

STATE OF NEW HAMPSHIRE  
HILLSBOROUGH COUNTY SUPERIOR COURT, SOUTHERN DIVISION  
Docket No. 226-2017-cv-00340

BETTE R. LASKY  
15 Masefield Rd., Nashua, NH 03062

and

NEAL KURK  
RR 1, Weare, NH 03281

and

AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE FOUNDATION  
18 Low Ave # 12, Concord, NH 03301

v.

THE STATE OF NEW HAMPSHIRE  
By its Secretary of State  
William Gardner  
(In his official capacity only)  
107 N Main St #112, State Office Building  
Concord, NH 03301

**VERIFIED AMENDED PETITION FOR PRELIMINARY INJUNCTION,  
DECLARATORY JUDGMENT, AND FINAL INJUNCTIVE RELIEF**

NOW COME Bette R. Lasky, Neal Kurk, and the American Civil Liberties Union of New Hampshire Foundation (collectively, the “Petitioners”) and respectfully petition the Court to issue a preliminary and permanent injunction and declaratory judgment barring the Defendant New Hampshire Secretary of State from disclosing statewide voter information to the Presidential Advisory Commission on Election Integrity absent the Secretary of State’s compliance with RSA 654:31(II)–(III).

**SUMMARY OF FACTS**

On Wednesday, June 28, 2017, the Vice Chair of the recently created Presidential Advisory Commission on Election Integrity (hereinafter, “the Commission”)—Kansas Secretary of State

Kris Kobach—sent letters to all 50 states and the District of Columbia, including New Hampshire, requesting a list of all registered voters (first and last name and middle initial), the last four digits of their social security numbers, their addresses, dates of birth, political party affiliation, and voting history from 2006 onward, as well as any information regarding felony convictions, military status, overseas voting, and registration in another state. The Commission—of which Defendant New Hampshire Secretary of State William Gardner is a member—acknowledged that any information sent to it “will also be made available to the public.” The Commission requested a response by July 14, 2017.

On Friday, June 30, 2017, the New Hampshire Secretary of State agreed to produce to the Commission statewide voter information that is deemed “public” under RSA 654:31-a and RSA 654:25. This information consists of each voter’s name, domicile address, mailing address, and party affiliation, if any. The Secretary of State also planned to produce “voter history” dating back to 2006, though this information is not viewed as public information under RSA 91-A (and political parties can only obtain this information “for the preceding 2 years”). *See* RSA 654:31-a; RSA 654:31(IV). The Secretary of State did not say whether he would charge the Commission for the statewide public checklist, though (i) political parties and political committees currently pay in excess of \$8,000 for this statewide information under RSA 654:31(IV), and (ii) any member of the public would be charged for receiving the public checklist on a municipality-by-municipality basis under RSA 654:31(II). As a result of the Secretary of State’s response, Petitioners filed this lawsuit on July 6, 2017, and a hearing on Petitioners’ request for a preliminary injunction was scheduled for July 11, 2017.

Meanwhile, on July 3, 2017, the Electronic Privacy Information Center filed a complaint seeking a Temporary Restraining Order (“TRO”) in connection with the June 28, 2017 letter sent

by the Commission requesting various voter information. See *Electronic Privacy Information Center v. Presidential Advisory Commission on Election Integrity*, 1:17-cv-1320 (CKK) (D.D.C. filed July 3, 2017) (hereinafter, “the DC Lawsuit”). On July 10, 2017, a representative of the Commission wrote to election officials in all 50 states—including Defendant Secretary of State—requesting that they not submit any data pursuant to the June 28, 2017 letter until the U.S. District Court for the District of Columbia rules on this TRO Motion. As the Defendant Secretary of State agreed to comply with the Commission's request, the parties stayed this action on July 11, 2017.

On July 24, 2017, the D.C. District Court denied without prejudice the request for a TRO. On July 25, 2017, the plaintiff in the DC Lawsuit filed a Notice of Appeal seeking expedited review, thereby rendering the TRO decision not final. On July 26, 2017, the Commission sent a letter renewing its request for voter information “that is already available to the public under the laws of your State.” The Commission now noted—in stark contrast to its June 28, 2017 letter—that it “will not publicly release any personally identifiable information regarding any individual voter or any group of voters from the voter registration records you submit.”

#### **SUMMARY OF ARGUMENT**

On July 27, 2017—in light of the Commission’s renewed request—counsel for the Secretary of State once again informed counsel for Petitioners that the Secretary intends to produce statewide voter information. This decision continues to be unlawful.

The Secretary of State has no statutory authority to release a copy of the statewide public checklist to anyone other than a political party, political committee, or candidate for New Hampshire office. See RSA 654:31(IV). Since the Commission is not a political party, political committee, or political candidate, the Secretary of State must comply with RSA 654:31(II)-(III), which places strict and binding requirements on how the State is to produce this “public” voter

information to all other persons and entities. These requirements allow requesters (i) only to view the statewide public checklist on the statewide centralized voter registration database at the state records and archives center during normal business hours where requesters are prohibited from printing, duplicating, transmitting, or altering the data and (ii) only to obtain hard copies of the public checklist from local municipalities on a town-by-town/ward-by-ward basis at a fee of at least \$25 per municipality or ward. *See* RSA 654:31(II)–(III).

These restrictions imposed by the legislature concerning who can obtain the statewide list (and how) exist for good reason: to protect voter privacy by limiting the prospect of mass dissemination of this statewide voter information, help ensure that voter information is only used for political purposes, and help prevent statewide information from ultimately being used for commercial purposes. RSA 654:31(VI)—consistent with New Hampshire’s “live free or die” libertarian streak—explicitly prohibits this information from being used for commercial purposes to protect voters’ privacy. In furtherance of this goal, the Secretary of State’s Office can *only* send the statewide voter checklist to political parties, organizations, and candidates for a fee.

RSA 654:31(II)-(III)’s privacy restrictions were enacted during the 2006 legislative session in House Bill 1238.<sup>1</sup> As the House Election Law Committee Report authored by former Representative William O’Brien (R)—House Bill 1238’s co-sponsor—explains: “House Bill 1238, as amended, does allow the statewide voter database to be distributed, *but subjects this distribution to restrictions that are intended to protect* both the revenue traditionally received by town and cities from selling voter lists, and also *voters’ [privacy]* .... Also, anyone receiving the

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<sup>1</sup> Under Senate Bill 437 from the 2008 legislative session, further modifications were made to RSA 654:31. These included: (i) allowing political parties, committees, and candidates to obtain “voter history,” (ii) permitting candidates to access this information in their districts from the Secretary of State’s Office, (iii) removing gender and date of birth from the public list, and (iv) giving the Secretary of State the ability to insert inauthentic names into the statewide list to help ensure that the list is not being used commercially. *See* 2008 SB 437 and Committee Report, attached as *Exhibit 5*.

checklist from the secretary of state will be prohibited from using it for commercial purposes, and distribution will be limited to candidates for elective office and political committees of political parties.” See 2006 HB 1238 Legislative History, at p. 025-27, attached at Exhibit 4 (emphasis added). The bill’s Democratic co-sponsor stated that, under this legislation, “[t]he sole purpose [of the statewide voter database] is really for political parties within the state or the people running for office on a statewide basis, to go to one central point, and that would now be the Secretary of State’s Office to buy that list.” *Id.* at 052. The Secretary of State’s Office supported these privacy provisions, stating that House Bill 1238 “allow[s] the Secretary of State’s Office to provide [the] statewide [voter] checklist[] to political parties, major candidates, or ... candidate[s] [in] a smaller district.” *Id.* at 018, 49-50, 53-55 (emphasis added).

Although the Commission has now indicated in its July 26, 2017 letter that any personally identifiable information it receives will not be publicly released (in contrast to its June 28, 2017 statement that all information would be publicly available), this does nothing to change the fact that the release would violate New Hampshire law. These statutes’ protections exist regardless of any promises a non-political requester may make concerning how it will handle voter information. The New Hampshire legislature provided no mechanism for RSA 654:31(II)-(III)’s protections to be cast aside if a non-political requester makes various privacy promises; there still would be no statutory authority to produce statewide information to this requester. Simply put, a requester saying “trust me” does not permit the Secretary of State to ignore the law and disclose information to unauthorized recipients.

In sum, the Secretary of State’s willingness to disseminate this statewide information on over 984,000 registered voters (over 755,000 of whom voted during the 2016 election) to the Commission outside the privacy protections of RSA 654:31(II)–(III) violates New Hampshire law.

There is no statutory authority to, as the Secretary of State plans to do, simply transmit this information to the Commission without following RSA 654:31(II)–(III)’s strict and binding parameters. The Secretary of State is not entitled to grant the Commission special, unwritten exemptions that circumvent New Hampshire law. Rather, the Secretary of State must apply the law to the Commission no differently than he would apply the law to a regular member of the public seeking this information. The Commission must follow the same rules that apply to members of the public.

These statutory protections are especially important here where, if the Commission receives this statewide information, this information could then become widely disseminated contrary to the legislature’s intent. Indeed, under the State’s apparent (but incorrect) interpretation of the law allowing the Commission to obtain this statewide information, any member of the public seeking this information must also be able to obtain it (regardless of motive or assurances that this information will be kept secret and secure). The law, of course, must be applied consistently. And voter information sent by the Secretary of State to the Commission is subject to disclosure under New Hampshire’s open records laws (see Chapter 91-A). In short, if the Commission gets it, then anyone can get it upon request and disseminate it. The legislature explicitly rejected such a result.

Petitioners Senator Bette Lasky and Chairman Neal Kurk are registered voters whose personal information the Secretary of State plans on conveying to the Commission in violation of New Hampshire law. In addition, Petitioner ACLU of New Hampshire is a membership organization, and the personal information of its members who are registered voters will also be conveyed to the Commission in violation of New Hampshire law.

Because the Secretary of State has stated publicly that he will comply with the request to convey this statewide information to the Commission—and because the Attorney General’s Office

is not independently enforcing these statutory provisions—Petitioners seek a preliminary and permanent injunction barring the disclosure of this information absent the Secretary of State’s full compliance with RSA 654:31(II)–(III). Without such an injunction barring disclosure, the public will be irreparably harmed upon unlawful disclosure to the Commission, as will Petitioners’ right to have their voting information only conveyed consistent with New Hampshire law. Further, Petitioners seek a declaration ordering the Secretary of State to comply with RSA 654:31(II)–(III) if he produces any public voter information to the Commission.

### **PARTIES**

1. Petitioner Bette R. Lasky lives in Nashua, NH. She is a registered New Hampshire voter. She is a Democratic member of the New Hampshire Senate, where she represents District 13 (comprising Wards 3 through 9 in Nashua). She has served four terms in the Senate. While in the Senate for the 2008–2009 term, she chaired the Election Law and Veterans’ Affairs Committee. Senator Lasky opposes the dissemination of her voting information to the Commission in a manner inconsistent with RSA 654:31(II)–(III). Defendant’s decision to disseminate Senator Lasky’s voter information would cause her direct injury and both impair and prejudice her right to only have her information disseminated to the Commission under the specific confines of RSA 654:31(II)–(III). This personal injury will directly result from the Defendant’s violation of RSA 654:31(II)–(III). *See Avery v. N.H. Dep.’t of Educ.*, 162 N.H. 604, 608 (2012) (“A party will not be heard to question the validity of a law, or any part of it, unless he shows that some right of his is impaired or prejudiced thereby.”) (quoting *Baer v. N.H. Dep’t of Educ.*, 160 N.H. 727, 730 (2010)); *City of Manchester et al. v. Secretary of State*, No. 2012-0338 (N.H. May 22, 2012) (same; petitioners had standing to challenge redistricting plan); *ACLU v. Clapper*, 785 F.3d 787, 801 (2d Cir. 2015) (standing exists in challenge to National Security Agency’s bulk collection of telephone

metadata where “the government’s own orders demonstrate that appellants’ call records are indeed among those collected as part of the telephone metadata program”).

2. Petitioner Neal Kurk lives in Weare, NH. He is a registered New Hampshire voter. He is a Republican member of the New Hampshire House of Representatives, where he represents Hillsborough County, District 2 (comprising Weare and Deering). He has served 16 terms in the New Hampshire House of Representatives. He is also Chairman of the House Finance Committee. In both his personal and professional capacity as an elected official, Chairman Kurk has been a staunch privacy advocate. He commented on the privacy restrictions in RSA 654:31(II)-(III) during the 2006 legislative session—which were enacted in House Bill 1238—and he raised concerns that this bill did not go far enough to protect voter privacy given its dissemination of statewide voter information to political parties and organizations. Minutes from a January 10, 2006 meeting of the Election Law Committee of the House of Representatives addressing House Bill 1238 summarized Chairman Kurk’s House testimony on this bill: “[A]nyone who gets the list [should] only be able to use it for electioneering. [Parties] should only have access to names and addresses of voters and not any other information that might be in a database. Rep. Kurk is concerned about voters [sic] privacy and making sure the voters do not get into mailing lists, etc.” *See* 2006 HB 1238 Legislative History, at p. 017, attached at Exhibit 4; *see also id.* at 056-57. Chairman Kurk opposes the dissemination of his voting information to the Commission in a manner inconsistent with RSA 654:31(II)-(III). Defendant’s decision to disseminate Chairman Kurk’s voter information would cause him direct injury and both impair and prejudice his right to only have his information disseminated to the Commission under the specific confines of RSA 654:31(II)-(III). This personal injury will directly result from the Defendant’s violation of RSA



654:31(II)-(III). *See Avery*, 162 N.H. at 608; *City of Manchester et al. v. Secretary of State*, No. 2012-0338 (N.H. May 22, 2012); *ACLU*, 785 F.3d at 801.

3. Petitioner ACLU of New Hampshire Foundation (“ACLU-NH”)—which has hundreds of members in Hillsborough County—is the New Hampshire affiliate of the American Civil Liberties Union (“ACLU”). The ACLU is a nationwide, nonpartisan, public-interest organization with over 1.2 million members. This includes over 8,000 New Hampshire members and supporters. The ACLU-NH represents its members by engaging in litigation to encourage the protection of individual rights guaranteed under federal and state law, including the right to vote and the right to privacy. The ACLU-NH has appeared before federal and state courts on behalf of its clients in numerous voting cases. These cases include *Guare v. New Hampshire*, 167 N.H. 658 (2015) (striking down voter registration form language that would impose a chilling effect on the right to vote of those domiciled in New Hampshire) and *Saucedo v. New Hampshire*, No. 1:17-cv-00183 (D.N.H., filed May 10, 2017) (pending federal lawsuit challenging state law allowing election officials to invalidate absentee ballots based on “signature mismatch,” which disenfranchises voters, many of whom are disabled, without warning and due process). The ACLU-NH is also committed to the right to privacy and testified on the restrictions in RSA 654:31(II)-(III) during the 2006 legislative session, which were enacted in House Bill 1238. *See* 2006 HB 1238 Legislative History, at p. 063-65, attached at *Exhibit 4*. Many of the over 8,000 New Hampshire members and supporters of the ACLU who are registered voters have indicated that they wish to protect their voting information consistent with current New Hampshire law and do not want their personal information disseminated to the Commission.

4. Defendant William Gardner is Secretary of State of the State of New Hampshire and, as such, is charged with overseeing the custody of the statewide voter database. He has limited

authority to release certain categories of information in the database through methods that vary depending upon the nature of the requesting entity. He is also a member of the Presidential Advisory Commission on Election Integrity. He is joined solely in his official capacity as Secretary of State. The Secretary of State's Office supported the amendments in RSA 654:31(II)-(III) during the 2006 legislative session, which were enacted in House Bill 1238. *See* 2006 HB 1238 Legislative History, at p. 018, 49-50, 53-55, attached at Exhibit 4.

### **JURISDICTION**

5. This is an action by Petitioners seeking injunctive and declaratory relief pursuant to Superior Court Rule 48 and RSA 491:22(I). Petitioners seek an injunction barring the Secretary of State from disclosing voter information to the Commission in a manner inconsistent with RSA 654:31(II)-(III). Petitioners request a judicial declaration ordering the Secretary of State to comply with RSA 654:31(II)-(III) if he discloses any voter information to the Commission. RSA 491:22(I) provides in part, "Any person claiming a present legal or equitable right or title may maintain a petition against any person claiming adversely to such a right or title to determine the question as between the parties, and the court's judgment or decree thereon shall be conclusive."

6. The Court has personal jurisdiction over the Defendant, as he is responsible for overseeing the custody of the statewide voter database in New Hampshire.

7. The Court has subject matter jurisdiction pursuant to RSA 491:22 and Supreme Court Rule 48.

8. The venue in Hillsborough County Superior Court, Southern Division is proper because one of the petitioners—Senator Bette Lasky—is domiciled in the Southern Division of Hillsborough County. In addition, the ACLU-NH has hundreds of members in the Southern

Division of Hillsborough County. Moreover, violations complained of will, if unchecked, harm the voters domiciled in the Southern Division of this County.

#### STATEMENT OF FACTS

9. On Wednesday, June 28, 2017, the Vice Chair of the recently created Presidential Advisory Commission on Election Integrity—Kansas Secretary of State Kris Kobach—sent letters to all 50 states and the District of Columbia, including New Hampshire, requesting a list of all registered voters (first and last name and middle initial), the last four digits of their social security numbers, their addresses, dates of birth, political party affiliation, and voting history from 2006 onward, as well as any information regarding felony convictions, military status, overseas voting, and registration in another state. *See* June 28, 2017 Kobach Letter, attached as *Exhibit 1*.

10. The Commission—of which New Hampshire Secretary of State William Gardner is a member—acknowledged that any information sent to it “will also be made available to the public.”

11. The Commission’s June 28, 2017 letter also requested a response by July 14, 2017.

12. On Friday, June 30, 2017, the New Hampshire Secretary of State agreed to produce to the Commission statewide information concerning voters that is deemed “public” under RSA 654:31-a and RSA 654:25, which consists of each voter’s names, domicile address, mailing address, and party affiliation, if any. The Secretary of State also planned to produce “voter history” dating back to 2006, though this would violate New Hampshire law because “voting history” is not viewed as public information under RSA 91-A. *See* RSA 654:31-a (noting only the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters

are “public information subject to RSA 91-A”<sup>2</sup>; *see also* Kevin Landrigan, *Firestorm Over Call for Info on Elections*, UNION LEADER (July 1, 2017), <http://www.unionleader.com/Firestorm-over-call-for-info-on-elections> (“The information New Hampshire will give up is names, addresses, party affiliation and voting history dating back to 2006. Gardner said voting history includes whether a person voted in a general election and which party’s ballot a voter took during a primary election .... Gardner said he hasn’t decided whether to make the commission pay for the public records his office will produce.”); John DiStaso, *Sununu, Gardner Say NH Will Turn Over Public Voter Information to Trump Election Commission*, WMUR (June 30, 2017), <http://www.wmur.com/article/sununu-gardner-say-nh-will-turn-over-public-voter-information-to-trump-election-commission/10246459> (“New Hampshire will provide President Donald Trump’s Commission on Election Integrity with the names, addresses and other public information about Granite Staters included on the voter rolls, Gov. Chris Sununu and Secretary of State William Gardner told WMUR on Friday.”), articles attached as *Exhibits 3 A-C*.

13. The Secretary of State did not say whether he would charge the Commission for the statewide public checklist, though (i) political parties and political committees currently pay in excess of \$8,000 for this statewide information under RSA 654:31(IV), and (ii) any member of the public would be charged for receiving the public checklist on a municipality-by-municipality basis under RSA 654:31(II).

14. As a result of the Secretary of State’s response, Petitioners filed this lawsuit on July 6, 2017. A hearing on Petitioners’ request for a preliminary injunction was scheduled for July 11, 2017.

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<sup>2</sup> “Voting history” is only available to political parties and candidates under RSA 654:31(IV), and even then this information can only be produced “*in each state election for the preceding 2 years*.” *See* RSA 654:31(IV) (emphasis added).

15. Meanwhile, on July 3, 2017, the Electronic Privacy Information Center filed a complaint in the U.S. District Court for the District of Columbia seeking a Temporary Restraining Order (“TRO”) in connection with the June 28, 2017 letter sent by the Commission requesting various voter information. *See Electronic Privacy Information Center v. Presidential Advisory Commission on Election Integrity*, 1:17-cv-1320 (CKK) (D.D.C. filed July 3, 2017). On July 10, 2017, a representative of the Commission wrote to election officials in all 50 states—including Defendant Secretary of State—requesting that they not submit any data pursuant to this June 28, 2017 letter until the U.S. District Court for the District of Columbia rules on this TRO Motion. *See July 10, 2017 Kobach Affidavit and Hold Email*, attached as Exhibit 6. As the Defendant Secretary of State agreed to comply with the Commission's request to hold on submitting any data until receiving further notice from the Commission, the parties stayed this action on July 11, 2017 before the scheduled hearing was conducted.

16. On July 24, 2017, the D.C. District Court denied without prejudice the request for a TRO. On July 25, 2017, the plaintiff in the DC Lawsuit filed a Notice of Appeal seeking expedited review, thereby rendering the TRO decision not final. *See July 25, 2017 Notice of Appeal*. Attached as Exhibit 7.

17. On July 26, 2017, the Commission sent a letter renewing its request for voter information. *See July 26, 2017 Kobach Letter*, attached as Exhibit 8.

18. On July 27, 2017—in light of the Commission’s renewed request—counsel for the Secretary of State once again informed counsel for Petitioners that the Secretary intends to produce statewide voter information.

## THE SECRETARY OF STATE'S DECISION VIOLATES NEW HAMPSHIRE LAW

19. The Secretary of State's decision to produce this statewide voter information is unlawful. The Secretary of State has no statutory authority to release a copy of the statewide public checklist to anyone other than a political party, political committee, or candidate for New Hampshire office.<sup>3</sup> *See* RSA 654:31(IV).<sup>4</sup> Since the Commission is not a political party, political committee, or political candidate under RSA 654:31(IV), the Secretary of State must comply with RSA 654:31(II)-(III), which places strict and binding requirements on how the State is to produce this "public" voter information to all other person and entities. These requirements do not give any discretion to the Secretary of State to act in any way other than as authorized. There are no exemptions from RSA 654:21(II)-(III)'s requirements that apply to the Commission's request.

20. RSA 654:31(II) states:

In towns and cities, the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors of the checklist or city or town clerk shall furnish one or more copies of the most recent public checklist of their town or city to any person requesting such copies. The supervisors of the checklist or city or town clerk may only provide checklist information for their town or city. The supervisors of the checklist or city or town clerk shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist or city or town clerk shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist or city or town clerk may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form.

21. RSA 654:31(III) states:

Any person may view the data that would be available on the public checklist, as corrected by the supervisors of the checklist, on the statewide centralized voter registration database maintained by the secretary of state at the state records and

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<sup>3</sup> Candidates can only obtain voter information for registered voters "in the state or in the candidate's district." RSA 654:31(IV).

<sup>4</sup> RSA 654:31(IV) governs the disclosure of the public checklist, as well as "voter history," to a "political party" or "political committee" or political candidate running for office. Under this provision, the checklist, along with "voter history" can be purchased directly from the Secretary of State.

archives center during normal business hours, but the person viewing data at the state records and archives center may not print, duplicate, transmit, or alter the data.

22. In sum, these requirements allow requesters to (i) only view the statewide public checklist on the statewide centralized voter registration database at the state records and archives center during normal business hours where requesters are prohibited from printing, duplicating, transmitting, or altering the data and (ii) only obtain hard copies of the public checklist from local municipalities on a town-by-town/ward-by-ward basis at a fee of at least \$25 per municipality or ward. *See* RSA 654:31(II)–(III). Each municipality can only release data relating to its own voters. Thus, a member of the public cannot obtain a copy of the statewide public checklist from the Secretary of State’s Office, and instead must make requests to individual towns and wards directly to obtain a copy of that town’s or ward’s public checklist.

23. These restrictions imposed by the legislature concerning who can obtain the statewide list (and how) exist for good reason: to protect voter privacy by limiting the prospect of mass dissemination of statewide voter information, help ensure that voter information is only used for political purposes, and help prevent statewide information from ultimately being used for commercial purposes. RSA 654:31(VI) explicitly prohibits this information from being used for commercial purposes to protect voters’ privacy. “Commercial purposes” means “knowingly using, selling, giving, or receiving the checklist information for the purpose of selling or offering for sale any property or service unrelated to an election or political campaign.” *See* RSA 654:31(I)(b). In furtherance of this goal, the Secretary of State’s Office can *only* send the statewide voter checklist to political parties, organizations, and candidates for a fee.

24. RSA 654:31(II)-(III)’s restrictions were enacted during the 2006 legislative session in House Bill 1238. In this bill, the legislature made clear that how and to whom voter information is disseminated makes a difference. As the House Election Law Committee Report authored by

former Representative William O'Brien (R)—House Bill 1238's co-sponsor—explains: “House Bill 1238, as amended, does allow the statewide voter database to be distributed, but subjects this distribution to restrictions that are intended to protect both the revenue traditionally received by town and cities from selling voter lists, and also voters' [privacy] .... Also, anyone receiving the checklist from the secretary of state will be prohibited from using it for commercial purposes, and distribution will be limited to candidates for elective office and political committees of political parties.” See 2006 HB 1238 Legislative History, at p. 025-27, attached at Exhibit 4 (emphasis added). The bill's Democratic co-sponsor stated that, under this legislation, “[t]he sole purpose [of the statewide voter database] is really for political parties within the state or the people running for office on a statewide basis, to go to one central point, and that would now be the Secretary of State's Office to buy that list.” *Id.* at 052. The Secretary of State's Office supported these privacy provisions, stating that House Bill 1238 “allow[s] the Secretary of State's Office to provide [the] statewide [voter] checklist[] to political parties, major candidates, or ... candidate[s] [in] a smaller district.” *Id.* at 018, 49-50, 53-55 (emphasis added). That Office also acknowledged that, without House Bill 1238's changes to RSA 654:31, it had no statutory authority to disseminate the statewide public checklist to anybody, including political entities. This further proves that the Secretary of State's current ability to disseminate this statewide information is limited to the strict parameters of RSA 654:31. *Id.* at 053; see also 025-27 (noting that the law “does not allow the secretary of state to disseminate this checklist to anyone”).

25. Although the Commission has now indicated in its July 26, 2017 letter, see Exhibit 8, that any personally identifiable information it receives will not be publicly released (in contrast to its June 28, 2017 statement that all information would be publicly available), this does nothing to change the fact that the release would violate New Hampshire law. These statutes' protections



exist regardless of any promises a requester may make concerning how it will handle voter information. The New Hampshire legislature provided no mechanism for RSA 654:31(II)-(III)'s protections to be cast aside if a non-political requester makes various privacy promises; there still would be no statutory authority to produce statewide information to this requester. Simply put, a requester saying "trust me" does not permit the Secretary of State to ignore the law and disclose information to unauthorized recipients. Moreover, there is an open legal question as to whether the Commission can, in fact, keep this information private under federal law.<sup>5</sup>

26. It is important to note that RSA 654:45—which authorizes the Secretary of State to enter into agreements to share voter information from the statewide centralized voter database for the purpose of comparing duplicate voter information “with other states or groups of states”—does not provide authority for the Secretary of State to convey this information to the Commission outside the clear and specific parameters of RSA 654:31(II)–(III). *See* HB 1482, 2016 Gen. Court., 164th Sess. (N.H. 2016), *available at* [http://www.gencourt.state.nh.us/bill\\_Status/billText.aspx?sy=2016&id=775&txtFormat=html](http://www.gencourt.state.nh.us/bill_Status/billText.aspx?sy=2016&id=775&txtFormat=html). RSA 654:45 prohibits the release of data from the statewide voter database and specifies that “[a]ny person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor.” RSA 654:45(VI). Disclosure to the Commission would not only circumvent this statute’s plain terms, but also would be unlawful. This is for several reasons.

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<sup>5</sup> There may be a good reason for any information the Commission lawfully receives under state law to become public—namely, so the public can independently vet the conclusions of the Commission. At least one lawsuit has already been filed alleging that the Commission has violated the transparency and public access requirements of the Federal Advisory Committee Act. This case, which was filed on July 10, 2017, is still pending. *See ACLU v. Trump et al.*, No. 1:17-cv-01351 (D.D.C., filed July 10, 2017); *see also* <https://www.aclu.org/news/aclu-files-federal-lawsuit-over-trump-election-commission-secrecy>. Of course, neither the Secretary of State nor the Commission can guarantee that this information will not be released while this federal litigation remains unresolved.

27. First, RSA 654:45(VIII) only allows the Secretary of State to enter into agreements “with other states or groups of states” in order to compare duplicate information.<sup>6</sup> Here, the Commission is not a “group of states” with which the State of New Hampshire intends to engage to assess duplicate registrations. Rather, the Commission consists of a group of “individuals with knowledge and experience in elections” tasked with studying “the registration and voting processes used in Federal elections.” See Exec. Order No. 13,799, 82 Fed. Reg. 2238 (May 11, 2017), attached as *Exhibit 2*.

28. Second, RSA 654:45(VIII) places strict limitations on what and how information is disclosed. RSA 654:45(VI) states that the centralized voter database “shall be private and confidential and shall not be subject to RSA 91-A.” This statute also requires that the information the Secretary of State discloses as part of this program be “secure.” Indeed, RSA 654:45(VIII) limits the extent of the information that the Secretary of State can share (e.g., only information “necessary for matching duplicate voter information”), and only allows this information to be used for “the purpose of comparing duplicate voter information.” This statute also recognizes the risk of disclosure of confidential information by authorizing the Secretary of State to solicit input from the Department of Safety and the Department of Information Technology regarding how to keep confidential voter data confidential. Moreover, RSA 654:45(IV)(c) and (V) limit which officials may access the information, which highlights the sensitive nature of the data and the strict limits on access. Here, however, disclosure to the Commission would upend these protections. If the

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<sup>6</sup> RSA 654:45(VIII) states: “The secretary of state may enter into an agreement to share voter information or data from the statewide centralized voter registration database for the purpose of comparing duplicate voter information with other states or groups of states. The secretary of state shall only provide information that is necessary for matching duplicate voter information with other states and shall take precautions to make sure that information in the database is secure in a manner consistent with RSA 654:45, VI. The secretary of state may solicit input from the department of safety and the department of information technology and shall ensure that any information or data shared between the agencies that is of a confidential nature remains confidential.”

Commission receives this statewide information, this information could then become widely disseminated.

29. Under the State's apparent (but incorrect) interpretation of the law allowing the Commission to obtain this statewide information, any member of the public seeking this information must also be able to obtain it (regardless of motive or assurances that this information will be kept secret and secure). The law, of course, must be applied consistently. And voter information sent by the Secretary of State to the Commission is subject to disclosure under New Hampshire's open records laws (see Chapter 91-A). In short, if the Commission gets it, then anyone can get it upon request and disseminate it. The legislature explicitly rejected such a result. Moreover, though the Commission has stated that it "will not publicly release any personally identifiable information," there is no indication that the Secretary of State has, per the terms of RSA 654:45(VIII), independently "take[n] precautions to make sure that information in the database is secure in a manner consistent with RSA 654:45, V."

**COUNT I**  
**[VIOLATION OF RSA 654:31(II)–(III) and RSA 654:45]**

30. Petitioners adopt the allegations contained in the preceding paragraphs.

31. The Secretary of State's willingness to disseminate this statewide information to the Commission outside the privacy protections of RSA 654:31(II)–(III) and RSA 654:45 violates New Hampshire law and breaches his statutory duty.

32. There is no statutory authority to, as the Secretary plans to do, simply transmit this information to the Commission without following RSA 654:31(II)–(III)'s strict and binding parameters.

33. The Commission is not entitled to special, unwritten exemptions from the Secretary of State that circumvent New Hampshire law.

34. Rather, the Secretary of State must apply the law to the Commission no differently than he would apply the law to a regular member of the public seeking this information. Put another way, the Commission must follow the same rules that apply to members of the public.

35. The petitioners are in a class—namely, registered voters—that these statutes are designed to protect and the injury that will be created by disclosure—namely, violation of privacy to an unauthorized recipient—is of the type that these statutes are specifically intended to prevent. Moreover, these statutes prescribe specific conduct concerning the dissemination of voter information.

36. Because the Secretary of State has stated publicly that he will comply with the request to convey this statewide information to the Commission—and because the Attorney General’s Office is not independently enforcing these statutory provisions<sup>7</sup>—Petitioners seek a preliminary and permanent injunction barring the disclosure of this information absent the Secretary of State’s compliance with RSA 654:31(II)–(III). Without such an injunction barring disclosure, the public will be irreparably harmed upon unlawful disclosure to the Commission, as will Petitioners’ right to have their voting information only conveyed consistent with New Hampshire law.

37. Petitioners have no alternative adequate remedy at law if they are denied the requested relief, especially where the Secretary of State’s Office and the Attorney General’s Office have refused to enforce current election laws—namely, RSA 654:31(II)–(III).

38. Given the clarity of RSA 654:31(II)–(III) and the Secretary of State’s imminent violation of its terms, there is a substantial likelihood of success on the merits.

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<sup>7</sup> Under RSA 7:8, the Office of the Attorney General “exercise[s] a general supervision” over state agencies “to the end that they perform their duties according to law.” *See* RSA 7:8.

39. Further, Petitioners seek a declaration ordering the Secretary of State to comply with RSA 654:31(II)–(III) if he produces any public voter information to the Commission.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioners pray that:

1. The Court schedule a preliminary injunction hearing (which is currently scheduled for August 7, 2017).
2. Following said hearing, in light of the irreparable harm to Petitioners caused by the Secretary of State’s decision to release statewide voter information, Petitioners’ lack of an adequate remedy at law if the Secretary of State produces this information, and the substantial likelihood that Petitioners will succeed on the merits of their case, the Court issue a preliminary injunction barring, for the duration of this case, the Secretary of State from disclosing voter information to the Commission absent the Secretary of State’s compliance with RSA 654:31(II)–(III).
3. The Court schedule an expedited final hearing on this matter.
4. Following the final hearing, the Court issue a declaratory judgment ordering the Secretary of State to comply with RSA 654:31(II)–(III) if he discloses any statewide voter information to the Commission.
5. Following the final hearing, and as a consequence of the above-requested declaratory relief, the Court issue a permanent injunction barring the Secretary of State from disclosing statewide voter information to the Commission absent the Secretary of State’s compliance with RSA 654:31(II)–(III).
6. Award Petitioners costs and reasonable attorneys’ fees.
7. And for such other relief as may be just and proper.

Respectfully submitted,

Petitioners Bette R. Lasky, Neal Kurk, and the American  
Civil Liberties Union of New Hampshire Foundation,

By and through their attorneys in cooperation with the  
American Civil Liberties Union of New Hampshire  
Foundation,



---

Gilles R. Bissonnette (N.H. Bar No. 265393)  
Legal Director  
American Civil Liberties Union of New Hampshire  
18 Low Avenue  
Concord, NH 03301  
Tel.: 603.224.5591  
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Paul Twomey (N.H. Bar No. 2589)  
44 Ring Road  
Chichester, NH 03258  
Tel. 603.568.3254  
[paultwomey@comcast.net](mailto:paultwomey@comcast.net)

July 28, 2017

VERIFICATION

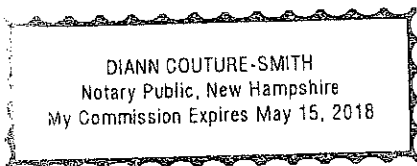
I hereby certify that the facts asserted in this Petition are true and correct to the best of my knowledge and belief.

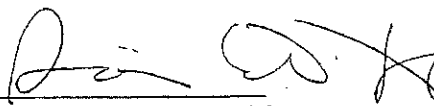
  
Neal Kurk

THE STATE OF NEW HAMPSHIRE  
HILLSBOROUGH, SS.

Personally appeared the above named Neal Kurk of the Town of Weare, being authorized so to do, and made oath that the facts contained in the foregoing are true to the best of her knowledge and belief.

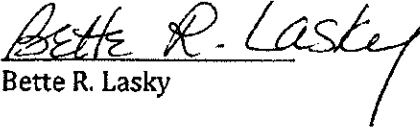
Before me,



  
Notary Public/Justice of the Peace

**VERIFICATION**

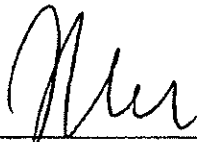
I hereby certify that the facts asserted in this Petition are true and correct to the best of my knowledge and belief.

  
Bette R. Lasky

THE STATE OF NEW HAMPSHIRE  
HILLSBOROUGH, SS.

Personally appeared the above named Bette Lasky of the City of Nashua, being authorized so to do, and made oath that the facts contained in the foregoing are true to the best of her knowledge and belief.

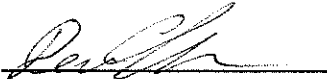
Before me,

  
\_\_\_\_\_  
Notary Public/Justice of the Peace



**VERIFICATION**

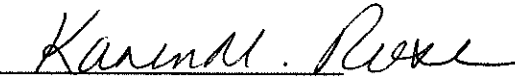
I hereby certify that the facts asserted in this Petition are true and correct to the best of my knowledge and belief.

  
Devon Chaffee, ~~Legal~~ Director of the ACLU of  
New Hampshire *Executive*

THE STATE OF NEW HAMPSHIRE  
HILLSBOROUGH, SS.

Personally appeared the above named Devon Chaffee of the Town of Henniker\, being authorized so to do, and made oath that the facts contained in the foregoing are true to the best of her knowledge and belief.

Before me,

  
Notary Public/~~Justice of the Peace~~

KAREN M. ROSE, Notary Public  
My Commission Expires November 18, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Verified Amended Petition for Preliminary Injunction, Declaratory Judgment, and Final Injunctive Relief has been hand-delivered to the New Hampshire Department of Justice on this date, July 28, 2017.

7.28.17  
Date

  
Gilles Bissonnette

# **Exhibit 1**

## Presidential Advisory Commission on Election Integrity

June 28, 2017

The Honorable Bill Gardner  
Secretary of State  
State House, Rm 204  
Concord, NH 03301

Dear Secretary Gardner,

I serve as the Vice Chair for the Presidential Advisory Commission on Election Integrity ("Commission"), which was formed pursuant to Executive Order 13799 of May 11, 2017. The Commission is charged with studying the registration and voting processes used in federal elections and submitting a report to the President of the United States that identifies laws, rules, policies, activities, strategies, and practices that enhance or undermine the American people's confidence in the integrity of federal elections processes.

As the Commission begins its work, I invite you to contribute your views and recommendations throughout this process. In particular:

1. What changes, if any, to federal election laws would you recommend to enhance the integrity of federal elections?
2. How can the Commission support state and local election administrators with regard to information technology security and vulnerabilities?
3. What laws, policies, or other issues hinder your ability to ensure the integrity of elections you administer?
4. What evidence or information do you have regarding instances of voter fraud or registration fraud in your state?
5. What convictions for election-related crimes have occurred in your state since the November 2000 federal election?
6. What recommendations do you have for preventing voter intimidation or disenfranchisement?
7. What other issues do you believe the Commission should consider?

In addition, in order for the Commission to fully analyze vulnerabilities and issues related to voter registration and voting, I am requesting that you provide to the Commission the publicly-available voter roll data for New Hampshire, including, if publicly available under the laws of your state, the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your state), last four digits of social

security number if available, voter history (elections voted in) from 2006 onward, active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.

You may submit your responses electronically to [ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov) or by utilizing the Safe Access File Exchange ("SAFE"), which is a secure FTP site the federal government uses for transferring large data files. You can access the SAFE site at <https://safe.amrdec.army.mil/safe/Welcome.aspx>. We would appreciate a response by July 14, 2017. Please be aware that any documents that are submitted to the full Commission will also be made available to the public. If you have any questions, please contact Commission staff at the same email address.

On behalf of my fellow commissioners, I also want to acknowledge your important leadership role in administering the elections within your state and the importance of state-level authority in our federalist system. It is crucial for the Commission to consider your input as it collects data and identifies areas of opportunity to increase the integrity of our election systems.

I look forward to hearing from you and working with you in the months ahead.

Sincerely,



Kris W. Kobach  
Vice Chair  
Presidential Advisory Commission on Election Integrity

## **Exhibit 2**

## Presidential Documents

### Title 3—

Executive Order 13799 of May 11, 2017

### The President

### Establishment of Presidential Advisory Commission on Election Integrity

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote fair and honest Federal elections, it is hereby ordered as follows:

**Section 1. *Establishment.*** The Presidential Advisory Commission on Election Integrity (Commission) is hereby established.

**Sec. 2. *Membership.*** The Vice President shall chair the Commission, which shall be composed of not more than 15 additional members. The President shall appoint the additional members, who shall include individuals with knowledge and experience in elections, election management, election fraud detection, and voter integrity efforts, and any other individuals with knowledge or experience that the President determines to be of value to the Commission. The Vice President may select a Vice Chair of the Commission from among the members appointed by the President.

**Sec. 3. *Mission.*** The Commission shall, consistent with applicable law, study the registration and voting processes used in Federal elections. The Commission shall be solely advisory and shall submit a report to the President that identifies the following:

(a) those laws, rules, policies, activities, strategies, and practices that enhance the American people's confidence in the integrity of the voting processes used in Federal elections;

(b) those laws, rules, policies, activities, strategies, and practices that undermine the American people's confidence in the integrity of the voting processes used in Federal elections; and

(c) those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.

**Sec. 4. *Definitions.*** For purposes of this order:

(a) The term "improper voter registration" means any situation where an individual who does not possess the legal right to vote in a jurisdiction is included as an eligible voter on that jurisdiction's voter list, regardless of the state of mind or intent of such individual.

(b) The term "improper voting" means the act of an individual casting a non-provisional ballot in a jurisdiction in which that individual is ineligible to vote, or the act of an individual casting a ballot in multiple jurisdictions, regardless of the state of mind or intent of that individual.

(c) The term "fraudulent voter registration" means any situation where an individual knowingly and intentionally takes steps to add ineligible individuals to voter lists.

(d) The term "fraudulent voting" means the act of casting a non-provisional ballot or multiple ballots with knowledge that casting the ballot or ballots is illegal.

**Sec. 5. *Administration.*** The Commission shall hold public meetings and engage with Federal, State, and local officials, and election law experts, as necessary, to carry out its mission. The Commission shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities. The Commission shall have staff to provide support for its functions.

**Sec. 6. Termination.** The Commission shall terminate 30 days after it submits its report to the President.

**Sec. 7. General Provisions.** (a) To the extent permitted by law, and subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.

(b) Relevant executive departments and agencies shall endeavor to cooperate with the Commission.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the Commission, any functions of the President under that Act, except for those in section 6 of the Act, shall be performed by the Administrator of General Services.

(d) Members of the Commission shall serve without any additional compensation for their work on the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

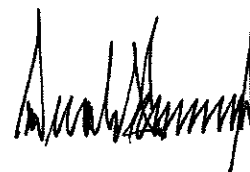
(e) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



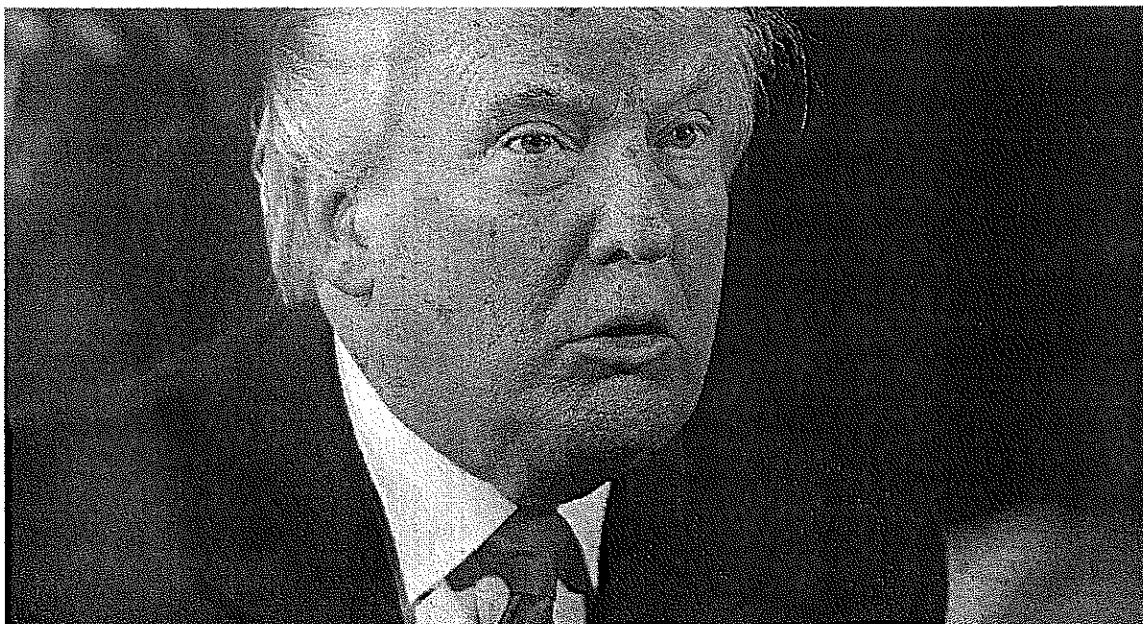
THE WHITE HOUSE,

May 11, 2017.



## **Exhibit 3-A**

## POLITICO



President Donald Trump launched the "election integrity" commission in May. | AP Photo

### **Trump voter-fraud panel's data request a gold mine for hackers, experts warn**

By **ERIC GELLER** and **CORY BENNETT** | 07/01/2017 01:00 PM EDT

Cybersecurity specialists are warning that President Donald Trump's voter-fraud commission may unintentionally expose voter data to even more hacking and digital manipulation.

Their concerns stem from a letter the commission sent to every state this week, asking for full voter rolls and vowing to make the information "available to the public." The requested information includes full names, addresses, birth dates, political party and, most notably, the last four digits of Social Security numbers. The

commission is also seeking data such as voter history, felony convictions and military service records.

Digital security experts say the commission's request would centralize and lay bare a valuable cache of information that cyber criminals could use for identity theft scams — or that foreign spies could leverage for disinformation schemes.

"It is beyond stupid," said Nicholas Weaver, a computer science professor at the University of California at Berkeley.

"The bigger the purse, the more effort folks would spend to get at it," said Joe Hall, chief technologist at the Center for Democracy and Technology, a digital advocacy group. "And in this case, this is such a high-profile and not-so-competent tech operation that we're likely to see the hacktivists and pranksters take shots at it."

Indeed, by Friday night, over 20 states — from California to Mississippi to Virginia — had indicated they would not comply with the request, with several citing privacy laws and expressing unease about aggregating voter data.

## Morning Cybersecurity

ly briefing on politics and cybersecurity — weekday mornings, in your inbox.

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"Mississippi residents should celebrate Independence Day and our state's right to protect the privacy of our citizens by conducting our own electoral processes," said Mississippi Secretary of State Delbert Hosemann, a Republican, in a statement.

Trump took to Twitter Saturday morning to bash the reticent states.

"Numerous states are refusing to give information to the very distinguished VOTER FRAUD PANEL. What are they trying to hide?" he wrote.

Trump launched the "election integrity" commission in May, tapping Kansas Secretary of State Kris Kobach to lead the charge. The commission's main task was to study voter fraud, a subject of interest to Trump, who has baselessly claimed that

millions of people voted illegally in the 2016 election.

White House officials also said the commission would recommend steps to help secure the “integrity” of the voting systems. In this vein, the letter asks how the commission can help local officials address “information technology security and vulnerabilities.”

But cyber specialists say the missive and its directions has the exact opposite effect. And the commission’s request comes at a time when the Trump administration is already under fire from Democrats who say it is doing little to protect the electoral process from hackers.

Technical experts say the voter data that the commission wants to assemble would quickly become a single treasure trove for cyber criminals and foreign intelligence services. Identity thieves could use information such as addresses, birth dates and the last four digits of Social Security numbers for digital impersonations, and foreign spies could use it to fill out dossiers on Americans they hope to blackmail.

“This information is particularly sensitive because it can be matched up with other stolen or publicly available information to build a more complete profile for an individual and target them for fraud or other exploitation,” said Jason Straight, a data breach expert who serves as chief privacy officer at the business solutions firm UnitedLex.

## **Trump questions why states refusing to give info to election panel**

By REBECCA MORIN

Specifically, researchers have shown that voter rolls are “the most useful external source of data” when fraudsters hope to identify people in anonymized health or medical records, Hall said.

Security specialists told POLITICO they were especially perturbed about Kobach’s claim that the commission would publish all the voter data it receives.

While much of the data the commission requested — including addresses and dates of birth — is already publicly available in states or from third-party vendors, states restrict access to that information in various ways.

If the commission publishes all the voter data it receives, it “could result in the commission making voter data more widely accessible than it otherwise would be from the state itself,” Straight said.

The White House pushed back on these fears.

“Information being requested is already publicly available according to state law from which it would be released,” noted Marc Lotter, a spokesman for Vice President Mike Pence, who is leading the panel with Kobach.

“The federal government takes cybersecurity very seriously,” he added. “No publicly identifiable information will be released to the public and the information will be managed consistent with federal security guidelines.”

Kobach’s office did not respond to requests for comment.

Ways exist to secure large quantities of voter data — Hall pointed to the Electronic Registration Information Center, a state-run nonprofit that helps officials clean their voter rolls, as one example. But that organization uses strong encryption to protect its information, he noted.

“It’s hard to imagine all the work that went into making that private and secure is happening in the week before the commission’s first meeting,” said Hall.

### **An inside view of the House Russia probe**

By AUSTIN WRIGHT and MARTIN MATISHAK

Experts also criticized the commission’s two options for states to submit their data: via a White House email address and a Pentagon-run file-hosting service.

“Email is the worst; it’s like sending all your postal mail using postcards instead of letters in envelope,” Hall said. “It’s one of the harder methods of communication to secure.”

The commission’s alternative option, a file-hosting service run by a branch of the Army, isn’t currently configured to properly encrypt web traffic, which Hall said was “a massive red flag for their ability to properly secure other forms of secure file transfer.”

The perceived digital security miscues left many specialists stunned.

“Nothing about this letter appears to take information security into account,” said Matthew Green, a computer science professor and cryptography expert at Johns Hopkins University. “If I didn’t know this letter was real, I would assume it was a clever spearphishing campaign.”

## **Exhibit 3-B**

July 01, 2017 10:30PM

# Firestorm over call for info on elections

By KEVIN LANDRIGAN  
New Hampshire Union Leader

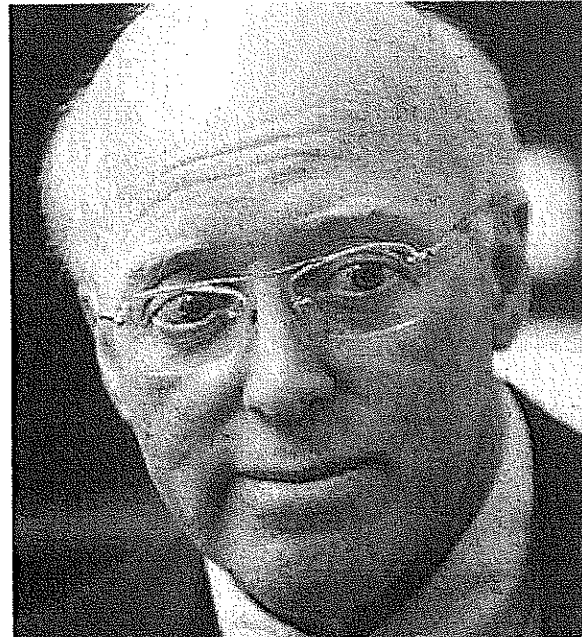
CONCORD - The sweeping demand from a new anti-voter fraud commission for state election officials to broadly turn over voter records has been met with bipartisan resistance while President Donald Trump doubled down Saturday on why he's asked for them in the first place.

Secretary of State Bill Gardner said voters have become so distrusting that many believe local officials have private information about them.

"The level of suspicion and downright cynicism seems to be at an all-time high," Gardner said. "We don't have boxes full of personal information about people in our archives. What we have is what we've publicly shared for decades."

But critics of Trump's Election Integrity Commission's broad request for extensive information about voters in all 50 states say the pushback is justified.

And it's bipartisan, as Democratic and Republican leaders from more than 20 states have rejected the



(/storyimage/UL/20170702/NEWS0621/170709943/AR/0/AR-170709943.jpg?q=100)  
Gardner

## Related Stories

Sununu says he will turn over NH voter data to federal fraud commission (/politics/sununu-says-he-will-turn-over-nh-voter-data-to-federal-fraud-commission-20170630)

Bill tightening voter registration requirements passes in the House (/state-government/Bill-



call, many citing their own state laws that prevent turning over the data.

[tightening-voter-registration-requirements-passes-in-the-House-06012017](#)

"This broad net the commission is throwing is all about trying to promote a narrative that's got no basis in reality, that there was rampant voter fraud in New Hampshire and other key states," said Democratic National Committeeman Peter Burling of Cornish.

[ACLU files Right-to-Know request with Secretary of State over election commission \(/politics/ACLU-files-Right-to-Know-request-with-Secretary-of-State-over-election-commission-05192017\)](#)

"Whatever happened to New Hampshire's tradition of Live Free or Die? Just say no, Mr. Gardner."

Gardner, a longtime Democrat, and Gov. Chris Sununu, a first-term Republican, aren't saying no and instead are complying with the spirit but not the letter of the commission's request made through Vice Chairman Kris Kobach, the Kansas secretary of state.

The information New Hampshire will give up is names, addresses, party affiliation and voting history dating back to 2006. Gardner said voting history includes whether a person voted in a general election and which party's ballot a voter took during a primary election.

"We fully intend to comply," Sununu said. "This is a bipartisan commission looking at integrity in the election process. That is something we take seriously here in the State of New Hampshire.

"All voter information in this state is public, and that's the information we'll be providing. Nothing else."

Gardner points out that private companies have been buying these voter information records for many election cycles at a cost of about \$8,300 for each election.

Kobach wanted much more than that in his request of all states, including the last four digits of Social Security numbers, the birth dates of all voters and any records on criminal convictions for election law violations.

This is what bothered many public officials and privacy advocates.

"I am very concerned that the requested information would be used to create a national voter database that can be used to disenfranchise voters," said U.S. Sen. Maggie Hassan, D-N.H.

U.S. Rep. Carol Shea-Porter, D-N.H., made a plea to Gardner and Sununu to take a principled

stand against the entire ask.

"In closing, I urge you to shield New Hampshire voters from this historic federal intrusion into law-abiding Americans' right to privacy whose only "offense" was exercising their Constitutional right to vote," Shea-Porter said in a statement.

"This could further dampen participation in our elections."

### Tradition of privacy

New Hampshire state law requires the state to update the checklist after every election. The checklist shows which people voted in each election and which party ballot was taken in a primary.

"We keep the older checklists in the archives in boxes, so those records going back to 2006 are easily available," Gardner said.

He added that many citizens don't realize New Hampshire has a long tradition of protecting personal privacy when it comes to voter records.

"Very few states have a Neal Kurk," Gardner quipped, referring to state Rep. Neal Kurk, R-Weare, who has led many legislative campaigns to prevent public disclosure of personal information whether it's on a driver's license, job application or voter files.

Gardner is a member of the integrity commission and took part in a conference call last week hosted by its chairman, Vice President Mike Pence.

The commission was formed last month after Trump claimed without any evidence that up to 3 million people voted fraudulently in the election. Trump asserted that "busloads from Massachusetts" came up to New Hampshire illegally to cast ballots, which narrowly gave Democrat Hillary Clinton the Granite State's four electoral votes.

During the 90-minute call, Pence spoke about the process the commission will follow to fulfill President Trump's mandate to determine whether more can be done to prevent voter fraud and increase public confidence in American elections, Gardner said.

"He said several times that we need to search for a common ground, it needs to be bipartisan, and I found that encouraging," Gardner said.

Sununu touched off sharp, partisan criticism Friday morning when he said on MSNBC that the state would honor the commission's request without qualifying it in any way. "Absolutely I think every state should comply. Any state not complying with this is simply playing politics," Sununu said.

## ACLU-NH takes offense

The New Hampshire Chapter of the American Civil Liberties Union said full compliance with this request would violate our state's laws governing the public disclosure of voter information.

"We expect that the secretary of state will not honor any request to produce information that is private and confidential. Any transfer of information must be in full compliance with all state disclosure laws. The Commission should not be able to obtain information that is unavailable to any ordinary member of the public," said Gilles Bissonnette, the group's legal director.

Within a few hours, Sununu clarified the state would only be releasing information it already gives to any member of the public that requests it for a fee.

"Governor Sununu only supports releasing information that is already publicly available. Period," said Benjamin Vihstadt, the governor's spokesman.

Gardner said he hasn't decided whether to make the commission pay for the public records his office will produce.

The governors or top election officials in New York, Virginia, California, Kentucky, Pennsylvania, Mississippi, Oklahoma and Massachusetts are among a number of states that have rejected outright the commission's request.

Ironically, the man who wrote the letter for the commission - Kansas Secretary of State Korbach - and another member from Illinois said their own state laws prevent them from turning over all the requested information about their voters.

President Trump himself tweeted Saturday morning about the reluctant response from so many states, "What are they trying to hide?"

The Mississippi secretary of state, Delbert Hosemann, a Republican, said Friday that he had not received a request from the commission, but colorfully suggested he would not honor one if it came.

"My reply would be: They can go jump in the Gulf of Mexico, and Mississippi is a great state to launch from," Hosemann said in a statement. "Mississippi residents should celebrate Independence Day and our state's right to protect the privacy of our citizens by conducting our own electoral processes."

The officials in many states have answered as Gardner and Sununu had, that they would only give the commission information that was public under state law.

Gardner said the first meeting of the commission will be July 19, five days after all the states are supposed to respond to the request.

The commission will have meetings on the road and there could be one in New Hampshire, Gardner added.

"Most of them will take place in D.C. I would urge people to keep an open mind on the group's work," Gardner said.


"One thing is pretty clear. The commission should get cooperation from the rest of the federal government. That's because the executive order for this commission makes it crystal clear when it asks questions, it has to be given answers."

[klandrigan@unionleader.com](mailto:klandrigan@unionleader.com).

The Washington Post contributed to this report.

# Exhibit 3-C

NOWCAST

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 0  75°

 SHOW TRANSCRIPT

## Updated: Sununu, Gardner say NH will turn over public voter information to Trump election commission

Governor backs complying with request to help ensure system has 'merit, integrity'

4979 Shares



Updated: 6:59 PM EDT Jun 30, 2017

**John DiStaso**   

Political Reporter

**CONCORD, N.H.** — New Hampshire will provide President Donald Trump's Commission on Election Integrity with the names, addresses and other public information about Granite Staters included on the voter rolls, Gov. Chris Sununu and Secretary of State William Gardner told WMUR on Friday.

But the two top state officials stressed in separate interviews that only public information will be provided.

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RELATED CONTENT

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**Gardner says concern about lack of voter confidence prompted him to say yes to Trump commission**

They responded to a request made to election officials of all 50 states by Kansas Secretary of State Kris W. Kobach, who is the vice chair of the controversial new election integrity panel.

A letter from Kobach arrived in New Hampshire on Thursday, said Gardner, who has been appointed by Trump to membership on the commission. Gardner said commission members discussed the request in general terms during a conference call on Wednesday, agreeing that the request would be limited to public information, which varies from state to state.

In his letter, Kobach asks for much more than what he'll get from New Hampshire.

Kobach asks for "publicly-available voter roll data for New Hampshire, including, if publicly available under the laws of your state, the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in you state), last four digits of social security number if available, voter history (elections voted in) from 2006 onward, active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter

registration in another state, information regarding military status, and overseas citizen information.”

The same request was made to election officials in the other 49 states. At last count, officials of 18 states, including Massachusetts, New York and California, have denied Kobach's request.



## Presidential Advisory Commission on Election Integrity

June 28, 2017

The Honorable Bill Gardner  
Secretary of State  
State House, Rm 204  
Concord, NH 03301

Dear Secretary Gardner,

I serve as the Vice Chair for the Presidential Advisory Commission on Election Integrity ("Commission"), which was formed pursuant to Executive Order 13799 of May 11, 2017. The Commission is charged with studying the registration and voting processes used in federal elections and submitting a report to the President of the United States that identifies laws, rules, policies, activities, strategies, and practices that enhance or undermine the American people's confidence in the integrity of federal election processes.

As the Commission begins its work, I invite you to contribute your views and recommendations throughout this process. In particular:

1. What changes, if any, to federal election laws would you recommend to enhance the integrity of federal elections?
2. How can the Commission support state and local election administrators with regard to information technology security and vulnerabilities?
3. What laws, policies, or other issues hinder your ability to ensure the integrity of elections you administer?
4. What evidence or information do you have regarding instances of voter fraud or registration fraud in your state?
5. What convictions for election-related crimes have occurred in your state since the November 2000 federal election?
6. What recommendations do you have for preventing voter intimidation or disenfranchisement?
7. What other issues do you believe the Commission should consider?

In addition, in order for the Commission to fully analyze vulnerabilities and issues related to voter registration and voting, I am requesting that you provide to the Commission the publicly-available voter roll data for New Hampshire, including, if publicly available under the laws of your state, the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your state), last four digits of social

security number if available, voter history (elections voted in) from 2006 onward, active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.

You may submit your responses electronically to [ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov) or by utilizing the Safe Access File Exchange ("SAFE"), which is a secure FTP site the federal government uses for transferring large data files. You can access the SAFE site at <https://safe.nmrdcc.army.mil/safe/Welcome.aspx>. We would appreciate a response by July 14, 2017. Please be aware that any documents that are submitted to the full Commission will also be made available to the public. If you have any questions, please contact Commission staff at the same email address.

On behalf of my fellow commissioners, I also want to acknowledge your important leadership role in administering the elections within your state and the importance of state-level authority in our federalist system. It is crucial for the Commission to consider your input as it collects data and identifies areas of opportunity to increase the integrity of our election systems.

I look forward to hearing from you and working with you in the months ahead.

Sincerely,



Kris W. Kobach  
Vice Chair  
Presidential Advisory Commission on Election Integrity

Gardner said that in New Hampshire, the only information about voters that is public -- and will be provided -- is voters' names, addresses, party affiliation and voting history dating back to 2006. He said voting history includes whether a person voted in a general election and which party's ballot a voter took during a primary election.

He said the information to be provided is the same information that is on each city and town's voter checklist, and he noted that before every election, the checklists must be posted publicly.

Gardner said the information is available on a statewide basis at the State Archives.

And, he said, candidates for office, political parties and political committees can purchase the entire file from the state his office. He said the current price is \$8,300.

He said he had yet to decide whether to charge the federal government a fee for the information.

“We fully intend to comply,” Sununu told WMUR. “This is a bipartisan commission looking at integrity in the election process. That is something we take seriously here in the State of New Hampshire.”

“All voter information in this state is public, and that’s the information we’ll be providing. Nothing else,” he said.

Gardner, a Democrat, endorsed the Kobach request as a way of crosschecking voters across the county to ensure that no one votes twice in future federal elections.

The Presidential Advisory Commission on Election Integrity was formed by a Trump executive order last month, after he complained that he lost the November general election popular vote because millions of people voted illegally. The president charged that he lost New Hampshire’s four electoral votes to Hillary Clinton because thousands of people were bused into the state from Massachusetts and voted illegally.

The president did not present any evidence to back up his claims.

Democrats have charged that the commission is a sham and a tool to manufacture a justification for Trump’s voter fraud claims.

Sununu, a Republican, rejected that contention.

“This is a bipartisan commission with some of the nation’s leading experts in this area,” he said. “This isn’t a bunch of political hacks being put up there. These are

authorities, secretaries of state from across the country, Republican and Democrat, who have stood up and said it's a good idea, it has merit and value.

"So, obviously, we fully intend to comply to make sure that our electoral process -- not just here in New Hampshire but in this country -- has merit and integrity," he said.

Sununu noted that Social Security numbers will not be provided because they are not part of the voter file in New Hampshire.

"Everything we're providing is public," he said.

He also said the voter information is a valuable tool for the commission.

"You have to have the voter file to make recommendations about how the system is working or not working," the governor said. "You have to understand who is voting, where they are, what the checks and balances of that process are.

"These are the nation's leading experts in this area and I have full confidence that they'll make the right decisions and the right recommendations for the president," Sununu said.

In contrast, New York's Democratic governor, Andrew Cuomo, posted on Twitter: "NY refuses to perpetuate the myth voter fraud played a role in our election."

As Kansas' secretary of state, Kobach has championed some of the strictest voting laws in the country.

Kobach told the Kansas City Star on Thursday that the information provided by states would be hosted on a secure federal server and not disclosed to the public. He said that the request for the Social Security digits was meant "to prevent false positives," such as when two people share the same name and birthday.

“The idea is to have the best data possible,” Kobach told the Kansas City newspaper. “The purpose of the commission is to quantify different forms of voter fraud and registration fraud and offer solutions. And so you have to have this data in order to do any meaningful research.”

On Friday, however, Kobach told the Star he will not submit Kansans' Social Security information to the commission because it is not public information in his state.

Kobach and the commission generally have faced stiff criticism from liberal voting rights activists.

In New Hampshire, some Democrats have asked why Gardner would agree to serve, insisting that it will jeopardize his integrity.

Gardner told WMUR in May that the critics should “give it a chance.” He said he accepted the invitation to serve on the commission because he worries that nationally, voter confidence in elections is low and some action must be taken to bolster that confidence.

Gilles Bissonnette, legal director of the American Civil Liberties Union-New Hampshire, said Gardner should withhold any information “that is unavailable to the general public.”

“Unfortunately, this commission likely will be a pretext to enact new restrictions on the right to vote. Led by Mr. Kobach, it is based on the false premise that there was widespread voter fraud last November,” Bissonnette said.

New Hampshire Democratic Party Chairman Raymond Buckley said that it would be illegal for Gardner to provide private voter information under state law.

In a statement, Buckley implied that Sununu and Gardner will provide private information to the commission, saying, “It is disappointing that Gov. Sununu has

chosen the Trump administration's unwarranted request over the privacy of Granite Staters. He is once again falling in line behind President Trump and pledging to hand over our highly personal information to a federal government commission created at best to soothe the president's ego, and at worst, undermine the integrity of our elections and disenfranchise millions of voters."

State Republican Party spokesman Patrick Hynes responded, "Ray Buckley is a desperate buffoon."

"This guy has been wrong about every attack he's made at our popular, successful governor," Hynes said.

U.S. Rep. Carol Shea-Porter, a Democrat, urged Sununu and Gardner to deny the request, writing in a letter to them, "As you know, we Granite Staters greatly value our privacy rights. We are the 'Live Free or Die' state, and this request is undoubtedly an assault on our freedom. This request violates the privacy of our state's residents and represents an unprecedented intrusion by the federal government into our state's electoral data."

Gardner said he intends to attend the commission's first meeting, scheduled for July 19 in Washington, D.C.

**WMUR MANCHESTER**



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# **Exhibit 4**



## 2005 NH HB 1238

Enacted, June 19, 2006

### Reporter

2006 NH ALS 305; 2006 NH Ch. 305; 2005 NH HB 1238

**NEW HAMPSHIRE ADVANCE LEGISLATIVE SERVICE > NEW HAMPSHIRE SECOND YEAR OF THE 159TH  
SESSION OF THE GENERAL COURT > CHAPTER 305 > HOUSE BILL 1238**

### Notice

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☛ [A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

[D> Text within these symbols is deleted <D]

### Synopsis

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AN ACT STATE OF NEW HAMPSHIRE In the Year of Our Lord Two Thousand Six AN ACT relative to centralized voter registration database information and relative to interference with campaign communications.

### Text

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

305:1 Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

[A> I. IN THIS SECTION: <A]

[A> (A) "CHECKLIST INFORMATION" MEANS THE DATA, IN ANY FORM, REQUIRED TO BE PLACED ON THE PUBLIC CHECKLIST BY RSA 654:25, WHEN THAT DATA IS OBTAINED OR DERIVED FROM A CHECKLIST OR FROM THE STATEWIDE CENTRALIZED VOTER REGISTRATION DATABASE MAINTAINED BY THE SECRETARY OF STATE. <A]

[A> (B) "COMMERCIAL PURPOSES" MEANS KNOWINGLY USING, SELLING, GIVING, OR RECEIVING THE CHECKLIST INFORMATION FOR THE PURPOSE OF SELLING OR OFFERING FOR SALE ANY PROPERTY OR SERVICE UNRELATED TO AN ELECTION OR POLITICAL CAMPAIGN. <A]

[A> (C) "NONPUBLIC CHECKLIST" MEANS THE CHECKLIST BEARING THE NAMES OF VOTERS WHO BY LAW ARE ENTITLED TO HAVE THEIR STATUS AS A VOTER KEPT NONPUBLIC. <A]

[A> (D) "PUBLIC CHECKLIST" MEANS THE CHECKLIST REQUIRED BY RSA 654:25 WHICH CONTAINS THE NAMES OF VOTERS WHO BY LAW ARE TO BE LISTED ON A CHECKLIST AVAILABLE TO THE PUBLIC IN ACCORDANCE WITH THE RESTRICTIONS ESTABLISHED BY THIS SECTION. <A]

[A] II. IN TOWNS AND CITIES, <A> the [A] PUBLIC <A> checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors [A] OF THE CHECKLIST <A> shall furnish one or more copies of the most recent [A] PUBLIC <A> checklist [A] OF THEIR TOWN OR CITY <A> to any person requesting such copies. [D] If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall be furnished copies in any of those forms according to his preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist, except that in no event shall the fee for paper copies of any single town or ward checklist be less than \$ 5 nor more than \$ 25 per checklist. The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it. The fee shall be for the use of the town or city. <D> [A] THE SUPERVISORS OF THE CHECKLIST MAY ONLY PROVIDE CHECKLIST INFORMATION FOR THEIR TOWN OR CITY. THE SUPERVISORS OF THE CHECKLIST MAY CHARGE A FEE OF UP TO \$ 25 FOR EACH COPY OF THE PUBLIC CHECKLIST FOR A TOWN OR WARD. FOR PUBLIC CHECKLISTS CONTAINING MORE THAN 2,500 NAMES, THE SUPERVISORS OF THE CHECKLIST MAY CHARGE A FEE OF UP TO \$ 25, PLUS \$ 0.50 PER THOUSAND NAMES OR PORTION THEREOF IN EXCESS OF 2,500, PLUS ANY SHIPPING COSTS. THE SUPERVISORS OF THE CHECKLIST MAY PROVIDE PUBLIC CHECKLIST INFORMATION ON PAPER, COMPUTER DISK, COMPUTER TAPE, ELECTRONIC TRANSFER, OR ANY OTHER FORM. <A>

[A] III. ANY PERSON MAY VIEW THE DATA THAT WOULD BE AVAILABLE ON THE PUBLIC CHECKLIST, AS CORRECTED BY THE SUPERVISORS OF THE CHECKLIST, ON THE STATEWIDE CENTRALIZED VOTER REGISTRATION DATABASE MAINTAINED BY THE SECRETARY OF STATE AT THE STATE RECORDS AND ARCHIVES CENTER DURING NORMAL BUSINESS HOURS, BUT THE PERSON VIEWING DATA AT THE STATE RECORDS AND ARCHIVES CENTER MAY NOT PRINT, DUPLICATE, TRANSMIT, OR ALTER THE DATA. THE SECRETARY OF STATE MAY ONLY PROVIDE COPIES OF THE MOST RECENT PUBLIC CHECKLIST TO A POLITICAL COMMITTEE OF A POLITICAL PARTY AS DEFINED IN RSA 664:2, V, OR TO A CANDIDATE WHO HAS FILED FOR CONSIDERATION FOR ANY OFFICE IN ANY PRIMARY OR GENERAL ELECTION OR WHO HAS BEEN NOMINATED FOR ANY OFFICE IN A GENERAL ELECTION. THE SECRETARY OF STATE MAY NOT PROVIDE PUBLIC CHECKLISTS OF LESS THAN THE ENTIRE STATE. THE SECRETARY OF STATE MAY CHARGE A FEE OF UP TO \$ 25 PLUS \$ 0.50 PER THOUSAND NAMES OR PORTION THEREOF IN EXCESS OF 2,500 PLUS SHIPPING CHARGES FOR EACH COPY OF THE STATEWIDE PUBLIC CHECKLIST. THE SECRETARY OF STATE MAY PROVIDE PUBLIC CHECKLISTS AS PRESCRIBED IN THIS SECTION ON PAPER, COMPUTER DISK, COMPUTER TAPE, ELECTRONIC TRANSFER, OR ANY OTHER FORM. <A>

[A] IV. FEES COLLECTED BY THE SECRETARY OF STATE UNDER THIS SECTION SHALL BE DEPOSITED IN THE ELECTION FUND ESTABLISHED PURSUANT TO RSA 5:6-D. FEES COLLECTED BY A TOWN OR CITY UNDER THIS SECTION SHALL BE FOR THE USE OF THE TOWN OR CITY. <A>

[A] V. NO PERSON SHALL USE OR PERMIT THE USE OF CHECKLIST INFORMATION PROVIDED BY THE SECRETARY OF STATE FOR COMMERCIAL PURPOSES. WHOEVER KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR IF A NATURAL PERSON OR GUILTY OF A FELONY IF ANY OTHER PERSON. <A>

[A] VI. THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT THE TRANSFER OF CHECKLIST INFORMATION TO THE STATE OR FEDERAL COURTS AS REQUIRED BY RSA 654:45 FOR ANY LAWFUL PURPOSE. <A>

305:2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as follows:

VI. The voter database shall be private and confidential and shall not be subject to RSA 91-A and RSA 654:31. [A] THE SECRETARY OF STATE IS AUTHORIZED TO PROVIDE VOTER DATABASE RECORD DATA TO THE ADMINISTRATIVE OFFICE OF THE COURTS TO ASSIST IN THE PREPARATION OF MASTER JURY LISTS

## 2005 NH HB 1238

PURSUANT TO RSA 500-A AND TO THE CLERK OF THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW HAMPSHIRE TO ASSIST IN THE PREPARATION OF FEDERAL COURT JURY LISTS. **<A>** The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor.

305:3 Right to Know Exemption; Public Information; Mailing Address. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, street address, **[A>** MAILING ADDRESS, **<A]** town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, citizenship and domicile affidavits, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, citizenship and domicile affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any citizenship or domicile affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, citizenship and domicile affidavits, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

305:4 Election Procedure; Prohibited Acts; Interference With Communications; Penalty. Amend RSA 659:40-a to read as follows:

659:40-a Interference With Communications. Any person who, on the day of any election, knowingly blocks, or solicits another person to block, the access of any candidate or committee to the candidate's or the committee's communications equipment or services with the intent of interfering with campaign activity shall be guilty of a class **[D>** A misdemeanor **<D]** **[A>** B FELONY **<A]**.

305:5 Election Procedure; Prohibited Acts; Tampering with Voting Machines; Software. Amend RSA 659:42 to read as follows:

659:42 Tampering with Voting Machines. Whoever shall tamper with or injure or attempt to injure any voting machine or device for the computerized casting and counting of ballots to be used or being used in an election or whoever shall prevent or attempt to prevent the correct operation of such machine or device **[A>** OR WHOEVER SHALL TAMPER WITH SOFTWARE USED IN THE CASTING OR COUNTING OF BALLOTS OR DESIGN SUCH SOFTWARE SO AS TO CAUSE INCORRECT TABULATION OF THE BALLOTS **<A]** or any unauthorized person who shall make or have in his **[A>** OR HER **<A]** possession a key to a voting machine to be used or being used in an election shall be guilty of a class B felony if a natural person or guilty of a felony if any other person.

305:6 Effective Date.

I. Sections 4-5 of this act shall take effect January 1, 2007.

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

Effective: I. Sections 4-5 shall take effect January 1, 2007

II. Remainder shall take effect August 18, 2006

## History

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Approved by the Governor on June 19, 2006.

## Sponsor

---

O'Brien W

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End of Document

HB 1238-FN - AS INTRODUCED

2006 SESSION

06-2135  
03/09

HOUSE BILL            ***1238-FN***

AN ACT                relative to centralized voter registration database information.

SPONSORS:            Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

COMMITTEE:          Election Law

---

ANALYSIS

This bill modifies fees and procedures for obtaining copies of voter checklist information. This bill also permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

---

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.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Six*

AN ACT relative to centralized voter registration database information.

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

1 1 Availability of Checklist. Amend RSA 654:31 to read as follows:

2 654:31 Availability of Checklist.

3 *I. The public checklist as corrected by the supervisors shall be open for the examination of*  
4 *any person at all times before the opening of a meeting or election at which the list is to be used.*  
5 *The secretary of state or the supervisors of the checklist shall furnish one or more copies of the*  
6 *most recent public checklist to any person requesting such copies. [If the supervisors maintain or*  
7 *have access to the checklist or information from which the checklist was derived in more than one*  
8 *form, the person requesting copies shall be furnished copies in any of those forms according to his*  
9 *preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs*  
10 *incurred when reproducing an existing checklist, except that in no event shall the fee for paper*  
11 *copies of any single town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee*  
12 *charged for checklists on computer disk or tape, or in any form other than paper, shall be based*  
13 *solely on the additional costs incurred to provide such checklist to the individual requesting it. The*  
14 *fee shall be for the use of the town or city.] Only the supervisors of the checklist may provide*  
15 *checklists of less than the entire state. The supervisors of the checklist may charge a fee of*  
16 *up to \$25 for each copy of the checklist for a town or ward. For checklists containing more*  
17 *than 2,500 names, the secretary of state or the supervisors of the checklist may charge a fee*  
18 *of up to \$25, plus \$0.0005 per name for each name in excess of 2,500, plus any shipping*  
19 *costs.*

20 *II. The secretary of state may provide checklist information on computer disk,*  
21 *computer tape, electronic transfer, or any form other than paper only to a political*  
22 *committee of a political party as defined in RSA 664:2, V, or a candidate who has filed for*  
23 *consideration for any office in any primary or general election or who has been nominated*  
24 *for any office in a general election. The fee charged for checklists provided by the secretary*  
25 *of state or supervisors of the checklist in any form other than paper shall be based solely on*  
26 *the additional costs incurred to provide such checklists.*

27 *III. Fees collected by the secretary of state under this section shall be deposited in*  
28 *the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under*  
29 *this section shall be for the use of the town or city.*

30 2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as  
31 follows:

HB 1238-FN - AS INTRODUCED

- Page 2 -

1 VI. The voter database shall be private and confidential and shall not be subject to  
2 RSA 91-A and RSA 654:31. *The secretary of state is authorized to provide voter database*  
3 *record data to the administrative office of the courts to assist in the preparation of master*  
4 *jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States*  
5 *for the District of New Hampshire to assist in the preparation of federal court jury lists.*  
6 The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who  
7 discloses information from the voter database in any manner not authorized by this section shall be  
8 guilty of a misdemeanor.

9 3 Effective Date. This act shall take effect July 1, 2006.

LBAO  
06-2135  
11/1/05

HB 1238-FN - FISCAL NOTE

AN ACT relative to centralized voter registration database information.

**FISCAL IMPACT:**

The New Hampshire Municipal Association states this bill may increase local revenue by an indeterminable amount in FY 2007 and each year thereafter. The Department of State states this bill will increase state revenue and expenditures by an indeterminable amount in FY 2007 and each year thereafter. This bill will have no fiscal impact on county revenue or county and local expenditures.

**METHODOLOGY:**

The New Hampshire Municipal Association states this bill makes changes to the fees that may be charged by a municipality's supervisors of the checklist for providing copies of the checklist to persons requesting them. Under current law, the supervisors may charge a fee that is based on the actual cost incurred, except that in no event shall the fee for paper copies be less than \$5 nor more than \$25. Under this bill, the supervisors could charge a fee of up to \$25, and if the checklist contains more than 2,500 names, they could charge an additional \$0.0005 per name in excess of 2,500, plus any shipping costs. The Association states by allowing the supervisors to charge an additional fee for copies containing more than 2,500 names, this bill could generate additional revenue for some municipalities. The Association is unable to determine how often such requests will be made, how many names will be involved, and whether municipalities will choose to charge the extra fee. As a result, the exact fiscal impact cannot be determined at this time.

The Department of State indicates this bill is designed to be revenue and expenditure neutral on the Department, and any fiscal impact would be under \$10,000 per year.



15Feb2006... 0548h

HB 1238-FN - AS AMENDED BY THE HOUSE

2006 SESSION

06-2135  
03/09

HOUSE BILL

***1238-FN***

AN ACT

relative to centralized voter registration database information.

SPONSORS:

Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

COMMITTEE:

Election Law

---

AMENDED ANALYSIS

This bill:

- I. Modifies fees and procedures for obtaining copies of voter checklist information.
- II. Prohibits the use of checklist information provided by the secretary of state for commercial purposes.
- III. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

.....

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.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Six*

AN ACT relative to centralized voter registration database information.

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

1 1 Availability of Checklist. Amend RSA 654:31 to read as follows:

2 654:31 Availability of Checklist.

3 **I. In this section:**

4 (a) **"Checklist information"** means the data, in any form, required to be placed  
5 on the public checklist by RSA 654:25, when that data is obtained or derived from a  
6 checklist or from the statewide centralized voter registration database maintained by the  
7 secretary of state.

8 (b) **"Commercial purposes"** means knowingly using, selling, giving, or receiving  
9 the checklist information for the purpose of selling or offering for sale any property or  
10 service unrelated to an election or political campaign.

11 (c) **"Nonpublic checklist"** means the checklist bearing the names of voters who  
12 by law are entitled to have their status as a voter kept nonpublic.

13 (d) **"Public checklist"** means the checklist required by RSA 654:25 which  
14 contains the names of voters who by law are to be listed on a checklist available to the  
15 public in accordance with the restrictions established by this section.

16 **II.** The public checklist as corrected by the supervisors shall be open for the examination of  
17 any person at all times before the opening of a meeting or election at which the list is to be used.  
18 Any person may view the data that would be available on the public checklist on the  
19 statewide centralized voter registration database maintained by the secretary of state at  
20 the state records and archives center during normal business hours, but the person  
21 viewing data at the state records and archives center may not print, duplicate, transmit, or  
22 alter the data. The secretary of state or the supervisors of the checklist shall furnish one or  
23 more copies of the most recent public checklist to any ~~[person]~~ political committee of a political  
24 party as defined in RSA 664:2, V or any candidate who has filed for consideration for any  
25 office in any primary or general election or who has been nominated for any office in a  
26 general election requesting such copies. ~~[If the supervisors maintain or have access to the~~  
27 ~~checklist or information from which the checklist was derived in more than one form, the person~~  
28 ~~requesting copies shall be furnished copies in any of those forms according to his preference. The~~  
29 ~~supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when~~  
30 ~~reproducing an existing checklist, except that in no event shall the fee for paper copies of any single~~

HB 1238-FN - AS AMENDED BY THE HOUSE

- Page 2 -

1 ~~town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee charged for~~  
2 ~~checklists on computer disk or tape, or in any form other than paper, shall be based solely on the~~  
3 ~~additional costs incurred to provide such checklist to the individual requesting it. The fee shall be~~  
4 ~~for the use of the town or city.] Only the supervisors of the checklist may provide public~~  
5 *checklists of less than the entire state. The supervisors of the checklist may charge a fee of*  
6 *up to \$25 for each copy of the public checklist for a town or ward. For public checklists*  
7 *containing more than 2,500 names, the secretary of state or the supervisors of the checklist*  
8 *may charge a fee of up to \$25, plus \$0.0005 per name for each name in excess of 2,500, plus*  
9 *any shipping costs.*

10 *III. The secretary of state or supervisors of the checklist may provide public*  
11 *checklist information on computer disk, computer tape, electronic transfer, or any form*  
12 *other than paper. The secretary of state may only provide checklist information to a*  
13 *political committee of a political party as defined in RSA 664:2, V, or to a candidate who*  
14 *has filed for consideration for any office in any primary or general election or who has*  
15 *been nominated for any office in a general election. The fee charged for public checklists*  
16 *provided by the secretary of state or supervisors of the checklist in any form other than*  
17 *paper shall be based solely on the additional costs incurred to provide such checklists.*

18 *IV. Fees collected by the secretary of state under this section shall be deposited in*  
19 *the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under*  
20 *this section shall be for the use of the town or city.*

21 *V. No person shall use or permit the use of checklist information provided by the*  
22 *secretary of state for commercial purposes. Whoever knowingly violates any of the*  
23 *provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a*  
24 *felony if any other person.*

25 *VI. This section shall not be construed to restrict the transfer of checklist*  
26 *information to the state or federal courts as required by RSA 654:45 for any lawful purpose.*

27 *2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as*  
28 *follows:*

29 *VI. The voter database shall be private and confidential and shall not be subject to*  
30 *RSA 91-A and RSA 654:31. The secretary of state is authorized to provide voter database*  
31 *record data to the administrative office of the courts to assist in the preparation of master*  
32 *jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States*  
33 *for the District of New Hampshire to assist in the preparation of federal court jury lists.*  
34 *The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who*  
35 *discloses information from the voter database in any manner not authorized by this section shall be*  
36 *guilty of a misdemeanor.*

37 *3 Effective Date. This act shall take effect July 1, 2006.*

HB 1238-FN - AS INTRODUCED

- Page 3 -

LBAO  
06-2135  
11/1/05

HB 1238-FN - FISCAL NOTE

AN ACT relative to centralized voter registration database information.

**FISCAL IMPACT:**

The New Hampshire Municipal Association states this bill may increase local revenue by an indeterminable amount in FY 2007 and each year thereafter. The Department of State states this bill will increase state revenue and expenditures by an indeterminable amount in FY 2007 and each year thereafter. This bill will have no fiscal impact on county revenue or county and local expenditures.

**METHODOLOGY:**

The New Hampshire Municipal Association states this bill makes changes to the fees that may be charged by a municipality's supervisors of the checklist for providing copies of the checklist to persons requesting them. Under current law, the supervisors may charge a fee that is based on the actual cost incurred, except that in no event shall the fee for paper copies be less than \$5 nor more than \$25. Under this bill, the supervisors could charge a fee of up to \$25, and if the checklist contains more than 2,500 names, they could charge an additional \$0.0005 per name in excess of 2,500, plus any shipping costs. The Association states by allowing the supervisors to charge an additional fee for copies containing more than 2,500 names, this bill could generate additional revenue for some municipalities. The Association is unable to determine how often such requests will be made, how many names will be involved, and whether municipalities will choose to charge the extra fee. As a result, the exact fiscal impact cannot be determined at this time.

The Department of State indicates this bill is designed to be revenue and expenditure neutral on the Department, and any fiscal impact would be under \$10,000 per year.

Amendment to HB 1238-FN

1 Amend the bill by replacing section 1 with the following:

2

3 1 Availability of Checklist. Amend RSA 654:31 to read as follows:

4 654:31 Availability of Checklist.

5 *I. In this section:*

6 (a) *"Checklist information" means the data, in any form, required to be placed*  
7 *on the public checklist by RSA 654:25, when that data is obtained or derived from a*  
8 *checklist or from the statewide centralized voter registration database maintained by the*  
9 *secretary of state.*

10 (b) *"Commercial purposes" means knowingly using, selling, giving, or receiving*  
11 *the checklist information for the purpose of selling or offering for sale any property or*  
12 *service unrelated to an election or political campaign.*

13 (c) *"Nonpublic checklist" means the checklist bearing the names of voters who*  
14 *by law are entitled to have their status as a voter kept nonpublic.*

15 (d) *"Public checklist" means the checklist required by RSA 654:25 which*  
16 *contains the names of voters who by law are to be listed on a checklist available to the*  
17 *public in accordance with the restrictions established by this section.*

18 *II. The public checklist as corrected by the supervisors shall be open for the examination of*  
19 *any person at all times before the opening of a meeting or election at which the list is to be used.*  
20 *Any person may view the data that would be available on the public checklist on the*  
21 *statewide centralized voter registration database maintained by the secretary of state at*  
22 *the state records and archives center during normal business hours, but the person*  
23 *viewing data at the state records and archives center may not print, duplicate, transmit, or*  
24 *alter the data. The secretary of state or the supervisors of the checklist shall furnish one or*  
25 *more copies of the most recent public checklist to any [person] political committee of a political*  
26 *party as defined in RSA 664:2, V or any candidate who has filed for consideration for any*  
27 *office in any primary or general election or who has been nominated for any office in a*  
28 *general election requesting such copies. ~~[If the supervisors maintain or have access to the~~*  
29 *~~checklist or information from which the checklist was derived in more than one form, the person~~*  
30 *~~requesting copies shall be furnished copies in any of those forms according to his preference. The~~*  
31 *~~supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when~~*

Amendment to HB 1238-FN

- Page 2 -

1 reproducing an existing checklist, except that in no event shall the fee for paper copies of any single  
2 town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee charged for  
3 checklists on computer disk or tape, or in any form other than paper, shall be based solely on the  
4 additional costs incurred to provide such checklist to the individual requesting it. The fee shall be  
5 for the use of the town or city.] *Only the supervisors of the checklist may provide public*  
6 *checklists of less than the entire state. The supervisors of the checklist may charge a fee of*  
7 *up to \$25 for each copy of the public checklist for a town or ward. For public checklists*  
8 *containing more than 2,500 names, the secretary of state or the supervisors of the checklist*  
9 *may charge a fee of up to \$25, plus \$0.0005 per name for each name in excess of 2,500, plus*  
10 *any shipping costs.*

11 *III. The secretary of state or supervisors of the checklist may provide public*  
12 *checklist information on computer disk, computer tape, electronic transfer, or any form*  
13 *other than paper. The secretary of state may only provide checklist information to a*  
14 *political committee of a political party as defined in RSA 664:2, V, or to a candidate who*  
15 *has filed for consideration for any office in any primary or general election or who has*  
16 *been nominated for any office in a general election. The fee charged for public checklists*  
17 *provided by the secretary of state or supervisors of the checklist in any form other than*  
18 *paper shall be based solely on the additional costs incurred to provide such checklists.*

19 *IV. Fees collected by the secretary of state under this section shall be deposited in*  
20 *the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under*  
21 *this section shall be for the use of the town or city.*

22 *V. No person shall use or permit the use of checklist information provided by the*  
23 *secretary of state for commercial purposes. Whoever knowingly violates any of the*  
24 *provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a*  
25 *felony if any other person.*

26 *VI. This section shall not be construed to restrict the transfer of checklist*  
27 *information to the state or federal courts as required by RSA 654:45 for any lawful purpose.*

2006-0548h

AMENDED ANALYSIS

This bill:

- I. Modifies fees and procedures for obtaining copies of voter checklist information.
- II. Prohibits the use of checklist information provided by the secretary of state for commercial purposes.
- III. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

# SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1238 Date JAN. 10, 2006  
Committee Electron Law

**\*\* Please Print All Information \*\***

Name	Address	Phone	Representing	(check one)	
				Pro	Con
ANDREW L. WILSON	POB 91, ANDOVER	781-5427	LQMA/ALU	<input checked="" type="checkbox"/>	<input type="checkbox"/>



HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 1238-FN

**BILL TITLE:** relative to centralized voter registration database information.  
**DATE:** January 10, 2006  
**LOB ROOM:** 308      **Time Public Hearing Called to Order:** 10:00 AM  
**Time Adjourned:** 10:45 AM

(please circle if present)

**Committee Members:** Reps. Whalley, Orisko, Reeves, Kennedy, J. Allen, Rundo, Boehm, Carew, Forsing, Hirschmann, Langlais, O'Brien, Splaine, Clemons, Weed, C. Chase, Karvey and Coates.

**Bill Sponsors:** Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep. O'Brien, prime sponsor. Issue is what the public access will be to the public database. Two issues: 1) financial (local issue), 2) public access. Towns and cities are concerned about loss of revenue from sale of database. Towns would likely retain financial gain from representatives because they wouldn't want to have entire state list. Federal and state courts want access to voter database in order to use it for jury duty lists. Rep. O'Brien supports this bill and the approach.

In response to questions: It was explained that this bill could be brought before the legislature again because the House did not kill the first bill. Also, this bill prohibits public contact for those who are on the "do not call" list.

Rep. O'Neil, Majority Leader, co sponsor. Testifying in support. Good bill that allows candidates to have access to the voter list.

Rep. Kurk. He thinks that the bill needs to be amended to protect the privacy of voters. He would like anyone who gets the list to only be able to use it for electioneering. The party should only have access to names and addresses of voters and not any other information that might be in database. Rep. Kurk is concerned about voters privacy and making sure the voters do not get into mailing lists, etc.

\*Bud Fitch, Deputy Attorney General. Submitted written testimony. Atty. Fitch explained that the database content is already covered under another RSA (RSA 654:31-a). the voters privacy is protected under this RSA. There also exists a non-public checklist that is maintained for voters in the domestic violence program. Massachusetts has a law (unchallenged) that insures the checklist is only used for electioneering. It is an opinion that this committee might want to look into.

HB 1238  
Page 2  
January 10, 2006

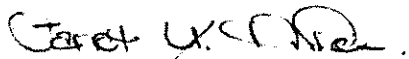
Tom Edwards, representing the Judicial Branch. Supports bill. Spoke only in regards of section that states the secretary of state can supply the list to the courts. He is in favor and would like to <sup>retain</sup> ~~train~~ that section.

David Scanlan, Deputy Secretary of State. Supports bill. Does have a concern about competing with the towns for the financial revenue. He wants to be sure that the towns continue to be able to collect that revenue. In response to questions, he said that the checklist will be purged more often and at a much faster rate than it is present. He believes the checklist will be much improved. He would like the state not to charge less than what a candidate would pay to the town for the list. Charge the same fee for this list whether it is on paper or on disc.

\*Written testimony submitted by Howard Wilson who is representing the Libertarian Party. He did not testify in person.

Carol Johnson, representing NH Municipal Clerks and City of Manchester. Supports the bill. She would like to make the bill clear that the supervisors of the checklist can also supply the list under section 2. The committee understood her concern..

Respectfully submitted,



Rep. Janet F. Allan, Clerk

file copy

**TO:** The Honorable Michael D Whalley, Chairman,  
Members of the House Election Law Committee

**FROM:** Bud Fitch, Senior Assistant Attorney General *OBFTB*

**DATE:** Tuesday January 10, 2006

**Re:** House Bill 1238, Centralized Voter Registration Database Information

Chairman Whalley and Members of the Election Law Committee, thank you for this opportunity to testify regarding HB 1238. The Attorney General's Office supports the Secretary of State's position on the fee provisions in this bill and supports section 2 of this bill which authorizes the Secretary of State to fulfill the needs of the State and Federal courts for checklist data.

State and federal laws require the courts to use the list of registered voters as one source for establishing a pool of potential jurors. Currently each town and city provides its checklists to the Administrative Office of the Courts, for the State, and the Clerk of Court, for the federal court. The courts then expend significant resources getting that data into a uniform database from which they can randomly select people for the first step in the juror selection process.

Now that the Statewide Voter Registration System required by the federal Help America Vote Act is in place, data on all voters is stored in the central database controlled by the Secretary of State. The Secretary of State has the ability to easily produce a computerized list of all voters statewide in a uniform format.

This change in law will relieve towns and cities from this duty and will lower the court's expenses for preparing the list of potential jurors.

109311.doc

HOUSE COMMITTEE ON ELECTION LAW  
EXECUTIVE SESSION on HB 1238-FN

**BILL TITLE:** relative to centralized voter registration database information.  
**DATE:** January 25, 2006  
**LOB ROOM:** 308

Amendments:

Sponsor: Rep. O'Brien	OLS Document #:	2006	0548h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. O'Brien

Seconded by Rep. Reeves

Vote: 16-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. O'Brien

Seconded by Rep. Reeves

Vote: 16-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Janet F. Allen, Clerk

ELECTION LAW

Bill #: HB 1238-EO Title: Relative to centralized voter registration database info.

PH Date: 1/10/06

Exec Session Date: 1/25/06

Motion: CTP

Amendment #: 2006-0548h

MEMBER	YEAS	NAYS
Whalley, Michael D, Chairman	✓	
Drisko, Richard B, V Chairman	✓	
Reeves, Sandra J	✓	
Kennedy, Richard E	✓	
Allen, Janet F, Clerk	✓	
Biundo, Michael G <i>absent</i>		
Boehm, Ralph G	✓	
Carew, James M	✓	
Forsing, Robert W	✓	
Hirschmann, Keith D	✓	
Langlais, Thomas J	✓	
O'Brien, William L	✓	
Splaine, James R	✓	
Clemons, Jane A <i>absent</i>		
Weed, Charles F	✓	
Chase, Claudia A	✓	
Harvey, Suzanne	✓	
Coates, Christopher C	✓	
TOTAL VOTE:	16	0

ELECTION LAW

Bill #: HB 1238-EN

Title: Relative to centralized voter registration database <sup>info.</sup>

PH Date: 1/10/06

Exec Session Date: 1/25/06

Motion: OTPA

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Whalley, Michael D, Chairman	✓	
Drisko, Richard B, V Chairman	✓	
Reeves, Sandra J	✓	
Kennedy, Richard E	✓	
Allen, Janet F, Clerk	✓	
Biundo, Michael G <i>absent</i>		
Boehm, Ralph G	✓	
Carew, James M	✓	
Forsing, Robert W	✓	
Hirschmann, Keith D	✓	
Langlais, Thomas J	✓	
O'Brien, William L	✓	
Splaine, James R	✓	
Clemons, Jane A <i>absent</i>		
Weed, Charles F	✓	
Chase, Claudia A	✓	
Harvey, Suzanne	✓	
Coates, Christopher C	✓	
TOTAL VOTE:	16	0

Printed: 12/19/2005

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 1238-FN

**BILL TITLE:** relative to centralized voter registration database information.

**DATE:** February 22, 2006

**LOB ROOM:** 202

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Carson

Seconded by Rep. Pratt

Vote: 18-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)


**CONSENT CALENDAR VOTE: 18-0**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Christine C. Hamm, Clerk



WAYS AND MEANS

Bill #: HB 1238-FN Title: \_\_\_\_\_

PH Date: 2/22/06

Exec Session Date: 2/22/06

Motion: OTP

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Major, Norman L, Chairman	✓	
Camm, Kevin L, V Chairman	✓	
Jasper, Shawn N	✓	
Griffin, Mary E	✓	
Hinkle, Peyton B	✓	
Thomas, John H	✓	
Lockwood, Priscilla P	✓	
Whalley, Michael D	abs	
Rausch, James B	✓	
Lund, Howie	abs	
Parker, Benjamin E	✓	
Wells, Roger G	✓	
Carson, Sharon M	✓	
Osgood, Philip G	✓	
Almy, Susan W	✓	
Hamm, Christine C, Clerk	✓	
Pratt, John M	✓	
Goodwin, Earle	abs	
Butynski, William	✓	
Mulholland, Catherine	✓	
Shaw, Kimberly C	abs	
Ryan, Jim	✓	
TOTAL VOTE:	18	0
Printed: 2/21/2006		



# COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 1238-FN

TITLE: relative to centralized voter registration database information.

DATE: January 25, 2006 CONSENT CALENDAR YES  NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

## STATEMENT OF INTENT (Include Committee Vote)

Based on the requirements of the Help American Vote Act (HAVA), the secretary of state's office has compiled a statewide voter database that will be periodically updated based on information provided by the local supervisors of the checklist. The enabling legislation passed by the General Court to permit this statewide voter database does not allow the secretary of state to disseminate this checklist to anyone, and this prohibition covers candidates, political parties, and the courts seeking information for jury lists. House Bill 1238, as amended, does allow the statewide voter database to be distributed, but subjects this distribution to restrictions that are intended to protect both the revenue traditionally received by town and cities from selling voter lists, and also voters'. Thus, the cost to receive a statewide checklist will be at least \$400. based on the current number of voters and only local towns and cities can provide checklists of less than the full state. Also, anyone receiving the checklist from the secretary of state will be prohibited from using it for commercial purposes, and distribution will be limited to candidates for elective office and political committees of political parties. Finally, this bill does not allow any information to be disclosed by the secretary of state that is not already available from local supervisors of the checklist, but it does specifically state that state and federal courts may obtain the checklist information.

Vote 16-0.

Rep. William L. O'Brien  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

## CONSENT CALENDAR

### Election Law

#### **HB 1238-FN, relative to centralized voter registration database information. OUGHT TO PASS WITH AMENDMENT**

Rep. William L. O'Brien for Election Law: Based on the requirements of the Help American Vote Act (HAVA), the secretary of state's office has compiled a statewide voter database that will be periodically updated based on information provided by the local supervisors of the checklist. The enabling legislation passed by the General Court to permit this statewide voter database does not allow the secretary of state to disseminate this checklist to anyone, and this prohibition covers candidates, political parties, and the courts seeking information for jury lists. House Bill 1238, as amended, does allow the statewide voter database to be distributed, but subjects this distribution to restrictions that are intended to protect both the revenue traditionally received by town and cities from selling voter lists, and also voters'. Thus, the cost to receive a statewide checklist will be at least \$400. based on the current number of voters and only local towns and cities can provide checklists of less than the full state. Also, anyone receiving the checklist from the secretary of state will be prohibited from using it for commercial purposes ,and distribution will be limited to candidates for elective office and political committees of political parties. Finally, this bill does not allow any information to be disclosed by the secretary of state that is not already available from local supervisors of the checklist, but it does specifically state that state and federal courts may obtain the checklist information. **Vote 16-0.**

# COMMITTEE REPORT

COMMITTEE: Election Law

BILL NUMBER: HB 1238-FN

TITLE: relative to centralized voter registration database information.

DATE: January 25, 2006

CONSENT CALENDAR YES  NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

## STATEMENT OF INTENT (Include Committee Vote)

*compiled* Based on the requirements of the Help American Vote Act (HAVA), the secretary of state's office has ~~completed~~ a statewide voter database that will be periodically updated based on information provided by the local supervisors of the checklist. The enabling legislation passed by the General Court to permit this statewide voter database does not allow the secretary of state to disseminate this checklist to anyone, and this prohibition covers <sup>searched id nos.</sup> political parties, <sup>and</sup> <sup>section 1238 in information</sup> or the courts for jury lists. House Bill 1238, as amended, does allow the statewide voter database to be distributed <sup>to</sup> subjects to restrictions that <sup>are</sup> intended to protect the revenue traditionally received by town and cities, and <sup>also</sup> ~~to protect voters from unrequested commercial solicitation based on information obtained on the statewide voter checklist.~~ Thus, the cost to receive a statewide checklist will be at least \$400. based on the current number of voters and only local towns and cities can provide checklists of less than the full state. Also, anyone receiving the checklist from the secretary of state will be prohibited from using it for commercial purposes, <sup>and this distribution will be limited to</sup> or ~~permitting such use and only~~ candidates and political committees of political parties. Finally, this bill does not allow any information to be disclosed by the secretary of state that is not already available from local supervisors of the checklist, but it does specifically state that state and federal courts may obtain the checklist information.

*Handwritten notes:*  
this distribute  
From sellin voters lists

Vote 16-0.

Rep. William L. O'Brien  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

1238

Based on the requirements of the Help America Vote Act (HAVA), the Secretary of State's office has compiled a state wide voter database that will be periodically updated based on information provided by the local supervisors of the checklist. ~~Under~~ ~~the~~ ~~bill~~ ~~number~~ ~~is~~ ~~the~~ ~~bill~~ ~~number~~ The enabling legislation <sup>Passed</sup> ~~is~~ by the General Court to permit this statewide ~~of~~ voter database <sup>does</sup> ~~not~~ allow the Secretary of State to disseminate this checklist to anyone, and this prohibition covers candidates, ~~or~~ political parties, <sup>or</sup> the courts for jury lists. House Bill <sup>voter</sup> 1238 as amended does allow the statewide <sup>voter</sup> database to be distributed subjects to restrictions that were intended to protect the ~~tax~~ revenue traditionally received by towns and cities and to protect ~~voter~~ voters from unrequested commercial solicitation based on information obtained on the statewide voter ~~of~~ checklist. Thus, the cost to receive a statewide checklist will be at least \$400 based on the current number of voters and only local ~~supervisors~~ ~~of~~ ~~the~~ ~~checklist~~ towns and cities can provide checklists of less than the full state. ~~Also~~ Also, anyone receiving the checklist from the secretary of state will be prohibited ~~to~~

from using it for commercial purposes, or permitting such use. Finally, this bill does not allow any information to be disclosed by the Secretary of State that is not already available from local supervisors of the checklist, but it does specifically state that state and federal courts may obtain the ~~the~~ checklist information

and only candidates and political committees of political parties

## COMMITTEE REPORT

COMMITTEE: Ways and Means

BILL NUMBER: HB 1238-FN

TITLE: relative to centralized voter registration database information.

DATE: February 22, 2006

CONSENT CALENDAR YES  NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

### STATEMENT OF INTENT (Include Committee Vote)

This bill allows the Secretary of State to sell to any political committee of a political party as defined by RSA 664:2 or a candidate who has filed for or who has been nominated for any office in a general election to buy a statewide public voter checklist of more than 2,500 names for a fee of \$25 plus \$0.0005 per name in excess of 2,500, plus any shipping costs. This will not interfere with a town selling their local public voter checklist which will charge the same fee as the State. Fees collected at the State level are to be deposited in an election fund established by RSA 5:6-d. Fees collected at the local level will remain at the municipality. The Secretary of State will provide the public voter checklist to the administrative office of the courts and to the clerks of the District Court of the United States to prepare master jury lists. The bill also establishes penalties for the use of the public voter checklist for commercial purposes.

Vote 18-0.

Rep. Sharon M. Carson  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

## CONSENT CALENDAR

### Ways and Means

**HB 1238-FN**, relative to centralized voter registration database information. **OUGHT TO PASS**

Rep. Sharon M. Carson for Ways and Means: This bill allows the Secretary of State to sell to any political committee of a political party as defined by RSA 664:2 or a candidate who has filed for or who has been nominated for any office in a general election to buy a statewide public voter checklist of more than 2,500 names for a fee of \$25 plus \$0.0005 per name in excess of 2,500, plus any shipping costs. This will not interfere with a town selling their local public voter checklist which will charge the same fee as the State. Fees collected at the State level are to be deposited in an election fund established by RSA 5:6-d. Fees collected at the local level will remain at the municipality. The Secretary of State will provide the public voter checklist to the administrative office of the courts and to the clerks of the District Court of the United States to prepare master jury lists. The bill also establishes penalties for the use of the public voter checklist for commercial purposes. **Vote 18-0.**

HB 1238-FN

This bill allows the Secretary of State to sell to any political committee of a political party as defined by RSA 664:2 or a candidate who has filed for or who has been nominated for any office in a general election to buy a statewide public voter checklist of more than 2,500 names for a fee of twenty-five dollars plus 0.0005¢ per name. This will not interfere with a town selling their local public voter checklist which will charge the same fee as the state. Fees collected at the state level are to be deposited in an election fund established by RSA 5:6-d. Fees collected at the local level will remain at the municipality. The Secretary of State will provide the public voter checklist to the administrative office of the courts and to the clerk of the District Court of the United States to prepare master jury lists. The bill also establishes penalties for the use of the public voter checklist for commercial purposes.

*M. J. Meyer*



HB 1238-FN - AS INTRODUCED

2006 SESSION

06-2135  
03/09

HOUSE BILL            ***1238-FN***

AN ACT                relative to centralized voter registration database information.

SPONSORS:            Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

COMMITTEE:          Election Law

---

ANALYSIS

This bill modifies fees and procedures for obtaining copies of voter checklist information. This bill also permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

---

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.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Six*

AN ACT relative to centralized voter registration database information.

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

1 1 Availability of Checklist. Amend RSA 654:31 to read as follows:

2 654:31 Availability of Checklist.

3 I. The *public* checklist as corrected by the supervisors shall be open for the examination of  
 4 any person at all times before the opening of a meeting or election at which the list is to be used.  
 5 The *secretary of state or the supervisors of the checklist* shall furnish one or more copies of the  
 6 most recent *public* checklist to any person requesting such copies. [~~If the supervisors maintain or  
 7 have access to the checklist or information from which the checklist was derived in more than one  
 8 form, the person requesting copies shall be furnished copies in any of those forms according to his  
 9 preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs  
 10 incurred when reproducing an existing checklist, except that in no event shall the fee for paper  
 11 copies of any single town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee  
 12 charged for checklists on computer disk or tape, or in any form other than paper, shall be based  
 13 solely on the additional costs incurred to provide such checklist to the individual requesting it. The  
 14 fee shall be for the use of the town or city.] *Only the supervisors of the checklist may provide  
 15 checklists of less than the entire state. The supervisors of the checklist may charge a fee of  
 16 up to \$25 for each copy of the checklist for a town or ward. For checklists containing more  
 17 than 2,500 names, the secretary of state or the supervisors of the checklist may charge a fee  
 18 of up to \$25, plus \$0.0005 per name for each name in excess of 2,500, plus any shipping  
 19 costs.*~~

20 II. *The secretary of state may provide checklist information on computer disk,  
 21 computer tape, electronic transfer, or any form other than paper only to a political  
 22 committee of a political party as defined in RSA 664:2, V, or a candidate who has filed for  
 23 consideration for any office in any primary or general election or who has been nominated  
 24 for any office in a general election. The fee charged for checklists provided by the secretary  
 25 of state or supervisors of the checklist in any form other than paper shall be based solely on  
 26 the additional costs incurred to provide such checklists.*

27 III. *Fees collected by the secretary of state under this section shall be deposited in  
 28 the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under  
 29 this section shall be for the use of the town or city.*

30 2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as  
 31 follows:

1 VI. The voter database shall be private and confidential and shall not be subject to  
2 RSA 91-A and RSA 654:31. *The secretary of state is authorized to provide voter database*  
3 *record data to the administrative office of the courts to assist in the preparation of master*  
4 *jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States*  
5 *for the District of New Hampshire to assist in the preparation of federal court jury lists.*  
6 The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who  
7 discloses information from the voter database in any manner not authorized by this section shall be  
8 guilty of a misdemeanor.

9 3 Effective Date. This act shall take effect July 1, 2006.

LBAO  
06-2135  
11/1/05

HB 1238-FN - FISCAL NOTE

AN ACT relative to centralized voter registration database information.

**FISCAL IMPACT:**

The New Hampshire Municipal Association states this bill may increase local revenue by an indeterminable amount in FY 2007 and each year thereafter. The Department of State states this bill will increase state revenue and expenditures by an indeterminable amount in FY 2007 and each year thereafter. This bill will have no fiscal impact on county revenue or county and local expenditures.

**METHODOLOGY:**

The New Hampshire Municipal Association states this bill makes changes to the fees that may be charged by a municipality's supervisors of the checklist for providing copies of the checklist to persons requesting them. Under current law, the supervisors may charge a fee that is based on the actual cost incurred, except that in no event shall the fee for paper copies be less than \$5 nor more than \$25. Under this bill, the supervisors could charge a fee of up to \$25, and if the checklist contains more than 2,500 names, they could charge an additional \$0.0005 per name in excess of 2,500, plus any shipping costs. The Association states by allowing the supervisors to charge an additional fee for copies containing more than 2,500 names, this bill could generate additional revenue for some municipalities. The Association is unable to determine how often such requests will be made, how many names will be involved, and whether municipalities will choose to charge the extra fee. As a result, the exact fiscal impact cannot be determined at this time.

The Department of State indicates this bill is designed to be revenue and expenditure neutral on the Department, and any fiscal impact would be under \$10,000 per year.

HB 1238-FN - AS AMENDED BY THE HOUSE

15Feb2006... 0548h

2006 SESSION

06-2135  
03/09

HOUSE BILL            **1238-FN**

AN ACT                relative to centralized voter registration database information.

SPONSORS:            Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

COMMITTEE:           Election Law

---

AMENDED ANALYSIS

This bill:

- I. Modifies fees and procedures for obtaining copies of voter checklist information.
- II. Prohibits the use of checklist information provided by the secretary of state for commercial purposes.
- III. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

.....

Explanation:        Matter added to current law appears in *bold italics*.  
                         Matter removed from current law appears [~~in brackets and struck through.~~]  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Six*

AN ACT relative to centralized voter registration database information.

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

1 1 Availability of Checklist. Amend RSA 654:31 to read as follows:

2 654:31 Availability of Checklist.

3 *I. In this section:*

4 (a) *"Checklist information" means the data, in any form, required to be placed*  
5 *on the public checklist by RSA 654:25, when that data is obtained or derived from a*  
6 *checklist or from the statewide centralized voter registration database maintained by the*  
7 *secretary of state.*

8 (b) *"Commercial purposes" means knowingly using, selling, giving, or receiving*  
9 *the checklist information for the purpose of selling or offering for sale any property or*  
10 *service unrelated to an election or political campaign.*

11 (c) *"Nonpublic checklist" means the checklist bearing the names of voters who*  
12 *by law are entitled to have their status as a voter kept nonpublic.*

13 (d) *"Public checklist" means the checklist required by RSA 654:25 which*  
14 *contains the names of voters who by law are to be listed on a checklist available to the*  
15 *public in accordance with the restrictions established by this section.*

16 *II. The public checklist as corrected by the supervisors shall be open for the examination of*  
17 *any person at all times before the opening of a meeting or election at which the list is to be used.*  
18 *Any person may view the data that would be available on the public checklist on the*  
19 *statewide centralized voter registration database maintained by the secretary of state at*  
20 *the state records and archives center during normal business hours, but the person*  
21 *viewing data at the state records and archives center may not print, duplicate, transmit, or*  
22 *alter the data. The secretary of state or the supervisors of the checklist shall furnish one or*  
23 *more copies of the most recent public checklist to any [person] political committee of a political*  
24 *party as defined in RSA 664:2, V or any candidate who has filed for consideration for any*  
25 *office in any primary or general election or who has been nominated for any office in a*  
26 *general election requesting such copies. [If the supervisors maintain or have access to the*  
27 *checklist or information from which the checklist was derived in more than one form, the person*  
28 *requesting copies shall be furnished copies in any of those forms according to his preference. The*  
29 *supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when*  
30 *reproducing an existing checklist, except that in no event shall the fee for paper copies of any single*

1 ~~town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee charged for~~  
 2 ~~checklists on computer disk or tape, or in any form other than paper, shall be based solely on the~~  
 3 ~~additional costs incurred to provide such checklist to the individual requesting it. The fee shall be~~  
 4 ~~for the use of the town or city.] Only the supervisors of the checklist may provide public~~  
 5 *checklists of less than the entire state. The supervisors of the checklist may charge a fee of*  
 6 *up to \$25 for each copy of the public checklist for a town or ward. For public checklists*  
 7 *containing more than 2,500 names, the secretary of state or the supervisors of the checklist*  
 8 *may charge a fee of up to \$25, plus \$0.0005 per name for each name in excess of 2,500, plus*  
 9 *any shipping costs.*

10 *III. The secretary of state or supervisors of the checklist may provide public*  
 11 *checklist information on computer disk, computer tape, electronic transfer, or any form*  
 12 *other than paper. The secretary of state may only provide checklist information to a*  
 13 *political committee of a political party as defined in RSA 664:2, V, or to a candidate who*  
 14 *has filed for consideration for any office in any primary or general election or who has*  
 15 *been nominated for any office in a general election. The fee charged for public checklists*  
 16 *provided by the secretary of state or supervisors of the checklist in any form other than*  
 17 *paper shall be based solely on the additional costs incurred to provide such checklists.*

18 *IV. Fees collected by the secretary of state under this section shall be deposited in*  
 19 *the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under*  
 20 *this section shall be for the use of the town or city.*

21 *V. No person shall use or permit the use of checklist information provided by the*  
 22 *secretary of state for commercial purposes. Whoever knowingly violates any of the*  
 23 *provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a*  
 24 *felony if any other person.*

25 *VI. This section shall not be construed to restrict the transfer of checklist*  
 26 *information to the state or federal courts as required by RSA 654:45 for any lawful purpose.*

27 *2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as*  
 28 *follows:*

29 *VI. The voter database shall be private and confidential and shall not be subject to*  
 30 *RSA 91-A and RSA 654:31. The secretary of state is authorized to provide voter database*  
 31 *record data to the administrative office of the courts to assist in the preparation of master*  
 32 *jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States*  
 33 *for the District of New Hampshire to assist in the preparation of federal court jury lists.*

34 *The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who*  
 35 *discloses information from the voter database in any manner not authorized by this section shall be*  
 36 *guilty of a misdemeanor.*

37 *3 Effective Date. This act shall take effect July 1, 2006.*

LBAO  
06-2135  
11/1/05

**HB 1238-FN - FISCAL NOTE**

**AN ACT** relative to centralized voter registration database information.

**FISCAL IMPACT:**

The New Hampshire Municipal Association states this bill may increase local revenue by an indeterminable amount in FY 2007 and each year thereafter. The Department of State states this bill will increase state revenue and expenditures by an indeterminable amount in FY 2007 and each year thereafter. This bill will have no fiscal impact on county revenue or county and local expenditures.

**METHODOLOGY:**

The New Hampshire Municipal Association states this bill makes changes to the fees that may be charged by a municipality's supervisors of the checklist for providing copies of the checklist to persons requesting them. Under current law, the supervisors may charge a fee that is based on the actual cost incurred, except that in no event shall the fee for paper copies be less than \$5 nor more than \$25. Under this bill, the supervisors could charge a fee of up to \$25, and if the checklist contains more than 2,500 names, they could charge an additional \$0.0005 per name in excess of 2,500, plus any shipping costs. The Association states by allowing the supervisors to charge an additional fee for copies containing more than 2,500 names, this bill could generate additional revenue for some municipalities. The Association is unable to determine how often such requests will be made, how many names will be involved, and whether municipalities will choose to charge the extra fee. As a result, the exact fiscal impact cannot be determined at this time.

The Department of State indicates this bill is designed to be revenue and expenditure neutral on the Department, and any fiscal impact would be under \$10,000 per year.



HB 1238-FN - AS AMENDED BY THE SENATE

15Feb2006... 0548h  
04/13/06 1670s  
04/13/06 1779s  
04/13/06 1803s

2006 SESSION

06-2135  
03/09

HOUSE BILL **1238-FN**

AN ACT relative to centralized voter registration database information and relative to interference with campaign communications.

SPONSORS: Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

COMMITTEE: Election Law

---

AMENDED ANALYSIS

This bill:

- I. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.
- II. Increases the penalty for interference with campaign communications.
- III. Prohibits tampering with voting machine software.

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Explanation: Matter added to current law appears in *bold italics*.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

15Feb2006... 0548h  
04/13/06 1670s  
04/13/06 1779s  
04/13/06 1803s

HB 1238-FN - AS AMENDED BY THE SENATE

06-2135  
03/09

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Six*

AN ACT relative to centralized voter registration database information and relative to interference with campaign communications.

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

1       1 Availability of Checklist. Amend RSA 654:31 to read as follows:

2       654:31 Availability of Checklist.

3           ***I. In this section:***

4           (a) "***Checklist information***" means the data, in any form, required to be placed  
5 on the public checklist by RSA 654:25, when that data is obtained or derived from a  
6 checklist or from the statewide centralized voter registration database maintained by the  
7 secretary of state.

8           (b) "***Commercial purposes***" means knowingly using, selling, giving, or receiving  
9 the checklist information for the purpose of selling or offering for sale any property or  
10 service unrelated to an election or political campaign.

11           (c) "***Nonpublic checklist***" means the checklist bearing the names of voters who  
12 by law are entitled to have their status as a voter kept nonpublic.

13           (d) "***Public checklist***" means the checklist required by RSA 654:25 which  
14 contains the names of voters who by law are to be listed on a checklist available to the  
15 public in accordance with the restrictions established by this section.

16           ***II. In towns and cities,*** the public checklist as corrected by the supervisors shall be open  
17 for the examination of any person at all times before the opening of a meeting or election at which  
18 the list is to be used. The supervisors ***of the checklist*** shall furnish one or more copies of the most  
19 recent ***public checklist of their town or city*** to any person requesting such copies. [~~If the~~  
20 ~~supervisors maintain or have access to the checklist or information from which the checklist was~~  
21 ~~derived in more than one form, the person requesting copies shall be furnished copies in any of those~~  
22 ~~forms according to his preference. The supervisors may charge a reasonable fee for copies that is~~  
23 ~~based on the actual costs incurred when reproducing an existing checklist, except that in no event~~  
24 ~~shall the fee for paper copies of any single town or ward checklist be less than \$5 nor more than \$25~~  
25 ~~per checklist. The fee charged for checklists on computer disk or tape, or in any form other than~~  
26 ~~paper, shall be based solely on the additional costs incurred to provide such checklist to the~~  
27 ~~individual requesting it. The fee shall be for the use of the town or city.] ***The supervisors of the***~~

1 *checklist may only provide checklist information for their town or city. The supervisors of*  
 2 *the checklist may charge a fee of up to \$25 for each copy of the public checklist for a town*  
 3 *or ward. For public checklists containing more than 2,500 names, the supervisors of the*  
 4 *checklist may charge a fee of up to \$25, plus \$0.50 per thousand names or portion thereof in*  
 5 *excess of 2,500, plus any shipping costs. The supervisors of the checklist may provide*  
 6 *public checklist information on paper, computer disk, computer tape, electronic transfer,*  
 7 *or any other form.*

8 *III. Any person may view the data that would be available on the public checklist,*  
 9 *as corrected by the supervisors of the checklist, on the statewide centralized voter*  
 10 *registration database maintained by the secretary of state at the state records and*  
 11 *archives center during normal business hours, but the person viewing data at the state*  
 12 *records and archives center may not print, duplicate, transmit, or alter the data. The*  
 13 *secretary of state may only provide copies of the most recent public checklist to a political*  
 14 *committee of a political party as defined in RSA 664:2, V, or to a candidate who has filed*  
 15 *for consideration for any office in any primary or general election or who has been*  
 16 *nominated for any office in a general election. The secretary of state may not provide*  
 17 *public checklists of less than the entire state. The secretary of state may charge a fee of up*  
 18 *to \$25 plus \$0.50 per thousand names or portion thereof in excess of 2,500 plus shipping*  
 19 *charges for each copy of the statewide public checklist. The secretary of state may provide*  
 20 *public checklists as prescribed in this section on paper, computer disk, computer tape,*  
 21 *electronic transfer, or any other form.*

22 *IV. Fees collected by the secretary of state under this section shall be deposited in*  
 23 *the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under*  
 24 *this section shall be for the use of the town or city.*

25 *V. No person shall use or permit the use of checklist information provided by the*  
 26 *secretary of state for commercial purposes. Whoever knowingly violates any of the*  
 27 *provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a*  
 28 *felony if any other person.*

29 *VI. This section shall not be construed to restrict the transfer of checklist*  
 30 *information to the state or federal courts as required by RSA 654:45 for any lawful purpose.*

31 *2 Election Procedure; Prohibited Acts; Interference With Communications; Penalty. Amend*  
 32 *RSA 659:40-a to read as follows:*

33 *659:40-a Interference With Communications. Any person who, on the day of any election,*  
 34 *knowingly blocks, or solicits another person to block, the access of any candidate or committee to the*  
 35 *candidate's or the committee's communications equipment or services with the intent of interfering*  
 36 *with campaign activity shall be guilty of a class [A-misdemeanor] B felony.*

37 *3 Election Procedure; Prohibited Acts; Tampering with Voting Machines; Software. Amend*

HB 1238-FN - AS AMENDED BY THE SENATE

- Page 3 -

1 RSA 659:42 to read as follows:

2 659:42 Tampering with Voting Machines. Whoever shall tamper with or injure or attempt to  
3 injure any voting machine or device for the computerized casting and counting of ballots to be used  
4 or being used in an election or whoever shall prevent or attempt to prevent the correct operation of  
5 such machine or device *or whoever shall tamper with software used in the casting or*  
6 *counting of ballots or design such software so as to cause incorrect tabulation of the*  
7 *ballots* or any unauthorized person who shall make or have in his *or her* possession a key to a  
8 voting machine to be used or being used in an election shall be guilty of a class B felony if a natural  
9 person or guilty of a felony if any other person.

10 4 Effective Date.

11 I. Sections 2-3 of this act shall take effect January 1, 2007.

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

LBAO  
06-2135  
11/1/05

HB 1238-FN - FISCAL NOTE

AN ACT relative to centralized voter registration database information.

**FISCAL IMPACT:**

The New Hampshire Municipal Association states this bill may increase local revenue by an indeterminable amount in FY 2007 and each year thereafter. The Department of State states this bill will increase state revenue and expenditures by an indeterminable amount in FY 2007 and each year thereafter. This bill will have no fiscal impact on county revenue or county and local expenditures.

**METHODOLOGY:**

The New Hampshire Municipal Association states this bill makes changes to the fees that may be charged by a municipality's supervisors of the checklist for providing copies of the checklist to persons requesting them. Under current law, the supervisors may charge a fee that is based on the actual cost incurred, except that in no event shall the fee for paper copies be less than \$5 nor more than \$25. Under this bill, the supervisors could charge a fee of up to \$25, and if the checklist contains more than 2,500 names, they could charge an additional \$0.0005 per name in excess of 2,500, plus any shipping costs. The Association states by allowing the supervisors to charge an additional fee for copies containing more than 2,500 names, this bill could generate additional revenue for some municipalities. The Association is unable to determine how often such requests will be made, how many names will be involved, and whether municipalities will choose to charge the extra fee. As a result, the exact fiscal impact cannot be determined at this time.

The Department of State indicates this bill is designed to be revenue and expenditure neutral on the Department, and any fiscal impact would be under \$10,000 per year.

Amendment to HB 1238-FN

1 Amend the bill by replacing section 1 with the following:  
2

3 1 Availability of Checklist. Amend RSA 654:31 to read as follows:  
4

5 654:31 Availability of Checklist.

6 I. In this section:

7 (a) "Checklist information" means the data, in any form, required to be placed  
8 on the public checklist by RSA 654:25, when that data is obtained or derived from a  
9 checklist or from the statewide centralized voter registration database maintained by the  
10 secretary of state.

11 (b) "Commercial purposes" means knowingly using, selling, giving, or receiving  
12 the checklist information for the purpose of selling or offering for sale any property or  
13 service unrelated to an election or political campaign.

14 (c) "Nonpublic checklist" means the checklist bearing the names of voters who  
15 by law are entitled to have their status as a voter kept nonpublic.

16 (d) "Public checklist" means the checklist required by RSA 654:25 which  
17 contains the names of voters who by law are to be listed on a checklist available to the  
18 public in accordance with the restrictions established by this section. "Public checklist"  
19 shall not include the statewide centralized voter registration database maintained by the  
20 secretary of state.

21 II. The public checklist as corrected by the supervisors shall be open for the examination of  
22 any person at all times before the opening of a meeting or election at which the list is to be used.  
23 The secretary of state or the supervisors of the checklist shall furnish one or more copies of the  
24 most recent public checklist to any [person] political committee of a political party as defined  
25 in RSA 664:2, V requesting such copies. ~~[If the supervisors maintain or have access to the checklist  
26 or information from which the checklist was derived in more than one form, the person requesting  
27 copies shall be furnished copies in any of those forms according to his preference. The supervisors  
28 may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing  
29 an existing checklist, except that in no event shall the fee for paper copies of any single town or ward  
30 checklist be less than \$5 nor more than \$25 per checklist. The fee charged for checklists on computer  
31 disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to  
32 provide such checklist to the individual requesting it. The fee shall be for the use of the town or  
city.] Only the supervisors of the checklist may provide public checklists of less than the~~

1 entire state. The supervisors of the checklist may charge a fee of up to \$25 for each copy of  
2 the public checklist for a town or ward. For public checklists containing more than 2,500  
3 names, the secretary of state or the supervisors of the checklist may charge a fee of up to  
4 \$25, plus \$0.0005 per name for each name in excess of 2,500, plus any shipping costs.

5 III. The secretary of state or supervisors of the checklist may provide public  
6 checklist information on computer disk, computer tape, electronic transfer, or any form  
7 other than paper. The secretary of state may only provide checklist information to a  
8 political committee of a political party as defined in RSA 664:2, V. The fee charged for  
9 public checklists provided by the secretary of state or supervisors of the checklist in any  
10 form other than paper shall be based solely on the additional costs incurred to provide  
11 such checklists.

12 IV. Fees collected by the secretary of state under this section shall be deposited in  
13 the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under  
14 this section shall be for the use of the town or city.

15 V. No person shall use or permit the use of checklist information provided by the  
16 secretary of state for commercial purposes. Whoever knowingly violates any of the  
17 provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a  
18 felony if any other person.

19 VI. This section shall not be construed to restrict the transfer of checklist  
20 information to the state or federal courts as required by RSA 654:45 for any lawful purpose.

Internal Affairs  
April 6, 2006  
2006-1670s  
03/04

Amendment to HB 1238-FN

- 1 Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2,
- 2 respectively.

Amendment to HB 1238-FN  
- Page 2 -

2006-1670s

AMENDED ANALYSIS

This bill permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.



# Internal Affairs Committee

## Hearing Report

**To:** Members of the Senate

**From:** Patrick Murphy  
Legislative Aide

**Re:** HB1238-FN relative to centralized voter registration database information.

**Hearing date:** March 29, 2006

**Members present:** Sen. Boyce, Sen. Roberge, Sen. Flanders, Sen. Bragdon, Sen. Hassan, Sen. Larsen

**Members absent:** None

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**Sponsor(s):**

Rep. O'Brien, Hills 4; Rep. O'Neil, Rock 15

**What the bill does:**

This bill:

- I. Modifies fees and procedures for obtaining copies of voter checklist information.
- II. Prohibits the use of checklist information provided by the secretary of state for commercial purposes.
- III. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

**Who supports this bill:**

Representative O'Neil, Rock 15; Representative Whalley, Belknap 5; David Scanlan, Deputy Secretary of State; Howard Zibel, Judicial Branch;

**Who opposes this bill:**

Representative Kurk, Hills 7; Patricia Little, NH City and Town Clerks; Claire Ebel, NHCLU

**Summary of testimony received:**

Representative O'Neil – in support

- This is enabling legislation that is a result of the Help America Vote Act. This bill is intended to make sure that the checklist information provided by the Secretary of State is not used for commercial purposes. The checklist is for only candidates and political parties. The Secretary of State will keep the list and

towns will still have lists available for their towns and candidates. Money will remain separate for the state and towns.

David Scanlan – in support

- This bill allows the Secretary of State to provide statewide voter checklists to candidates and political parties. This will not stop the individual town's ability to run their own list and generate revenue from that activity. This bill also allows the courts to use this statewide list. Suggests the possibility of changing the formula used to charge for the statewide list after the first 2,500 names.

Howard Zibel – judicial branch supports the passage of Section II of this bill

Representative Kurk – in opposition

- Has a problem with section I. This information will eventually end up on line, there is no way to stop that from happening, and once that happens it will become available for commercial use. This bill really serves the needs of the Senate, due to its larger districts. Suggests eliminating section I of the bill or strengthening the wording to prevent this information from becoming public.

Bud Fitch – Attorney General's Office

- Section II of this bill brings efficiency to government. Section I and its current language is a policy choice that limits the availability of this information to candidates. Currently political committees can get lists from town clerks. An individual can not buy the list. A political committee is 2 or more people that register as such.

Anthony Stevens – Assistant Secretary of State

- Provided information to the committee as to the nature of the lists, how the information is gathered and sorted, and how it will be made available.

Claire Ebel – opposed

- Concerned with the privacy issue if this information was at some point to become public. Would like to see this bill split to into two different bills, section I and section II. Offered possible language changes to ensure privacy of the list.

Patricia Little – opposed to only section I

- This legislation makes a distinction between voter registration information available on a paper checklist and voter registration information available through the new statewide voter registration database. From a practical standpoint, with many filings for public office not occurring on the local level, there is no way that a checklist supervisor or a local town or city clerk would be in a position to know whether the requester met the qualifications. This requirement that the local official "qualify" the requester is not a reasonable one and exposes local officials to unknowingly violating this proposed law and being subject to a misdemeanor.
- In addition, this distinction between paper and data seems to fly in the face of the 2001 New Hampshire Supreme Court ruling in *Hawkins v. N.H. DHHS* that a record does not lose its status as public because it is stored in a computer system; as well as the 1996 NH Supreme Court ruling in *Union Leader Corp. v. City of Nashua* that the motives of a party seeking disclosure are irrelevant when conducting the balancing test between the public's interest in disclosure and a private citizen's interest in privacy.

- Restricting access to public information to only political committees, candidates and nominees, but not our citizens, works against this goal of public trust and confidence.

Representative Whalley – in support

- Does not want to limit town's current actions, and does not want to have a menu of lists available from the Secretary of States Office. This is designed only to help supply towns.

**Funding:**

The New Hampshire Municipal Association states this bill may increase local revenue by an indeterminable amount in FY 2007 and each year thereafter. The Department of State states this bill will increase state revenue and expenditures by an indeterminable amount in FY 2007 and each year thereafter. This bill will have no fiscal impact on county revenue or county and local expenditures.

**Future Action:**

Pending

Date: March 29, 2006  
Time: 3:15 p.m.  
Room: LOB, Room 103

PHB

The Senate Committee on Internal Affairs held a hearing on the following:

HB 1238-FN relative to centralized voter registration database information.

Members of Committee present: Senator Boyce  
Senator Bragdon  
Senator Flanders  
Senator Roberge  
Senator Hassan

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The Chair, Senator Robert K. Boyce, opened the hearing on HB 1238 and invited co-sponsor, Representative O'Neil, to introduce the legislation.

Representative O'Neil: Thank you, Mr. Chairman and members of the Committee. HB 1238 was a bill that went to the House, came through the House Election Law Committee. Again, it passed the House with a unanimous. Basically, again, this is a result of the Help America Vote Act. This is enabling legislation passed by the General Court to permit the statewide voter database. Currently, it does not allow the Secretary of State to disseminate that. This bill will allow the Secretary of State to disseminate that information.

There are a couple of caveats to this. One is that it cannot be used for commercial purposes. That was one of the concerns in the House and the bill was amended so that somebody couldn't come in and buy the database and use it for commercial purposes. The sole purpose is really for the political parties within the state or the people running for office, especially those running for office on a statewide basis, to go to one central point, and that would now be the Secretary of State's Office to buy that list. It does not interfere with the local voting lists. You can still go, for instance, I live in Hampton, and I would still go to Hampton to my town clerk to obtain the voting list just for Hampton because I would not have a need to buy the whole list at the state.

DWB

The other thing that we want to make very clear is that the money at the local level stays at the local level; the money at the statewide database would stay within the state in a fund to be established under this law.

Senator Robert K. Boyce, D. 4: Questions?

Senator Sheila Roberge, D. 9: If I wanted to buy the voter list for just District 9 of the New Hampshire Senate, would I be able to do that and where would I go to get that?

Representative O'Neil: You would not be able to... There is someone here from the Secretary of State's Office, but my understanding under this law you would have to buy the total voter list for the state and then you would have to ferret it out. If you wanted to buy it just for District 9, you would probably have to go each of your communities and buy the individual lists.

Senator Sheila Roberge, D. 9: Thank you.

Representative O'Neil: This is a statewide; this would be the statewide list.

Senator Robert K. Boyce, D. 4: Any further questions? Seeing none, thank you very much. David Scanlan from the Secretary of State's Office?

Deputy Secretary David Scanlan: Thank you, Mr. Chairman, members of the Committee. I'm David Scanlan, Deputy Secretary of State. I am here to support this bill because it does a number of really important things.

The first thing that it does is that it does allow the Secretary of State's Office to provide a statewide checklist to political parties, major candidates, or any other candidate, for that matter, that might have a smaller district like yours, Senator Roberge. You can then use it work with in any way that you see fit. It does have a provision in here that prevents the use from being sold for commercial purposes.

Right now, the state list that would be on this database is a private list and the Secretary of State's Office has no ability at all to distribute it to anybody. In the process of doing this, however, we were very concerned that we were not competing with the cities and towns with the lists that they sell and that some of them count on for raising some revenue within their communities. I believe that this bill, as written, accomplishes that. However, there may be some details that you are going to hear a little bit later.

DUB

This is kind of a complex thing to try and write and there may be some issues that some of the cities might have in particular where they do value added things with their checklist and sell it as a product. That might be things like walking lists or voter history, things like that, and I think it is important that we are concerned about that and we protect the capability for them to continue to do what they have been doing in the past.

The other important thing that this does is that it allows the statewide database voter lists to be used by the courts in the development of their jury lists. Right now, they have to go to each individual town to compile those lists which, in many cases, currently are not in a uniform state, so they have to do a lot of manipulating to develop their jury lists from the current data that is out there. This would allow the lists to be used for that purpose as well.

There is one area that I would like the Committee to consider that deals with the way that we charge for the list. Right now, it is set up that a list can be sold for \$25 for voters up to 2,500 names and then, after those 2,500 names, it is .0005 cents per name, which is... It is going to be complicated to calculate, at least in terms of the money that they are going to be collecting for doing that. It might be easier to think about charging a fee of \$25 up to 2,500 names and then 50¢ per thousand names or portion thereof for names in addition to that. I think that is a much easier formula for people to understand.

I think that those are really the only comments I had. Again, we support the bill, but we are concerned about the issues that the clerks have and Assistant Secretary of State Anthony Stevens is here, who may also have issues that they have come up with as they are developing the database itself. Things seem to be popping up. So, with that, I would be happy to try and answer any questions.

Senator Robert K. Boyce, D. 4: Thank you. Questions?

Senator Peter E. Bragdon, D. 11: Thank you, Mr. Chairman. Good afternoon, Dave. I would like to follow up on what Senator Roberge had asked. I get the impression as I read this that, if I'm a candidate and I want the voter list for a specific town, I can get that from the Secretary of State's Office.

Deputy Secretary Scanlan: You cannot get that unless you buy the entire checklist.

Senator Peter E. Bragdon, D. 11: Okay. Alright.

RFB

Senator Robert B. Flanders, D. 7: You have to buy the whole state.

Senator Peter E. Bragdon, D. 11: That wasn't made clear. If I can follow up on that. So, when I ran two years ago now, there's ten towns in my district, so I went to all ten towns, purchased their lists, merged them together. The alternative to doing that then is to pay \$25 to the Secretary of State and get the whole state and I can just chop out the unimportant towns.

Deputy Secretary Scanlan: The cost for the entire state would be closer to \$400.

Senator Peter E. Bragdon, D. 11: Oh, that's right. It's not \$25.

Deputy Secretary Scanlan: Right. You're talking roughly \$800,000.

Senator Peter E. Bragdon, D. 11: Okay. Thanks.

Senator Robert K. Boyce, D. 4: Recognize Howard Zibel.

Attorney Howard Zibel: Good afternoon, Senators. Howard Zibel, General Counsel from the Judicial Branch. I am obviously here only on section 2 of the bill, which allows the Secretary of State to provide to the administrative office of the courts the voter lists for the purposes of allowing the court system to do the jury lists. This will save one person approximately four weeks of work. So, it is of some importance.

This provision has been in a voting election bill for three years. I understand that this particular provision is not controversial, but in each of the last two sessions, the bills have died because of other parts of the bill, last year dying, after a conference committee agreement, dying on the House floor.

So, that is my yale of woe. The Judicial Branch would like section 2 of the bill; doesn't care a hoot what happens to section 1, but we want section 2.

Senator Robert K. Boyce, D. 4: Questions?

Senator Sheila Roberge, D. 9: So, you have a problem with us changing, on page 2, lines 6 to 10 about the cost of the names. If we changed that, you would have a problem rather than leave it alone.

Attorney Zibel: I don't know if the Secretary of State plans to charge. That is internal. I would hope that they would not. We provide a lot of free material to other parts of state government, so I would hope there would be no charge.

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Senator Robert K. Boyce, D. 4: That is just section 2 of the bill.

Attorney Zibel: Exactly.

Senator Robert K. Boyce, D. 4: Any other questions? Seeing none, thank you very much. Representative Kurk?

Representative Kurk: Good afternoon, Mr. Chairman, members of the Committee. I have problem with this bill, not with section 2, but with section 1. When we first put in the centralized database, as you can see from the first line of section 2 on lines 29 and 30 on page 2, we did it on the basis that this was going to be exempt from 91-A. The reason is that, when you have a centralized database and you sell the disc for \$400 or \$25, despite provisions of law here that say you can't use it for commercial purposes, it will in fact become public information and will be available on the internet. The question is how soon. Under the bill as it now exists, anybody who is running for dog catcher can get the entire state list. So, we really have to ask ourselves what is the purpose of this bill, excluding section 2 and just talking about section 1.

I have to tell you that the bill is largely a design to serve political needs of the state parties and the state legislature, in particular the Senate because your districts are larger.

In other words, if anybody were looking, I think that if anybody were looking at this bill as a public policy matter, there would be a real question as to whether this is serving the public interest or the interests of legislative candidates. You can argue that perhaps there is a public interest. I would say that that is probably true, but to a very minor extent. What we're doing here is taking a massive database and, in effect, releasing it to the public at a time when most of us are trying to make sure that our personal information is not readily available. Right now, we have a situation where all of this information can be compiled, but it takes a lot of effort and therefore, being humans, it doesn't get done as frequently as if there were very little effort.

So, I would suggest that you pass the bill with section 2 only and eliminate section 1, continue the existing system. Yes, that will mean that Senator Bragdon has to go to his ten towns for \$250 and can't pull the whole list in for \$400, which it probably would be because the extra \$150...

Senator Peter E. Bragdon, D. 11: Is well worth the expense.



Representative Kurk: I understand that, but I hope you would take the broader picture. If you don't wish to take the broader picture, I do have a suggestion and that is that you make the list available only to the state parties and then let candidate Bragdon go to the state party and get a copy of the list. If you do that, you reduce to almost zero the chance that the full list will be on the internet tomorrow.

The problem with the bill is not that the state parties get it, although frankly I think they can continue their current practice of getting it piecemeal, but it is because all of the other candidates and non-candidates, and candidates who will sign up to be candidates because for \$400 they can now get the list. So, if you're interested in that, this is the amendment that will do it.

But, my suggestion and my preference is that you simply eliminate section 1 and support section 2.

Thank you, Mr. Chairman.

Senator Robert K. Boyce, D. 4: Questions? Seeing none, thank you very much. Next is Bud Fitch.

Assistant Attorney General Bud Fitch: Mr. Chairman, members of the Committee, the Attorney General's Office doesn't rise either in support or opposition to the bill, just to provide some information. Half of my speech Mr. Zibel has taken care of.

I wasn't sure the court would have someone here, but section 2, as he has indicated, really just does bring efficiency to government. It relieves the towns and cities of a duty they have now under law to provide for free a copy of their voter lists for the courts to use along with information that they get from the Department of Motor Vehicles on people licensed to drive to create the jury pool lists.

On section 1 of the legislation, I will raise an issue just for your consideration that was raised, as I recall in the House and certainly in discussions with folks on this as it worked its way through the House. The current language is a policy choice. It is important that you understand that the policy choice is one which restricts access to the checklist to people who are candidates. The issue that you may hear from other folks testifying about is the availability of the list before you file for office and the availability of the list for people who are political committees.

Currently, a political committee can get a copy of the checklist from the town clerk, setting aside the issue of whether it can come from the state or not.

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This is restricting it so a political committee would have legal right to observe the list in the town clerk's office or from town officials, and they would have a legal right to observe the list statewide at the state archives, but they would be prohibited from printing it or copying it in whole. It is a little hard to know whether we would be able to stop them from writing down a few names, but the language does preclude them from making a copy of the whole list, even though they get a right to look at it.

The suggestion has been made that it be restricted only to the state parties. If that is a policy choice that you want to pursue, I would only encourage you that it would be easier to defend the statute if whatever language you adopt includes some provision for political organizations in that they probably would have an equal protection claim that they could bring if we only let the Republicans and the Democrats have access to the list, but we didn't let third, what are sometimes called third parties, in our state they are really political organizations by definition of our statute, have an equal opportunity to access the list.

So, I'm not speaking at all in opposition to this language. It is just a policy decision that we think is important for you to appreciate that it is making a substantial restriction in who can get access to it. This is something that I apologized to the sponsors in the House because I may not have made a question of this or even noticed it before. It also makes it a violation to use the list for commercial purposes if it is obtained from the Secretary of State. The way the list is written, the way the statute is written, I'm not sure that a court would construe that to consider that what you picked up at the town clerk as being from the Secretary of State, even though the town clerk will be cutting it from the statewide database.

If it is the policy will of the body to prohibit use commercially, which is my understanding of the intent, we may want to add more for town officials there or alter that language slightly to make it more clear that from whatever source you obtain it from, checklists are not meant to be used for selling products to people or for other commercial purposes.

That said, I would be happy to answer any questions.

Senator Robert K. Boyce, D. 4: Questions?

Senator Peter E. Bragdon, D. 11: Thank you, Mr. Chairman. Good afternoon again. It seems to me we had this conversation a year ago and it is coming back to me. But, if I'm an independent and I decide I'm going to run for Governor, let's say. Then my opponents, who are part of political parties,

could get the voter list, but I cannot. Oh, but I'm a candidate, so that would work. Okay.

If we did extend this so that political organizations could get it, let's say I'm opposed to the eminent domain constitutional amendment as an individual and I want to do something. Organizations can get the list and do whatever they want to promote their side, but I as an individual cannot get the list if we make a change to allow just political organizations. Can I as an individual buy the list?

Attorney Fitch: Mr. Chairman, Senator Bragdon, as I understand the language that is before the Committee, you as an individual or you as a political committee, unless you are a candidate, would not be entitled to buy the list or obtain it from anybody at any cost. You could go observe the list. You can look at it. I don't mean to make light of that. I think it is an important part of our protection against voter fraud that when you are hanging out to license your dog or your car, the list should be hanging in the clerk's office and you look at it and you spot your neighbor that moved out six months ago that is still on the list and you call it to the attention of the supervisors. Or, on election day you can look and see and say, "Wait a minute. Bud's on the list still and he died six months ago. What's going on there?" Those are part of the way that we keep our lists clean, and certainly more so in the little towns than the big cities. But, I think its public availability for that purpose is important.

Senator Peter E. Bragdon, D. 11: Can I follow up on that? Refresh my memory as to how it is currently. Can an individual go to the town clerk's office now and get individual lists and would they still be able to do that if this were to pass? Right? Or not? If I want, as an individual, not as a candidate for anything, want to go to every individual town in the state and make my own list, would I still be able to do that if this passes as it is?

Attorney Fitch: Mr. Chairman, Senator Bragdon, I think that the answer is, under current law, anybody can go to the town clerk's office or city clerk's office and obtain the list. They can be charged up to \$25 based on what the local charges are and that sort of thing. There is no restriction who can access it. As I understand the language that is before the Committee, only the political committee, the political party or candidate who has filed for consideration in any office in the primaries or general election or who has been nominated for an office in a general election would be able to obtain copies.

Senator Peter E. Bragdon, D. 11: That's what I thought. Okay. Thank you.

RMB

Senator Robert K. Boyce, D. 4: Further questions?

Senator Margaret Wood Hassan, D. 23: Thank you. Good afternoon. Didn't I just see you in another committee? Getting back to the way that an individual might be able to get at the list, can an individual on a political committee or do you have to go file with the Secretary of State's Office?

Attorney Fitch: Mr. Chairman, Senator Hassan, the definition of a political committee is two or more people.

Senator Margaret Wood Hassan, D. 23: Okay. That's what I thought.

Attorney Fitch: I think you would have to get your friends to go with you or at least let you use his or her name. But then there is no test whether you are really a serious political committee or if you are doing it for some subterfuge. As long as you're willing to pay Bill Gardner the fee, you are set to go.

Senator Margaret Wood Hassan, D. 23: Thank you.

Senator Peter E. Bragdon, D. 11: Of course, if I believe Representative Kurk, then I get it off the internet.

Senator Robert K. Boyce, D. 4: Thank you. Anthony Stevens for the Secretary of State.

Assistant Secretary of State Anthony Stevens: Mr. Chairman, members of the Committee, thank you. I am Anthony Stevens, Assistant Secretary of State. My position in this is as project manager for the statewide voter registration system. So my interest is really just in answering questions about this legislation and how it might affect the users. I followed it generally through this process and I will do my best here.

There are just a couple of things I would like to point out that, from the user point of view, it might be a challenge under this law, but I think it is worth taking a look at. I have some copies of the potential reports that might be generated by the system. The way in which we got to these was to bring in all of the users – the supervisors of the checklist, the clerks and political parties and candidates and that sort of thing – to tell us what kind of reports they want from the system. They relied largely on what they were getting today from the towns and cities and, of course, we tried not to reduce what the best products were out there. That is, we tried not to step back from the capability of any system that was being used in the state of New Hampshire.

So, what we compiled was really the best systems, the best reports. We came up with about a hundred and five reports that would be available to the clerks and the supervisors of the checklists to understand and analyze the data that is in here. Thirty of these would be public reports. Roughly, I think five or six or seven here are of real interest, that you might find of real interest. I just pulled out some of the ones that you might be most interested in and I thought I would give them to you as an example here.

**Please see handout provided by Assistant Secretary of State Anthony Stevens, attached hereto and referred to as Attachment #1.**

The first is the menu. That gives you the list of available, publicly available reports and, as you can see, there are about thirty of them that would be available on the statewide voter registration system. The checklist reports, we have three examples of checklist reports – one in portrait, one in landscape and one which is driven by our largest town. They actually asked for a mechanism whereby they could, and this is the town of Derry, requested a mechanism whereby they could display the entire checklist on four by six pieces of plywood throughout their election so that people could come in and quickly get themselves registered to vote. So, we designed this around the needs of all the different towns and, to give them an option to reduce paper use as necessary, and also to make this full display that Derry has requested.

We also have here something that is called Election History Active Voters. It indicates whether or not a person voted in a particular election. It has a date and town and that is a pretty useful document that was available and the report is available in a lot of the towns and that is one that is not clearly covered in this legislation at this point. It is something we prepared because we thought, we prepared it because the towns are currently providing it, but we don't necessarily see that it is clearly set forth, but we can provide it. We may have to move this to a private, confidential reports.

There is another report here which lists all voters registered on a particular street and that is a useful and really good management tool, but it also may be useful for voting and for candidates. We also have an alphabetical street list of, in this case, a particular ward in Manchester. By the way, this is all just test data; it is not good data necessarily. We just use it. We combined a lot of things and we call it our testing system. So, this is not what we would call confidential at this time, but it is set up for Manchester ward 9 in this case; at least it has that name on it. I wouldn't say it accurately reflects the information from that ward.

This is an interesting report that would provide a walking list and it has identified the party on one side. It is by street. It is organized by street and

RWB

it enables a person to walk through, to know what party or that they are undeclared on a particular street if their campaign was canvassing that area. So, it is a useful list for some candidates.

We have an alpha voter list, which is sort of similar to a checklist, just doesn't have the number and bar code on it and that's it.

We have been, this has been a roll out period for us. We're trying to educate now about a thousand potential users, probably more like six hundred active users really, supervisors of the checklist and clerks and we have quite a number of towns already up on the system using it and they are testing this process. So, we're learning a lot every day. What we knew back in January is quite different from what we know today about the system and, frankly, we changed a couple of aspects this morning regarding the reports and we discovered there was something that really should have been confidential that was on the public lists. So, we moved the whole thing over to the private side, which includes about sixty different reports.

We are also in the process of cleaning data, cleaning the checklists. We're getting submitted from all of the towns about two hundred and thirty-nine different formats of data and we're in the process of making sure that that is cleansed, normalized, that the streets are all uniform, naming conventions are all similar and that is a big job. That is a very, very big job in fact. To do that, we have created this frequently asked questions, about thirty-three different questions and about twenty or thirty different naming conventions that will be helpful to make this consistent and make it useful for people. So, that's what we're in the middle of. We're learning a lot and it is a real learning process.

What we think here is that this legislation doesn't necessarily price. It prices the checklist; it may not price as much as 90% of the reports that might be generated by the system, that is the public reports that might be generated by the system. The reason being is that a lot of people prefer to get a walking list or prefer to get an alpha list or something that they can use and organize themselves or a full data dump, which I didn't mention. Not a full data dump, just a dump of the data that is publicly available. They may be looking for that rather than for a paper checklist. In fact, most of them will be.

So, I think this legislation could be clearer in the area of how you price reports, how we should price reports, and we don't necessarily want to be in a situation where we're getting a couple thousand calls about how the non-checklist reports are priced, some of the ones that I have presented here

RHB

today and how they should all be priced. Hopefully, we will make sure that that is clear as we move forward.

The history and the pricing is the issue. The history issue is not clear, as I mentioned before, that there is a voter list, that the voter history is put down and made available in a public way and that is an issue that probably could be clarified in our view.

Senator Robert K. Boyce, D. 4: Questions? I have one. This menu that you have shown us here. Is it the intention that everything listed under public somebody could actually click on that and actually get a report generated for whatever portion that they wanted? If they wanted an election history of voters, that would be available from the website?

Assistant Secretary Stevens: No, this is only available to those who meet the fairly stringent security requirements of the system. We do have quite a lot of users, but they have to meet some pretty tough requirements and the access is secured on the web connection here. No, they won't be able to get into the system.

Senator Robert K. Boyce, D. 4: Okay. Questions?

Senator Peter E. Bragdon, D. 11: Thank you, Mr. Chairman. Good afternoon. Let's say I am the supervisor of the checklist in Peterborough, New Hampshire, so I have access to the system. Can I then pull up information from another town like Milford? So, you're restricted to just information from your town if you are the supervisor?

Assistant Secretary Stevens: That's right. It is very clearly set forth. In fact, even the state has to go in that way. It is not an open ended access. In fact, it is a very clear set of user requirements and we clearly agree. We start out with that agreement between the clerks and supervisors of who gets to do what on the system. In fact, that is all subject to the law as well.

Senator Robert K. Boyce, D. 4: Any further questions? Seeing none, thank you very much. Claire Ebel?

Claire Ebel: Mr. Chairman and members of the Committee, my name is Claire Ebel and I am the Executive Director of the New Hampshire Civil Liberties Union and, to the surprise of no one, the privacy and confidentiality data information and sensitive personal information is of deep concern to us.

I would like to underscore and perhaps highlight some of the issues that Representative Kurk brought forward.

RUB

I would also like, as others have done, to urge you to divide this bill and to pass the bill beginning at line 27 on page 2 if you have problems, and I hope you do, with section 1 which goes up to line 26 on page 2. I would like to direct you, on page 1, to line 23 and suggest that, if you are going to pass this, that you change the language to read, "Copies of the most recent checklist only to political committees". Representative Kurk suggested that candidate be dropped. I concur in that suggestion. So, it would read that "the Secretary of State or the supervisors of the checklist could only furnish this list to political committees of a political party as defined in".

The issue that General Fitch raised I think may be an important one and, for that reason, I would recommend that section 1 of this bill be held so that you can make a determination whether there is an equal protection argument for other kinds of political groups other than simply the political committees of political parties because, as Senator Hassan pointed out, two people forming a group are not the intent of access to this list and I think that is a very serious concern.

So, I would suggest, if you're going to pass this bill that that correction be made or that change be made on page 1, line 23. On page 2 on line 12, on 10 and 11 you say, "The secretary of state or the supervisors of the checklist may provide public checklist information in various ways". But, then on line 12, it says the Secretary of State may only provide the information to a political committee of a political party or to a candidate. It does not limit the supervisors of the checklist to that same caveat. I assume that that is an oversight. If it is not an oversight, that is a problem that should be cured because what you're doing is saying both groups can send it out, but only the Secretary of State is limited to giving it to a political committee of a political party or to a candidate. Again, I would strongly urge that the candidate be struck from that and only the political party be added.

And then, on line 11, you are now, Mr. Chair, being spoken to be a \_\_\_\_\_. I press the button and the computer turns on most of the time. But, it almost never does what I really want it to do, which is just answer me in simple English. But, it is my neophyte understanding that tapes and discs and electronic transfers can have imbedded in them the inability of reproduction. If that is an inelegant way of saying it, I apologize in advance. But, one of the concerns that can be addressed is, if you sell this list to the Republican central committee of the Republican party of the state of New Hampshire and if they can't reproduce it, you are limiting substantially the possibility that the list will be, in essence, transferred and ultimately become, fall into or be directed into the hands of commercial endeavors or other people who ought not to have access to it.



RWB

So, the representative from the Secretary of State went into great detail and I didn't understand most of what he was talking about, but I know that he knew. So, I'm sure somebody in his office knows how to do this and I would urge you, if that is a possibility and you decide to pass sections 1 and 2, that you insert that caveat or that requirement into the sale of these discs, tapes or electronic transfers.

Thank you, Mr. Chair, for the opportunity to speak.

Senator Robert K. Boyce, D. 4: Any questions? Seeing none, thank you very much. Next speaker is Patricia Little from the Towns Clerks Association. I assume that's what you mean.

Patricia Little: Yes. For the record, my name is Patricia Little and I am the city clerk in Keene and I am a legislative co-chair of the New Hampshire City and Town Clerks' Association. Let me just start by saying it is truly very unfortunate that the Association finds itself in an opposite position from the Secretary of State. That is not typically where we want to find ourselves. Perhaps it is our misunderstanding; perhaps it is just a lack of sufficient dialogue between both sides on this piece of legislation. We are here to speak against it.

This legislation makes a distinction between voter registration information available on a paper checklist and voter registration information available through the new statewide voter registration database. In a paper medium, a voter's name, address and party affiliation remains a public record subject to 91-A and RSA 654:31. As data, this same information is restricted and is only available to political committees of political parties, candidates for office or nominees.

From a practical standpoint, with many filings for public office not occurring at the local level, there is no way that a checklist supervisor or a local town or city clerk would be in a position to know whether the requestor met the above qualifications. This requirement that the local official qualify the requestor is not a reasonable one and exposes local officials to unknowingly violating this proposed law and being subject to a misdemeanor.

In addition, this distinction between paper and data seems to fly in the face of the 2001 New Hampshire Supreme Court ruling of Hawkins v. DHHS that a record does not lose its status as public because it is stored in the computer system, as well as the 1996 New Hampshire Supreme Court ruling of Union Leader v. City of Nashua that the motives of a party seeking disclosure are

irrelevant when conducting the balance test between the public's interest in disclosure and a private citizen's interest in privacy.

Probably the most frequent question that a local election official receives in terms of voter registration data is whether a resident is on a particular checklist and, if so, which ward are they registered in. Oddly enough, this legislation does not even recognize an actual voter as a legitimate requestor of data. In answering this voter's inquiry, this legislation would prohibit us quick and easy and accurate access to data at our fingertips and would require that we manually review paper checklists.

Perhaps the greatest challenge for election officials is the public's confidence in the process. Restricting access to public information to only political committees of the political parties, candidates and nominees, but not our citizens works against this goal of public trust and confidence. We ask that you vote inexpedient to legislate.

Please see March 29, 2006 letter addressed to Senate Internal Affairs Committee from New Hampshire City and Town Clerks' Association, attached hereto and referred to as Attachment #2.

Senator Robert K. Boyce, D. 4: Questions?

Senator Sheila Roberge, D. 9: Did you come forward in the House with this information?

Ms. Little: I believe that the city, the deputy city clerk in Manchester represented the Association's position in opposition and it was fundamentally the same.

Senator Sheila Roberge, D. 9: Okay.

Senator Robert K. Boyce, D. 4: Questions?

Senator Peter E. Bragdon, D. 11: Thank you, Mr. Chairman. In leaning forward, I lost the question. Oh, something to do with section 2. Are you opposed to the entire bill or is section 2 not of concern to you and just section 1? Section 2 is about using it for the jury pools.

Ms. Little: Oh, we're happy to transfer that responsibility to the state.

Senator Robert K. Boyce, D. 4: Any further questions? Seeing none, thank you very much.

RJB

Ms. Little: Thank you.

Senator Robert K. Boyce, D. 4: Seeing no one else signed up to intending to speak, I will close the hearing on HB 1238.

Hearing reconvened.

Senator Robert K. Boyce, D. 4: I will recognize once more the Deputy Attorney General.

Attorney Fitch: Yes, Mr. Chairman. I have been volunteered to try to address some confusion from reading this bill. As I understand, the intent of the House Election Law Committee and the sponsors, was different from what I reported as my understanding of the language of the bill. I will draw your attention to page 1, starting at line 16. Let me just walk through that language and tell you the two different ways that people I think have been reading it in the room and make a suggestion that there may be some language that would make it more clear.

Public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. "Any person may view the data that would be available on the public checklist on the statewide centralized voter registration database maintained by the secretary of state at the state records and archives center during normal business hours, but the person viewing the data at the state records and archives center may not print, duplicate, transmit or alter the data. The Secretary of State or the supervisors of the checklist shall furnish one or more copies of the most recent public checklist to any political committee of a political party as defined in..." I will just stop there and you can read the rest of it. I understood that language to say that you can examine it and you can view it, but you can't get a copy of it.

What I'm advised is the intent of the House Committee, which I didn't appreciate and I apologize for not having it clear before I testified initially, and the sponsors was to not change the current law as it exists for town clerks. Anybody can go into the town clerk's office and get the list from them without restriction. The restriction going to political parties, political committee of the political party, not just any political committee, but only the political committee of a political party. So, that is going to be the state Republican and Democratic committee or any town or county or city affiliate of the Republican or Democratic Party and then the candidates who have filed.

LMB

So, I think that there are a number of ways language wise, I don't have specific words for you, I think it is a policy decision that you need to make in your deliberations. But, to clarify it was the intent of the sponsors and the House Election Law Committee that the language that says that the public checklist as corrected by the supervisors is open for examination would include for purchase, to get a copy of it in the same way that the current law provides. Is that an accurate statement?

Senator Robert K. Boyce, D. 4: Thank you.

Attorney Fitch: Thank you.

Senator Robert K. Boyce, D. 4: Any questions? Seeing none. We will recognize Representative Kurk.

Representative Kurk: Thank you, Mr. Chairman and members of the Committee. I was rather concerned by the report given by Mr. Stevens, which appears to suggest that the Secretary of State's Office are starting a new business of sorting lists to suit individual candidates or political parties. It was my understanding that when the bill left the House, the only thing the Secretary of State was going to do was to provide a copy of the list starting with the letter A and ending with the letter Z and everybody would get the same list. The Secretary of State was not going to go into the sorting business by street or by whatever. If that was not the intention of the House, I would hope that Representative Whalley or Representative O'Neil could clarify that.

Senator Robert K. Boyce, D. 4: Thank you. Questions?

Senator Margaret Wood Hassan, D. 23: Yes. I guess my question would be, given that if you have a computerized database, you can produce lists in various formats at a very quick click of the switch. What would be the problem if the Committee agrees with the House that distribution by the Secretary of State to those limited entities is okay, what would be the problem of the Secretary of State's Office saying we provide it in one of three formats, which would you like?

Representative Kurk: I think that is the kind of things that ought to be done by the candidates or the parties. The Secretary of State's Office, in distributing public data, should not be in the business of manipulating it to suit the requestor. It is my understanding that under 91-A if data is public, it gets transferred to whomever wants it for whatever reason and that is the end of it. But, we as a state should not be in the business of providing it to the individual in the form that suits the individual.

RMB

Senator Margaret Wood Hassan, D. 23: Follow up?

Senator Robert K. Boyce, D. 4: Follow up.

Senator Margaret Wood Hassan, D. 23: This is a semantic point and I don't want to belabor it too much. But, suppose, for the Secretary of State's Office's purposes they kept it in three different formats because there are three different formats that are useful for the voter checklist. What would be the harm of giving people the choice of one of those formats?

Representative Kurk: If in fact the Secretary of State, for his own purposes, in order to comply with other sections of the law, has three different lists, then I would agree with you that you could select. I want list A versus list B. But, custom made to order kinds of lists from the Secretary of State I don't believe was the intent of the House.

Senator Margaret Wood Hassan, D. 23: And, I understand that point. Thank you.

Representative Kurk: Thank you.

Senator Robert K. Boyce, D. 4: I do have one clarifying would you believe. Having been in the computer business for many years, it is my understanding there will be one list, but you can display it in as many different ways as you want, which is what this menu is. But, I understand your concerns that we customize it in a way that the political parties generally do and do it in competition with them. They are a private enterprise.

Representative Kurk: But, Mr. Chairman, you raise a different issue and another very important issue. I assume that when the Secretary of State produces a list, it will not include a menu of options for the user at home to sort. Unless the Secretary of State has done that for the specific purpose of complying with some other statutory section or something else, then of course as Senator Hassan has said, the requestor may get it in that format. But, the idea of making this user friendly just for the convenience of selling a few more lists is something that I think would be an inappropriate thing for the state to do. Thank you, Mr. Chairman.

Senator Robert K. Boyce, D. 4: Thank you. Is there anyone else? I did see one more hand. David Scanlan?

RUB

Deputy Secretary of State David Scanlan: Thank you, Mr. Chairman. I just, in defense of Secretary Stevens, he has been doing an outstanding job on creating this database and he has not been a participant in all of the discussions that we had before the Election Law Committee in the House. We have the capability to do as he described. My understanding of the policy out of that committee was that that was not going to be an area that the state got involved in, but was something that we wanted to give to the cities and towns to continue to do those same types of things that they are currently doing. So, I just thought I would clarify that.

Senator Robert K. Boyce, D. 4: So, your explanation would be that this menu of options would be available to towns and the supervisors, not to the public. Is that your understanding?

Deputy Secretary Scanlan: It would be available to the cities and towns to sell if they are selling those now. But, it is not a function that we are going to do at the state level for candidates.

Senator Margaret Wood Hassan, D. 23: More confusion.

Senator Robert K. Boyce, D. 4: I will recognize Representative Whalley. I didn't recognize you before, did I?

Representative Whalley: I understand that, Mr. Chairman, and that was my intent. I clearly checked the box that I was for the bill and that I did not wish to speak. I didn't feel that I would need to speak, but I feel now that I must speak. I will tell you clearly the intent of the Election Law Committee.

When we defended this bill on the floor of the House, the House voted on the testimony that was given on the floor and let me make it perfectly clear, we were attempting not to change current law, limit the cities and towns in any way from what they are doing now. In effect, if you turn to page 2 of the bill, it describes what the Secretary of State's Office is limited to. That is a non-compete clause. We wanted the Secretary of State's Office to only be able to deliver a complete checklist, not a menu of how you might want to break it down. Quite frankly, that means to a political committee of a political party or a candidate or a city or town clerk so that they can, in effect, distribute that list that the Secretary of State's Office is not authorized, if you see what I'm saying. We're not doing it wholesale to retail. It is a list and that's what is available.

I understand that Representative Kurk and others may not be even comfortable with what the House passed, but the Election Law Committee in the House, in my opinion, never intended for this to become a multi-faceted

product from the Secretary of State's Office that would go to anybody for distribution. A checklist is a checklist. It is complete statewide so that we wouldn't have in effect take away opportunities which exist in current law for city and town clerks.

I am happy to answer any more questions if you need greater detail.

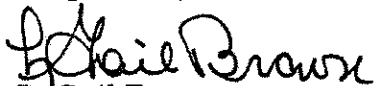
Senator Robert K. Boyce, D. 4: Any questions? None at this time it looks like.

Representative Whalley: Thank you.

Senator Robert K. Boyce, D. 4: Thank you very much. Okay. Now I am going to try one more time to close the hearing on HB 1238.

Hearing concluded at 4:05 p.m.

Respectfully submitted,



L. Gail Brown

Senior Senate Secretary

5/2/206

2 Attachments

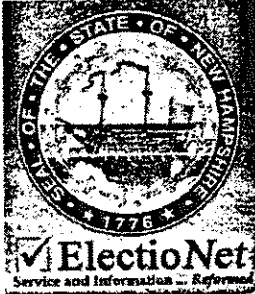
Attachment #1

- Main Menu:
- Activities
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  - Public
    - Absentee Mailing Label
    - Alpha Voter List
    - Change Detail
    - Change Detail Print
  - Changes
    - Checklist
    - Checklist-Landscape Derry
    - Checklist-Portrait
    - City/Town/Street List
    - Disk File Export
    - Election Day Tally
    - Election History of Active Voters
    - Election History of Active Voters-Disk file
    - Election Results
    - Election Summary
  - Labels
    - List of candidates by Filing Date
    - List of Election Officials
    - Moved out of State
    - Poll Place Issues
    - Polling Place
    - Redistricting List of Voters
    - Redistricting-Street List
    - Rejection/Removal Summary
    - Removed Voters
    - Statewide Count of Polling Places
    - Statewide Count of Voters Summary
    - Statewide Election winners
    - Street Voter List
    - Underserved Re-registration Primary Day
    - UOCAVA Summary Report
    - UOCAVA Voters
    - Voter Activity Summary
    - Voter Registration Summary
    - Voter Registration Summary by Source
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MANCHESTER, New Hampshire

Official Checklist

Print Date : 03/28/2006

STATE GENERAL ELECTION - 11/07/2006

Page 1

Party	Voter Name	Residence Address	Ward	Voter ID	Barcode
<b>Ward 09</b>					
<input type="checkbox"/> UND	ABBOT, LEONA L	715 CALEF RD	09	149000006	
<input type="checkbox"/> DEM	ABBOTT, AMANDA R	1087 S BEECH ST	09	149000007	
<input type="checkbox"/> REP	ABBOTT, FRANK W JR	319 SEWALL ST	09	149000013	
<input type="checkbox"/> REP	ABBOTT, JAMES	1087 S BEECH ST	09	149000016	
<input type="checkbox"/> REP	ABEAR, ROY CHARLES JR	14 OAKWOOD AVE Unit W	09	149000030	
<input type="checkbox"/> REP	ABOOD, GEORGE J	155 TITUS AVE	09	149000045	
<input type="checkbox"/> DEM	ABOOD, MARY V	8 W ROSEMONT AVE	09	149000047	
<input type="checkbox"/> REP	ABOOD, SHARON L	155 TITUS AVE	09	149000049	
<input type="checkbox"/> REP	ABOSHAR, JOAN M	104 RANDALL ST	09	149000055	
<input type="checkbox"/> REP	ABRAMS, EVANGELINA	176 MITCHELL ST	09	149000064	
<input type="checkbox"/> REP	ACEVEDO, ALEX	50 AHERN ST	09	149000082	
<input type="checkbox"/> DEM	ACEVEDO, MARCOS A	25 MARGUERITE ST	09	149000089	
<input type="checkbox"/> REP	ACEVEDO, SCARLETT	50 AHERN ST	09	149000092	
<input type="checkbox"/> DEM	ACEVEDO, SHELLEY M	25 MARGUERITE ST	09	149000093	
<input type="checkbox"/> UND	ACHAW-OWUSU, MARGUERITE	115 DUNBAR ST	09	149000096	
<input type="checkbox"/> UND	ACHAW-OWUSU, RAYMOND	115 DUNBAR ST	09	149000097	











MANCHESTER, New Hampshire

Official Checklist

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STATE GENERAL ELECTION - 11/07/2006

Page 1

Party	Voter Name	Residence Address	Ward	Voter ID	Barcode
<b>Ward 09</b>					
<input type="checkbox"/> UND	ABBOT, LEONA L	715 CALEF RD	09	149000006	
<input type="checkbox"/> DEM	ABBOTT, AMANDA R	1087 S BEECH ST	09	149000007	
<input type="checkbox"/> REP	ABBOTT, FRANK W JR	319 SEWALL ST	09	149000013	
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<input type="checkbox"/> REP	ABEAR, ROY CHARLES JR	14 OAKWOOD AVE Unit W	09	149000030	
<input type="checkbox"/> REP	ABOOD, GEORGE J	155 TITUS AVE	09	149000045	
<input type="checkbox"/> DEM	ABOOD, MARY V	8 W ROSEMONT AVE	09	149000047	
<input type="checkbox"/> REP	ABOOD, SHARON L	155 TITUS AVE	09	149000049	
<input type="checkbox"/> REP	ABOSHAR, JOAN M	104 RANDALL ST	09	149000055	
<input type="checkbox"/> REP	ABRAMS, EVANGELINA	176 MITCHELL ST	09	149000064	
<input type="checkbox"/> REP	ACEVEDO, ALEX	50 AHERN ST	09	149000082	
<input type="checkbox"/> DEM	ACEVEDO, MARCOS A	25 MARGUERITE ST	09	149000089	
<input type="checkbox"/> REP	ACEVEDO, SCARLETT	50 AHERN ST	09	149000092	

MANCHESTER, New Hampshire  
Official Checklist  
STATE GENERAL ELECTION - 11/07/2006

Voter Name				Voter Name				Voter Name			
House	APT.	Street Name	Party	House	APT.	Street Name	Party	House	APT.	Street Name	Party
Ward 09											
715		CALEF RD	UND <input type="checkbox"/>	40		OVERLAND ST	REP <input type="checkbox"/>	360		TITUS AVE	DEM <input type="checkbox"/>
1087		S BEECH ST	DEM <input type="checkbox"/>	129		FLINT ST	UND <input type="checkbox"/>	75		W BAKER ST	DEM <input type="checkbox"/>
319		SEWALL ST	REP <input type="checkbox"/>	129		FLINT ST	REP <input type="checkbox"/>	360		TITUS AVE	UND <input type="checkbox"/>
1087		S BEECH ST	REP <input type="checkbox"/>	86		S LINCOLN ST	UND <input type="checkbox"/>	57		DEVCO DR	DEM <input type="checkbox"/>
14	W	OAKWOOD AVE	REP <input type="checkbox"/>	3		SUNDIAL AVE	DEM <input type="checkbox"/>	132	2	ROSEDALE AVE	REP <input type="checkbox"/>
155		TITUS AVE	REP <input type="checkbox"/>	58		PRESIDENT RD	DEM <input type="checkbox"/>	91	91	TOWNHOUSE RD	DEM <input type="checkbox"/>
8		W ROSEMONT AVE	DEM <input type="checkbox"/>	385		CILLEY RD	DEM <input type="checkbox"/>	59		GEM DR	REP <input type="checkbox"/>
155		TITUS AVE	REP <input type="checkbox"/>	385		CILLEY RD	DEM <input type="checkbox"/>	64		OAKWOOD AVE	DEM <input type="checkbox"/>
104		RANDALL ST	REP <input type="checkbox"/>	385		CILLEY RD	REP <input type="checkbox"/>	155		MOREY ST	REP <input type="checkbox"/>
178		MITCHELL ST	REP <input type="checkbox"/>	385		CILLEY RD	DEM <input type="checkbox"/>	155		MOREY ST	DEM <input type="checkbox"/>
50		AHERN ST	REP <input type="checkbox"/>	385		CILLEY RD	DEM <input type="checkbox"/>	155		MOREY ST	DEM <input type="checkbox"/>
25		MARGUERITE ST	DEM <input type="checkbox"/>	38		EDGEWATER AVE	REP <input type="checkbox"/>	10		MAPLETON RD	UND <input type="checkbox"/>
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1819		BROWN AVE	UND <input type="checkbox"/>	110		BLACKSTONE ST	DEM <input type="checkbox"/>	121		OAKDALE AVE	UND <input type="checkbox"/>
3		SUNDIAL AVE	UND <input type="checkbox"/>	110		BLACKSTONE ST	DEM <input type="checkbox"/>	3		SUNDIAL AVE	UND <input type="checkbox"/>
40		OVERLAND ST	DEM <input type="checkbox"/>	409	3	SHAFTA ST	DEM <input type="checkbox"/>	618		TITUS AVE	UND <input type="checkbox"/>
129		FLINT ST	UND <input type="checkbox"/>	5		BOSSE AVE	DEM <input type="checkbox"/>	882		S BEECH ST	UND <input type="checkbox"/>
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34		WESTLAND AVE	UND <input type="checkbox"/>	1300		S BEECH ST	DEM <input type="checkbox"/>	17	9	BRADLEY ST	DEM <input type="checkbox"/>
319		SEWALL ST	DEM <input type="checkbox"/>	577		S BEECH ST	UND <input type="checkbox"/>	334		SUNDIAL AVE	DEM <input type="checkbox"/>
129		FLINT ST	REP <input type="checkbox"/>	330		TITUS AVE	DEM <input type="checkbox"/>	31		DALE ST	UND <input type="checkbox"/>
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71		BEECH HILL DR	DEM <input type="checkbox"/>	5		BOSSE AVE	DEM <input type="checkbox"/>	618		TITUS AVE	UND <input type="checkbox"/>
146		PRESIDENT RD	UND <input type="checkbox"/>	45		DALE ST	DEM <input type="checkbox"/>	363		BROWN AVE	DEM <input type="checkbox"/>
				1300		S BEECH ST	DEM <input type="checkbox"/>	882		S BEECH ST	UND <input type="checkbox"/>

Voter ID	Name	History	Residence Address	Party	City	Ward
156000049	ADAMS, LARRY	03-14-2006 TOWN OF MIDDLETON	29 LINCOLN RD, NH, 03887	UND	MIDDLETO	00
156000052	ALLARD, TAMMY, LYNN	03-14-2006 TOWN OF MIDDLETON	284 NEW DURHAM RD, NH,	UND	MIDDLETO	00
156000053	ALLFREY, FREDERIC, L	03-14-2006 TOWN OF MIDDLETON	250 NEW PORTSMOUTH RD, NH,	REP	MIDDLETO	00
156000054	ALLFREY, JOANNE, M	03-14-2006 TOWN OF MIDDLETON	250 NEW PORTSMOUTH RD, NH,	REP	MIDDLETO	00
156000055	ALLFREY, KATHLEEN, P	03-14-2006 TOWN OF MIDDLETON	250 NEW PORTSMOUTH RD, NH,	REP	MIDDLETO	00
156000661	BADGER, SHEILA, P	03-14-2006 TOWN OF MIDDLETON	31 PINE RD, NH, 03887	REP	MIDDLETO	00
156000664	BARKER, BRUCE, A	03-14-2006 TOWN OF MIDDLETON	490 RIDGE RD, NH, 03887	REP	MIDDLETO	00
156000749	BARRON, GREGG, ENOS	03-14-2006 TOWN OF MIDDLETON	198 SILVER ST, NH, 03887	REP	MIDDLETO	00
156000668	BARRON, JANET, F	03-14-2006 TOWN OF MIDDLETON	198 SILVER ST, NH, 03887	REP	MIDDLETO	00
156000669	BARRON, PAUL, D	03-14-2006 TOWN OF MIDDLETON	198 SILVER ST, NH, 03887	REP	MIDDLETO	00
156000671	BARTLETT, CHRISTINE, D	03-14-2006 TOWN OF MIDDLETON	16 MAPLE RD, NH, 03887	DEM	MIDDLETO	00

Voter Id	Voter Name	Residence Address	Party
149000415	ALAM, ZAHID MUHAMMUD	2380 ELM ST MANCHESTER	UND
149000594	ALLEN, LYNN ELLEN	1966 ELM ST Unit 2 MANCHESTER	UND
149001584	AYERS, DAVID JEREMY	1970 ELM ST MANCHESTER	REP
149001571	AYERS, MEGAN ALYSSA	1970 ELM ST MANCHESTER	REP
149002116	BARCUS, CHARLES LEROY	2038 ELM ST Unit 2 MANCHESTER	REP
149002166	BARLUS, CHARLES LEROY	2038 ELM ST Unit 2 MANCHESTER	REP
149002375	BATTISTELLI, ANTHONY D	2030 ELM ST MANCHESTER	UND
149003950	BILETCH, MARK	2422 ELM ST MANCHESTER	DEM
149003951	BILETCH, MARYELLEN	2422 ELM ST MANCHESTER	DEM
149004172	BISSON, ALEXANDER C	2900 ELM ST MANCHESTER	UND
149004177	BISSON, CYNTHIA	2900 ELM ST MANCHESTER	DEM
149004178	BISSON, DONALD J	2900 ELM ST MANCHESTER	UND
149004189	BISSON, PETER J	2900 ELM ST MANCHESTER	UND
149005139	BOSIES, BRIAN M	2454 ELM ST MANCHESTER	REP
149005318	BOUCHER, JEANNE L	2238 ELM ST MANCHESTER	DEM
149005918	BRACKETT, LOUISE M	1970 ELM ST MANCHESTER	DEM
149006069	BREARLEY, AMY SHAW	1966 ELM ST Unit 2 MANCHESTER	UND
149006480	BROPHY, STEPHEN ALBERT	2600 ELM ST MANCHESTER	REP
149006634	BROWN, MARK D	2434 ELM ST MANCHESTER	DEM
149006649	BROWN, NANCY V	2434 ELM ST MANCHESTER	DEM
149008903	CHAMPAGNE-FIELD, MICHELLE	2840 ELM ST MANCHESTER	DEM
149010386	COMEAU, NORMA P	2238 ELM ST MANCHESTER	DEM
149010647	CONROY, CATHERINE ANN	2298 ELM ST MANCHESTER	DEM
149010877	CORBAY, SUZANNE M	2094 ELM ST MANCHESTER	DEM
149012594	DAMON, ULLA I	2288 ELM ST MANCHESTER	REP
149012741	DASTIN, ROBERT JOHN	2600 ELM ST MANCHESTER	UND
149014837	DOTY, DAVID T	2172 ELM ST MANCHESTER	DEM
149014839	DOTY, JOAN B	2172 ELM ST MANCHESTER	UND
149016962	FARRINGTON, GAIL ELLEN	1962 ELM ST MANCHESTER	UND
149016966	FARRINGTON, MICHAEL	1962 ELM ST MANCHESTER	UND
149017278	FIELD, ROBERT H	2840 ELM ST MANCHESTER	DEM
149018524	FRIEDMAN, ANN L	2334 ELM ST MANCHESTER	DEM
149018525	FRIEDMAN, BETH L	2334 ELM ST MANCHESTER	UND
149021348	GRANT, DEBORAH	2200 ELM ST MANCHESTER	DEM

Street List - MANCHESTER

Ward: 09

Low Range	High Range	Side	Street Name	Zip Code	Ward	US Cong	State Sen	State Rep	Exec Counc	County	County Dist	Village Dist	Voting District
8	128	Even	AHERN ST		09	1	18	16	4		3RD ROCKINGHAM		
1	131	Odd	AHERN ST		09	1	18	16	4		3RD ROCKINGHAM		
33	33	Odd	ALDER CT		09	1	18	16	4		3RD ROCKINGHAM		
6	64	Even	ALDER CT		09	1	18	16	4		3RD ROCKINGHAM		
5	67	Odd	ALPHEUS ST		09	1	18	16	4		3RD ROCKINGHAM		
2	68	Even	ALPHEUS ST		09	1	18	16	4		3RD ROCKINGHAM		
34	54	Even	ALPHONSE ST		09	1	18	16	4		3RD ROCKINGHAM		
21	41	Odd	ALPHONSE ST		09	1	18	16	4		3RD ROCKINGHAM		
12	94	Even	ARMAND AVE		09	1	18	16	4		3RD ROCKINGHAM		
11	93	Odd	ARMAND AVE		09	1	18	16	4		3RD ROCKINGHAM		
105	161	Odd	BAKER ST		09	1	18	16	4		3RD ROCKINGHAM		
96	144	Even	BAKER ST		09	1	18	16	4		3RD ROCKINGHAM		
50	220	Even	BEECH HILL AVE		09	1	18	16	4		3RD ROCKINGHAM		
5	223	Odd	BEECH HILL AVE		09	1	18	16	4		3RD ROCKINGHAM		
17	201	Odd	BEECH HILL DR		09	1	18	16	4		3RD ROCKINGHAM		
10	194	Even	BEECH HILL DR		09	1	18	16	4		3RD ROCKINGHAM		
34	36	Even	BEECH ST		09	1	18	16	4		3RD ROCKINGHAM		
3	15	Odd	BEECH ST		09	1	18	16	4		3RD ROCKINGHAM		
45	45	Odd	BELAIR ST		09	1	18	16	4		3RD ROCKINGHAM		
22	48	Even	BELAIR ST		09	1	18	16	4		3RD ROCKINGHAM		
20	132	Even	BELLEVUE ST		09	1	18	16	4		3RD ROCKINGHAM		
11	155	Odd	BELLEVUE ST		09	1	18	16	4		3RD ROCKINGHAM		
8	186	Even	BILLINGS ST		09	1	18	16	4		3RD ROCKINGHAM		
19	153	Odd	BILLINGS ST		09	1	18	16	4		3RD ROCKINGHAM		
24	110	Even	BLACKSTONE ST		09	1	18	16	4		3RD ROCKINGHAM		
27	105	Odd	BLACKSTONE ST		09	1	18	16	4		3RD ROCKINGHAM		
13	49	Odd	BOISVERT ST		09	1	18	16	4		3RD ROCKINGHAM		
24	28	Even	BOISVERT ST		09	1	18	16	4		3RD ROCKINGHAM		
60	92	Even	BOSSE AVE		09	1	18	16	4		3RD ROCKINGHAM		
5	77	Odd	BOSSE AVE		09	1	18	16	4		3RD ROCKINGHAM		
195	225	Odd	BOURNE ST		09	1	18	16	4		3RD ROCKINGHAM		
196	210	Even	BOURNE ST		09	1	18	16	4		3RD ROCKINGHAM		
30	180	Even	BOW ST		09	1	18	16	4		3RD ROCKINGHAM		
7	169	Odd	BOW ST		09	1	18	16	4		3RD ROCKINGHAM		
15	45	Odd	BRADLEY ST		09	1	18	16	4		3RD ROCKINGHAM		
37	37	Odd	BRANCH ST		09	1	18	16	4		3RD ROCKINGHAM		
22	40	Even	BRANCH ST		09	1	18	16	4		3RD ROCKINGHAM		
333	1619	Odd	BROWN AVE		09	1	18	16	4		3RD ROCKINGHAM		
146	2060	Even	BROWN AVE		09	1	18	16	4		3RD ROCKINGHAM		
39	259	Odd	BRUNELLE AVE		09	1	18	16	4		3RD ROCKINGHAM		
28	254	Even	BRUNELLE AVE		09	1	18	16	4		3RD ROCKINGHAM		
24	32	Even	BURNETT AVE		09	1	18	16	4		3RD ROCKINGHAM		
21	31	Odd	BURNETT AVE		09	1	18	16	4		3RD ROCKINGHAM		
000100	000100	Even	CAHILL AVE		09	1	18	16	4		3RD ROCKINGHAM		

## Ward: 00

## ACCESS RD - MIDDLETON

Party	St #	Unit	Name	Zip
REP	83		WASHBURNE, IVAN	03887
REP	83		WASHBURNE, PATRICIA A	03887
ACCESS RD - MIDDLETON			<b>Total Voters:</b>	<b>2</b>

## AUCLAIR RD - MIDDLETON

Party	St #	Unit	Name	Zip
UND	18		ROCHE, GERALDINE MARIE	03887
UND	18		ROCHE, JOHN HENRY, JR	03887
DEM	26		ORFEI, ANNA M	03887
UND	47		BAKER, IMOGENE ODELL	03887
UND	47		BAKER, JACK BENNY, SR	03887
UND	66		CONNOLLY, MARTHA ELLEN	03887
UND	66		CONNOLLY, RICHARD T	03887
AUCLAIR RD - MIDDLETON			<b>Total Voters:</b>	<b>7</b>

## AUEN WAY - MIDDLETON

Party	St #	Unit	Name	Zip
DEM	14		PLACE, ROLANDJ	03887
REP	20		ABBETT, ALANE MARIE	03887
REP	20		ABBETT, DAVID MICHAEL	03887
UND	24		TRONKOWSKI, GAIL CECILIA	03887
UND	25		CHASE, ANTHONY	03887
UND	25		KEAZER, JASON P	03887
UND	25		KEAZER, RACHEL E	03887
REP	32		QUINNEY, ELISHA MARIE	03887
REP	32		QUINNEY, JAMES LAWSON	03887
DEM	32		SHERMAN, ANTHONY E	03887
REP	33		OSBORNE, FRANCES C	03887
UND	33		OSBORNE, WAYNE H	03887
DEM	39		LAWRENCE, VALERIE ANN	03887
UND	43		DAMON, DEBRA	03887
UND	43		DAMON, SCOTT ALAN, SR	03887
AUEN WAY - MIDDLETON			<b>Total Voters:</b>	<b>15</b>

## AVON LN - MIDDLETON

Party	St #	Unit	Name	Zip
DEM	4		CARPENTER, WALTER L	03887
DEM	14		CROSTON, DANIEL KELLY	03887
UND	14		CROSTON, RAEANN	03887
UND	19		BURROWS, ANDREW J	03887
REP	19		BURROWS, RICHARD A	03887
DEM	24		COSTNER, ALINE G	03887
UND	24		COSTNER, DONALD	03887
REP	27		KINSLEY, JEANNE M	03887
REP	27		KINSLEY, JEFFREY P	03887
REP	27		KINSLEY, RONALD H	03887
AVON LN - MIDDLETON			<b>Total Voters:</b>	<b>10</b>

## BEECH TREE DR - MIDDLETON

Party	St #	Unit	Name	Zip
UND	32		AINSWORTH, ROBERT WILLIAM	03887
UND	32		AINSWORTH, TERESA ANNE	03887

Name	Voter ID	Address	City	Party	Ward
ABBOT, LEONA, L	149000006	715 CALEF RD	MANCHESTER	UND	09
ABBOTT, AMANDA, R	149000007	1087 S BEECH ST	MANCHESTER	DEM	09
ABBOTT, FRANK, W, JR	149000013	319 SEWALL ST	MANCHESTER	REP	09
ABBOTT, JAMES	149000016	1087 S BEECH ST	MANCHESTER	REP	09
ABEAR, ROY, CHARLES, JR	149000030	14 OAKWOOD AVE Unit W	MANCHESTER	REP	09
ABOOD, GEORGE, J	149000045	155 TITUS AVE	MANCHESTER	REP	09
ABOOD, MARY, V	149000047	8 W ROSEMONT AVE	MANCHESTER	DEM	09
ABOOD, SHARON, L	149000049	155 TITUS AVE	MANCHESTER	REP	09
ABOSHAR, JOAN, M	149000055	104 RANDALL ST	MANCHESTER	REP	09
ABRAMS, EVANGELINA	149000064	176 MITCHELL ST	MANCHESTER	REP	09
ACEVEDO, ALEX	149000082	50 AHERN ST	MANCHESTER	REP	09
ACEVEDO, MARCOS, A	149000089	25 MARGUERITE ST	MANCHESTER	DEM	09
ACEVEDO, SCARLETT	149000092	50 AHERN ST	MANCHESTER	REP	09
ACEVEDO, SHELLEY, M	149000093	25 MARGUERITE ST	MANCHESTER	DEM	09
ACHAW-OWUSU, MARGUERITE	149000096	115 DUNBAR ST	MANCHESTER	UND	09
ACHAW-OWUSU, RAYMOND	149000097	115 DUNBAR ST	MANCHESTER	UND	09
ACHAW-OWUSU, SHANELL, NICOLE	149000098	115 DUNBAR ST	MANCHESTER	UND	09
ACTON, ROBERT, E	149000123	1819 BROWN AVE Unit 1R	MANCHESTER	UND	09
ACTON, ROBERTA	149000124	1819 BROWN AVE	MANCHESTER	UND	09
ADAMS, ASHLEY, NICOLE	149000143	3 SUNDIAL AVE	MANCHESTER	UND	09
ADAMS, BARBARA, R	149000147	40 OVERLAND ST	MANCHESTER	DEM	09
ADAMS, CAROLYN, ANNA	149000154	129 FLINT ST	MANCHESTER	UND	09
ADAMS, CHRISTOPHER, A	149000157	146 PRESIDENT RD	MANCHESTER	DEM	09
ADAMS, DEBRA, N	149000163	34 WESTLAND AVE	MANCHESTER	UND	09
ADAMS, ERNEST, H	149000172	319 SEWALL ST	MANCHESTER	DEM	09
ADAMS, JESSICA, E	149000181	129 FLINT ST	MANCHESTER	REP	09
ADAMS, JOAN, A	149000182	146 PRESIDENT RD	MANCHESTER	DEM	09
ADAMS, KATHLEEN, E	149000188	71 BEECH HILL DR	MANCHESTER	DEM	09
ADAMS, PATRICIA, A	149000205	146 PRESIDENT RD	MANCHESTER	UND	09
ADAMS, PHILLIP, W	149000209	40 OVERLAND ST	MANCHESTER	REP	09
ADAMS, ROLAND, PAUL	149000215	129 FLINT ST	MANCHESTER	UND	09
ADAMS, SUSAN, L	149000220	129 FLINT ST	MANCHESTER	REP	09
ADKINS, AMY, VERONICA	149000239	86 S LINCOLN ST	MANCHESTER	UND	09
AHMED, ARIF, KALYANI	149000301	3 SUNDIAL AVE	MANCHESTER	DEM	09
AIKENS, STANLEY, G	149000383	58 PRESIDENT RD	MANCHESTER	DEM	09
AINSWORTH, ELIZABETH, M	149000392	385 CILLEY RD	MANCHESTER	DEM	09
AINSWORTH, JAYNE, E	149000395	385 CILLEY RD	MANCHESTER	DEM	09
AINSWORTH, JOSHUA, MICHAEL	149000396	385 CILLEY RD	MANCHESTER	REP	09
AINSWORTH, KEVIN, M	149000397	385 CILLEY RD	MANCHESTER	DEM	09
AINSWORTH, PAUL, ROBERT	149000400	38 EDGEMERE AVE	MANCHESTER	REP	09





Attachment #2

NEW HAMPSHIRE CITY AND TOWN CLERKS' ASSOCIATION  
(ORGANIZED OCTOBER 19, 1926)

March 29, 2006

Senate Internal Affairs Committee  
Room 103  
Legislative Office Building  
Concord, NH 03301

Dear Senators:

On behalf of the New Hampshire City and Town Clerks' Association, please accept our testimony in opposition to HB 1238, as amended. This legislation makes a distinction between voter registration information available on a paper checklist and voter registration information available through the new statewide voter registration database. In a paper medium, a voter's name, address and party affiliation remains a public record subject to RSA 91-A and RSA 654:31. As data, this same information is restricted and is only available to political committees, candidates for office or nominees.

From a practical standpoint, with many filings for public office not occurring on the local level, there is no way that a checklist supervisor or a local town or city clerk would be in a position to know whether the requestor met the above qualifications. This requirement that the local official "qualify" the requester is not a reasonable one and exposes local officials to unknowingly violating this proposed law and being subject to a misdemeanor.

In addition, this distinction between paper and data seems to fly in the face of the 2001 New Hampshire Supreme Court ruling in *Hawkins v. N.H. DHHS* that a record does not lose its status as public because it is stored in a computer system; as well as the 1996 New Hampshire Supreme Court ruling in *Union Leader Corp. V. City of Nashua* that the motives of a party seeking disclosure are irrelevant when conducting the balancing test between the public's interest in disclosure and a private citizen's interest in privacy.

Probably, the most frequent question that local election officials receive in terms of voter registration data is whether a resident is on a particular checklist, and, if so, which ward are they registered in. Oddly enough, this legislation does not recognize an actual voter as a legitimate requester of data. In answering this voter's inquiry this legislation would prohibit us quick and accurate access to data at our fingertips and would require that we manually review actual paper checklists.

Perhaps the greatest challenge for elections is the public's confidence in the election process. Restricting access to public information to only political committees, candidates and nominees, but not our citizens, works against this goal of public trust and confidence. Please vote this legislation expedient to legislate.

Sincerely,

Patricia A. Little  
Legislative Co-Chair

Diane M. Trippett  
Legislative Co-Chair

# SENATE INTERNAL AFFAIRS COMMITTEE

Date 3/29/06      Time 3:15 p.m. Public Hearing on Bill HB 1238-FN

*HB 1238-FN - relative to centralized voter registration database information.*

*Check box(es) below that apply*

SPEAKING	FAVOR	OPPOSED	NAME <small>(Please print)</small>	REPRESENTING
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Patricia Little	NH City & Town Clerks
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Anthony Stevens	Sec. of State
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>concerns</i>	Claire (Eba)	NHCLU
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rep Kark	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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# SENATE INTERNAL AFFAIRS COMMITTEE

Date 3/29/06

Time 3:15 p.m. Public Hearing on Bill HB 1238-FN

**HB 1238-FN - relative to centralized voter registration database information.**

Check box(es) below that apply

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>McMillan</i>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP MIKE WHALLEY	ELECTION LAW
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DAVID SCANLAN	SECRETARY OF STATE
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HOWARD ZIBEL	JUDICIAL BRANCH
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B.J. FITZ	A HUNNY GENERAL'S OFFICE
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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# Senate Internal Affairs Committee

## EXECUTIVE SESSION

Bill # HB1238

Hearing date: 3/29/06  
 Executive session date: 4/5/06  
 Motion of: OTR/A

Room: LOB - Room 103

VOTE: 5-0

<u>Made by</u>	Boyce	<input type="checkbox"/>	<u>Seconded</u>	Boyce	<input type="checkbox"/>
<u>Senator:</u>	Bragdon	<input checked="" type="checkbox"/>	<u>by Senator:</u>	Bragdon	<input type="checkbox"/>
	Flanders	<input type="checkbox"/>		Flanders	<input checked="" type="checkbox"/>
	Roberge	<input type="checkbox"/>		Roberge	<input type="checkbox"/>
	Hassan	<input type="checkbox"/>		Hassan	<input type="checkbox"/>
	Larsen	<input type="checkbox"/>		Larsen	<input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Vote</u> (Y/N)	<u>Reported out by</u>
Senator Boyce, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bragdon, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Flanders	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roberge	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Hassan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Larsen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Amendments: \_\_\_\_\_

NOTES: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 6, 2006

THE COMMITTEE ON Internal Affairs

to which was referred House Bill 1238-FN

AN ACT                   relative to centralized voter registration database  
information.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF: 5-0

AMENDMENT # 1670s

Senator Peter E. Bragdon  
For the Committee

L. Gail Brown 271-3091

[Home](#)[Bill Status](#) ◆[Members](#) ◆[Calendars/Journals](#) ◆[Miscellaneous](#) ◆

# HB1283 Docket

[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)**Bill Title:** relative to sheep and goat identification requirements.

<u>Date</u>	<u>Body</u>	<u>Description</u>
12/14/2005	H	Introduced and ref Environment & Agriculture HJ 7, pg 339
1/4/2006	H	Public Hearing Jan 5 11:00 RM303/LOB
1/18/2006	H	Comm Rprt: OTP for Feb 1 (vote 12-0; CC) HC 11, pg 557
2/1/2006	H	Passed, MA, VV HJ 13, pg 656
2/9/2006	S	Introduced and Referred to Environment and Wildlife; SJ 4, Pg.92
2/14/2006	S	Hearing; February 21, 2006, Room 103, IOB, 1:30 p.m.; SC7
2/27/2006	S	Committee Report; Ought to Pass [03/09/06]; SC9
3/9/2006	S	Ought to Pass, MA, VV; OT3rdg; SJ 7, Pg.163
3/9/2006	S	Passed by Third Reading Resolution; SJ 7, Pg.179
3/16/2006	S	Enrolled; SJ 8, Pg.202
3/28/2006	H	Enrolled,
3/28/2006	H	Signed by the Governor on 3/23/2006 Eff: 5/22/2006 Chap: 0015

[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)[Docket Abbreviations](#)

# COMMITTEE REPORT FILE INVENTORY

HB1238 ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMMITTEE SECRETARY WILL CONFIRM ALL ENTRIES CHECKED AND SIGN THIS INVENTORY.
5. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT (For calendar and floor)
- HEARING REPORT (Written summary of hearing testimony, if produced)

HEARING TRANSCRIPT (Verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: 1 + 2

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1670       - AMENDMENT # \_\_\_\_\_  
 - AMENDMENT # 1532       - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED       AS AMENDED BY THE HOUSE  
 FINAL VERSION       AS AMENDED BY THE SENATE

PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: \_\_\_\_\_

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A NEW FILE FOLDER WITH THE CHAIRMAN'S COPY OF THE BILL AND THE LATEST DOCKET AND KEEP THOSE FILES IN YOUR OFFICE. PLEASE KEEP YOUR MASTER SHEET CURRENT AS YOU CLOSE OUT YOUR FILES AND PROVIDE THE SECRETARIAL SUPERVISOR WITH A COPY WHEN COMPLETED.

DATE DELIVERED TO SENATE CLERK

5/15/06

[Signature]

COMMITTEE SECRETARY

# **Exhibit 5**



## 2007 NH SB 437

Enacted, May 5, 2008

### Reporter

2008 NH ALS 10; 2008 NH Ch. 10; 2007 NH SB 437

NEW HAMPSHIRE ADVANCE LEGISLATIVE SERVICE > NEW HAMPSHIRE SECOND YEAR OF THE 160TH SESSION OF THE GENERAL COURT > CHAPTER 10 > SENATE BILL 437

### Notice

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Added: Text highlighted in green

Deleted: Red text with a strikethrough

### Synopsis

---

AN ACT STATE OF NEW HAMPSHIRE In the Year of Our Lord Two Thousand Eight AN ACT relative to access to voter information.

### Text

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

10:1 Availability of Checklist and Voter Information. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist **AND VOTER INFORMATION** .

I. In this section:

- (a) "Checklist information" means the data, in any form, required to be placed on the public checklist by RSA 654:25, when that data is obtained or derived from a checklist or from the statewide centralized voter registration database maintained by the secretary of state.
- (b) "Commercial purposes" means knowingly using, selling, giving, or receiving the checklist information for the purpose of selling or offering for sale any property or service unrelated to an election or political campaign.
- (c) "Nonpublic checklist" means the checklist bearing the names of voters who by law are entitled to have their status as a voter kept nonpublic.
- (d) "Public checklist" means the checklist required by RSA 654:25 which contains the names of voters who by law are to be listed on a checklist available to the public in accordance with the restrictions established by this section.

II. In towns and cities, the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors of the checklist shall furnish one or more copies of the most recent public checklist of their town or city to any person requesting such copies. The supervisors of the checklist may only

## 2007 NH SB 437

provide checklist information for their town or city. The supervisors of the checklist ~~may~~ **SHALL** charge a fee of ~~up to~~ \$ 25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist ~~may~~ **SHALL** charge a fee of ~~up to~~ \$ 25, plus \$ 0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form.

III. Any person may view the data that would be available on the public checklist, as corrected by the supervisors of the checklist, on the statewide centralized voter registration database maintained by the secretary of state at the state records and archives center during normal business hours, but the person viewing data at the state records and archives center may not print, duplicate, transmit, or alter the data. ~~The secretary of state may only provide copies of the most recent public checklist to a political committee of a political party as defined in RSA 664:2, V, or to a candidate who has filed for consideration for any office in any primary or general election or who has been nominated for any office in a general election. The secretary of state may not provide public checklists of less than the entire state. The secretary of state may charge a fee of up to \$ 25 plus \$ 0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the statewide public checklist. The secretary of state may provide public checklists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form.~~

IV. **THE SECRETARY OF STATE SHALL, UPON REQUEST, PROVIDE TO A POLITICAL PARTY, AS DEFINED IN RSA 664:2, IV, OR TO A POLITICAL COMMITTEE, AS DEFINED IN RSA 664:2, III, A LIST OF THE NAME, STREET ADDRESS, MAILING ADDRESS, TOWN OR CITY, VOTER HISTORY, AND PARTY AFFILIATION, IF ANY, OF EVERY REGISTERED VOTER IN THE STATE. THE SECRETARY OF STATE SHALL, UPON REQUEST, PROVIDE TO A CANDIDATE FOR COUNTY, STATE, OR FEDERAL OFFICE A LIST OF THE NAME, STREET ADDRESS, MAILING ADDRESS, TOWN OR CITY, VOTER HISTORY, AND PARTY AFFILIATION, IF ANY, OF EVERY REGISTERED VOTER IN THE STATE OR IN THE CANDIDATE'S DISTRICT. IN THIS SECTION, "VOTER HISTORY" MEANS WHETHER THE PERSON VOTED AND, FOR PRIMARY ELECTIONS, IN WHICH PARTY'S PRIMARY THE PERSON VOTED, IN EACH STATE ELECTION FOR THE PRECEDING 2 YEARS. THE SECRETARY OF STATE SHALL CHARGE A FEE OF \$ 25 PLUS \$ 0.50 PER THOUSAND NAMES OR PORTION THEREOF IN EXCESS OF 2,500 PLUS SHIPPING CHARGES FOR EACH COPY OF THE LIST PROVIDED UNDER THIS SECTION. IN ADDITION, THE SECRETARY OF STATE SHALL CHARGE AND COLLECT ON BEHALF OF AND REMIT TO THE SUPERVISORS OF THE CHECKLIST OF EACH CITY AND TOWN THE AMOUNT THAT SUCH SUPERVISORS WOULD HAVE CHARGED HAD THE PUBLIC CHECKLIST OF THEIR CITY OR TOWN BEEN PURCHASED FROM THEM. THE SECRETARY OF STATE MAY PROVIDE LISTS AS PRESCRIBED IN THIS SECTION ON PAPER, COMPUTER DISK, COMPUTER TAPE, ELECTRONIC TRANSFER, OR ANY OTHER FORM.**

V. **EXCEPT FOR FEES COLLECTED ON BEHALF OF A CITY OR TOWN,** fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city **OR BY THE SECRETARY OF STATE ON BEHALF OF A CITY OR TOWN** under this section shall be for the use of the town or city.

~~VI~~ **VI** . No person shall use or permit the use of checklist **OR VOTER** information provided by **ANY SUPERVISORS OF THE CHECKLIST OR BY** the secretary of state for commercial purposes. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person. **THE SECRETARY OF STATE MAY INSERT INAUTHENTIC ENTRIES INTO COPIES OF THE PUBLIC CHECKLIST PROVIDED UNDER THIS SECTION FOR PURPOSES OF FACILITATING ENFORCEMENT OF THIS PARAGRAPH.**

~~VII~~ **VII** . This section shall not be construed to restrict the transfer of checklist information to the state or federal courts as required by RSA 654:45 for any lawful purpose.

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10:2 Repeal. RSA 654:46, relative to party access to voter information, is repealed.

10:3 Effective Date. This act shall take effect upon its passage.

Effective Date: May 5, 2008

## **History**

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Approved by the Governor on May 5, 2008

## **Sponsor**

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Burling

NEW HAMPSHIRE ADVANCE LEGISLATIVE SERVICE  
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End of Document

**REGULAR CALENDAR**

**April 15, 2008**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on ELECTION LAW to which was referred SB437,

AN ACT relative to access to voter database information. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

**Rep. Shawn N Jasper**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	ELECTION LAW
Bill Number:	SB437
Title:	relative to access to voter database information.
Date:	April 15, 2008
Consent Calendar:	NO
Recommendation:	OUGHT TO PASS WITH AMENDMENT

### STATEMENT OF INTENT

The bill as introduced sought to address the issue of to whom the Secretary of State could furnish the state wide check list, that issue was the subject of a Supreme Court decision last fall. The bill as introduced allows the list to be provided to any candidate, political party or political committee. The Senate amendment removed gender and year of birth from the public list, we concur with that change. In our deliberations we made further changes, the fee charged by the Secretary of State and the Supervisors of the checklist would now be set at a certain amount, rather than having a fee that could vary. The major change that we recommend is that; the Secretary of State collects, on behalf of our communities, the fee that they would have received if the list were purchased directly from them. This only seems reasonable as the communities are required to compile the data for the state. If the amendment is adopted the Secretary of State will be able to sell district lists, rather than only a state wide list, this change will save candidates considerable time and effort. The Secretary of State will also be able to insert inauthentic names into the state wide list, to help insure that the list is not being used commercially. The amendment also prohibits lists which are sold by the Supervisors from being used commercially, which is not now the case, although anyone may purchase a local list. Finally, when we had made all these changes, it became apparent that RSA 654:46 was redundant and should be repealed.

Vote 11-0.

Rep. Shawn N Jasper  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

# **Exhibit 6**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION  
CENTER,

Plaintiff,

v.

PRESIDENTIAL ADVISORY  
COMMISSION ON ELECTION  
INTEGRITY, *et al.*,

Defendants.

Civil Action No. 1:17-cv-1320 (CKK)

**THIRD DECLARATION OF KRIS W. KOBACH**

I, Kris W. Kobach, declare as follows:

As described in my declaration of July 5, 2017, I am the Vice Chair of the Presidential Advisory Commission on Election Integrity (“Commission”). I submit this third declaration in support of Defendant’s supplemental brief regarding the addition of the Department of Defense (“DOD”) as a defendant in plaintiff’s Amended Complaint. This declaration is based on my personal knowledge and upon information provided to me in my official capacity as Vice Chair of the Commission.

1. In order not to impact the ability of other customers to use the DOD Safe Access File Exchange (“SAFE”) site, the Commission has decided to use alternative means for transmitting the requested data. The Commission no longer intends to use the DOD SAFE system to receive information from the states, and instead intends to use alternative means of receiving the information requested in the June 28, 2017, letter. Specifically, the Director of White House Information Technology is repurposing an existing system that regularly accepts

personally identifiable information through a secure, encrypted computer application within the White House Information Technology enterprise. We anticipate this system will be fully functional by 6:00 p.m. Eastern today.

2. Today, the Commission sent the states a follow-up communication requesting the states not submit any data until this Court rules on this TRO motion. A copy of this communication is attached hereto as Exhibit A. The Commission will not send further instructions about how to use the new system pending this Court's resolution of this TRO motion.

3. The Commission will not download the data that Arkansas already transmitted to SAFE and this data will be deleted from the site.

4. Additionally, I anticipate that the President will today announce the appointment of two new members of the Commission, one Democrat and one Republican.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

\*\*\*

Executed this 10th day of July 2017.



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Kris W. Kobach



**EXHIBIT A**

**From:** FN-OVP-Election Integrity Staff  
**Sent:** Monday, July 10, 2017 9:40 AM  
**Subject:** Request to Hold on Submitting Any Data Until Judge Rules on TRO

Dear Election Official,

As you may know, the Electronic Privacy Information Center filed a complaint seeking a Temporary Restraining Order ("TRO") in connection with the June 28, 2017 letter sent by Vice Chair Kris Kobach requesting publicly-available voter data. See *Electronic Privacy Information Center v. Presidential Advisory Commission on Election Integrity* filed in the U.S. District Court for the District of Columbia. Until the Judge rules on the TRO, we request that you hold on submitting any data. We will follow up with you with further instructions once the Judge issues her ruling.

Andrew Kossack  
Designated Federal Officer  
Presidential Advisory Commission on Election Integrity  
[ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov)

# **Exhibit 7**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ELECTRONIC PRIVACY INFORMATION CENTER

Plaintiff,

v.

PRESIDENTIAL ADVISORY COMMISSION ON  
ELECTION INTEGRITY, *et al.*,

Defendants.

Civ. Action No. 17-1320 (CKK)

**PLAINTIFF'S NOTICE OF APPEAL**

Notice is given this 25th day of July, 2017, that Plaintiff Electronic Privacy Information Center ("EPIC") hereby appeals to the United States Court of Appeals for the District of Columbia Circuit from the order of this Court denying Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction, entered on the 24th day of July, 2017. Order, Ex. 1. EPIC brings this appeal pursuant to 28 U.S.C. § 1292 ("[T]he courts of appeals shall have jurisdiction of appeals from . . . [i]nterlocutory orders of the district courts . . . refusing . . . injunctions[.]").

EPIC seeks expedited review of the district court's Order, to which EPIC is entitled under 28 U.S.C. § 1657(a) ("[E]ach court of the United States shall expedite the consideration of any action . . . for temporary or preliminary injunctive relief."). EPIC is also entitled to expedited review because "good cause" exists for such treatment. *Id.* This case presents the type of extraordinary circumstances that justify expedited consideration. EPIC sought a TRO and preliminary injunction to block the Presidential Advisory Commission on Election Integrity ("the Commission") from collecting and aggregating state voter data from across the country (1) prior to completing and publishing a Privacy Impact Assessment as required by the E-Government Act

of 2002, 44 U.S.C. § 3501 note, and the Federal Advisory Committee Act, 5 U.S.C. app. 2; and (2) prior to the resolution of EPIC's constitutional privacy claims. The District Court denied EPIC's motion, concluding that "Defendants' collection of voter roll information does not currently involve *agency* action" as necessary for judicial review under the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.* Memorandum Opinion 1 (emphasis added), ECF No. 40. Absent expedited review of the District Court's order by the Court of Appeals, the Commission will be allowed to systematically amass the sensitive, personal information of the nation's voters without establishing any procedures to protect voter privacy or the security and integrity of the data.

EPIC therefore respectfully requests that the Court of Appeals accord expedited treatment to this case.

/s/ Marc Rotenberg  
MARC ROTENBERG, D.C. Bar # 422825  
EPIC President and Executive Director

ALAN BUTLER, D.C. Bar # 1012128  
EPIC Senior Counsel

CAITRIONA FITZGERALD\*  
EPIC Policy Director

JERAMIE D. SCOTT, D.C. Bar # 1025909  
EPIC Domestic Surveillance Project Director

ELECTRONIC PRIVACY INFORMATION  
CENTER  
1718 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20009  
(202) 483-1140 (telephone)  
(202) 483-1248 (facsimile)

*Attorneys for Plaintiff EPIC*

*\* Pro hac vice motion pending*

Dated: July 25, 2017

# Exhibit 1



# **Exhibit 8**





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**Presidential Advisory Commission on Election Integrity**

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July 26, 2017

Office of the Secretary of State of New Hampshire  
The Honorable William Gardner, Secretary of State  
State House, Room 204  
107 North Main Street  
Concord, NH 03301

Dear Secretary Gardner,

In my capacity as Vice Chair of the Presidential Advisory Commission on Election Integrity, I wrote to you on June 28, 2017, to request publicly available voter registration records. On July 10, 2017, the Commission staff requested that you delay submitting any records until the U.S. District Court for the District of Columbia ruled on a motion from the Electronic Privacy Information Center that sought to prevent the Commission from receiving the records. On July 24, 2017, the court denied that motion. In light of that decision in the Commission's favor, I write to renew the June 28 request, as well as to answer questions some States raised about the request's scope and the Commission's intent regarding its use of the registration records. I appreciate the cooperation of chief election officials from more than 30 States who have already responded to the June 28 request and either agreed to provide these publicly available records, or are currently evaluating what specific records they may provide in accordance with their State laws.

Like you, I serve as the chief election official of my State. And like you, ensuring the privacy and security of any non-public voter information is a high priority. My June 28 letter only requested information that is already available to the public under the laws of your State, which is information that States regularly provide to political candidates, journalists, and other interested members of the public. As you know, federal law requires the States to maintain certain voter registration information and make it available to the public pursuant to the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA). The Commission recognizes that State laws differ regarding what specific voter registration information is publicly available.

I want to assure you that the Commission will not publicly release any personally identifiable information regarding any individual voter or any group of voters from the voter registration records you submit. Individuals' voter registration records will be kept confidential and secure

throughout the duration of the Commission's existence. Once the Commission's analysis is complete, the Commission will dispose of the data as permitted by federal law. The only information that will be made public are statistical conclusions drawn from the data, other general observations that may be drawn from the data, and any correspondence that you may send to the Commission in response to the narrative questions enumerated in the June 28 letter. Let me be clear, the Commission will not release any personally identifiable information from voter registration records to the public.

In addition, to address issues raised in recent litigation regarding the data transfer portal, the Commission is offering a new tool for you to transmit data directly to the White House computer system. To securely submit your State's data, please have a member of your staff contact Ron Williams on the Commission's staff at [ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov) and provide his or her contact information. Commission staff will then reach out to your point of contact to provide detailed instructions for submitting the data securely.

The Commission will approach all of its work without preconceived conclusions or prejudgments. The Members of this bipartisan Commission are interested in gathering facts and going where those facts lead. We take seriously the Commission's mission pursuant to Executive Order 13799 to identify those laws, rules, policies, activities, strategies, and practices that either enhance or undermine the integrity of elections processes. I look forward to working with you in the months ahead to advance those objectives.

Sincerely,



Kris W. Kobach  
Vice Chair  
Presidential Advisory Commission on Election Integrity