

**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 26, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:
RSA 659:102

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 **RSA 659:102**, relative to Preservation of Checklists, 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 1994, Chapter 4, amending RSA 659:102. See Attached Exhibit RSA 659:102, #1

Laws of 1983, Chapter 426, amending RSA 659:102. See Attached Exhibit RSA 659:102, #2.

Laws of 1981, Chapter 510, amending RSA 659:102. See Attached Exhibit RSA 659:102, #3.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

Laws of 1979, Chapter 436:1. See Attached Exhibit RSA 659:102, #4.

(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.

The 1981 change sets a deadline of 10 days following the election for the supervisors to forward the copies of the checklist to the officials cited in the statute. References to repealed statutes were removed, however, there was no change in the practice required by this statute resulting from the repeal of the cited statutes. This change also changed one of the entities to receive a copy of the checklist from the State Library to the State Archives.

The 1983 change added the Presidential Primary as an election which triggers the duty to submit copies of the checklist to the listed entities. This change also limited the elections that trigger sending a copy of the checklist to the federal district court to that election at which the President of the United States is elected.

The 1994 change substituted a fixed day, the second Friday after the election, for "10 days following the election."

(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.

1981 change: June 29, 1981.
1983 change: June 24, 1983.
1994 change: March 28, 1994

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

1981 change: August 28, 1981.
1983 change: August 23, 1983.
1994 change: May 27, 1994

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

These changes to New Hampshire's voting laws have 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 of this statute as there is a 2010 change to this statute, preclearance for which is being sought simultaneously through submission 2010:172.

(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.

1981 Change: The reason for the 1981 change is to set a deadline for the submission of copies of the checklist, remove outdated references from the statute, and amend the recipient of one copy from the State Library to the State Archives to reflect the transfer of certain record preservation duties from the library to the archives.

1983 Change: The reason for the 1983 change is to require that copies of checklists from the Presidential Primary be submitted in accordance with the statute, but limiting the requirement to submit to the federal district court to checklists from just that election at which the President of the United States is elected.

1994 Change: The reason for the 1994 change is to provide a more easily understood deadline for making these submissions. Fixing the deadline date as the second Friday following the election eliminates the need to learn and apply the counting rules to determine what date is the day 10 days following the 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

RSA 659:102, as amended in 1979, was 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.

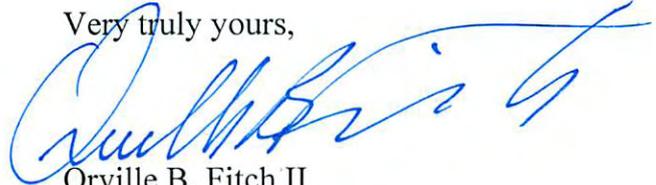
RSA 659:102

July 26, 2010

Page 6 of 6

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

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HOUSE BILL - FINAL VERSION

1994 SESSION 0835B

93-0492

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HOUSE BILL NO. 514

INTRODUCED BY: Rep. Gilmore of Straf 11; Rep. Flanagan of Rock 14

REFERRED TO: Constitutional and Statutory Revision

AN ACT amending the election laws relative to the political calendar and election ballots.

AMENDED ANALYSIS

This bill amends the statutory authorization for the secretary of state by specifying that the secretary of state's duties shall be those of both a legislative branch as well as an executive branch officer. The bill also changes the election laws by:

- (1) Amending the dates in the political calendar used by the secretary of state to administer the election laws.
- (2) Changing the number of state primary election ballots which must be furnished by the secretary of state to cities and towns.
- (3) Changing the time for placing and removing political advertising.
- (4) Changing certain penalty provisions for the violation of RSA 664.
- (5) Changing the fine which must be paid by candidates for the failure to file reports on political expenditures and contributions.
- (6) Clarifying which checklist shall be used at village district elections.
- (7) Changing the procedure for determining the qualifications of an applicant for voter registration.

EXPLANATION: Matter added appears in *bold italics*.

Matter removed appears in [brackets].

Matter which is repealed and reenacted or all new appears in regular type.

0835B

93-0492

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18feb93.....1374h

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CHAPTER 4

HOUSE BILL - FINAL VERSION

HB 514

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and ninety-four

AN ACT

amending the election laws relative to the political
calendar and election ballots.

Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:

~~4:1 Duties of Secretary of State. Amend RSA 5:1, I to read as follows:~~

~~I. There is hereby established a department of state under the executive direction of the secretary of state. The secretary of state shall be chosen biennially in the manner directed in the constitution and in accordance with RSA 14:2-b and shall hold office until a successor is elected and assumes the duties of the office. **The secretary of state's duties shall be those of both a legislative branch as well as an executive branch officer.** The penal sum of his bond shall be \$10,000, and the sureties upon it must be satisfactory to the governor and council.~~

~~4:2 Computation of Time Period. Amend RSA 652:18 to read as follows:~~

~~652:18 Days Excluded. When a period or limit of time is to be reckoned~~

4:17 Time for Forwarding Election Returns. Amend RSA 659:75 to read as follows:

659:75 Forwarding; Retaining Copies of Return. One copy of the election return shall be forwarded by the town or ward clerk to the secretary of state [within 5 days after] **no later than the Monday following** a state election unless the secretary of state orders them sooner. The other shall be kept by the town or city clerk and shall be open to public inspection at reasonable times.

4:18 Time for Rejecting Nomination by Write-In Vote. Amend RSA 659:90 to read as follows:

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 10 days from] **by the second Friday following** the date of the primary, 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.

4:19 Time for Accepting Nomination; Incompatible Offices. Amend RSA 659:91 to read as follows:

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 5 days from] **no later than the Monday following** 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 [10 days from] **the second Friday following** the date of the primary.

4:20 Time for Sending Checklists to State Archives. Amend RSA 659:102 to read as follows:

659:102 Preservation of Checklists. [Within 10 days of the closing of the polls for] **No later than the second Friday after** each regular state general election, and for each presidential primary election, the supervisors of the checklist in the towns, and the corresponding officers in the cities, shall send one of the marked checklists which were used in that election, certified by the officers, to the state archives. In addition, they shall send one of the unmarked checklists which were used in the state general election at which a president was elected to the clerk of the federal district court for the district of New Hampshire. One marked copy of every checklist used in any election shall be turned over to the town or city clerk by the supervisors. The clerk shall preserve such checklists in his custody for a public record

for a period of no less than 5 years.

4:21 Time for Applying for Recount. Amend RSA 660:1 to read as follows:

660:1 Application. Any candidate for whom a vote was cast for any office at a state general election may apply for a recount. The application shall be made in writing to the secretary of state and shall be submitted [before the expiration of 5 days after] **no later than the Monday following** the election. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be greater than one percent of the total vote cast for that office, the applying candidate shall agree in writing with the secretary of state to pay the full expense of the recount. In such case,

the applying candidate shall deposit with the secretary of state an amount of money reasonably estimated to cover such expenses.

4:22 Time for Applying for Recount. Amend RSA 660:7 to read as follows:

660:7 Application. Any person for whom a vote was cast for any nomination of any party at a state or presidential primary may apply for a recount. The application shall be made in writing to the secretary of state and shall be submitted [not later than 5 days] **no later than the Monday** after the primary for a recount of all ballots cast for such nomination. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2. If the difference between the vote cast for the applying candidate and another candidate who was declared nominated or who qualified for at least one delegate under RSA 659:93 or who qualified for federal election funding shall be greater than one percent of the total vote cast for that office, the applying candidate shall agree in writing with the secretary of state to pay the full expense of the recount. In such case, the applying candidate shall deposit with the secretary of state an amount of money reasonably estimated to cover such expenses.

4:23 Time to Petition for Recount of Constitutional Amendment Ballots. Amend RSA 660:10 to read as follows:

660:10 Application. Upon receipt of petitions of 100 voters made [within 25 days of] **no later than the fourth Friday following** the date of the election, the secretary of state shall recount the ballots cast on any question to amend the constitution if the proposal was adopted or failed by no more than one percent of the vote cast. The recount shall take place at any suitable state facility in the city of Concord as may be

designated by the secretary of state and under such rules of procedure as he shall determine and at such time as he may appoint. [The secretary of state shall publish a notice of the time and place of the recount twice in a newspaper of general circulation throughout the state.]

4:24 Time for Holding Recount of County Referendum Ballots. Amend RSA

any 5 voters may make written complaint to any judge of the district or municipal court, stating only that in their belief the law against bribery in elections has been violated in connection therewith, and asking for an inquiry concerning such violation and naming the witnesses whom they desire to have examined, and there upon such judge shall immediately proceed to make such inquiry; and for that purpose he may issue his subpoena, or compulsory process, if necessary, to the witnesses named

and to any others, and may examine them in the same manner as he might upon a complaint in a criminal proceeding before him; and the powers, duties and liabilities of the judge and witnesses shall be the same as in such case.

4:31 Time for Filing Period Under Non-Partisan Ballot System. Amend RSA 669:19 to read as follows:

669:19 Nominations; Non-Partisan Ballot System. In a town which has adopted the non-partisan ballot system as provided in RSA 669:13, all candidates shall file a declaration of candidacy with the town clerk during the filing period for town candidates. Such filing period shall [be 10 days in duration, beginning on the seventh Wednesday] **begin on the seventh Wednesday and end on the Friday of the following week** before the town election. Such declaration of candidacy shall be prepared by the town clerk in substantially the following form: I,, declare that I am domiciled in the town of, and that I am a registered voter therein; that I am a candidate for the office of and hereby request that my name be printed on the official non-partisan ballot of the town of At the time of said filing, each candidate shall pay to the town clerk a filing fee of \$1 for the use of the town, provided that a candidate for a town office which carries no salary or other compensation shall be entitled to file his declaration without the payment of a filing fee.

4:32 Time for Applying for Recount in Town Election. Amend RSA 669:30 to read as follows:

669:30 Recounts; Application. [If any] **Any** person for whom a vote was cast and recorded for any office at a town election [shall, before the expiration of 3 days from the date of the] **may, no later than the Friday following the** election, apply in writing to the town clerk for a recount of the ballots cast for such office, the clerk shall appoint a time for the recount not earlier than 5 days nor later than 10 days after the receipt of said application.

4:33 Checklist Used at Village District Elections. Amend RSA 670:3 to read as follows:

670:3 Voters and Checklists. Any person having his domicile within the village district and qualified to vote as provided in RSA 654:1, 654:2 and 654:4-654:6 and whose name is on the village district checklist shall be entitled to vote in any village district election. [Upon petition of 10 or more such voters to the supervisors of the town

~~checklist, acting as supervisors of the village district checklist, before any meeting, the supervisors shall prepare, post, and correct a checklist of the legal voters of the district, in the same manner as provided in RSA 654:25-654:31, except that the session required by RSA 654:27 to be held 3 weeks before the election shall not be required.] **An updated checklist shall be used at all village district elections and meetings for the same purposes as checklists are used by towns as provided in RSA 669:5.** Such checklist or checklists, if the district is located in more than one town, shall be used in the election of district officers.~~

~~4:34 Repeal. RSA 655:52, relative to filling vacancies among delegates of a presidential candidate, is repealed.~~

4:35 Effective Date. This act shall take effect 60 days after its passage.

Approved: March 28, 1994

Effective: May 27, 1994

~~659:92 Canvass; Publication. When, for each political party having an official presidential primary election ballot, the secretary of state has received the returns for the office of president from all towns and wards in the state, he shall examine, record and total such returns, which shall be a matter of public record.~~

426:11 Depositing Presidential Primary Checklist. Amend RSA 659:102 (supp) as inserted by 1979, 436:1 as amended by striking out said section and inserting in place thereof the following:

659:102 Preservation of Checklists. Within 10 days of the closing of the polls for each regular state general election, and for each presidential primary election, the supervisors of the checklist in the towns, and the corresponding officers in the cities, shall send one of the marked checklists which were used in that election, certified by the officers, to the state archives. In addition, they shall send one of the unmarked checklists which were used in the state general election at which a president was elected to the clerk of the federal district court for the district of New Hampshire. One marked copy of every checklist used in any election shall be turned over to the town or city clerk by the supervisors. The clerk shall preserve such checklists in his custody for a public record for a period of no less than 5 years.

~~**426:12 Clarification of Notice to Candidates.** Amend RSA 664:22 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:~~

~~**664:22 Notice to Candidates.** The secretary of state shall give or send by mail a copy of this chapter to each person whose name will be printed on a state primary or general election ballot. Such notification shall be given or sent within 5 days of the close of the filing period.~~

~~**426:13 Clarification of Office.** Amend RSA 668:4 (supp) as inserted by 1979, 436:1 by inserting in line 4 after the words "United States representative," the following (executive) so that said section as amended shall read as follows:~~

~~**668:4 Offices Voted For.** The offices for which inhabitants of unorganized places are entitled to vote shall include: Electors of the president and vice-president of the United States, United States senator, United States representative, executive councilor, state senator, state representative, and county offices. The inhabitants of the unorganized places are not entitled to vote for any town or ward offices or on any questions concerning the towns in which they vote.~~

~~**426:14 Vacancy for Office.** Amend RSA 655:37 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:~~

~~**655:37 Vacancy for Office on Party Ticket.** If, after the holding of a state primary election, a vacancy exists for any office on a party ticket, such vacancy may be filled as provided in this section. The appropriate party committee shall notify the secretary of state in writing of a person they designate to fill the vacancy. The person so designated shall, no later than 10 days following the primary election, file with the secretary of state a declaration of candidacy as provided in RSA 655:17 with the understanding that, where the form says primary election, it shall be construed to mean general election. If the candidate is designated for the office of governor, councilor, state senator or state representative, he shall also file, before the expiration of~~

10 days
655:29. the
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426:15 Reducing Number of S
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thereof the following:

656:18 Sample Ballots. The sec
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general election ballot. The sam
printed to each town or ward clerk
the town or ward within one day of
posted on the day of the election as

426:16 Reducing Number of S
658:26 (supp) as inserted by 197
inserting in place thereof the follo

658:26 Sample Ballots to be Po
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guardrail in the polling place. F
sample ballots to be posted. For the
cause 2 sample ballots of each part

426:17 Change In Notice of
inserted by 1979, 436:1 as amende
in place thereof the following:

659:89 Notice of Result. After
and 659:87 have been made, the se
I. Send a certified list of all elect
party committee;
II. Notify in writing of his nomi
vote at the primary.

426:18 Eliminating Publicatio
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in place thereof the following:

659:90 Rejection of Nominatio
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he wishes to reject the nominatio
received by the secretary of state w
the person shall be deemed to hav
shall appear on the official ballot as
the person cannot be contacted by t
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ballot.

426:19 Change in Filing and N
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in place thereof the following:



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EXHIBIT
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659:102

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appropriated the sum of \$30,000 for
expended by the committee estab-
such technical assistance as the
shall not lapse on June 30, 1981,
shall be used by the committee for
sum remaining on June 30, 1983,
with his warrant for said sum out of
appropriated.

effect upon its passage.

3B 47)

AND TO PRESERVATION OF
LECTIONS.

representatives in General Court

RSA 660:1 (supp) as inserted by
inserting in place thereof the

When a vote was cast for any office at
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be submitted before the expira-
date requesting a recount shall
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660:3 and shall agree in writing
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expenses.

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1981]

CHAPTER 510

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510:3 Different Result upon Recount. Amend RSA 660:9 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

660:9 Declaration of Result, State Primary. If the recount after a state primary election shall show that some candidate other than the one declared nominated upon the original canvass of votes has the greatest number of votes cast for the nomination, such candidate shall be declared nominated and shall be placed upon the official ballot at the following election unless appeal is taken to the ballot law commission in accordance with RSA 665:4, I. If the person who applied for the recount was thereby shown to be the one chosen as the candidate of his party, he shall also have any fee paid returned.

660:9-a Declaration of Result, Presidential Primary. If the recount after a presidential primary election shall show that the applying candidate qualified under RSA 659:93 for at least one more delegate than the original count indicated or that such candidate did qualify for federal election funding, such candidate shall receive such funding or shall be apportioned delegates to the national party convention in accordance with RSA 659:93 unless appeal is taken to the ballot law commission in accordance with RSA 665:4, I. If the person who applied for the recount was thereby shown to be entitled to federal funding or at least one more delegate under RSA 659:93, he shall also have any fee paid returned.

510:4 State Police to Collect Ballots. Amend RSA 660:5 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

660:5 Conduct of Recount. If directed by the secretary of state, the state police shall collect all ballots requested from the town or city clerks having custody of them and shall deliver them to the public facility designated by the secretary of state. At the time and place so appointed, the ballots cast for such office shall be counted by the secretary of state and such assistants as he may require. The candidates, their counsel and assistants shall have the right to inspect the ballots and participate in the recount under such suitable rules as the secretary of state may adopt. Each candidate or his counsel shall have the right to protest the counting of or failure to count any ballot. The secretary of state shall thereupon rule on said ballot and shall attach thereto a memorandum stating such ruling and the name of the candidate making the protest.

510:5 Checklist. Amend RSA 659:102 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

659:102 Preservation of Checklists. Within 10 days of the closing of the polls for each regular state general election, the supervisors of the checklist in the towns, and the corresponding officers in the cities, shall send one of the marked checklists which were used in that election, certified by the officers, to the state archives and one of the unmarked checklists which were used in that election to the clerk of the federal district court for the district of New Hampshire. One marked copy of every checklist used in any election shall be turned over to the town or city clerk by the supervisors. The clerk shall preserve such checklists in his custody for a public record for a period of no less than 5 years.

510:6 Service Terminated. Amend RSA 201-A:2, III as inserted by 1963, 21:1 by striking out said paragraph and inserting in place thereof the following:

III. GENERAL REFERENCE SERVICE. A collection of books and related materials necessary for an adequate reference service to provide for the needs

from any additional polling places, and further including the successfully challenged absentee ballots still contained in their envelopes, in the containers provided by the secretary of state as required by RSA 659:97 and shall seal each such container with the sealer provided by the secretary of state as required by RSA 659:97. The moderator or his designee shall then enter in the appropriate blanks on such sealer on each container the number of cast, cancelled and uncast ballots in such container and shall endorse in the appropriate place on such sealer a certificate in substance as follows: Enclosed are the ballots from the state election in the town of _____ (or in ward _____ in the city of _____) held on _____, 19 _____, required by law to be preserved. The moderator and the selectmen shall sign their names in the appropriate blanks on the sealer.

659:96 Ballots for Constitutional Amendments. If a question to voters is submitted to the vote of the people on a special and separate ballot as provided in RSA 663:1, then those ballots shall be sealed and certified in a separate container as provided in RSA 659:95 except as provided in RSA 659:97.

659:97 Secretary of State to Prepare Containers, Sealers. The secretary of state shall, before any state election, prepare and distribute to each town and ward clerk containers to be used for preserving ballots and sealers to seal each such container. He shall prepare special containers and sealers to be used for preserving any special and separate ballots for questions to voters. The secretary of state shall prescribe the size and form of such containers and sealers and shall prescribe the form of any endorsement blank printed upon the sealers provided that the blank is in substance consistent with the provisions of RSA 659:95.

659:98 Delivery of Ballots to Town Clerk. The moderator, or his designee, and the selectmen, after they have sealed and certified the state election ballots as provided in RSA 659:95 and 96 shall deliver the sealed containers to the town or city clerk, or to his designee, who shall in their presence enter in the appropriate place on each sealer the time of day and shall sign his name in the appropriate blank on the sealer. The clerk or his designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the office of the town or city clerk who shall keep the ballots for a period of 60 days.

659:99 Forwarding Ballots to the Secretary of State. If any person shall make a request for a recount as provided in RSA 660 the clerk having the custody of such ballots shall, at the request of the secretary of state, forward the ballots forthwith to the secretary of state.

659:100 Destruction of Ballots. All state election ballots remaining in the possession of the town or city clerk shall be destroyed at the expiration of 60 days after a state election.

659:101 Preservation of Absentee Voting Materials. The affidavit envelopes and application forms processed by the moderator as provided in RSA 659:50 shall be preserved in the same manner as provided in RSA 659:95 - 100 for the preservation of official state election ballots.

659:102 Preservation of Checklist Marked at State Election. A marked copy of the checklist used in each state general election shall be sent by the supervisors to the state library in accordance with RSA 201-A:18, II. An unmarked copy of the checklist used in each state general election shall be sent by the supervisors to the federal district court for the district of New Hampshire in accordance with RSA 201-A:18, II. One marked copy of every check-

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challeng

clerk for at least 1 year following t
elections, all affidavits shall be retain
settled and all appeals periods have
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POST-ELECT

State General

660:1 Application. Any candidate a state general election may apply for in writing to the secretary of state a tion of 10 days after the election. Ea pay the secretary of state fees as pro difference between the vote cast for declared elected shall be greater than office, the applying candidate shall petitions of qualified voters as pro petitions or fee or both herein require the secretary of state to pay the full c he shall deposit with the secretary e estimated to cover such expenses.

660:2 Fees. The fee for a recount president, United States senator or ; sentative, \$250; for councilor, \$150; for state representative, \$20.

660:3 Number of Petitions. The r recount shall be as follows but shall vote cast for that office: for preside -2,500; for United States representat a county officer - 1,000; for state rep

660:4 Time and Notice. Upon s provided in RSA 660:1, the secreta recount not later than 10 days after r take place at any suitable state fa designated by the secretary of state thereof to the applicant and to each practicable. The secretary of state : applicant and to each of the opposi governing the recount prior to its co

660:5 Conduct of Recount. The town or city clerks having custody o cant appears forward such ballots fo clerks shall immediately forward s appointed, the ballots shall be cour assistants as he may require. The c shall have the right to inspect the bal such suitable rules as the secretary o counsel shall have the right to protes

d further including the successfully
 ed in their envelopes, in the containers
 quired by RSA 659:97 and shall seal
 rovided by the secretary of state as
 or his designee shall then enter in the
 each container the number of cast,
 container and shall endorse in the
 certificate in substance as follows:
 election in the town of _____ (or in
 city of _____) held
 required by law to be preserved. The
 their names in the appropriate blanks

endments. If a question to voters is
 ecial and separate ballot as provided
 ce sealed and certified in a separate
 cept as provided in RSA 659:97.

e Containers, Sealers. The secretary
 prepare and distribute to each town
 preserving ballots and sealers to seal
 ecial containers and sealers to be used
 e ballots for questions to voters. The
 ize and form of such containers and
 ny endorsement blank printed upon
 substance consistent with the provi-

erker. The moderator, or his designee,
 iled and certified the state election
 shall deliver the sealed containers to
 , who shall in their presence enter in
 time of day and shall sign his name in
 e clerk or his designee shall, without
 ing the condition of the containers,
 town or city clerk who shall keep the

ecretary of State. If any person shall
 ed in RSA 660 the clerk having the
 est of the secretary of state, forward
 state.

ate election ballots remaining in the
 be destroyed at the expiration of 60

oting Materials. The affidavit enve-
 y the moderator as provided in RSA
 nner as provided in RSA 659:95 - 100
 tion ballots.

arked at State Election. A marked
 general election shall be sent by the
 rdance with RSA 201-A:18, II. An
 ch state general election shall be sent
 court for the district of New Hamp-
 II. One marked copy of every check-

list used in any election shall be turned over to the town or city clerk by the
 supervisors. The clerk shall preserve such checklists in his custody for a
 public record for a period of no less than 5 years.

659:103 Preservation of Challenge Affidavits. The affidavits made by
 challenged voters as provided in RSA 659:27 shall be preserved by the town
 clerk for at least 1 year following the date of a state election. In contested
 elections, all affidavits shall be retained by the town clerk until the contest is
 settled and all appeals periods have expired or for at least 1 year, whichever is
 longer.

CHAPTER 660

POST-ELECTION PROCEDURE

State General Election Recounts

660:1 Application. Any candidate for whom a vote was cast for any office at
 a state general election may apply for a recount. The application shall be made
 in writing to the secretary of state and shall be submitted before the expira-
 tion of 10 days after the election. Each candidate requesting a recount shall
 pay the secretary of state fees as provided in RSA 660:2 provided that if the
 difference between the vote cast for the applying candidate and a candidate
 declared elected shall be greater than one percent of the total vote cast for that
 office, the applying candidate shall also submit the appropriate number of
 petitions of qualified voters as provided for in RSA 660:3. In lieu of the
 petitions or fee or both herein required, a candidate may agree in writing with
 the secretary of state to pay the full expense of the recount; and, in such case,
 he shall deposit with the secretary of state an amount of money reasonably
 estimated to cover such expenses.

660:2 Fees. The fee for a recount shall be as follows: for a candidate for
 president, United States senator or governor, \$500; for United States repre-
 sentative, \$250; for councilor, \$150; for a county officer or state senator, \$50;
 for state representative, \$20.

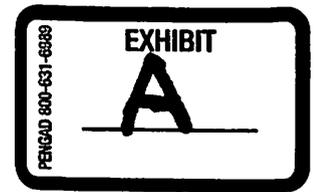
660:3 Number of Petitions. The number of petitions to be submitted for a
 recount shall be as follows but shall in no case exceed 10 percent of the total
 vote cast for that office: for president, United States senator, or governor
 - 2,500; for United States representative - 1,500; for councilor, state senator or
 a county officer - 1,000; for state representative - 150.

660:4 Time and Notice. Upon satisfactory application for a recount as
 provided in RSA 660:1, the secretary of state shall appoint a time for the
 recount not later than 10 days after receipt of the application. A recount shall
 take place at any suitable state facility in the city of Concord as may be
 designated by the secretary of state. The secretary of state shall give notice
 thereof to the applicant and to each of the opposing candidates as soon as
 practicable. The secretary of state shall also prepare and distribute to the
 applicant and to each of the opposing candidates the rules and procedures
 governing the recount prior to its commencement.

660:5 Conduct of Recount. The secretary of state shall request that all
 town or city clerks having custody of ballots on which the name of the appli-
 cant appears forward such ballots forthwith to the secretary of state, and the
 clerks shall immediately forward such ballots. At the time and place so
 appointed, the ballots shall be counted by the secretary of state and such
 assistants as he may require. The candidates, their counsel and assistants
 shall have the right to inspect the ballots and participate in the recount under
 such suitable rules as the secretary of state may adopt. Each candidate or his
 counsel shall have the right to protest the counting of or failure to count any

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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MICHAEL A. DELANEY
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Michael A. Delaney

SUBJECT: Voting Rights Act – Submissions of requests 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. The State has submitted preclearance requests for most of the changes made to New Hampshire voting law and is in the process of completing that updating of preclearance.

Federal regulations require that the public be notified that the State has filed requests for preclearance and that the submissions 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 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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