

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

SECTION 5 VOTING SUBMISSION

TO: Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

DATE: August 2, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:
Laws of 1981, Chapter 240

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits **Laws of 1981, Chapter 240**, relative to Notification of Certain Nominees after a State Primary Election, for preclearance by the U.S. Department of Justice.

Changes to RSA 659:88, RSA 659:90, and RSA 659:91 made in 2010 are being simultaneously submitted for preclearance in submission 2010:317. We are submitting this 1981 change to "catch up" preclearance of earlier changes to allow preclearance of the 2010 changes.

Submission: In accordance with 28 CFR §51.27 and 51.28, the submission is as follows:

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting (new law).

Laws of 1981, Chapter 240:

1. (Sec 1) Amending RSA 659:88;
2. (Sec 2) Amending RSA 659:89;
3. (Sec 3) Amending RSA 659:90;

4. (Sec 4) Amending RSA 659:91.

See Attached Exhibit 1981:240, #1.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

1. RSA 659:88 through RSA 659:91 from Laws of 1979, 436:1. See Attached as Exhibit 1981:240, #2.

(c) A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

Section 1 amends RSA 659:88 by substituting the word “party” for the word “office.”

Section 2 amends RSA 659:89 by reorganizing the structure and :

- removing “or delegates to the state party convention” from paragraph I (a);
- removing the duty to send a copy of the paper in which results were published to each town clerk;
- requiring written notice to each person nominated by write-in;
- requiring that a certified list of all elected state convention delegates be sent to each state political party.

Section 3 amends RSA 659:90 by shifting the burden from accepting a nomination in writing if a nominee does wants the nomination to rejecting the nomination if the nominee does not wish to be the party’s candidate in the general election.

Section 4 amends RSA 659:91 by deleting reference to RSA 659:89, I and reducing the time period to file declarations of candidacy and affidavits to 5 days from 10 days.

(d) The name, title, address, and telephone number of the person making the submission.

Orville B. Fitch II, Deputy Attorney General
New Hampshire Attorney General’s Office
33 Capitol Street

Concord, New Hampshire 03301
(603) 271-1238

Between 8/1/2010 and 8/31/2010 contact:

Richard Head, Associate Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1248

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

Attorney General Michael A. Delaney
State of New Hampshire

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

Not applicable

(g) Identification of person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

This change is an act of the New Hampshire General Court, New Hampshire's state legislature, with approval of the legislation by the Governor of the State of New Hampshire.

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The New Hampshire Constitution Part Second, Article 2, grants supreme legislative power within the state to the House of Representatives and Senate, who with a right to negate each other are granted power to make law through Part Second, Article 5. The legislature, through a bicameral process passed each Chapter Law set forth above. Each bill was signed into law by the Governor or allowed to become law without signature, pursuant to New Hampshire Constitution Part Second, Article 44.

(i) The date of adoption of the change affecting voting.

June 11, 1981.

(j) The date on which the change is to take effect.

August 10, 1981.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

This change to New Hampshire's voting laws has been enforced or administered.

As was exhaustively addressed in a 2004 letter to the federal Department of Justice, New Hampshire is engaged in an effort to catch up on preclearance submissions. This change is being submitted now to "catch up" the preclearance as there is a change in this act related to the subject of a 2010 change.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

This change affects the entire State of New Hampshire.

(m) A statement of the reasons for the change.

Section 1 amends RSA 659:88 by substituting the word "party" for the word "office." The reason for the change is to clarify that it is only votes cast in the parties primary that are counted, write-in votes for the same office but in a different party's primary do not count in determining if the person won the nomination.

Section 2 amends RSA 659:89 by reorganizing the structure and :

- removing "or delegates to the state party convention" from paragraph I (a);
- removing the duty to send a copy of the paper in which results were published to each town clerk;
- requiring written notice to each person nominated by write-in;
- requiring that a certified list of all elected state convention delegates be sent to each state political party.

The reason for these changes is to modernize the practice of notifying the public, political parties, and the nominees of their nomination at a primary. Direct written

notice is more effective and less expensive than purchasing copies of newspapers in which results are printed and then sending those papers to the nominees.

Section 3 amends RSA 659:90 by shifting the burden from accepting a nomination in writing if a nominee does wants the nomination to rejecting the nomination if the nominee does not wish to be the party's candidate in the general election. The reason for this change is to leave the nominee on the ballot under circumstances where the notice does not reach the individual in time for him or her to file an acceptance by the deadline.

Section 4 amends RSA 659:91 by deleting reference to RSA 659:89, I and reducing the time period to file declarations of candidacy and affidavits to 5 days from 10 days. This simplifies the statute and allows a more timely finalization of the ballot to allow more time to prepare ballots for the general election.

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

There is no anticipated adverse effect on members of racial or language minority groups.

(o) Identify any past or pending litigation concerning the change or related voting practice.

There is no known past or pending litigation concerning these changes or related voting practices.

(p1) A Statement that the prior practice has been precleared, with the date, or is not subject to the preclearance requirement and

1. (Sec 1) Amending RSA 659:88;
2. (Sec 2) Amending RSA 659:89;
3. (Sec 3) Amending RSA 659:90;
4. (Sec 4) Amending RSA 659:91.

All four statues as amended by Laws of 1979, 436 were precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.

(p2) A statement that the procedure for the adoption of the change has been precleared, with the date, or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

New Hampshire's Constitution, in its current form, was adopted June 2, 1784, four years before the United States Constitution took effect upon its ratification by New Hampshire on June 21, 1788. No amendments to Part Second, article 2 or Part Second, article 44 have occurred since 1784, therefore the authority for adopting law changes predates New Hampshire's ten towns becoming subject to Preclearance on effective November 1, 1968.

(q) For redistrictings and annexations.

Not applicable.

(r) Supplemental

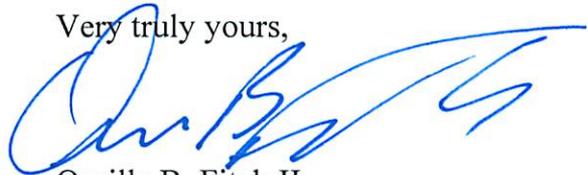
None.

§51.28 (g) Public notice that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection and invites comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

Exhibit A is a copy of a press release issued July 19, 2010 announcing the 2010 round of Preclearance submissions, the availability of copies at the New Hampshire Attorney General's Website and Office, and inviting comments to the United States Attorney General.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Deputy Attorney General
bud.fitch@doj.nh.gov
(603) 271-1238

Attachments

CC: Secretary of State William M. Gardner
496412.doc

238:13 Effective Date. This act shall take effect upon its passage.

[Approved June 11, 1981.]

[Effective Date June 11, 1981.]

CHAPTER 239 (HB 836)

AN ACT PROVIDING FOR THE FORGIVENESS OF
CAPITATION FEES FOR CERTAIN VETERINARY GRADUATES.

Be it Enacted by the Senate and House of Representatives in General Court convened:

239:1 Purpose. The purpose of this act is to correct an inequity dating from the 1979 legislative session. By passing chapter 353, the general court combined the programs which aided medical and veterinary students through capitation payments. This meant that veterinary graduates, like the medical graduates, would no longer have to pay the state back for the cost of their education. The change was effective for those graduating after July 1, 1979, the effective date of the chapter. While the general court was considering this proposal, another class of veterinary students graduated. This act is to aid the members of that class.

239:2 Notes Forgiven. Any note signed under the former RSA 332-C:4 by a veterinary student who graduated from veterinary school between January 1, 1977, and July 1, 1979, is hereby forgiven. No repayment shall be required.

239:3 Effective Date. This act shall take effect upon its passage.

[Approved June 11, 1981.]

[Effective Date June 11, 1981.]

CHAPTER 240 (HB 878)

AN ACT RELATIVE TO NOTIFICATION OF CERTAIN
NOMINEES AFTER A STATE PRIMARY ELECTION.

Be it Enacted by the Senate and House of Representatives in General Court convened:

240:1 Percentage of Party Vote. Amend RSA 659:88 (supp) as inserted by 1979, 436:1 by striking out in line 5 the word "office" and inserting in place thereof the following (party) so that said section as amended shall read as follows:

659:88 Write-In Votes and Nomination. A person whose name was not printed on the official state primary election ballot of a political party shall not be entitled to the nomination of that party for any office unless he received 10 write-in votes or write-in votes equaling 10 percent or more of the total votes cast for that party on such state primary election ballot, whichever is the smaller. If a person is disqualified from a nomination in accordance with this provision, then the nomination shall be awarded to the person whose name was printed upon the state primary election ballot of the party and who received the highest number of votes.

240:2 Notification by Secretary
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II. Cause a copy of said party
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III. Send a certified list of all
party committee;
IV. Notify in writing of his r
vote at the primary.

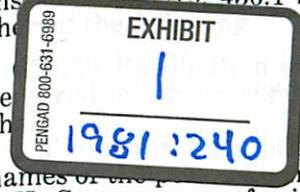
240:3 Rejection of Write-In
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thereof the following:

659:90 Rejection of Nomin
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240:5 Effective Date. This
[Approved June 11, 1981.]
[Effective Date August 10, 19



effect upon its passage.

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FORGIVENESS OF
VETERINARY GRADUATES.

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representatives in General Court

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240:2 Notification by Secretary of State. Amend RSA 659:89 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

659:89 Publication of Result; Personal Notice. After the declarations required by RSA 659:86 and 659:87 have been made, the secretary of state shall:

I. Publish in some paper of general circulation throughout the state the names of the persons nominated by each political party;

II. Cause a copy of said paper to be mailed to each such person who was nominated by each political party;

III. Send a certified list of all elected state convention delegates to each state party committee;

IV. Notify in writing of his nomination each person nominated by write-in vote at the primary.

240:3 Rejection of Write-In Nomination. Amend RSA 659:90 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

659:90 Rejection of Nomination by Write-In Vote. Persons nominated by write-in vote who wish to reject the nomination shall reject their nominations as follows. A person notified in writing of his nomination by the secretary of state as required by RSA 659:89 shall advise the secretary of state in writing if he wishes to reject the nomination. If such rejection of nomination is not received by the secretary of state within 6 days from the date of the publication of the result of the primary as provided in RSA 659:89, the person shall be deemed to have accepted the nomination; and his name shall appear on the official ballot as a candidate for the office. If for any reason the person cannot be contacted by the deadline for the printing of the ballots, the candidate's name shall be printed on the official state general election ballot.

240:4 Paragraph Reference Deleted. Amend RSA 659:91 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

659:91 Nominations For Incompatible Offices. Any person who is nominated by the same political party for incompatible offices shall notify the secretary of state within 10 days from the date of the primary of which nomination he will accept. Thereupon the secretary of state shall declare a vacancy to exist in the nomination which such person declined. The vacancy shall be filled as provided in RSA 655:37 except that all the necessary declarations of candidacy and affidavits shall be filed no later than 5 days following the day on which the vacancy was declared.

240:5 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 11, 1981.]

[Effective Date August 10, 1981.]

659:87 Declaration of Nominees For Office of State Representative From District Containing Only One Town Or Ward. In a state representative district containing only one town or ward, the moderator of such town or ward shall, for each political party having an official state primary election ballot, declare nominees for the office of state representative from such district.

659:88 Write-In Votes and Nomination. A person whose name was not printed on the official state primary election ballot of a political party shall not be entitled to the nomination of that party for any office unless he received 10 write-in votes or write-in votes equaling 10 percent or more of the total votes cast for that office on such state primary election ballot, whichever is the smaller. If a person is disqualified from a nomination in accordance with this provision, then the nomination shall be awarded to the person whose name was printed upon the state primary election ballot of the party and who received the highest number of votes.

659:89 Publication of Result; Personal Notice. After the declarations required by RSA 659:86 and 659:87 have been made:

I. The secretary of state shall:

(a) publish in some paper of general circulation throughout the state the names of the persons nominated by each political party or elected delegates to the state party convention;

(b) cause a copy of said paper to be mailed to each such person who was nominated by each political party;

(c) cause a copy of such paper to be mailed to each town or city clerk;

(d) notify in writing of his nomination each person nominated by write-in vote at the primary for an office voted for in more than one town or ward.

II. The clerk of each town or city shall, upon receipt of the copy of the publication provided for in paragraph I (c), notify in writing each person nominated by write-in vote for the office of state representative or elected delegate to a state party convention from a district containing only such town or only one ward within such city. A copy of the notice shall be forwarded immediately to the secretary of state.

659:90 Acceptance of Nomination by Write-In Vote. Persons nominated by write-in vote shall accept their nominations as follows:

I. A person notified in writing of his nomination by the secretary of state as required by RSA 659:89, I, shall advise the secretary of state in writing if he wishes to accept the nomination. If such acceptance of nomination is not received by the secretary of state within 6 days from the date of the publication of the result of the primary as provided in RSA 659:89, I, the person shall be deemed to have refused the nomination; and his name shall not appear on the official ballot as a candidate for the office.

II. A person notified in writing of his nomination by the town or city clerk as required by RSA 659:89, II, shall advise the secretary of state in writing if he wishes to accept the nomination. If such acceptance of nomination is not received by the secretary of state within 6 days from the date of the publication of the result of the primary as provided in RSA 659:89, I, the person shall be deemed to have refused the nomination; and his name shall not appear on the official ballot as a candidate for the office. Provided, however, the secretary of state shall not strike a candidate's name if he has not received evidence that notice was sent to the candidate pursuant to the provisions of RSA 659:89, II.

III. In the event that the secretary of state has received neither the acceptance of the candidate nor the evidence of notice within the 6 day period, the secretary of state shall contact the candidate to gain his acceptance or refusal of candidacy. If for any reason the person cannot be contacted by the deadline

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primary as provided in RSA 659:87. Thereupon the secretary of state shall determine whether such person declines the nomination which such person declines in accordance with RSA 655:37 except that all the necessary affidavits shall be filed no later than the date the vacancy was declared.

Canvass and Declaration

659:92 Canvass; Publication of Results. After the secretary of state has received the returns for the office of state representative, he shall examine, record and publish the results in some paper of general circulation.

659:93 Apportionment of Delegates

I. The secretary of state shall determine the proportion of the total votes cast for each political party, rounded to the nearest whole number.

II. A presidential candidate may be elected if he receives a share of the apportioned delegates equal to or greater than the number of delegates apportioned to his party.

III. In the event the apportionment of delegates leaves one or more delegates undistributed, said delegates shall be distributed to that party with the highest number of votes.

IV. Only one alternate for each candidate shall be elected.

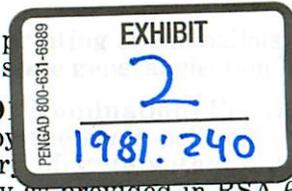
V. After determining the apportionment of delegates, the secretary of state shall determine the number of delegates to be elected by each presidential candidate.

VI. If a presidential candidate is elected, the result of the presidential primary shall be certified at any time prior to the convention of the party and each delegate is bound to vote for the party who may be his choice as a delegate.

659:94 Write-In Vote. If a presidential candidate receives 10 percent or more of the total votes cast for the party, the secretary of state shall determine the number of delegates to be elected by that party and the person shall then select the number of delegates entitled according to RSA 659:93. The certification provided for in RSA 659:94 shall be filed with the secretary of state.

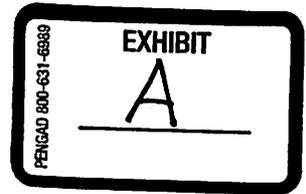
Preservation of Ballots

659:95 Sealing and Certification of Ballots. After the election has been made, the moderator of the election, the secretary of state, and the moderator of the town or ward, shall place the cast, cancelled

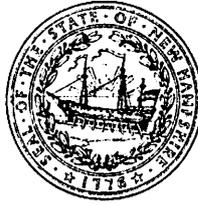


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ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Michael A. Delaney

SUBJECT: Voting Rights Act – Submission of a request for preclearance of 2010 changes to New Hampshire Voting laws and procedures

DATE: July 19, 2010

RELEASE TIME: Immediate

Contact: Deputy Attorney General Bud Fitch (603) 271-1238

Attorney General Michael A. Delaney announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance. Submissions will be made over the next several weeks until all 2010 changes to New Hampshire's election laws have been submitted.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Delaney and the federal Department of Justice We invite persons interested in pending submissions to submit comments and information, in writing or by telephone, to the Voting Section of the Civil Rights Division at the earliest possible date to assure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7254 - NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington D.C. 20530 (the envelope and first page should be marked "Comment under Section 5"). Further information on the federal Department of Justice's Voting Rights Section can be found at:

<http://www.justice.gov/crt/voting/>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov

A Letter describing the historical circumstances of the ten New Hampshire towns becoming subject to the Voting Rights Act preclearance requirements, originally sent to the federal Department of Justice in 2004, is available at:

<http://www.doj.nh.gov/elections/>

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