, *Iowa Poll: Democrat Rob Sand Again Tops GOP’s Kim Reynolds, Brenna Bird in Job Approval*, DES MOINES REG. (Sept. 24, 2024, 5:25 AM CST), <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2024/09/24/rob-sand-tops-kim-reynolds-brenna-bird-iowa-elected-officials-governors-support-slips-lowest/75196313007> (on file with the author).

¹⁹¹ *Id.*

Negative opinions about the federal government can create a variety of issues for residents and the government itself. Mistrust of the government creates apathy, making citizens less likely to vote or participate in government.¹⁹² The government then does not hear their concerns, increasing citizens' mistrust.¹⁹³ This might seem academic, but it can have significant real-life consequences. During the COVID-19 pandemic, countries with higher levels of trust in government had lower infection and fatality rates.¹⁹⁴ A driver of mistrust is the various wars and political misbehavior detailed above, but another cause is the opacity of government and the difficulties the federal government has in differentiating between the actions and positions of elected politicians and the services of agencies and government employees.¹⁹⁵ An effect of mistrust in government today is that agencies' funding and opportunities to make long-term plans are threatened.¹⁹⁶ Congress often responds to distrust in government with reduced funding and increased oversight for agencies.¹⁹⁷ Distrust in the government can also lead to agitation for lower tax rates and frustration with tax collection.¹⁹⁸ This cycle makes the government less effective at responding to Americans' concerns.¹⁹⁹ Governments can choose to appease the mistrust by giving in to demands for lower tax rates. This might make people happy in the short term, but it leaves the government with less money to fix the issues it is paying attention to.

Broad distrust in government can also foster distrust of government processes, such as elections.²⁰⁰ On January 6th, 2021, a group of Donald Trump supporters came to Washington, D.C., and violently attacked the U.S. Capitol Building on the belief that the 2020 presidential election had been

¹⁹² Max Stier & Tom Freedman, *Why Democracy's in Such Trouble: A Crisis in Public Trust of Government*, POLITICO (Mar. 1, 2022, 4:30 AM EST), <https://www.politico.com/news/magazine/2022/03/01/democracy-public-crisis-trust-government-faith-00012565> [<https://perma.cc/YVP8-NQTA>].

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ Billy Morgan, *Why Public Distrust Could Prove 'Corrosive' to U.S. Democracy*, UCHICAGO NEWS (Mar. 26, 2019), <https://news.uchicago.edu/story/why-public-distrust-could-prove-corrosive-us-democracy> [<https://perma.cc/BXJ6-4QWT>].

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ Amelia Thomson-DeVaux & Zoha Qamar, *What Happens When Americans Don't Trust Institutions?*, ABC NEWS: FIVETHIRTYEIGHT (July 8, 2022, 6:00 AM), <https://fivethirtyeight.com/features/what-happens-when-americans-dont-trust-institutions> [<https://perma.cc/BFF4-9RWY>].

stolen.²⁰¹ The attack was fomented in part by President Trump himself, who tweeted that there would be a protest on January 6th and that it would be “wild”.²⁰² Trump also encouraged the people to march to the Capitol.²⁰³ The attack on the Capitol on January 6, 2021, is an example of what happens when distrust in government reaches critical levels and makes people act irrationally and violently.

Distrust of the government is a vicious cycle that hurts everyone. It hurts constituents who feel the government does not have their best interests in mind. It hurts elected officials who stand to lose their jobs. And it hurts government workers, who have fewer means to help their constituents while simultaneously facing vitriol about the government’s supposed inaction. This distrust is a serious issue that the Iowa state government should seek to curtail as much as possible. Removing gender balancing language from laws governing state boards and commissions stands to make the problem worse.

Removing gender balancing language through SF 2096 was a quiet effort. It was raised quietly and passed quietly, just like most state bills. This was likely intentional. Iowa has become embroiled in debates concerning diversity, equity, and inclusion (DEI), such as whether women and people of color receive jobs on their own merit or because of their supposedly favored status. By quietly passing laws, the state government enacts bills that might otherwise provoke debate or prove to be unpopular. Ongoing debates around DEI make a bill like SF 2096 ripe for debate and discontent among some citizens. Ensuring that the bill passed without fanfare in this particular case helped legislators implement their agenda without angering certain groups of their constituents. For example, in May 2025, the state government passed HF 856, restricting DEI initiatives in state government and public higher education, despite public outcry.²⁰⁴ Cutting gender balancing from state boards and commissions is just one example of the Iowa state government’s fight against DEI initiatives. Gender balance requirements may appear to some voters and decision-makers to require the appointment of women, not necessarily on the basis of merit. Instead, supporters of anti-DEI

²⁰¹ *Capitol Riots Timeline: What Happened on 6 January 2021?*, BBC (Aug. 2, 2023) [hereinafter BBC], <https://www.bbc.com/news/world-us-canada-56004916> [<https://perma.cc/YW7U-9W37>].

²⁰² Tom Dreisbach, *How Trump’s ‘Will be Wild!’ Tweet Drew Rioters to the Capitol on Jan. 6*, NPR (July 13, 2022, 3:42 PM ET), <https://www.npr.org/2022/07/13/1111341161/how-trumps-will-be-wild-tweet-drew-rioters-to-the-capitol-on-jan-6> [<https://perma.cc/VSR8-799H>].

²⁰³ BBC, *supra* note 201.

²⁰⁴ See Marissa Payne, *Gov. Kim Reynolds Signs into Law Sweeping Limits on DEI for Iowa Governmental Entities*, DES MOINES REG. (May 28, 2025, 7:59 AM CST), <https://www.desmoinesregister.com/story/news/politics/2025/05/28/iowa-legislature-kim-reynolds-signs-new-public-sector-dei-limits-into-law/83795002007> (on file with the author); H.F. 856, 91st Gen. Assemb. (Iowa 2025).

initiatives believe some women were appointed because the government required people with certain characteristics to receive preferential treatment in hiring. Though these moves against DEI can help politicians score political points, they are at the expense of Iowa and its long-term political outlook.

If Iowans and their concerns are not heard, it will result in both political apathy among citizens and an unresponsive government to the concerns of the people. This cannot be a situation that the Iowa state government is satisfied with. Passing SF 2096 quietly allowed the state government to further restrict efforts to increase the variety of voices within it. In addition, because few citizens pay close attention to the passage of bills or to state boards and commissions, the state government avoided political outcry from citizens opposed to the bill. However, cutting gender balancing from the state government could deepen mistrust to critical levels.

Further, slashing and consolidating boards and commissions will make it more difficult to have diverse voices on them, which, in turn, will make the government more inscrutable and opaque to the average Iowan. The repeal of gender balancing language on state boards and commissions could have the unintended effect of further embittering Iowans, driving them toward deeper mistrust of state government and the elected officials who run it. By making it more difficult for women to have a line to the governor, the Republican government that pushed this measure through may have made it harder for itself to get reelected. Citizens might vote against them, or apathy might keep them from voting at all. If Iowans become fed up with the state government, many politicians could lose in the next election. Distrust in government is an abstract concept, but its potential effects could be significant for the shape and composition of Iowa's government.

D. The Effect of Merit in Political Appointments

Merit has a long history in American politics. However, its meaning has changed radically over time. In this section, this Note will argue that, unlike in the nineteenth century, when merit in government appointments emerged as a response to public pressure²⁰⁵ and the corrupt spoils system,²⁰⁶ merit is now more of an excuse to continue appointing people to power who fit a certain mold and are in favor with politicians. At times, politicians do this consciously, but it can also be unconscious. The advantages of a merit-based

²⁰⁵ See Sean M. Theriault, *Patronage, the Pendleton Act, and the Power of the People*, 65 J. POL. 50, 53 (2003) (discussing “the vital role played by public pressure in securing civil service reform” in the nineteenth century).

²⁰⁶ See Becky Little, *How a Presidential Assassination Led to the End of the Spoils System*, HIST. (Feb. 10, 2025), <https://www.history.com/articles/garfield-assassination-spoils-system-reforms-federal-employees> [<https://perma.cc/PP7W-HAK8>] (discussing the granting of jobs to party loyalists, and increased calls for reform of the spoils system after the Civil War).

system are overstated²⁰⁷ and do not reflect an unbiased process.²⁰⁸ At least one Iowan, Robert Leonard, has voiced skepticism about how unbiased the merit process is in appointing board and commission members.²⁰⁹ Leonard pushes against an earlier guest essay in the Des Moines Register that implied that Charles Hurley, of the *Hurley v. Gast* case, is a civil rights hero, stating, “The authors make the case that ‘merit’ should be the main consideration in making appointments as if ‘merit’ is something that can be objectively measured rather than the abstract social construct it is.”²¹⁰ Leonard contends, “Without objective measures, merit is a social construct that often keeps the privileged and those like them in power.”²¹¹

There is also dissent from citizens like Jenn Nichols in Atlantic, Iowa, over whether gender balancing language should be removed at all.²¹² She specifically called out Senator Jason Schultz, R-Schleswig, who proposed SF 2096 to eliminate gender balancing language.²¹³ Nichols disagreed with Senator Schultz.²¹⁴ She stated, “Women in Iowa have made great strides into the world dominated by white, middle class males, but let me point out an inequality that still exists.”²¹⁵

Julius Uehlein and David Wilderman state that some supporters of merit processes argue that the electorate is not well-informed enough to make a good choice of candidates for office.²¹⁶ It might be true that certain parts of the electorate are not well informed on these matters, but if it is, it is a fixable

²⁰⁷ See also Brian T. Fitzpatrick, *The Politics of Merit Selection*, 74 MO. L. REV. 675, 677 (2009) (“I ask whether the proponents of merit selection can justify a system that produces judges who reflect the ideological preferences of the bar rather than the preferences of the electorate.”).

²⁰⁸ See *id.* at 679 (discussing that commission that create the lists of candidates for judicial positions are selected by lawyers, generally selected by bar associations, privileging those associations at the expense of the electorate).

²⁰⁹ Robert Leonard, Opinion, *Think Again About What’s Meant By ‘Merit’ in Gender-Balance Law Repeal*, DES MOINES REG. (Apr. 8, 2024, 5:59 AM CST), <https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2024/04/09/iowa-gender-balance-law-repeal-merit-definition/73257605007> (on file with author).

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² Jenn Nichols, Opinion, *Are People or Politics the Priority?*, ATL. NEWS TEL. (Feb. 3, 2024), https://www.swiowanewssource.com/atlantic/opinion/article_31e4a1ac-c1e9-11e9-9933-17f15dde23ea.html [<https://perma.cc/J7UH-SVLG>].

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ See Julius Uehlein & David H. Wilderman, Esq., *Why Merit Selection Is Inconsistent with Democracy*, 106 DICK. L. REV. 769, 770 (2002) (discussing the possibility that improving the electorate’s knowledge base is an alternative to appointment).

issue. Citizens need to be educated on the importance of state boards and commissions, and the silent but significant policy recommendations they make to the governor and lieutenant governor. People often do not notice the state government and its decisions.²¹⁷ This education begins in schools through courses like social studies and civics, but continues outside the educational setting. Adults can be educated, in a less formal, less structured setting, about the opportunities available to them.

Counties should already be considering ways to educate the public about boards, commissions, and the opportunities they present. Counties in Iowa have been provided with the material needed to do so.²¹⁸ Boards can hold information sessions for local groups,²¹⁹ increase their visibility in the community through targeted advertising (since people cannot join if they are unaware of the board's existence), and provide publications and websites with current board minutes, reports, applications to join, and other relevant materials.²²⁰ Though these steps seem simple, attempts to diversify boards and commissions to dislodge the "merit" system that keeps powerful people in place are complicated by attitudes about race, gender, and other characteristics that afflict many people in Iowa and throughout the country. To expand opportunities for women on boards and commissions in the wake of SF 2096, a return to "merit" as a means of preventing corruption and preserving power among the few and connected is necessary.

The new emphasis on merit attempts to appear as a democratic, positive way to elect people and ensure that an efficient, effective government is formed on boards and commissions, as well as in other areas of government. However, racial, gender, and other prejudices can warp this otherwise reasonable way to set up government. This is unlikely to be a conscious process; politicians who act clearly in bad faith and discriminate against eligible constituents on the basis of race, gender, or other bases generally receive the wrath of the state's citizens and get removed from office at the end of their term. People currently in power will likely be the ones with the resources, money, and influence to run for board and commission spots, giving the executive branch a skewed view of issues that matter to Iowans. People in power, therefore, will naturally, even if unconsciously, place the concerns of constituents more like themselves, who are connected and well off, above the concerns of other Iowans.

²¹⁷ Jill Rosen, *Americans Don't Know Much About State Government, Survey Finds*, JOHNS HOPKINS UNIV.: HUB (Dec. 14, 2018), <https://hub.jhu.edu/2018/12/14/americans-dont-understand-state-government> [<https://perma.cc/9XTC-A5J8>].

²¹⁸ AM. ASS'N U. WOMEN IOWA ET AL., *supra* note 113, at 4–5.

²¹⁹ *Id.* at 4.

²²⁰ *Id.* at 5.

Other factors are also significant in the election and appointment of politicians besides incumbency. A person with a college degree might have an easier time making connections with donors and influential local leaders to mount a successful political campaign than someone working in agriculture, picking crops for small farmers, or in a food-processing plant. A single parent will have less time to devote to fundraising and public appearances than a parent with a co-parent or other support to help them care for their children. If a person has wealth accumulated by their family, they have more time to dedicate to preparing and executing a campaign and have stronger connections to influential local citizens, as compared to someone who has to work a job or multiple jobs with regular hours. These differences between people with different backgrounds can be crucial in determining the winners of electoral races, and they have nothing to do with political stances or merit.

The winner of a political race is not determined solely by merit or wealth, but by a multifaceted set of factors. Giving more women a seat at the table in state government would not fully balance the multiple factors that tilt electoral races away from merit, but it is a strong starting point to ensure that citizens with fewer connections and advantages can join state government, make effective change, and voice their concerns. An emphasis on well-connectedness and privileged backgrounds in politics may not be intentional, but it is still harmful to many people in the state if the government becomes too focused on the problems of the well-heeled and the well-connected. Reinstating the gender balancing system for state boards and commissions would not wholly solve issues of prejudice in appointments to these bodies, but it would ensure that a wider variety of Iowans would be placed on boards and commissions by default, making the government stronger through its more accurate representation of Iowans’ concerns.

IV. CONCLUSION

Iowa’s repeal of gender balancing language does not bode well for women’s participation on state boards and commissions or in higher elected political offices, for which state boards could serve as a springboard. Returning to the pre-gender-balancing-landscape could result in imbalances of representation on state boards and commissions, as seen in the 1970s.²²¹ Additionally, the number of women who move from state boards to other elected offices in state government is already low;²²² removing gender balancing could further reduce the number of women who can use these positions as a jumping-off point for elected office. While gender balancing legislation is not a perfect, or indeed, the only solution to increase women’s

²²¹ Bystrom et al., *supra* note 18, at 1–2.

²²² McQueen, *supra* note 14.

participation in government, Iowa's state government is stronger with it than without it. There were improvements in the amount and distribution of women on boards and commissions between the 1970s and 2024. With the repeal of gender balancing language, it is possible that at least some of these gains in women's representation at the state level will be reduced or wiped out.

A solution to this is simple. Reinstate § 69.16A into the Iowa Code.

1. All appointive boards, commissions, committees, and councils of the state established by the Code, if not otherwise provided by law, shall be gender balanced. No person shall be appointed or reappointed to any board, commission, committee, or council established by the Code if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, committee, or council plus one if the board, commission, committee, or council is composed of an odd number of members. If the board, commission, committee, or council is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission, committee, or council, they shall consult each other to avoid a violation of this section.

2. All appointive boards, commissions, committees, and councils of a political subdivision of the state that are established by the Code, if not otherwise provided by law, shall be gender balanced as provided by subsection 1 unless the political subdivision has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in compliance with subsection 1 for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this subsection, political subdivisions shall utilize a fair and unbiased method of selecting the best qualified applicants. This subsection shall not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance.²²³

²²³ IOWA CODE § 69.16A (2024) (repealed 2024).

The statute has served to promote the appointment of more women to state boards and commissions. Because the state government has leaned more conservative in recent years, it seems likely that if gender balancing legislation is reinstated, it would make sense to simply bring back the traditional, tried-and-true language that has served Iowa well for decades. It would also prevent the state government from spending valuable time and money drafting a new statute, promote fiscal responsibility in government, and be a better use of citizen tax dollars, which Governor Reynolds values.²²⁴

If the state government chooses to draft a new statute to reinstate gender balancing, the language could read: “All state boards, commissions, committees, and similar bodies should attain a gender balance. If this is not possible in a particular city, town, or county, a three month good faith effort, including, but not limited to, reaching out to relevant community organizations and advertising the position statewide on the internet and public places, such as town halls, public libraries, county courthouses, and similar public places, must be undertaken to achieve this balance, at which point any qualified candidate can be appointed. Qualified candidates should demonstrate relevant work or life experience, cultural background, or education related to the board, commission, committee, or similar body. Applicants without these relevant experiences and backgrounds should be rejected as unqualified to ensure the body’s efficiency and efficacy as an advisory body to the executive branch. This statute shall take effect in 2027.”

This language, or similarly drafted language, could be effective in reinstating gender balancing, but the language of § 69.16A worked for decades. In the spirit of continuity and fiscal responsibility in state government, it makes the most sense to simply restore § 69.16A to the Iowa Code. The language of § 69.16A reflects a legacy of hard work and advocacy in Iowa; it has also been a pioneer and guiding light that other states have followed. Reinstating this language would likely pave the way for more female representation on state boards and commissions in the future, while also recognizing the efforts of women in Iowa’s past. This reminder might spur more Iowans to make a difference in state government and make their voices heard, officially and unofficially.

The repeal of gender balancing on state boards and commissions from the Iowa Code might seem insignificant, but these bodies make recommendations to the executive branch, and they will do it whether citizens notice or not. These advisory bodies, in a sense, serve as a fourth branch of the state government. One that advises other branches and subtly influences policies by providing a check on state government power: listen to constituents who have told you their concerns, or risk discontent and potential loss in the next election. The relevant question is whether Iowans

²²⁴ State Gov’t of Iowa, *supra* note 9.

want these bodies to reflect concerns of the few or the views, desires, and concerns of all Iowans from all backgrounds. Having state boards and commissions reflect the latter helps the state government make decisions that better align with the whole state's desires.

Whether an individual policy reflects an individual citizen's desires or not, a broader move toward reflecting the will of the people will increase citizens' satisfaction with the government. The concerns of many Iowans stand to go unheard just because they are too far away from the ears of the executive branch, or cannot figure out how to make their voices heard effectively. If Iowa continues down the path it has chosen, a citizenry that is already divided and broadly distrusts the government to be fair and work for them could become more convinced that the government does not have their interests in mind. Consequences of this could be catastrophic for the election prospects of current members of government and could make Iowans less likely to trust government institutions in true emergency situations where the government is attempting to help citizens. This is unacceptable. Iowa should change course now and remember the insights of previous citizens and lawmakers.

Iowa served as a pioneer in promoting equity on state boards and commissions and giving women a stronger voice in state government. To quote the classic American musical, set in Iowa, *The Music Man*, "There's an Iowa kind of special, chip on the shoulder attitude. We've never been without, that we recall."²²⁵ The Iowa state government has forgotten that it showcased its "special chip on the shoulder attitude" when it blazed a trail that other states followed in creating gender balancing legislation. The state government listened to its constituents, and it acted. It sought to rectify the historical wrong of shutting women out of state boards and commissions and lessening their political influence. The state government also sought to prevent the loud concerns of the few from dominating the quieter concerns of many Iowans who were not currently connected to government. These were, and still are, laudable goals for state government. Bringing this requirement back would not be difficult procedurally and, much like the repeal of § 69.16A's language, would likely be overlooked by most Iowans while being lauded by media members and supporters of this niche issue. Iowa should reinstate its gender balancing language to continue to provide more opportunities for women in government, but also so that when other states look for model gender balancing language for state boards and commissions, state officials can say that maybe they "ought to give Iowa a try."²²⁶

²²⁵ THE ORIGINAL BROADWAY CAST OF THE MUSIC MAN, *Iowa Stubborn*, at 00:17–00:22 on THE MUSIC MAN (ORIGINAL BROADWAY CAST) (Capitol Records, LLC. 1958).

²²⁶ *Id.* at 1:47–1:55.