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FAX COVER SHEET

To: Chris Herren, Chief, Voting Section

From: J. Gerald Hebert

Date: July 5, 2012

Subject: Preclearance Submission by State of New Hampshire.
NH Laws c. 285 (SB 318)

Message: see attached

Pages transmitted (including this cover sheet): 11

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July 5, 2012

Via facsimile to (202) 616-9514

T. Christian Herren
Chief, Voting Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, N.W., Room 7354-NWB
Washington, D.C. 20530

Re: N.H. Laws 2012, c. 285 (SB 318) (voter registration)
Submission under Section 5
Expedited consideration requested

Dear Mr. Herren:

As you know, Mr. J. Gerald Hebert and I represent the State of New Hampshire in its effort to perfect compliance with Section 5 of the Voting Rights Act. This letter submits one of several 2012 enactments of the New Hampshire General Court for Section 5 review: N.H. Laws 2012, c. 285 (Senate Bill 318), which modifies forms and procedures for voter registration.

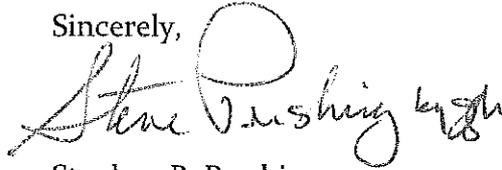
We request expedited consideration of this submission, as we are attempting to make our Section 5 compliance complete in anticipation of a "bailout" action under Section 4(a) of the Voting Rights Act, 28 U.S.C. 1973b(a), and 28 C.F.R. 51.64. To the best of our knowledge, this letter makes one of the last of the Section 5 submissions necessary to that effort.

Chapter 285 was enacted by the New Hampshire General Court, our state legislature, by means of overrides of a gubernatorial veto, on June 27, 2012. The legislation takes effect on August 26, 2012. The legislature acted here by authority of N.H. Const. Pt. I, Arts. 2 and 5, and Pt. II, Art. 44 (veto overrides). Attached to this letter is a copy of Chapter 285 as enacted, showing all changes this legislation made to existing law.

Chapter 285 will have no special or adverse effect on any person or class of persons protected by Section 5. No known litigation concerns Chapter 285. The State has no further material to present at this time regarding this enactment.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Stephen B. Pershing" with a stylized flourish at the end.

Stephen B. Pershing

cc: J. Gerald Hebert, Esq.
Matthew Mavrogeorge, Esq.

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03/21/12 1132s
03/21/12 1301s
15May2012... 2101h
15May2012... 2223h
06/06/12 2409CofC

12-2983
03/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to voter registration.

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

1 285:1 Voter, Office Holder; Claim of Domicile. Amend RSA 654:1, I to read as follows:

2 I. Every inhabitant of the state, having a single established domicile for voting purposes,
3 being a citizen of the United States, of the age provided for in Article 11 of Part First of the
4 Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town,
5 ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting
6 purposes is that one place where a person, more than any other place, has established a physical
7 presence and manifests an intent to maintain a single continuous presence for domestic, social, and
8 civil purposes relevant to participating in democratic self-government. A person has the right to
9 change domicile at any time, however a mere intention to change domicile in the future does not, of
10 itself, terminate an established domicile before the person actually moves. [~~A person's claim of
11 domicile for voting purposes shall not be conclusive of the person's residence for any other legal
12 purpose.~~]

13 285:2 Voter Registration. Amend RSA 654:7 to read as follows:

14 654:7 *Voter Registration*; Voter Registration Form.

15 I. *Any person registering to vote shall be:*

16 (a) *At least 18 years of age on the day of the election; and*

17 (b) *A United States citizen; and*

18 (c) *Domiciled in the town or city in which the applicant is registering to vote
19 and not otherwise disqualified to vote.*

20 II. *The applicant shall be required to produce appropriate proof of qualifications
21 as provided in RSA 654:12 and fill out the form as prescribed in paragraph IV.*

22 III. *If an applicant is unable to provide the proof of qualifications as required in
23 RSA 654:12, he or she may register by completing the necessary affidavits, pursuant to
24 RSA 654:12, and completing the form in paragraph IV.*

25 IV. A standard registration application form shall be used throughout the state. The
26 registration form shall be no larger than 8 1/2 inches by 11 inches. The secretary of state shall

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1 prescribe the form of the voter registration form, which shall be in substantially the following form:
2 Date _____

3 VOTER REGISTRATION FORM
4 (Please print or type)

5 1. Name _____
6 Last (suffix) First Full Middle Name

7 2. Domicile Address _____
8 Street Ward Number
9 _____
10 Town or City Zip Code

11 3. Mailing Address if different than in 2 _____
12 Street Ward Number
13 _____
14 Town or City Zip Code

15 4. Place and Date of Birth _____
16 Town or City State
17 Date _____

18 5. If a naturalized citizen, give name of court where and date when naturalized
19 _____

20 6. Place last registered to vote _____
21 Street Ward Number

22 7. Name under which previously registered, if different from above
23 _____

24 8. Party Affiliation (if any) _____

25 9. Driver's License Number _____ State _____

26 If you do not have a valid driver's license, provide the last four digits of your social security number
27 _____

28 My name is _____. I am today registering to vote in the city/town of
29 _____, New Hampshire.

30 I understand that to vote in this city/town, I must be at least 18 years of age, I must be a
31 United States citizen, and I must be domiciled in this city/town.

32 ~~[I understand that I can claim only one city/town as my domicile at a time. A domicile is that~~
33 ~~place, more than any other, where I sleep most nights of the year, or to which I intend to return after~~
34 ~~a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote~~
35 ~~or voting in any other city/town.]~~

36 *I understand that a person can claim only one state and one city/town as his or her*

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1 *domicile at a time. A domicile is that place, to which upon temporary absence, a person*
2 *has the intention of returning. By registering or voting today, I am acknowledging that I*
3 *am not domiciled or voting in any other state or any other city/town.*

4 *In declaring New Hampshire as my domicile, I am subject to the laws of the state of*
5 *New Hampshire which apply to all residents, including laws requiring a driver to register*
6 *a motor vehicle and apply for a New Hampshire's driver's license within 60 days of*
7 *becoming a resident.*

8 *In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in*
9 *the state or federal elections in another state.*

10 *If I have any questions as to whether I am entitled to vote in this city/town, I am aware*
11 *that a supervisor of the checklist is available to address my questions or concerns.*

12 I acknowledge that I have read and understand the above qualifications for voting and do hereby
13 swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-
14 stated city/town, and, if registering on election day, that I have not voted and will not vote at any
15 other polling place this election.

16

17 _____
Date Signature

18 In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false
19 information when registering to vote or voting is a class A misdemeanor with a maximum sentence
20 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to
21 vote or voting is subject to a civil penalty not to exceed \$5,000.

22 285:3 Qualified Voter Affidavit. Amend RSA 654:12, I(a) to read as follows:

23 (a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall
24 accept from the applicant any one of the following as proof of citizenship: the applicant's birth
25 certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter
26 affidavit, or any other reasonable documentation which indicates the applicant is a United States
27 citizen. The qualified voter affidavit shall be in the following form, and shall be retained in
28 accordance with RSA 33-A:3-a:

29 Date: _____

30 QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

31 Name: _____

32 Name at birth if different: _____

33 Place of birth: _____

34 Date of birth: _____

35 Date and Place of Naturalization: _____

36 *Domicile Address:* _____

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1 Town or City Zip Code
2 *Current Mailing Address (if different):* _____
3 Street Ward Number
4 _____
5 Town or City Zip Code

6 Date when current domicile was established: Month: ____ Year: ____

7 Place and date of birth: _____

8 Address of last previous domicile: _____

9 Street Ward Number

10 _____

11 Town or City Zip Code

12 I hereby swear and affirm, under the penalties for voting fraud set forth below, that *I am not*
13 *currently in possession of necessary documents to prove my domicile and that* my established
14 domicile is at the current domicile address I have entered above. I understand that *a person* can
15 claim only *one state and* one city/town as [my] *his or her* domicile at a time. A domicile is that
16 place, [~~more than any other, where I sleep most nights of the year, or~~] to which [~~I intend to return~~
17 ~~after a~~] *upon* temporary absence, *a person has the intention of returning*. By registering or
18 voting today, I [~~acknowledge~~] *am acknowledging* that I am not [~~registering to vote~~] *domiciled* or
19 voting in any other city/town, and that to the best of my knowledge and belief the information above
20 is true and correct.

21 _____

22 (Signature of applicant)

23 In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false
24 information when registering to vote or voting is a class A misdemeanor with a maximum sentence
25 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to
26 vote or voting is subject to a civil penalty not to exceed \$5,000.

27 On the date shown above, before me, _____ (print name of notary public, justice
28 of the peace, election officer), appeared _____ (print name of person whose signature
29 is being notarized), (known to me or satisfactorily proven (circle one) to be the person whose name
30 appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the
31 facts contained in this affidavit are true to the best of his or her knowledge and belief.

32 _____

33 Notary Public/Justice of the Peace/ Official Authorized by RSA 659:30

34 285:5 Voter Records. Amend RSA 654:12, V(a)-(b) to read as follows:

35 V.(a) The election official approving the application for registration as voter of a person who
36 does not present an approved form of photo identification as proof of identity when registering, shall

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1 mark the voter registration form to indicate that no photo identification was presented and shall
2 inform the person that, if he or she is a first-time election day registrant in New Hampshire, he or
3 she will receive a letter of identity verification. The person entering the voter information into the
4 centralized voter registration database shall determine if the person is listed in the system as having
5 been previously registered in the town or ward reported by the applicant on the voter registration
6 form. If the person is a new registrant who has not been previously registered anywhere in
7 New Hampshire or if the centralized voter registration database does not confirm a previous
8 registration claimed on the voter registration form, the election official shall cause the record created
9 in the centralized voter registration database to indicate that the person is a new applicant in
10 New Hampshire and that no photo identification was presented. When municipalities enter
11 information on people who register on election day into the centralized voter registration database,
12 to the extent practical applicants who are registering for the first time in New Hampshire and who
13 also register without presenting an approved photo identification shall be entered first. *The person*
14 *entering the voter information of election day residents into the centralized voter*
15 *registration database shall cause the records to indicate if the voter executed a domicile*
16 *affidavit.*

17 (b) The secretary of state shall cause a letter of identity verification to be mailed by first
18 class mail to each voter identified at [~~a state general~~] *any* election as a first-time election day
19 registrant in New Hampshire who also did not verify his or her identity with an approved photo
20 identification. The letter shall be mailed within [90] *60* days after the [general] election, *except*
21 *that if the election is a state primary election, the letter shall be mailed 60 days after the*
22 *general election, and if the election is a regularly scheduled municipal election, the letter*
23 *shall be mailed by the July 1 or January 1 next following the election.* The secretary of state
24 shall mark the envelope with instructions to the United States Post Office not to forward the letter
25 and to provide address correction information. The letter shall notify the person that a person who
26 was unable to present photo identification registered or registered and voted using his or her name
27 and address and instruct the person to return the letter within 45 days with a written confirmation
28 that the person registered and voted or to contact the attorney general immediately if he or she did
29 not register and vote. Any voter under a protective order pursuant to RSA 173-B, and whose name
30 does not appear on the checklist as provided under RSA 654:25, shall not be subject to the provisions
31 of paragraph V.

32 285:6 New Subparagraphs; Voter Registration; Domicile Verification. Amend RSA 654:12, V by
33 inserting after subparagraph (c) the following new subparagraphs:

34 (d) Within 90 days of each election, the secretary of state shall cause a list of persons
35 executing domicile affidavits since the prior election to be forwarded to the attorney general and the
36 division of motor vehicles. The secretary of state shall send a letter to each such person informing

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1 him or her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of
2 becoming a New Hampshire resident. The letter shall be mailed within 60 days after the election,
3 except that if the election is a state primary election, the letter shall be mailed 60 days after the
4 general election, and if the election is a regularly scheduled municipal election, the letter shall be
5 mailed by the July 1 or January 1 next following the election. The secretary of state shall mark the
6 envelope with instructions to the United States Post Office not to forward the letter and to provide
7 address correction information.

8 (e) The secretary of state shall cause any letters mailed pursuant to subparagraph (d)
9 that are returned as undeliverable by the United States Post Office to be referred to the attorney
10 general and the attorney general shall cause an investigation to be made to determine whether
11 fraudulent registration or voting occurred.

12 (f) Upon completion of any investigation authorized under this section, the attorney
13 general shall forward a report summarizing the results of the investigation to the speaker of the
14 house of representatives, the president of the senate, and the chairpersons of the appropriate house
15 and senate standing committees with jurisdiction over election law.

16 285:7 Qualifications of Voter Applicant; Identity. Amend RSA 654:12, III to read as follows:

17 III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration
18 as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship,
19 and domicile relate to the applicant. A person who has in his or her immediate possession a photo
20 identification approved for use by paragraph II must present that identification when applying for
21 registration. A person who does not have an approved photo identification with him or her may
22 establish identity through ~~[any reasonable means, including, but not limited to: photo identification~~
23 ~~not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or~~
24 ~~clerk, verification of the person's identity by another person registered as a voter and known to the~~
25 ~~supervisor or clerk, or]~~ completion of the qualified voter affidavit, which shall be retained in
26 accordance with RSA 33-A:3-a. Residents of a nursing home or similar facility may prove their
27 identity through verification of identity by the administrator of the facility or by his or her designee.
28 For the purposes of this section, the application of a person whose identity has been verified by an
29 official of a nursing home or similar facility shall be treated in the same manner as the application of
30 a person who proved his or her identity with a photo identification.

31 285:8 Effective Date. This act shall take effect 60 days after its passage.

32
33 Approved: Enacted in accordance with Article 44, Part II, N.H. Constitution, without signature of
34 governor, June 27, 2012.

35 Effective Date: August 26, 2012