

**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: July 19, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:  
Laws of 2010, Chapter 50

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 2010, Chapter 50**, relative to declarations of candidacy and intent by presidential candidates, for preclearance by the U.S. Department of Justice.

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 2010, Chapter 50, amending RSA 655:47; RSA 655:17-b. See Attached Exhibit 2010:50 #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**(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).**

RSA 655:47 See Attached Exhibit 2010:50 #2

RSA 655:17-b See Attached Exhibit 2010:50 #3

**(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.**

This change inserts the presidential qualifications established in the United States Constitution into New Hampshire law, thereby requiring a candidate to swear under penalties of perjury that he or she meets those constitutional qualifications.

Note: This act has a contingency clause which selects one of two versions of the language of RSA 655:17-b contingent on the passage of HB1150. That legislation was passed, therefore, section 2 of this act does not become effective and section 3 does become effective. The change to law enacted by HB1150 is being submitted simultaneously for preclearance – see submission 2010:19.

Section 1 inserts this language in the form a person would complete who is a candidate for his or her party's nomination through the Presidential Primary process. Section 3 inserts this language in the form a person would complete who intends to gather nominating papers to qualify for general election ballot access as what is commonly referred to as a third party candidate.

**(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.**

May 18, 2010.

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

July 17, 2010.

**(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 not been enforced or administered.

**(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.**

This change gives notice to persons seeking the office of President of the United States by filing to run in the New Hampshire Presidential Primary or seeking ballot access by nominating papers that they must comply with the qualifications for that Office set forth in the United States Constitution. Furthermore, it establishes a crime under New Hampshire law of falsely claiming such qualifications.

**(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**

RSA 655:47 was precleared for changes through 1979 on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582. Changes between 1979 and this change are being submitted for preclearance simultaneously with this submission, see submission RSA 655:47.

RSA 655:17-b was precleared on 12/8/05 by Department of Justice non-objection letter 2005-4328.

**(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**

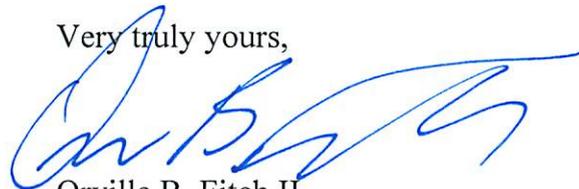
None.

**§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  
492673.doc

CHAPTER 50  
HB 1245 – FINAL VERSION



03Mar2010... 0353h

03Mar2010... 0595h

28Apr2010... 1557eba

2010 SESSION

10-2043

03/09

HOUSE BILL *1245*

AN ACT relative to declarations of candidacy and intent by presidential candidates.

SPONSORS: Rep. L. Christiansen, Hills 27

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill modifies the declaration of candidacy and the declaration of intent to be filed by candidates for president by inserting the presidential qualifications contained in the United States Constitution.

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Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03Mar2010... 0353h

03Mar2010... 0595h

28Apr2010... 1557eba

10-2043

03/09

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to declarations of candidacy and intent by presidential candidates.

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

50:1 Presidential Nominations; Declaration of Candidacy. Amend RSA 655:47, I to read as follows:

I. The names of any persons to be voted upon as candidates for president at the presidential primary shall be printed on the ballots upon the filing of declarations of candidacy with the secretary of state in the following form and signed by the candidate:

I, \_\_\_\_\_, *swear under penalties of perjury that I am qualified to be a candidate for president of the United States pursuant to article II, section 1, clause 4 of the United States Constitution, which states, "No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."* I further declare that I am domiciled in \_\_\_\_\_, in the city (or town or unincorporated place) of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, [~~and meet the qualifications for the office of president;~~] that I am a registered member of the \_\_\_\_\_ party; that I am a candidate for nomination for the office of president to be made at the primary election to be held on the \_\_\_\_\_ day of \_\_\_\_\_; and I hereby request that my name be printed on the official primary ballot of said \_\_\_\_\_ party as a candidate for such nomination.

~~50:2 Declarations of Intent; Presidential Candidates. Amend RSA 655:17-b, II to read as follows:~~

~~II. I, \_\_\_\_\_, *swear under penalties of perjury that I am qualified to be a candidate for president of the United States pursuant to article II, section 1, clause 4 of the United States Constitution, which states, "No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."* I further declare that I am domiciled in the city (or town or unincorporated place) of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, and am a qualified voter therein; that I intend to be a candidate for the office of \_\_\_\_\_ to be chosen at the general election to be held on the \_\_\_\_\_ day of \_\_\_\_\_; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said~~

*DID NOT TAKE EFFECT - SEE CONTINGENCY*

office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

50:3 Contingent Version; Declarations of Intent; Presidential Candidates. Amend RSA 655:17-b, II to read as follows:

II. I, \_\_\_\_\_, *swear under penalties of perjury that I am qualified to be a candidate for president of the United States pursuant to article II, section 1, clause 4 of the United States Constitution, which states, "No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."* I further declare that I am domiciled in the city (or town or unincorporated place) of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, and am a qualified voter therein; that I intend to be a candidate for the office of president to be chosen at the general election to be held on the \_\_\_\_\_ day of \_\_\_\_\_; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

50:4 Contingency. If HB 1150 of the 2010 regular session of the general court becomes law, then section 3 of this act shall take effect 60 days after its passage and section 2 of this act shall not take effect. If HB 1150 of the 2010 regular session of the general court does not become law, then section 2 of this act shall take effect 60 days after its passage and section 3 of this act shall not take effect.

50:5 Effective Date.

I. Sections 2-3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Approved: May 18, 2010

Effective Date: I. Sections 2-3 shall take effect as provided in section 4.

II. Remainder shall take effect July 17, 2010

# TITLE LXIII ELECTIONS

## CHAPTER 655 NOMINATIONS

### Presidential Nominations

#### Section 655:47

**655:47 Declaration of Candidacy. –**

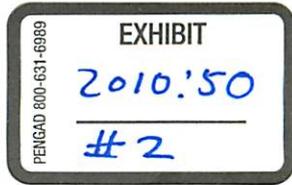
I. The names of any persons to be voted upon as candidates for president at the presidential primary shall be printed on the ballots upon the filing of declarations of candidacy with the secretary of state in the following form and signed by the candidate:

I, \_\_\_\_\_, declare that I am domiciled in \_\_\_\_\_, in the city (or town or unincorporated place) of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, and meet the qualifications for the office of president; that I am a registered member of the \_\_\_\_\_ party; that I am a candidate for nomination for the office of president to be made at the primary election to be held on the \_\_\_\_\_ day of \_\_\_\_\_; and I hereby request that my name be printed on the official primary ballot of said \_\_\_\_\_ party as a candidate for such nomination.

II. Declarations of candidacy shall be filed between the first Monday in November and the third Friday in November, or during such other time period as the secretary of state shall announce.

III. The decision of the secretary of state as to the regularity of declarations of candidacy filed under this section shall be final.

**Source.** 1979, 436:1. 1983, 298:1. 1994, 4:9. 1999, 161:3. 2006, 72:1, eff. June 26, 2006. 2009, 33:1, eff. July 14, 2009.

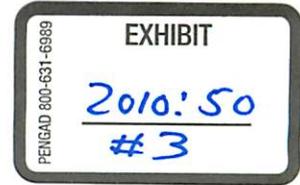


# TITLE LXIII ELECTIONS

## CHAPTER 655 NOMINATIONS

### Nominations by Primary

#### Section 655:17-b



#### **655:17-b Declaration of Intent; Presidential and Vice-Presidential Candidates Who File Nomination Papers. –**

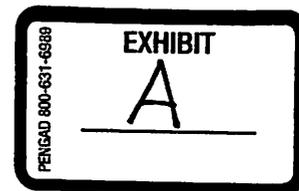
I. Declarations of intent for each candidate for president and vice-president who seeks nomination by nomination papers shall be in the form provided in paragraph II. Declarations of intent required by this section shall be filed with the secretary of state, signed by the candidate, and notarized by a notary public.

II. I, \_\_\_\_\_, declare that I am domiciled in the city (or town or unincorporated place) of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, and am a qualified voter therein; that I intend to be a candidate for the office of \_\_\_\_\_ to be chosen at the general election to be held on the \_\_\_\_\_ day of \_\_\_\_\_; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

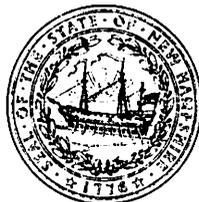
**Source.** 1985, 121:3, eff. July 19, 1985.

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MICHAEL A. DELANEY  
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ORVILLE B. "BUD" FITCH II  
DEPUTY ATTORNEY GENERAL

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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

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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 1-866-8868-3703  
or 1-866-VOTER03  
[electionlaw@doj.nh.gov](mailto: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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