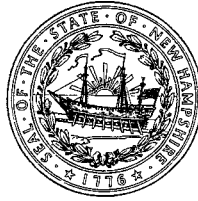


# NEW HAMPSHIRE DEPARTMENT OF STATE



**William M. Gardner**  
*Secretary of State*

September 6, 2017

The Honorable Shawn N. Jasper  
Speaker of the House  
State House Room 311  
107 North Main Street  
Concord, New Hampshire 03301

**Robert P. Ambrose**  
*Senior Deputy Secretary of State*

**David M. Scanlan**  
*Deputy Secretary of State*

Dear Speaker Jasper:

The Department of State and the Department of Safety provide the following response to your questions regarding the data available from the system for matching the records of the Department of Safety on vehicle registrations and driver's licenses with the records of registered voters managed by the Department of State, as authorized by RSA 654:45, IV (b). The federal Help America Vote Act required New Hampshire to develop this data matching system for the purpose of verifying the accuracy of the information contained in the voter database. The Department of Safety's response is limited to the production of driver's license and motor vehicle registration statistics. We offer the following responses to your questions:

**Is this system of verification effective?**

The system is effective when an individual provides a New Hampshire driver's license number when registering to vote. When the same address has been provided for both driver licensing and voter registration purposes, the match contributes to verifying the accuracy of the voter checklists. The matched information is made available to local election officials by the Secretary of State through the statewide centralized voter registration system. New Hampshire law places responsibility for verifying an applicant's domicile for voting purposes with municipal officials. The matching system does not document how useful the local officials find the data. Where discrepancies exist, the discrepancies vary from minor differences in the address to circumstances where the individual has provided different addresses. Local officials determine which cases warrant additional inquiry.

**What percentage of newly-registered voters have a record with discrepancies between their voting and motor vehicle/driver's license records?**

In accordance with the Help America Vote Act the matching system compares only those newly registered voters who provide a New Hampshire driver's license number when registering with driver's licensing records. Local officials flagged the records of 59 voters who registered on or after the November 8, 2016 general election as having a material discrepancy between the address provided for voter registration and the address on record for that individual's driver's

license. As of September 1, 2017, 48 of those cases have been resolved, the individual's voter and driver's license addresses now match.

**Does the matching process generate cases that require additional follow-up?**

Under New Hampshire law, when a discrepancy exists the assessment of whether the information warrants further inquiry is made by the Supervisors of the Checklist and their counterparts in New Hampshire's cities. The statewide system does not record data on how many of the discrepancies local officials determine are minor, for example the address is the same in both records, but in one record omits a non-essential detail, versus those that raise uncertainty regarding whether the individual is currently domiciled where they reported when registering to vote.

**Do people who register a vehicle in New Hampshire or obtain a New Hampshire driver's license register to vote?**

The match process currently only allows matching the driver's license number of newly registered voters and those who update their address to all New Hampshire licensed drivers. The system does not include the date the individual obtained the driver's license or registered to vote in the match. Under New Hampshire law some individuals are legally permitted to obtain a driver's license who are not legally permitted to register to vote. Non-citizens who provide evidence that they are legally present in the United States may obtain a driver's license for the duration of their lawful presence. These individuals may not register to vote. There are also voters who are non-drivers. Therefore, it is expected that not all individuals who are licensed to drive will also be registered to vote. At the time the analysis was done to provide this response, there were 1,224,943 individuals licensed to drive in New Hampshire and 972,536 individuals who were registered to vote.

**Do those who register to vote in New Hampshire also obtain a driver's license or register a vehicle in New Hampshire?**

Analyzing data on individuals who registered to vote on November 8, 2016, approximately 92% had a New Hampshire driver's license on August 30, 2017. As the match system does not retain driver's license data, the election day voter data had to be compared to the current driver's license data.

6,540 individuals on November 8, 2016 registered to vote using an out-of-state driver's license. On August 30, 2017, 1,014 of those individuals, 15.5%, had been issued a New Hampshire driver's licenses. As of August 31, 2017, 213 of the remaining 5,526 individuals, 3.3%, had registered a motor vehicle in New Hampshire.

5,313 of the individuals who registered to vote on November 8, 2016 using an out-of-state driver's license, 81.2%, neither held a New Hampshire driver's license nor had registered a motor vehicle in New Hampshire as of August 31, 2017. It is likely that some unknown number of these individuals moved out of New Hampshire, it is possible that a few may have never driven in New Hampshire or have ceased driving, however, it is expected that an unknown

number of the remainder continue to live and drive in New Hampshire. If they have established their residence in New Hampshire, they may have failed to obtain a New Hampshire driver's license. However, under the Supreme Court's 2015 *Guare* decision, a person may be domiciled in New Hampshire for voting purposes and be a resident of another state for motor vehicle/driver's licensing purposes.

The legislature has defined "residence" differently from "domicile." "Residence" is "a person's place of abode or domicile," and the phrase "place of abode or domicile" is defined as "that [place] designated by a person as his principal place of physical presence for the indefinite future to the exclusion of all others." RSA 21:6-a. Pursuant to RSA 21:6, a "resident" is "a person who is domiciled or has a place of abode or both in this state ..., and who has, through all of his actions, demonstrated a current intent to designate that place of abode as his principal place of physical presence for the indefinite future to the exclusion of all others." Our motor vehicle laws use this definition of "resident." See RSA 259:88 (2014). Upon becoming a "resident" of New Hampshire, one has 60 days in which to register one's vehicle here and to obtain a New Hampshire driver's license. See RSA 261:45 (2014); RSA 263:35 (2014). These requirements do not apply to citizens who are not "residents" of New Hampshire although they have their "domicile" here. The basic difference between a "resident" and a person who merely has a New Hampshire "domicile," is that a "resident" has manifested an intent to remain in New Hampshire for the indefinite future, while a person who merely has a New Hampshire "domicile" has not manifested that same intent.

*Annemarie Guare & a v. State of New Hampshire*, 167 N.H. 658, 662 (N.H. 2015).

**If additional education or enforcement regarding these rights and obligations were authorized, are there particular regions of the state or demographic groups where such efforts would be most beneficial?**

Limited demographic information is currently available from the match system. We will provide additional information if it can be derived from the system.

Local election officials make a substantial effort to keep checklists current. The law provides that a letter be sent to the voter in a case where credible information is received that indicates a registered voter no longer resides at the address provided when the individual last registered or updated his or her address. These are referred to as "30 day letters" because the voter has a minimum of 30 days to respond confirming that he or she continues to be domiciled at the address in their voter record. If the individual does not confirm their address, the individual is removed from the checklist. In 2016 11,942, thirty-day letters were prepared using the statewide voter registration database. As of December 31, 2016, 11,320 of those voters had been removed

from town/city checklists. The remaining 622 either were verified as still domiciled in the town or city or remained under review into 2017.

**Secretary of State:**

**Interstate Crosscheck Program**

The 2016 Legislature enabled the Secretary of State to enter into the Interstate Voter Registration Crosscheck Program to check for matches of voter records in other states. Work is progressing on data matches received from 27 other states.

We are further analyzing 196 names that appear to have been marked on a New Hampshire checklist and one other state as having voted in the November 2016 General Election. We have begun verifying that information with other states, but this process is quite involved. We will be working with the Attorney General to determine next steps and to transfer those cases which are appropriate to the Attorney General for investigation.

**Challenged Voter Affidavits, Qualified Voter Affidavits, and Domicile Affidavits - Follow-up**

The following is an update regarding follow-up letters sent to voters who signed Challenged Voter Affidavits in order to vote and Qualified Voter Affidavits and Domicile Affidavits in order to register to vote in elections occurring between May 9, 2016 and December 31, 2016. (RSA 654:12 and RSA 659:13.)

On January 9, 2017 and subsequently on April 20, 2017 (for those who had moved to new addresses identified by the U.S. Postal Service (the "U.S.P.S.")), the Secretary of State sent 1,423 letters to voters who signed challenged voter affidavits ("CVAs") between May 9, 2016 and December 31, 2016 in order to vote (in the 2016 State Primary and General Election).

Pursuant to RSA 659:13 (revised in 2016), the Secretary of State was required to "revise the list based on input solicited from the supervisors of the checklist" and "...forward the revised list of names to the Attorney General." Accordingly, the Secretary of State has reported to the Attorney General that there were a total of 129 voters (71 with no response and 58 envelopes returned as not delivered by the U.S. P.S.) who:

- a) had signed a CVA between May 9, 2016 and December 31, 2016,
- b) had not returned a signed post card, and
- c) could not be verified by election officials.

Please find attached a copy of our May 24, 2017 letter to the Attorney General with the outcome of the new protocol to follow up on Challenged Voter Affidavits.

On January 9, 2016, the Secretary of State sent letters to 764 persons who had signed qualified voter affidavits for identity purposes in order to register to vote between May 9, 2016 and December 31, 2016. Among these, 377 were delivered to the address but the voter did not return

a postcard, and 63 letters were returned by the U.S.P.S. as not delivered to the address provided on the voter registration form. The U.S.P.S. may have placed a forwarding address on the returned envelope.

In compliance with RSA 654:12,

- (a) no follow-up letter was sent to any forwarding address that may have been provided by the U.S.P.S., and
- (b) no further input was solicited from local election officials.


On January 10, 2017, the Secretary of State sent letters to 6,033 persons who had signed domicile affidavits in order to register to vote between May 9, 2016 and December 31, 2016. Among these, 458 letters were returned by the U.S.P.S. as not delivered to the address provided on the voter registration form. The U.S. P.S. may have placed a forwarding address on the returned envelope. In compliance with RSA 654:12,

- a) no follow-up letter was sent to any forwarding address that may have been provided by the U.S.P.S., and
- b) no further input was solicited from local election officials.

Please contact us if you have any questions regarding this response.

Sincerely yours,

  
William M. Gardner  
Secretary of State

  
Joan Barthelmes  
Commissioner, Department of Safety

Encl: May 24, 2017 Letter to the Attorney General's Office

Cc: Governor Chris Sununu  
Senate President Charles W. Morse  
Senator Regina Birdsell, Chair, Senate Election Law and Internal Affairs Committee  
Representative Barbara Griffin, Chair, House Election Law Committee

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William M. Gardner  
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Robert P. Ambrose  
*Senior Deputy Secretary of State*

David M. Scanlan  
*Deputy Secretary of State*

Anthony B.S. Stevens  
*Assistant Secretary of State*

May 24, 2017

Brian W. Buonamano, Assistant Attorney General  
Department of Justice  
33 Capitol St.  
Concord, NH 03301

Re: Challenged Voter Affidavits

Dear Brian:

This report reflects the current status of the follow-up letters and returned post cards with respect to those individuals who signed challenged voter affidavits ("CVAs") in order to vote in the elections occurring between May 9, 2016 and December 31, 2016.

Pursuant to RSA 659:13, we have sent follow-up letters to 1,423 individuals who were recorded as signing challenged voter affidavits in order to vote in the elections occurring between May 9, 2016 and December 31, 2016. The deadline for individuals to return post cards in response to the initial follow-up letter was February 8, 2017.

Among these follow-up letters, 107 letters were initially returned (not delivered) by the U.S. Postal Service. The U.S.P.S. stamped "TEMPORARILY AWAY" or provided forwarding or corrected addresses on many of these returned envelopes. On April 17, 2017, we re-sent 53 follow-up letters to those individuals whom the U.S.P.S. indicated were "TEMPORARILY AWAY" or provided forwarding or corrected addresses, instructing recipients to return a post card no later than May 20, 2017. As a result, we are left with a net amount of 58 returned (not delivered) by the U.S.P.S. letters following the second mailing. We have enclosed those 58 envelopes.

Pursuant to RSA 659:13, the Secretary of State "shall revise the list based on input solicited from the supervisors of the checklist." Accordingly, the Secretary of State's office contacted local supervisors of the checklist to follow up on those voters who had not returned post cards.

State House Room 204, 107 N. Main St., Concord, NH 03301  
Phone: 603-271-8238 Fax: 603-271-8242  
TDD Access: Relay NH 1-800-735-2964  
[www.sos.nh.gov](http://www.sos.nh.gov) email: [NHVotes@sos.nh.gov](mailto:NHVotes@sos.nh.gov)

As a result, we present the following breakdown that is reflected in the attached spreadsheet:

Envelope returned (not delivered) by USPS	58
No response	71
Post card returned by individuals	978
Sent in error	5
Verified by election officials	<u>311</u>
Total CVA follow-up letters sent	1,423

In response to the above mailings, individuals signed and returned 978 post cards, leaving a total of 129 voters (71 with no response and 58 envelopes returned (not delivered) by the USPS) who:

- (a) had signed a CVA between May 9, 2016 and December 31, 2016,
- (b) had not returned a signed post card, and
- (c) could not be verified by election officials.

With the emailed version of this letter, we are attaching a spreadsheet with information on voters who signed challenged voter affidavits in the elections occurring between May 9, 2016 and December 31, 2016. The two yellow highlighted columns include the 129 voters that could not be verified. As and when further pertinent mail is received by our office, we will send it to you for your tracking purposes.

Sincerely yours,



Anthony B.S. Stevens  
Assistant Secretary of State

- encl: a. January 9, 2017 letter to individuals who signed challenged voter affidavits  
b. April 17, 2017 letter re-sent to individuals who signed challenged voter affidavits  
c. 58 challenged voter affidavit follow-up letters returned by the U.S. Postal Service  
d. Spreadsheet reflecting all challenged voter affidavits (sent only as email attachment) signed May 9, 2016 – Dec. 31, 2016
- cc: Anne M. Edwards, Department of Justice  
David M. Scanlan, Deputy Secretary of State