

Bill as
Introduced

HB 577-FN-A-LOCAL – AS INTRODUCED

2003 SESSION

03-0675

03/10

HOUSE BILL ***577-FN-A-LOCAL***

AN ACT relative to implementing the Help America Vote Act of 2002.

SPONSORS: Rep. Flanagan, Rock 78; Rep. Kennedy, Merr 34; Sen. Larsen, Dist 15

COMMITTEE: Election Law

ANALYSIS

This bill:

I. Establishes an election reform fund for moneys appropriated to the state pursuant to the Help America Vote Act of 2002.

II. Authorizes a statewide centralized voter registration database and communications network.

III. Modifies the voter registration form to facilitate implementation of certain provisions of the Help America Vote Act of 2002.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Three

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

(Please print or type)

HB 577-FN-A-LOCAL - AS INTRODUCED
- Page 2 -

1 1. Name _____
2 Last First Middle Suffix
3 2. Address _____
4 Number Street
5 _____
6 Town or City Zip Code Ward Number
7 3. Mailing Address if _____
8 different than in 2 Number Street
9 _____
10 Town or City Zip Code Ward Number
11 4. Place of Birth _____
12 Town or City State
13 Date of Birth _____
14 (MM/DD/YY)
15 5. If a naturalized citizen, give date when naturalized _____
16 Name of court where naturalized _____
17 6. Place last registered to vote _____
18 Number Street
19 _____
20 Town or City State Zip Code Ward Number
21 7. Name under which previously registered, if different from above
22 _____
23 Last First Middle
24 8. Party Affiliation (if any) _____
25 9. Driver's License Number _____
26 10. Last Four Digits of Social Security Number _____
27 (if driver's license number is not available)

28 I hereby swear, under penalty of perjury, that my permanent established domicile is at the above
29 address, that I am a United States citizen, that I will be 18 years of age or older on election day, and
30 that the information above is true and correct to the best of my knowledge and belief.

31 _____
32 (Signature of Applicant)

33 4 New Subdivision; Centralized Voter Registration Database. Amend RSA 654 by inserting
34 after section 44 the following new subdivision:

35 Centralized Voter Registration Database
36 654:45 Centralized Voter Registration Database.

1 I. The secretary of state is authorized to plan, develop, equip, establish, and maintain a
2 statewide centralized voter registration database and communications network connecting users
3 throughout the state. The database shall incorporate information on the voter registration forms
4 and voter checklists maintained by each city, ward, and town in the state.

5 II. The centralized voter registration database and communications network shall be
6 continuously available to state and local election officials and to other agencies approved by the
7 secretary of state.

8 III. The centralized voter registration database and communications network shall, upon
9 certification by the secretary of state, be the official record of eligible voters for the conduct of all
10 elections held in this state.

11 IV. The centralized voter registration database and communications network shall have the
12 following minimum components:

13 (a) An electronic network that provides at least one link to election offices in each city,
14 ward, and town within the state and to the division of motor vehicles in the department of safety.
15 The network may link other agencies as required to carry out state and federal law. The existence of
16 links on the network to a political subdivision or agency shall not mean that the political subdivision
17 or agency has the ability to add, delete, or modify the records contained in the database.

18 (b) A computer interface to compare the voter registration records contained in the
19 database to those of the division of motor vehicles in the department of safety and such federal
20 agencies as are required by law. The computer interface may also compare records with other
21 agencies approved by the secretary of state, such as those responsible for maintaining records
22 regarding an individual's death or felony conviction.

23 (c) An interactive computer program allowing access to records contained in the
24 database with a process to add, delete, modify, or print a voter registration record. The network
25 shall be designed so that there are daily updates to the database, the records reflect the name of
26 each registered voter with no duplication, and the names of ineligible voters are removed. The
27 network and database shall contain safeguards to ensure that the names of eligible voters are not
28 removed in error.

29 (d) A search program capable of verifying registered voters and their required
30 information by name, driver's license number, unique numeric identifier, and street address.

31 V. The secretary of state shall:

32 (a) Specify the persons authorized to access records contained in the system.

33 (b) Provide adequate technological security measures to prevent unauthorized access to
34 the records contained in the database.

35 (c) Issue guidelines to implement the system.

36 VI. Voter registration records collected for the centralized voter registration database shall
37 be treated as private and confidential until the secretary of state certifies that the database is

1 operational. At such time, access to information in the database shall be limited as established in
2 this section.

3 VII. The secretary of state shall maintain an Internet site that provides information of
4 general interest to voters and allows any person to obtain a voter registration form.

5 5 Establishment of Centralized Voter Registration Database.

6 I. The secretary of state shall specify how to convert existing voter registration records in
7 the towns and cities to electronic files to be used in the centralized voter registration database.

8 II. Towns and cities shall cooperate with the secretary of state to convert local voter
9 registration information files into electronic files, and shall be reimbursed by the secretary of state
10 for labor, effort, and materials dedicated to converting their information.

11 6 Study and Recommendations by Secretary of State. The secretary of state shall, in
12 consultation with other stakeholders, study and make recommendations for future legislation
13 concerning the need to balance privacy and access to voter registration information contained in the
14 centralized voter registration database. The study and recommendations shall consider the issues of
15 notice, choice, consent, access, participation, integrity, security, and enforcement in the voter
16 registration process, and any fees relating to access. The recommendations should identify what
17 information in the system should be treated as public, what information should be treated as
18 confidential, and what information should be treated as sensitive.

19 7 Appropriation. The sum of \$1 for the fiscal year ending June 30, 2004, is hereby appropriated
20 to the election reform fund established in RSA 5:6-d. This sum shall be in addition to any other
21 funds appropriated to the department of state. The governor is authorized to draw a warrant for
22 said sum out of any money in the treasury not otherwise appropriated.

23 8 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0675
1/24/03

HB 577-FN-A-LOCAL - FISCAL NOTE

AN ACT relative to implementing the Help America Vote Act of 2002.

FISCAL IMPACT:

The Department of State states this bill will increase state restricted revenue and expenditures by an indeterminable amount in FY 2004 through FY 2006. There will be no fiscal impact on county and local revenue or expenditures.

This bill appropriates \$1 from the general fund in FY 2004 to the newly established election reform fund.

METHODOLOGY:

The Department states this bill establishes an election reform fund for moneys appropriated to the State pursuant to the Help America Vote Act of 2002 (Public Law 107-252). The fund will consist of appropriations under state or federal law, and private donations, and would be used for the purposes of election reform and related information technology projects and improvements. The election reform fund would be continually appropriated and non-lapsing. Expenses for planning, equipment, administration, staff, and maintaining and improving the election services provided by the Secretary of State would be paid from the fund.

The Department states New Hampshire could receive up to \$20M in federal funds to implement the Help America Vote Act of 2002, of which \$15M would require a 5% State match (\$750,000). The Department assumes they would receive federal funds over a three-year period from FY 2004 through FY 2006. The source of the required match has yet to be determined.

The Treasury Department states this bill will have no fiscal impact on their Department.

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12mar03... 0449h

10apr03... 0970h

2003 SESSION

03-0675

03/10

HOUSE BILL

577-FN-A-LOCAL

AN ACT

relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the secretary of state.

SPONSORS:

Rep. Flanagan, Rock 78; Rep. Kennedy, Merr 34; Sen. Larsen, Dist 15

COMMITTEE:

Election Law

AMENDED ANALYSIS

This bill:

I. Establishes an election fund for moneys appropriated to the state pursuant to the Help America Vote Act of 2002 and requires that certain fees and fines be deposited in the fund.

II. Authorizes a statewide centralized voter registration database and communications network.

III. Exempts guidelines or rules issued by the secretary of state in furtherance of executing and enforcing the election laws from the rulemaking requirements of RSA 541-A.

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.

This Document did not
include Pages 1 & 2

1 the records of the state agency or division charged with maintaining vital records. For this purpose
2 the voter registration record database may be linked to the state agency or division charged with
3 maintaining vital records and the department of safety, provided that no linked agency or division
4 may save or retain voter information or use it for purposes other than verifying the accuracy of the
5 information contained in the voter database. The system shall facilitate the identification and
6 correction of voter registration records whenever a registered voter has died or has been
7 disenfranchised pursuant to part I, article 11 of the New Hampshire constitution or RSA 654:5
8 through RSA 654:6, or when the domicile address does not match the address provided by the same
9 individual to the department of safety.

10 V. The secretary of state shall:

11 (a) Specify the election officials and the employees of the department of state authorized
12 to access records contained in the voter database, subject to the limitations of paragraph VI.

13 (b) Provide adequate technological security measures to deter unauthorized access to the
14 records contained in the voter database.

15 (c) Issue guidelines to implement the voter database. The voter database guidelines and
16 any other guidelines or rules issued by the secretary of state in furtherance of executing and
17 enforcing the election laws shall be exempt from the rulemaking requirements of RSA 541-A.

18 VI. The voter database shall be private and confidential and shall not be subject to
19 RSA 91-A and RSA 654:31. The voter checklist for a town or city shall be available pursuant to
20 RSA 654:31. Any person who discloses information from the voter database in any manner not
21 authorized by this section shall be guilty of a misdemeanor.

22 5 Filing Fees; Deposit of Fees. Amend RSA 655:19, II to read as follows:

23 II. The fees paid to a town or city clerk by candidates for state representative shall be
24 forwarded to the treasurer of the town or city and shall be for the use of the town or city. The fees
25 paid to the secretary of state shall be deposited by ~~[him]~~ *the secretary of state* in the ~~[general]~~
26 *election fund established pursuant to RSA 5:6-d.*

27 6 Administrative Assessment; Deposit of Assessment. Amend RSA 655:19-c, II to read as
28 follows:

29 II. The administrative assessment paid to a town or city clerk by candidates for state
30 representative shall be forwarded to the treasurer of the town or city and shall be for the use of the
31 town or city. The administrative assessment paid to the secretary of state shall be deposited by
32 ~~[him]~~ *the secretary of state* into the ~~[general]~~ *election fund established pursuant to RSA 5:6-d.*

33 7 Registration of Political Committees; Deposit of Fees. Amend RSA 664:3, I to read as follows:

34 I. Any political committee, except the political committee of a political party, shall register
35 with the secretary of state as provided in this section. The committee shall register with the
36 secretary of state not later than 24 hours after receiving any contribution in excess of \$500 or before
37 making any expenditure in excess of \$500. The registration shall be accompanied by a fee of \$50,

which shall be deposited by the secretary of state into the ~~[general]~~ *election* fund *established pursuant to RSA 5:6-d*; provided, however, that the political committee of a candidate which registers under this section shall not be required to pay the \$50 fee. Each political committee shall designate a treasurer or agent who is a citizen of this state and who is authorized to receive all process and other legal documents on behalf of the political committee, and through whom may be obtained access to all books and records of the political committee. The political committee shall file with the secretary of state a statement of the purpose of the committee and shall indicate whether the committee will be making independent expenditures in support of or in opposition to any candidate including a statement of the name, address, occupation, and principal place of business of its chairperson, treasurer or agent, and other officers.

8 Political Expenditures and Contributions; Penalty; Fines. Amend RSA 664:21, II to read as follows:

II. Any fine assessed under the provision of this section shall be paid to the secretary of state for deposit into the ~~[general]~~ *election* fund *established pursuant to RSA 5:6-d*.

9 Ballot Law Commission; Additional Jurisdiction. Amend RSA 665:7 to read as follows:

665:7 Additional Jurisdiction. In addition to the jurisdiction of issues conveyed to the ballot law commission by other sections of this chapter, the commission shall hear and determine all disputes involving alleged violations of New Hampshire election laws of a non-criminal nature for which no specific statutory appeal procedure has already been provided. The commission shall also hear and determine petitions for review of cease and desist orders issued by the attorney general under RSA 664:18, II, if such petitions are filed within 3 days of the order, *and shall hear and resolve complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252, as provided in RSA 666:14*.

10 New Subdivision; Administrative Complaint Procedures. Amend RSA 666 by inserting after section 13 the following new subdivision:

Administrative Complaint Procedures →

666:14 Administrative Complaint Procedures. The attorney general may establish an administrative complaint procedure for the resolution of complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252. The attorney general may adopt administrative rules under RSA 541-A to implement the complaint resolution procedures. The ballot law commission is hereby designated as the body providing alternative dispute resolution as required by section 402(a)(2)(I) of the Help America Vote Act of 2002, Public Law 107-252.

11 Initial Funding; Appropriation.

I. The secretary of state shall develop a budget for the biennium ending June 30, 2005 for the purposes of funding costs associated with the Help America Vote Act of 2002, Public Law 107-252, and shall submit the budget to the fiscal committee of the general court for final approval.

II. The secretary of state is hereby authorized to accept money allocated to the state by the

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- Page 5 -

1 federal government pursuant to the Help America Vote Act of 2002, Public Law 107-252. Said sum
2 shall be deposited into the election fund established in RSA 5:6-d for funding costs associated with
3 the Help America Vote Act, including costs associated with positions and other program expenses.

4 III. Notwithstanding any other provision of law, the secretary of state is authorized to
5 establish positions necessary to implement the Help America Vote Act of 2002, Public Law 107-252.

6 12 Effective Date. This act shall take effect upon its passage.

LBAO
03-0675
Amended 3/20/03

HB 577 FISCAL NOTE

AN ACT relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the secretary of state.

FISCAL IMPACT:

The Department of State states this bill, as amended by the House (House Amendment # 2003-0449h), will increase state revenue and expenditures by an indeterminable amount in FY 2004 and each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

This bill appropriates \$1 from the general fund in FY 2004 and FY 2005 to the newly established election fund.

METHODOLOGY:

The Department states this bill establishes a continually appropriated non-lapsing election fund for monies appropriated to the State pursuant to the Help America Vote Act of 2002 (Public Law 107-252). The fund will consist of monies received by the State pursuant to the act, state and federal appropriations, civil and administrative fines or penalties, and filing fees collected by the Secretary of State, pursuant to RSA 655, RSA 659, and RSA 664 (formerly deposited into the general fund), and private donations. The fund would be used for the purposes of conducting elections, voter and election official education, election law enforcement, and related information technology projects and improvements. The Department would not be able to expend any funds unless the balance in the election reform fund following such expenditures is at least 20 times the estimated annual cost of maintaining the programs established to comply with the act. The Department is unable to determine the annual operating costs of HAVA at this time. In addition, there may be up-front costs associated with the program such as developing the voter database and purchasing touch screen voting machines for the disabled that would not be considered normal operating costs. The Department estimates the fiscal impact as follows:

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
<u>Federal Funds</u>				
Title I HAVA Funds	\$5,000,000	\$ 0	\$ 0	\$ 0

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Title II HAVA Funds	<u>4,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>Unknown</u>
Total	\$9,000,000	\$5,000,000	\$5,000,000	Unknown

State Restricted Revenue

Fees & Fines	\$ 28,500*	\$ 3,500	\$ 4,500	\$ 3,500
Total	\$ 28,500	\$ 3,500	\$ 4,500	\$ 3,500

State General Fund Revenue

Fees & Fines	(\$ 28,500)*	(\$ 3,500)	(\$ 4,500)	(\$ 3,500)
Total	(\$ 28,500)	(\$ 3,500)	(\$ 4,500)	(\$ 3,500)

*Presidential Primary in FY2004

State General Fund Expenditures

Title II Funds 5% Match	\$ 200,000	\$ 250,000	\$ 250,000	<u>Unknown</u>
Total	\$ 200,000	\$ 250,000	\$ 250,000	Unknown

Other State Expenditures

Start-Up Costs	Unknown	Unknown	Unknown	Unknown
Annual Operating Costs	Unknown	Unknown	Unknown	Unknown

Amendments



Amendment to HB 577-FN-A-LOCAL

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to implementing the Help America Vote Act of 2002.
4

5 Amend the bill by deleting section 3 and renumbering the original sections 4-12 to read as 3-11,
6 respectively.
7

8 Amend RSA 654:45, II as inserted by section 3 of the bill by replacing it with the following:
9

10 II. Any election official in the state authorized by this chapter to have direct access to the
11 voter database may obtain immediate electronic access to the information contained in the voter
12 database related to individuals registered or registering to vote in the election official's jurisdiction.
13 The office of the clerk is hereby designated as a database access point for each town or city. The
14 secretary of state may authorize additional database access points in a town or city, including
15 election day access points at polling places.
16

17 Amend RSA 654:45, IV(b) as inserted by section 3 of the bill by replacing it with the following:
18

19 (b) Voter database record data shall be verified by matching the records with those of the
20 department of safety and the federal social security administration as are required by law, and with
21 the records of the state agency or division charged with maintaining vital records. For this purpose
22 the voter registration record database may be linked to the state agency or division charged with
23 maintaining vital records and the department of safety, provided that no linked agency or division
24 may save or retain voter information or use it for purposes other than verifying the accuracy of the
25 information contained in the voter database. The link authorized by this subparagraph shall not
26 allow the department of state or election officials direct access to the motor vehicle registration or
27 driver's license records maintained by the division of motor vehicles. The commissioner of safety
28 may authorize the release of information from motor vehicle registration and driver's license records
29 to the extent that the information is necessary to department of state and department of safety
30 cooperation in a joint notification to individuals of apparent discrepancies in their records and to the
31 extent that the information is necessary to resolve those discrepancies. The commissioner of safety
32 and the secretary of state are authorized to enter into an agreement that establishes the services to

Amendment to HB 577-FN-A-LOCAL

- Page 2 -



be provided by the department of safety and the cost for those services. The department of safety shall not be required to provide any services under this subparagraph unless an agreement is in place and there are sufficient funds in the election fund to pay the cost for the services. The system shall facilitate the identification and correction of voter registration records whenever a registered voter has died or has been disenfranchised pursuant to part I, article 11 of the New Hampshire constitution or RSA 654:5 through RSA 654:6, or when the domicile address does not match the address provided by the same individual to the department of safety.

(c) Access by local election officials to the voter database shall be limited to the supervisors of the checklist, city registrars and deputy registrars, and town or city clerks and their deputies, as determined by the secretary of state. Access by local election officials shall be subject to the limitations of paragraph VI, and shall be limited to the records of individuals who are currently registered to vote in the official's jurisdiction and individuals who are applying to register to vote in the official's jurisdiction.

Amend RSA 654:45, V as inserted by section 3 of the bill by replacing it with the following:

V. The secretary of state shall:

(a) Specify the employees of the department of state authorized to access records contained in the voter database, subject to the limitations of paragraph VI.

(b) Provide adequate technological security measures to deter unauthorized access to the records contained in the voter database.

(c) Issue guidelines to implement the voter database.

Amend the bill by replacing all after section 10 with the following:

11 New Section; Ballot Law Commission; Administrative Complaint Resolution. Amend RSA 665 by inserting after section 9 the following new section:

665:9-a Administrative Complaint Resolution. The ballot law commission shall hear and resolve complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252, as provided in RSA 666:14.

12 Contingency. If HB 693-FN of the 2003 regular session becomes law, section 11 of this act shall take effect at 12:01 a.m. on the effective date of HB 693-FN. If HB 693-FN of the 2003 regular session does not become law, section 11 of this act shall not take effect.

13 Effective Date.

I. Section 11 of this act shall take effect as provided in section 12 of this act.

II. The remainder of this act shall take effect upon its passage.



2003-1573s

AMENDED ANALYSIS

This bill:

I. Establishes an election fund for moneys appropriated to the state pursuant to the Help America Vote Act of 2002 and requires that certain fees and fines be deposited in the fund.

II. Authorizes a statewide centralized voter registration database and communications network.



Amendment to HB 577-FN-A-LOCAL

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to implementing the Help America Vote Act of 2002.

4
5 Amend the bill by deleting section 3 and renumbering the original sections 4-12 to read as 3-11,
6 respectively.

7
8 Amend RSA 654:45, II as inserted by section 3 of the bill by replacing it with the following:

9
10 II. Any election official in the state authorized by this chapter to have direct access to the
11 voter database may obtain immediate electronic access to the information contained in the voter
12 database related to individuals registered or registering to vote in the election official's jurisdiction.
13 The office of the clerk is hereby designated as a database access point for each town or city. The
14 secretary of state may authorize additional database access points in a town or city, including
15 election day access points at polling places.

16
17 Amend RSA 654:45, IV(b) as inserted by section 3 of the bill by replacing it with the following:

18
19 (b) Voter database record data shall be verified by matching the records with those of the
20 department of safety and the federal social security administration as are required by law, and with
21 the records of the state agency or division charged with maintaining vital records. For this purpose
22 the voter registration record database may be linked to the state agency or division charged with
23 maintaining vital records and the department of safety, provided that no linked agency or division
24 may save or retain voter information or use it for purposes other than verifying the accuracy of the
25 information contained in the voter database. The link authorized by this subparagraph shall not
26 allow the department of state or election officials direct access to the motor vehicle registration or
27 driver's license records maintained by the division of motor vehicles. The commissioner of safety
28 may authorize the release of information from motor vehicle registration and driver's license records
29 to the extent that the information is necessary to department of state and department of safety
30 cooperation in a joint notification to individuals of apparent discrepancies in their records and to the
31 extent that the information is necessary to resolve those discrepancies. The commissioner of safety
32 and the secretary of state are authorized to enter into an agreement that establishes the services to



1 be provided by the department of safety and the cost for those services. The department of safety
2 shall not be required to provide any services under this subparagraph unless an agreement is in
3 place and there are sufficient funds in the election fund to pay the cost for the services. The system
4 shall facilitate the identification and correction of voter registration records whenever a registered
5 voter has died or has been disenfranchised pursuant to part I, article 11 of the New Hampshire
6 constitution or RSA 654:5 through RSA 654:6, or when the domicile address does not match the
7 address provided by the same individual to the department of safety.

8 (c) Access by local election officials to the voter database shall be limited to the
9 supervisors of the checklist, city registrars and deputy registrars, and town or city clerks and their
10 deputies, as determined by the secretary of state. Access by local election officials shall be subject to
11 the limitations of paragraph VI, and shall be limited to the records of individuals who are currently
12 registered to vote in the official's jurisdiction and individuals who are applying to register to vote in
13 the official's jurisdiction.

14
15 Amend RSA 654:45, V as inserted by section 3 of the bill by replacing it with the following:

16
17 V. The secretary of state shall:

18 (a) Specify the employees of the department of state authorized to access records
19 contained in the voter database, subject to the limitations of paragraph VI.

20 (b) Provide adequate technological security measures to deter unauthorized access to the
21 records contained in the voter database.

22 (c) Issue guidelines to implement the voter database.
23

24 Amend the bill by replacing all after section 10 with the following:
25

26 11 New Section; Ballot Law Commission; Administrative Complaint Resolution. Amend RSA
27 665 by inserting after section 9 the following new section:

28 665:9-a Administrative Complaint Resolution. The ballot law commission shall hear and resolve
29 complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public
30 Law 107-252, as provided in RSA 666:14.

31 12 Contingency. If HB 693-FN of the 2003 regular session becomes law, section 11 of this act
32 shall take effect at 12:01 a.m. on the effective date of HB 693-FN. If HB 693-FN of the 2003 regular
33 session does not become law, section 11 of this act shall not take effect.

34 13 Effective Date.

35 I. Section 11 of this act shall take effect as provided in section 12 of this act.

36 II. The remainder of this act shall take effect upon its passage.



2003-1638s

AMENDED ANALYSIS

This bill:

- I. Establishes an election fund for moneys appropriated to the state pursuant to the Help America Vote Act of 2002 and requires that certain fees and fines be deposited in the fund.
- II. Authorizes a statewide centralized voter registration database and communications network.

Committee Minutes

Internal Affairs Committee

Hearing Report

To: Members of the Senate

From: Susan Duncan
Senior Legislative Aide

Re: HB 577-FN-A-Local – *AN ACT relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the Secretary of State.*

Hearing date: April 30, 2003

Members present: Senators Flanders, Larsen and O'Hearn

Members absent: Senators Boyce and Kenney

Sponsor(s): Representative Flanagan, Kennedy with Sen. Larsen

What the bill does: This bill establishes an election fund for moneys appropriated to the State pursuant to the Help America Vote Act of 2002 and requires that certain fees and fines be deposited in the fund; authorizes a statewide centralized voter registration database and communications network; and exempts guidelines or rules issued by the Secretary of State in furtherance of executing and enforcing the election laws from the rulemaking requirements of RSA 541-A.

Who supports the bill: Representative Kennedy
Senator Larsen
Representative Stritch
Anthony Stevens, Secretary of State's office
Attorney Bud Fitch, Dept. of Justice
David Scanlan, Deputy Secretary of State
Assistant Commissioner John Stephen,
Department of Safety

Who opposes the bill: No one appeared in opposition

Summary of testimony received:

- This legislation is the centerpiece of HAVA and is necessary in order to receive the federal funds.

- Five million dollars has already been appropriated to New Hampshire by Congress and more is on the way.
- The monies will be used to purchase handicapped voting equipment (which is mandatory under HAVA).
- HAVA also requires a centralized checklist (to be established by the Secretary of State).
- Monies are also available to train all election officials in the state to provide for better voter education.
- New Hampshire has applied for the federal monies and has already met the Washington deadlines of April 29th.
- Senator O'Hearn asked if 28-a is an issue with this legislation.
- Representative Stritch responded that beyond the \$5 million, New Hampshire does have to add in 5%. However, what the state already pays in election costs more than covers the 5%.
- Senator Larsen asked if there are confidentiality issues with the establishment of the centralized voter registry.
- Representative Stritch said that the registry can check certain information but it cannot give out any details. He noted that Representative Kurk has been "on top" of this in the House.
- Representative Stritch said that with this system "we will know instantly if someone moves."
- The centralized voter database will have to be interactive so that the information can be entered at the local level.
- A substantial effort is being made to maintain the security of the information. The system will not exchange data but will verify the correctness of the data with Department of Safety records and the Department of Vital Records.
- Testimony indicated that the bill needs to be enacted quickly so that when the check arrives from Washington, the special fund will be established in order to begin the work.
- Specifically the death records will be linked to the voter checklist database so that when Vital Statistics shows that a death has occurred, the name will be "flagged" on the centralized checklist.
- The checklist would also show if someone is already registered in another town and tries to register somewhere else.
- The Secretary of State's office is writing a Memorandum of Understanding with the Department of Safety in order to establish some sort of verification process and to be able to tie in with social security numbers.
- Citizens would still go to their local town clerk to register to vote or get a copy of the checklist.
- The link between the Department of Safety and Secretary of State's computer networks would allow a verification but would not exchange data or allow a query.
- A great amount of information is already exchanged for those with commercial driver's licenses.

- Attorney Fitch testified that "social security numbers will not be flying across the system, but will be done a limited number of times."
- He further testified that by the terms of HAVA, the Justice Department is considering this a fully funded federal mandate, but it does require New Hampshire to do certain things with federal elections.
- A PC would be in every town clerk's office that would have a modem to dial up the Secretary of State's computer database. The database would hold the data and interface between the town clerk and Secretary of State.
- The details have not been worked out as to whether town clerks (and therefore candidates) could obtain information regarding who has voted in which elections.
- Senator Flanders asked regarding the Supervisors of the Checklist who have traditionally been the ones with whom people register to vote. Attorney Fitch responded that their intent is to have only one person do the registrations. Senator Flanders noted that he could just hear the town clerks complaining about the extra work they will have to do.
- The Secretary of State's office emphasized that the first five million dollars is on the way "and it needs a home." This legislation creates the fund.
- Senator Larsen asked regarding the parameters for use of the HAVA funds. Mr. Scanlan responded that New Hampshire has to:
 - The centralized database must be created;
 - Each voting precinct must have a touch screen voting machine;
 - Poll workers must be educated and trained;
 - Voter education whereby voters are informed of their rights must be done.
- Assistant Commissioner Stephen testified that he has been "at the table" with the Secretary of State and Bud Fitch. He said that their concern is with page 3 and the specific language dealing with "case by case" basis, and not the entire database. He said that there needs to be figured out some language to be certain that records aren't just being opened up. He asked if the system shows that someone no longer lives where Safety's records show that they do, does Motor Vehicles have to send a notification? If so, they would need additional personnel and additional, adequate funding.

Funding: See fiscal note

Future Action: The Committee took the bill under advisement.

sfd

[file: HB 577-FN-A-L report]

Date: May 2, 2003

Date: April 30, 2003
Time: 11:15 a.m.
Room: LOB, Room 103

2/13

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

HB 577-FN-A-L (New Title) relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the secretary of state.

Members of Committee present: Senator Flanders
Senator Larsen
Senator O'Hearn

The Vice Chair, Senator Flanders, opened the hearing on HB 577 and called on Representative Kennedy to introduce the bill.

Representative Kennedy: I didn't think I was first on the list, but I guess I am. Okay. I suppose that's because I was one of the original sponsors. Basically Nan's pride and joy. She is recovering well. I swear she broke her second hip simply because she wanted to balance out the first where she likes to have everything nice and equal. She is doing quite well and she should be back with us soon.

This is a pretty simple bit of legislation. It simply empowers us to take approximately \$9 million from the federal government to pay for our elections and everything else. We get five right off the bat and another four if we can work at it, which is pretty well on the way. As I say, let's grab the cash and let's go. What it will do is not only guarantee the coverage of costs for all our elections from this point on, but it will also increase the ability of the towns to add better equipment and perhaps teach some of our election officials in some of the towns how to run an election.

We had one town that I believe the Senator is aware of where they didn't count about half the ballots. They got tired half way through and said to hell with it. It didn't make any difference in the long run, but so be it.

JJB

Other than that, it speaks for itself and the Deputy Secretary of State here.

Senator Robert B. Flanders, D. 7: Does anybody have any questions of Representative Kennedy? If not, thank you very much.

Representative Kennedy: Thank you very much.

Senator Sylvia B. Larsen, D. 15: I should probably just briefly state. Good morning. For the record, my name is Sylvia Larsen. I'm Senator for District 15 and I am a co-sponsor of the Help America Vote Act.

I think some of the interesting features of this bill are in fact that we will be able to use federal monies to improve our election laws. I was asked to sign on to this bill on the last day, probably the last five minutes, of the filing of this bill. The Secretary of State's Office asked for my help with that.

I saw some of the advantages also being that we would in fact improve registration and coordination of voters through this act.

There is a concern and I think one which our Committee will need to look at, which is confidentiality issues. I will listen with interest in terms of those as we proceed with this bill.

I think the details of this bill are probably better introduced through the Secretary of State's Office than perhaps members of the House. So, I will leave it with that.

Senator Robert B. Flanders, D. 7: Mr. Chairman?

Representative C. Donald Stritch: Thank you.

Senator Robert B. Flanders, D. 7: We've seen a lot of you this year in this Committee, haven't we?

Representative Stritch: Luck of the Irish. Thank you, Mr. Chairman. For the record, my name is Donald Stritch. I represent Auburn and Londonderry and I am Chairman of the Election Law Committee.

Mr. Chairman, this bill is the cornerstone, the centerpiece, of the HAVA Act and necessary for the receiving of any funds from the federal government or any other avenue.

Mr. Chairman, I would like to digress for a moment because we were talking about redistricting and when I went to the national conference and we were

JLB

talking about Nashua and Manchester for redistricting, and you have to attend the sensitivity of all people who are involved in redistricting because, let's face it, they vote and you need that. You won't have a bill if they don't. A Senator in Louisiana said if her mother was not in her district, that redistricting bill is dead. She was very concerned about it and she pressed her argument and they finally gave it to her. Her mother had passed away five years ago and was in the cemetery and they put the cemetery in her district.

Senator Robert B. Flanders, D. 7: There are some of us who would not want to have our mother-in-laws not in our district.

Representative Stritch: That's exactly what it was, I think. So, this Act, though not cemetery ridden, establishes an election law trust fund that is with the Treasury Department under the guidance and control of the Secretary of State and this is in order to receive funds from the federal government.

If you look at the last page at the very bottom and then on the back page of that, title one, HAVA funds, \$5 million. That's this year, along with an additional \$4 million that will be coming along a little bit later. Eventually, we will get it up to about \$18 or \$20 million and so forth, but that money has already been appropriated by Congress, signed by the President, and is awaiting our establishment of an election trust fund.

The money will go directly into that fund and it will be spent for the purposes of developing a centralized checklist to be used in New Hampshire. It will be used to purchase equipment for the handicapped and the disabled throughout every voting area and precinct in the State. If you were so fortunate, if there were the extravagant trade fair a couple of weeks ago where all kinds of technology was shown and how this can work. Touch screens, sound magnifying. Even had one for a big magnifying glass. Did you go see that? A big magnifying glass with a light. This is mandatory under HAVA.

Also, it provides for the centralized checklist and the Secretary of State to hire that personnel which will be necessary to man it and to program it and to receive the information. It provides money for voter education. It provides money for training election officials and bringing them up to date. All election officials, supervisors, etc., etc. So, since we have submitted, by way of our Assistant Secretary of State and our Assistant Attorney General Fitch, Anthony Stevens, a very lengthy report showing how we have applied, we are applying for the money. We are prepared. The bills are in process. They are now passed the House and now in the Senate and it has gone into whomever in Washington, D.C. That great big black hole and the funds. We have met

the deadline of April 29th and this is part of what would follow and needs to be in order to receive the money.

I think that kinda in brief covers what we're trying to do.

Senator Robert B. Flanders, D. 7: Any questions? Yes?

Senator Jane E. O'Hearn, D. 12: Just some clarification. This Act is a requirement for federal elections?

Representative Stritch: Yes. You need to have it at election time.

Senator Jane E. O'Hearn, D. 12: Follow up?

Senator Robert B. Flanders, D. 7: Follow up.

Senator Jane E. O'Hearn, D. 12: Is this in any way an unfunded mandate?

Representative Stritch: No. It has... When you work with the federal government, there's always something in between the lines. The initial part of \$5 million and up to \$9 million, the funds we don't have to match. But, when you get beyond the \$5 million, \$9 million and up to \$20 million, we do have to add in, for the State of New Hampshire, 5%. So, you are going to get 95%.

Now, that 5% could be basically what we're doing right now. We have people working on this program from the Attorney General's Office and from the Secretary of State's Office. We have clerks that work on this. We already provide ballots. We already provide calendars for them. All this can be added in and comes to more than 5%. So, in the ensuing years, and we are talking about fiscal year right now of 4. So, when it comes to 5 or 6, there is a 5% add on which is probably already covered by what we do.

Senator Jane E. O'Hearn, D. 12: That 5% add on is for federal elections or is it for...

Representative Stritch: It's the whole thing.

Senator Jane E. O'Hearn, D. 12: It's the whole thing.

Representative Stritch: Yes.

Senator Jane E. O'Hearn, D. 12: But, for federal elections, we're fully covered with federal money?

Representative Stritch: Well, no. The federal election and state elections are one and the same. The money that is being supplied by the federal government is 95% of what it will cost us to do and what we propose to do over the next two or three years. Our contribution after this is 5%, but our contribution already exceeds 5% with the people we already... So, there's not going to be any more money in the state budget.

I want to point out because, in the election trust fund and the way that this has been organized and set up, the federal government gives you the money and tells you there is a certain area that they want you to attend to. But, it doesn't tell you how you have to spend that money as long as that's the subject you're attending to. For example, disabled. You don't have to buy the most expensive equipment. You can buy that magnifying glass as long as it works. So, you have a lot of discretion in how you handle the funds. So, the election fund, when it receives this money, in the wisdom of those creators of this bill, it will be self-supporting for many years to come, thanks to the government.

Senator Jane E. O'Hearn, D. 12: Thank you.

Senator Robert B. Flanders, D. 7: Thank you.

Senator Sylvia B. Larsen, D. 15: Um, question on the discussion you might have had in your committee relating to confidentiality obviously that language is still there that guarantees some of that. But, maybe you could share some of the discussions you had. I'm seeing a reference to a statute that I don't recognize on page 3, for example, the voter database shall be private and confidential and not subject to two RSAs. Maybe you could share with us some of the issues.

Representative Stritch: Well, one of the concerns is whether or not information about yourself can... At the present time, we do not allow any more, for the last thirty years, information on driver's licenses to be issued and who they are and anything that may come from that. As you know, that Chief of Privacy, Representative Neal Kurk, was quite concerned about this bill and the information that might leak out from it because the central checklist is going to have some information about you. I mean, when you fill out that registration form, we are going to know where you live and there may be a portion to bear in mind, the homeland security bills of Congress. So, we are going to know where you live and where you come from. Even if you happen to be homeless, living under a bridge, we will want to know if it is the first level or the second level, and that information is going to be in there.

JMB

Now, the catch is this. You're saying, how are we securing this? This information is correlated with the Motor Vehicle Department under federal law and the Social Security Office so that you are who you say you are. You can either give you driver's license or you can say, "I don't have one. I will give you the last four digits of my Social Security". That's what they go for or you can even set up your own system.

Now, let's assume that we develop a centralized checklist and we have it under way. The information is not available to the general public. Now, you say there's hackers. Well, there probably are hackers. There are hackers now. The system, when someone registers you, as the supervisor of the checklist or a supervisor working on the checklist will be able to tap into to the central checklist to find out if you are registered somewhere else to vote. Now, if you ask the mainframe, Senator Larsen is in Concord, information please, all it will say is registered. If you say license and so forth, it won't give it to you. If you want certain pieces of information, is she a voter? It may say positive or it may say negative. That is all in the programming process.

But, paramount and you can be certain that our guiding hand, Representative Kurk, is going to make very sure that no information leaks out. It's a big, big job. There will be employees to do this. It is massive. If you move from one town to another and you try to vote, and we don't have much of that in New Hampshire, the business of going from one to the other. Who's got time to drive around? They will know instantly that you have moved by checking the mainframe.

Senator Robert B. Flanders, D. 7: Thank you for your testimony.

Representative Stritch: Thank you.

Senator Robert B. Flanders, D. 7: Anthony Stevens from the Secretary of State's Office please.

Anthony Stevens: Thank you, Mr. Chairman and members of the Committee. My name is Anthony Stevens from the Secretary of State's Office. I am here in favor of HB 577.

I think a lot has been said already about the legislation. The Help America Vote Act of 2002 does authorize payment up to \$20 million, and we currently expect about \$9 million now and perhaps some more coming in in the future.

The bill does establish a central voter registration database and the Secretary of State is authorized to develop and equip and establish and

JLB

maintain that database. It establishes an electronic communication system for election officials to access from at least one point in each city and town in the state, to be able to change the information relating to that particular jurisdiction. So, it has to be an interactive computer program that really allows access. The voter registration record data shall be verified by matching the records with those at the Department of Safety and the federal Social Security Administration as required by law and this bill also includes a match of verification with Vital Records.

There has been and continues to be a substantial effort to maintain the security of that information and make sure that there isn't a lot of exchange of information between agencies. The purpose is to just simply verify the information with the Department of Safety and the Division of Vital Records.

The bill essentially allows us to utilize, to take in and set up an election fund and to utilize the monies. The funds cannot be used for any other purpose than for carrying out the Help America Vote Act.

We do expect that the bill, having fulfilled the April 29th requirement, which was our first major deadline and we will be receiving the money shortly, may even have a check in the mail today for \$5 million. We do expect, we do hope that this bill will be passed quickly and made effective quickly so that we can proceed. The deadlines are pretty short and the first major deadlines after this are September 30th and then January 1, 2004. A big one is coming up in 2006 upon completion of the centralized voter registration installation in polling places of the voting machines that are accessible for people with disabilities and enable them to vote independently and privately.

Senator Robert B. Flanders, D. 7: Any questions of this witness? Yes, Senator Larsen?

Senator Sylvia B. Larsen, D. 15: We recently had a bill, which moved Vital Records into the Secretary of State's Office. What's the linkage there?

Secretary Stevens: Well, I think one of the major reasons why that effort was developed was because of the potential efficiency that could develop. As you may know, Vital Records has developed a really excellent relationship with the cities and towns in the State and have set up a communication system that is somewhat old now, but they are planning a very new one based on a virtual private network. They have been really ahead of the curve in a lot of respects, such as their planning and their capability. We hope to piggyback on top of that and actually utilize fully what they have done and support what they are doing, covering the incremental costs with the HAVA funds.

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But, they've done what had to be done and there are very substantial savings to combining the efforts, real savings for everyone, to tie those two together.

Senator Sylvia B. Larsen, D. 15: Further?

Senator Robert B. Flanders, D. 7: Yes.

Senator Sylvia B. Larsen, D. 15: In terms of looking at Vital Records, you're essentially just looking at births, birth dates and deaths, I would assume.

Secretary Stevens: Yes.

Senator Sylvia B. Larsen, D. 15: And, all the other parts of Vital Records, I wouldn't assume they would be much interested in.

Secretary Stevens: That's right. The death records are the major one that someday may be an issue for marriage and changes of names. But, reality is that the death records are what we are interested in. They are very up to date. They can provide a real help in getting the names off, purged from the checklist, those that should be off. That's the information that we are interested in. We are really most interested in their relationships with the cities and towns and their communications connections with the towns.

Senator Sylvia B. Larsen, D. 15: And, in terms of the sharing of data between the Department of Safety and the federal Society Security Administration, the Social Security numbers will be passed back and forth or you don't have the security issues decided yet? What's the plan?

Secretary Stevens: Well, the Social Security numbers, the last four digits, are collectible in the situation where a person doesn't have and doesn't submit motor vehicle license information. That's really a very small percentage of the people who would be new applicants for voter registration. 2 or 3% maybe. That's a very small portion. In that case, they have to, under HAVA, submit the last four digits of their Social Security number. The way HAVA is set up, it requires that we establish a memorandum of understanding with the Department of Safety, Division of Motor Vehicles, to enable us to at least verify the information that we have in our systems. One of those pieces of verification will be the Social Security number.

There is a national effort to establish some sort of verification process on motor vehicle licenses and that is, they are working with the Social Security Administration to tie in that effort so that they can check Social Security numbers. We are working through that. So, we will be working directly with

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the Department of Safety in this case and they themselves are working on the centralized system that we are working to obtain, that will obtain Social Security information.

Senator Robert B. Flanders, D. 7: Further questions? Thank you for your testimony. Bud Fitch please, from the Attorney General's Office.

Assistant Attorney General Bud Fitch: Mr. Chairman and Senators, again I have some prepared testimony that I will leave copies here. I will be very brief and then answer questions at this point.

If I may start, I will try to answer questions or address further a couple of the questions that have been raised. I apologize. I stepped out of the room for a moment, so I hope I won't duplicate responses.

It was asked about, on page 3 in the middle, IV speaks about RSA 91-A and RSA 654:31. 654:31 is an election law statute that says checklists are available from the local town officials. So, that is the intent, even when the data on who is on the checklist is centralized at the state level. So, we will have one big data record of everybody in the state. Unless we come back to you for some changes, people would still have to go to their local town clerks in order to get access to the checklist.

HB 627, which we heard a few minutes ago, also had some provisions that relate to what parts of the information we collect are subject to 91-A disclosure and further restricts that information to just those things that are essential to the conduct of the election. So, you could challenge somebody as a voter and get their name and their street address and their party affiliation at the primaries, but things like date of birth, driver's license number or, if they didn't have a driver's license, the last four digits of their Social Security number, will all be private information. And, to the extent that it is available under current law, that will be the same case. Even though the Secretary of State will have this aggregated record, people will have to go to the local towns to get it.

Speaking about the process for the links that need to occur, I think match is a better descriptive term of what we intend to do or are required to do under HAVA. The Department of State and the Department of Safety and then essentially they, with the Social Security Administration for a very small group. We are not contemplating a link in the sense that anybody could, at any point sit down at either system and query information back and forth. What we are contemplating, what we understand HAVA requires, is that periodically each year the number of times driven in part by the number of elections being held, the Department of State will send to the Department of

Safety a filing. Whether that is a e-mail attachment, a CD rom or something of that sort, the Department of Safety will take the records in that file and look up checklist where I have given my address for my driver's license, the address for my motor vehicle registration and make sure that those match up. Only for those people who don't give a license number, they will check against the Social Security records to determine whether or not that person has given the same address for Social Security purposes. There is a national organization and Commissioner Stephen can talk more about this.

Tape change.

As I understand it, for commercial driver license purposes, there is already a fair amount of exchange that goes on nationally between the state agencies that control vehicle registration and they have formed a national organization for that purpose. That organization is currently working with the Social Security Administration to insure a secure means of doing these checks. It is not a case where people's Social Security numbers are going to be flying back and forth across the system. It is going to be done in a limited number of times.

What we are contemplating is that, once that check is done, if there is a mismatch, a letter, probably jointly from the Commissioner of Safety and the Secretary of State, will go to the voter saying we have two different addresses for you and these are the steps you need to take to straighten it out. In the case where the town clerk is also an agent for the Department of Motor Vehicles, there will be a simple visit to the town clerk's office and he or she will be able to independently go into those two systems and fix it. When the town clerk is not an agent, then you have to send a letter to the Department of Safety for the name change.

Essentially, this bill does a few things and I will just make a couple of points about them. The dedicated fund, the statute requires that the Secretary of State estimate the annual maintenance cost of all these new things we are putting in place and keep it in the fund, not spend an amount that is twenty times that. We have met with and had extensive discussions with the State Treasurer. The scheme is that we think the Treasurer suggests, over time, we can anticipate a 5% return on these monies. By being in a dedicated fund, the State Treasurer can put them in a somewhat higher yielding investment instrument than can be done with regular general revenue funds. So, the objective will be for that 5% over time to produce enough money to pay for this thing. So, to answer the question, is this an unfunded federal mandate, it is, by its terms, neither a fully funded nor unfunded mandate. You have to do these things and here's what we think is enough money to do it.

JMB

What the Secretary of State has directed us to do and what we have tried to do in developing this law, is treat it as only a funded mandate. We are saying great. Most states are spending. New Hampshire as a potential \$20 million member, spending the whole thing up front buying maybe a nice Buick if I can use Chevrolet as an example. We are looking for a Chevette and only putting enough money in the bank so that the interest on it will let us keep that Chevette running and replace it down the road when it needs to be. So, we are doing our very best to make it a fully federally funded mandate.

It requires us to do certain things that relate to federal elections. As Chairman Stritch has testified, it only makes sense to run elections one way in the State. So, the same processes, we anticipate, will apply to state elections.

The federal law, though, does allow us to spend money on state elections for things like training election officials or voters, as long as it advances the goal of well-run federal elections. One of the things I am most excited about this money and this bill is that it is going to let us do some of the training that you folks and the local election officials have been asking for and we just haven't had the resources. We are currently planning at least one and maybe two training sessions this fall in every county and perhaps a few more in the big cities, specifically for them, in anticipation of the Presidential primary. We have a strong commitment of making New Hampshire the opposite of Florida in terms of examples of how elections are run.

I think I will stop there and answer any questions.

Please see memo addressed to Senate Internal Affairs Committee from Bud Fitch, Assistant Attorney General, attached hereto and referred to as Attachment #1.

Senator Robert B. Flanders, D. 7: Any questions of this witness?

Senator Sylvia B. Larsen, D. 15: Perhaps I should have asked the Secretary of State's Office, but there is a question in my mind in terms of how much additional computer requirements there are. I would think we would need to do significant changes to our system and upgrading to be able to deal with all of this. Did you have any discussion on that?

Attorney Fitch: Yes, I have participated in that planning. The system that will be in place, which is being put in place by Vital Records, is basically going to put a PC in every town clerk's office and then, through some mechanism, either a dial-up modem or those places that have it, assist those towns in getting on line onto the internet. Once that happens, they then use

Jm

what is called the virtual private network, basically a highly secure connection to the State through the internet with password protection and other security measures to send information to the state. So, what we anticipate doing is buying servers, big computers at the state level, that will hold the data and interface with each town clerk in that regard and they will be able to use the same computer and, to the extent they need any software and the connections set up by Vital Records to be able to send us information on who they are putting on a checklist. When they decide somebody's name should come off the checklist, they will be able to, in effect, log into the system and delete it off. Does that answer your question?

Senator Sylvia B. Larsen, D. 15: Yes.

Senator Robert B. Flanders, D. 7: Any other questions?

Senator Sylvia B. Larsen, D. 15: Just one. Just so I can visualize the changes, I would assume then for cities and towns, the benefit of this will be that there will be a pretty up to date list and still receive all this data of voters' names, addresses.

Attorney Fitch: All those details are yet to be worked out, so I want to qualify my answer by saying we are going to listen very carefully to the town and city clerks in terms of what they want. I think the answer is essentially yes to that. In terms of the...

Senator Sylvia B. Larsen, D. 15: So, the purging then will be more regular because of the Vital Records list?

Attorney Fitch: What we anticipate is that we will get through Motor Vehicle, Social Security and Vital Records, information that somebody has died or somebody has moved. We will then send that information, probably an e-mail message, to go check the certain place on our site, saying we think those people moved. It will still be the local officials' authority to change someone's address or to take them off the list if they have died or moved. Yes, that information should go out regularly. Currently, the law sets the minimum number of times the supervisors meet. We don't anticipate changing that. So, it's a technical answer. In some regards, that State checklist will only be changed when those supervisors meet and take the official of voting somebody on or off the list. But, it will be updated more regularly. We hope to make it possible for voters to be able to, perspective voters to be able to get on the web through a link to the Secretary of State's web page, go somewhere and pre-register, type all the information in. They wouldn't be registered until they showed up at the polling place or town clerk's office, produced the proof and the supervisors approved it. We would

SJB

then get them to actually do the work of typing it in and instead of being a polling place with a big line of people filling out paper, we would certainly have a stack of those. Hi, I'm Bud Fitch. I pre-registered. Great. Show your license, proof of name and you are done. So, in a few years, it will be easier.

Senator Robert B. Flanders, D. 7: Any further questions? I have one thing to try to clarify. You have talked a lot about linking up with the town clerks. Actually, the supervisors of the checklist should be doing all of this.

Attorney Fitch: The supervisors of the checklist will ultimately control. What we have set forth in the bill at this point is that we will create one link for each town and, because we are trying to not buy two computers and set up two communications packages when they only need one. Our intent is to utilize the one that is being set up by Vital Records for town clerks. We are talking with the clerks and we are talking with the supervisors about how that process is going to work and there are a number of options that are being discussed.

Senator Robert B. Flanders, D. 7: I can hear some town clerks saying that is more work, adding additional work, and I can see some, having been involved in town politics, I can see problems coming with that. Pay raises is one that comes to mind.

Attorney Fitch: Mr. Chairman, you are entirely correct and we are very conscious of the 28-A issues here. In this case, they have to collect all this information now, so we are really not adding a new task.

Senator Robert B. Flanders, D. 7: Any other questions of this witness? If not, thank you for your testimony. David Scanlan please.

David Scanlan: Thank you, Mr. Chairman and members of the Committee. I am David Scanlan, Deputy Secretary of State. I think everything has already pretty well been said.

I would just like to emphasize a couple of points. First, the \$5 million initial payment is in the mail and it needs a home and home is created by HB 577. As soon as we get this through, we can have that money in an account in the State Treasury.

Senator Robert B. Flanders, D. 7: It's not really a threat?

Secretary Scanlan: Well, it's not a threat, it's a reality. The federal government is ahead of us. That's almost a scary thought.

JAB

The second point is that I know the Department of Safety has some concerns about losing the integrity of their data by creating a match. I just want to make it clear that the Secretary of State is on the same page as far as they are concerned. We want interaction with the computer requirements and we want to maintain the integrity of motor vehicle records for the Department of Safety and also the records that would be retained in the centralized voter database for the Department of State. So, if John is going to say anything in a few minutes, I just want to make it clear before he gets up that we are on the same page with the Department of Safety.

And then, the third thing, and I think the most important thing in this whole process, is that, as a matter of policy in the Department of State, we don't want to upset the apple cart in the process of implementing these new election forms. We want to maintain the interaction that we currently have at the local level as far as maintaining the checklists, the role of the supervisors, the role of the town clerks. We want that to remain intact and that's our intent in putting together this whole thing.

I think, through the hard work of Anthony Stevens and Bud Fitch and all the other people who have been involved in the process and I think that's the way we are going.

Senator Robert B. Flanders, D. 7: Any questions of this witness? Senator Larsen?

Senator Sylvia B. Larsen, D. 15: Just one. I was unable to attend some of the meetings that discussed the use of the HAVA funds. What is the parameter that you used? What are some of the purposes for which HAVA's \$5 million coming to the State could be used?

Secretary Scanlan: The \$5 million has a lot of flexibility. HAVA, in general, requires us to do more than four components. There are four main components that we have to address.

The first is creating a centralized database and we are doing some creative things like piggybacking onto the Vital Records network and trying to save the State some money. But, the centralized database is going to be a major, probably the major component.

The second part of it that is going to be somewhat expensive is the requirement that each voter precinct in the State has a touch screen voting machine, some mechanism for disabled individuals to come in and vote independently and in private. So, there is a major requirement there.

JHB

Then, the other two components are important, but nowhere near as expensive. One is poll worker education, poll worker training, so that people who are working the polls really know the election laws. And, the fourth thing is voter education and making sure that voters are informed of their rights and the importance of voting and things like that.

So, there are a lot of areas for us to be creative and innovative. Those are the four major programs.

Senator Robert B. Flanders, D. 7: Any other questions? If not, thank you for your testimony. The last one signed up to speak is John Stephen from Safety.

Assistant Commissioner John Stephen: Thank you, Mr. Chairman and members of the Committee. I will be real brief.

My concern is the integrity of the motor vehicle database and I have no problem. The Commissioner agrees with this idea. There has been a lot of work. We have been at the tables with the folks from the Secretary of State, working with Bud Fitch. I think we all have been working together. The issue I see in specifically looking at Section 4 of this bill, page 3, IV, 654:45, page 3, beginning on line 11, when we talk about computer interface, when you talk about electronic network that links, this is written, I think, a little too broadly in that, depending upon who the Commissioners are someday down the road, I don't know what this could mean. This could mean that we open up all our records to the Secretary of State. Nobody wants that to happen.

I understand we are going to end up probably the way it is envisioned, getting a CD rom or a disc or something on a monthly basis, sort of like what we do with DRED. They give us a list of their folks during the summer that have eight parking tickets and we do a match and then we send out the letters from Safety and we end up handling that for them, at a cost to the agency for our costs. It has worked out. We work together very well. I'm sure we can do that.

But in the law, the driver privacy law, RSA 260:14, we have specific language that says on a case by case basis so that it is clearly intended that it is not the entire database and that's my concern. The Commissioner looked at the language and just asked me to echo those concerns to the Committee.

I know we are working well with Bud Fitch. We have been working on this issue and there's no reason why we can't figure out some language, if that's

2/13

what the intent of the Committee is, to kind of just make sure we're not dealing with opening up records.

When we say, in Section B, a computer interface to compare contained in the database of the Division of Motor Vehicles and Safety and such federal agencies, that is very broad. If there is a computer interface, it could mean all our records have to interface with U.S. federal government in certain areas. We do that through the problem driver points system for commercial trucks, but I'm not sure that was the intent for this particular act. I just think that we can put some language in there.

The other thing that I talked to Assistant Secretary of State Scanlan and I agree with him, we are all on the same page. We all agree that we have got to have the funding to make this happen and we have been told that we are going to get adequate funds to make this happen. But, please understand that, for the Department of Motor Vehicles, this is an undertaking that is going to require, we don't know how much right now, but some substantial funding. If it is going to be an internet hookup, computer network issue, we are going to have to spend some computer money. I can't sit here and tell you how much. I know that our folks have told us it could be, just if it's on a case by case basis and a match, it may not be as high as we think. It could be done at a lower cost.

But, if we are going to be talking about now Motor Vehicles, once the match is done and doesn't show that the person doesn't live in the area of voting, what is the duty of Motor Vehicles? Do we now have to send a form to all these town clerks and supervisors of the checklists? Do we send something to the Secretary of State?

I think we are still working on working that out. But, it's going to be a lot of paperwork. It's going to be a lot of man hours. We are probably going to have to hire a few folks. We have been told from the beginning that there's not a problem, the funding will be there. The Commissioner in these areas where we have had in the past likes to have some language put in the law that basically says that the Department shall do it, provided there's adequate funding. That is something I would like to see put in here, just to specifically make sure that we're going to get the funding we need to make this happen.

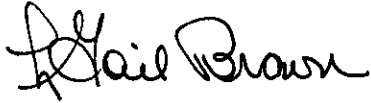
Again, I want to continue to work with the folks that are working on this bill and I appreciate your consideration. I would be happy to answer any questions.

Senator Robert B. Flanders, D. 7: Any questions of this witness? If not, is there anyone else who wishes to speak? Before I close the hearing, let me

just say we are not going to exec this bill today. If there were an amendment next week, we would be more than happy to look at it. With that, I will just close the hearing and thank you very much for your patience.

Hearing concluded at 12:00 noon.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Gail Brown". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

L. Gail Brown
Senate Secretary
6/2/03

1 Attachment

To: Senate Internal Affairs Committee
Senator Robert K. Boyce, Chair

From: Bud Fitch,
Assistant Attorney General

Date: April 30, 2003

Re: HB577 - Help America Vote Act - Election Fund

Thank you for the opportunity to testify on HB 577. This bill is the product of the Department of State's efforts to implement the Help America Vote Act ("HAVA"), with extensive assistance from the House Election Law Committee, in particular Chairman Donald Stritch. The purpose of HB 577 is to:

- Establish a dedicated State fund to receive federal and state matching funds for implementing HAVA.
- Authorize the Secretary of State and the Attorney General to implement the statewide voter checklist, place a voting machine at each polling place that will assist persons with disabilities in voting privately and independently, ensure accessibility of polling places, provide training to voters and election officials, and establish a formal administrative complaint procedure to address voting rights issues.
- Allow the Secretary of State to continue issuing guidelines and rules in furtherance of executing the election laws without being subject to the rulemaking requirements of RSA 541-A.

Congress has authorized 20 million dollars over three years for New Hampshire to implement HAVA, however, to date only 9.1 million dollars have actually been appropriated. Based on the proposed federal budget for federal fiscal year 04, it is anticipated that New Hampshire will eventually receive at least 14 million and it may receive the full 20 million by the end of federal fiscal year 05.

HB577 calls for implementing HAVA in a manner that ensures that this federal mandate remains federally funded to the greatest extent possible. Proposed RSA 5:5-d, III, seeks to achieve this goal by providing that the Secretary of State shall maintain in the fund an amount no less than 20 times the projected maintenance costs for the equipment and personnel added to implement HAVA. The plan anticipates a 5% per annum rate of return, over time, on the investment by the State Treasurer of the balance in the fund. That 5% would be used to pay the personnel and equipment maintenance costs. If HAVA is fully funded federally and New Hampshire receives the full 20 million dollars, it is expected this mechanism will fund the HAVA programs for the foreseeable future. If HAVA is not fully funded it is expected that this mechanism may need to be adjusted, however, it is expected that the HAVA funds will fund the future costs for a decade or more.

HB 577 authorizes and HAVA requires the establishment of an electronic statewide registered voter database, which will become the official source for checklists used in all elections. The planned implementation of the statewide voter database is dependent on the proposed transfer of vital records to the Department of State. The Division of Vital Records is establishing a communication system between each town and city clerk and a central state computer. Significant cost savings will be realized if the Department of State is able to utilize the computers and communications systems installed in the towns and cities to also serve the registered voter statewide database.

Local town and city election officials will continue to control who is added to or deleted from the checklist for their jurisdiction.

Voting fraud will be deterred or detected by several elements of the statewide database. The system will be designed to detect and report any attempt to register and vote in more than one jurisdiction. The system is required by HAVA to match the information provided by persons registering to vote against any records on that person held by the division of motor vehicles, ensuring the same address is used for both voting and driver's license/vehicle registration purposes. The system is required by HAVA to also match certain records with the records of the social security administration and New Hampshire will match all records with the records of the Division of Vital Records to ensure the timely removal of deceased individuals from the checklists. A similar process will be implemented to identify any persons disqualified as voters as a result of incarceration for felony convictions or willful violations of the election laws.

HB577 provides that fees and fines received by the Secretary of State related to elections will be deposited into the Election Fund. These monies will be available to contribute towards requirements for State matching funds.

Sections 9 and 10 authorize the Attorney General to establish a formal administrative complaint procedure to address complaints that individual's federal voting rights have been violated. HAVA requires that an alternative dispute resolution process be available in the event that the administrative complaint procedure is unsuccessful, the Ballot Law Commission is designated to serve that function.

In light of passage of HB693, which removes the Ballot Law Commission's Additional Jurisdiction Statute, RSA 665:7, from the Ballot Law Commission laws, the committee may wish to amend HB577 to conform to HB693. Proposed Amended Section 9:

Add a new section RSA 665:9-a.

RSA 665:9-a, Administrative Complaint Resolution.

The Ballot Law Commission shall hear and resolve complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252, as provided in RSA 666:14.

Speakers

SENATE INTERNAL AFFAIRS COMMITTEE

Date 4/30/03

Time 11:00 a.m.

Public Hearing on HB 577-FN-A-L

HB 577 - (New Title) relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the secretary of state.

Please check box(es) that apply.

SPEAKING FAVOR OPPOSED

NAME (Please print)

REPRESENTING

[illegible]

Testimony

To: Senate Internal Affairs Committee
Senator Robert K Boyce, Chair

From: David Scanlan, Deputy Secretary of State
Bud Fitch, Assistant Attorney General

For:

William M Gardner, Secretary of State
Department of State

DRAFT

Re: Requested amendments to the Help America Vote Act Bills

The Department of State in consultation with the Attorney General's Office requests the following amendments:

HB 577 – Amendments:

#1

Amend section 4 by clarifying paragraph II to establish that only specified local election officials will have access to the database and that the State is required to establish one connection point to the statewide database that shall be located at the town or city clerk's office. Present levels of anticipated HAVA funding will not be sufficient to provide portable computers and communications connections at every polling place in the State. The intent of this section is to allow towns or cities that currently use or who choose at their own expense to establish computer systems with communications at their polling places to connect to the statewide database and to enter data on new registrants on election day. It is intended that priority will be given to establishing the one connection in each town or city from the town clerks office and that upon successful completion of that task, towns or cities wishing to establish additional connections at their own expense would be accommodated to the greatest extent possible.

Paragraph II as amended to read:

II. Any election official in the state *authorized to have direct access to the statewide database by this chapter*, ~~including any local election official,~~ may obtain immediate electronic access to the information contained in the voter database related to individuals registered or registering to vote in the election official's jurisdiction *from the access point to be established in the office of the town or city clerk. The secretary of state may permit towns or cities to establish additional points of access to the statewide database, including access from a polling place on election day.*

#2

Amend section 4 by adding the following sentence to the language of proposed RSA 654:45, IV (b). The purpose of this amendment is to add language to ensure that the limited authorization created by HB 577 for the Department of State and the Department of Safety to exchange information does not create a statutory right of access to Department of Safety data by any party. The amendment is requested by the Department of Safety and they agree to the proposed language. The amendment makes explicit that the Commissioner of the Department of Safety will retain complete control over what, if any, information from their files will be provided to the Department of State as part of the joint effort by Safety and State to get individuals to correct discrepancies in their records with the two departments. The amendment also ensures that the Department of Safety will be required to provide only those services that are paid for by the Election Fund.

The section as amended would read.

(b) Voter database record data shall be verified by matching the records with those of the department of safety and the federal social security administration as are required by law, and with the records of the state agency or division charged with maintaining vital records. For this purpose the voter registration record database may be linked to the state agency or division charged with maintaining vital records and the department of safety, provided that no linked agency or division may save or retain voter information or use it for purposes other than verifying the accuracy of the information contained in the voter database. *The link authorized by this section shall not allow the Department of State or election officials direct electronic access to the motor vehicle registration or driver's license records maintained by the Division of Motor Vehicles. The Commissioner of the Department of Safety may authorize the release of information from those records to the extent that the information is necessary to allow the Department of State and the Department of Safety to cooperate in making a joint notification to individuals of apparent discrepancies in their records and that information which is necessary to resolve those discrepancies. The Commissioner for the Department of Safety and the Secretary of State are authorized to enter into an agreement that establishes the services to be provided by the Department of Safety and the cost for those services. The Department of Safety shall not be required to provide any services until such agreement has been reached and sufficient funds exist in the Election Fund for this purpose.* The system shall facilitate the identification and correction of voter registration records whenever a registered voter has died or has been disenfranchised pursuant to part I, article 11 of the New Hampshire constitution or RSA 654:5 through 654:6, or when the domicile address does not match the address provided by the same individual to the department of safety.

#3

Limitation on access to checklist data. The purpose of this amendment is to make certain who will be entitled to have access to the data in the statewide database for a given town

or city. The federal legislation includes a general statement that “election officials” will have access to the database information. The Attorney General’s Office understands this ambiguous reference and others in HAVA to allow state law to control the details of who is an election official for that particular purpose. This amendment will make explicit that just those officials who are charged by New Hampshire law with responsibility for maintaining or possessing voter registration records will be authorized, subject to processes to be established by the Secretary of State, to access the database.

Amend proposed RSA 654:45, IV by adding a new subsection (c) that reads as follows:

(c) Access by local election officials to the voter database and the records or information in the voter database shall be limited as prescribed by the Secretary of State, further provided that only supervisors of the checklist, city registrars and deputy registrars, the town or city clerk and their deputies may be granted access to the database and then only to the records of individuals who are currently registered to vote in the official’s jurisdiction or individuals who are applying to register to vote in the designated official’s jurisdiction. These officials shall be subject to the limitations of paragraph VI.

Amend proposed RSA 654:45, V by deleting the reference to local election officials as their access to the statewide database is now defined in the new section (c).

As amended RSA 654:45, V will read

V. The secretary of state shall:

(a) ~~Specify the election officials and~~ the employees of the department of state authorized to access records contained in the voter database, subject to the limitations of paragraph VI.

HB 627

#4 Amend section 30 to make explicit that applicants for registration as a voter, whether applying in person or, if qualified, by mail will be treated equally, particularly in terms of required proof of age, citizenship, and domicile.

Amend RSA 654:17 to read as follows:

654:17 Absentee Registration Affidavit.

I. The absentee registration affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Affidavit (Absence from town)

I, _____ do hereby swear or affirm, under ~~[penalty of perjury]~~ *the penalties for voting fraud set forth below*, the following:

1)[~~(a)~~] That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the election to be held in said town on _____, [19] _____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

~~[(b) That if I were personally to appear before the supervisors of the checklist of said town in their regular session for the correction of the checklist for said election, I would present the following as proof of domicile (including but not limited to a drivers license, electric bill, passport, or cancelled check);~~

2) That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I am temporarily residing in _____ (city and state or city, province, and country);

4) *That I hereby enclose one of the following as proof of identity and domicile:*

(a) A copy of a current and valid *New Hampshire driver's license or New Hampshire vehicle registration or an armed services identification, or other photo identification issued by the United States government or*

(b) A copy of a current and valid photo identification; ~~or and~~

~~(b)-(c) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;~~

5) *That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and*

[4] 6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

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

Affidavit (Physical Disability)

I, _____ do hereby swear or affirm, under [~~penalty of perjury~~] *the penalties for voting fraud set forth below*, the following:

1)~~(a)~~ That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on _____, [19] ____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

~~[(b) That if I were personally to appear before the supervisors of the checklist of said town in their regular session for the correction of the checklist for said election, I would present the following as proof of domicile (including but not limited to a drivers license, electric bill, passport, or cancelled check);~~

2) That I am unable by reason of physical disability personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile:

(a) ***A copy of a current and valid New Hampshire driver's license or New Hampshire vehicle registration or an armed services identification, or other photo identification issued by the United States government or***

(b) ***A copy of a current and valid photo identification; or and***

(bc) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;

4) ***That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and***

~~[3]~~ 5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

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#5

Amend section 29, so that RSA 654:12, II, (b), (3) no longer lists hospital, educational institution or similar institution photo identifications as presumptive proof of identity. This change does not prohibit the supervisors of the checklist from allowing use of such documents based on their local knowledge of the extent to which the issuing institution verifies the identity of the photo identification, but it would no longer be presumptive proof statewide.

RSA 654:12, II, (b) (3) as amended would read:

(3) Photo identification issued by local or state government.

#6

Correct the definition of an election officer by deleting the position of election inspectors and amend the provisions relating to who can take an oath from a challenged voter or an applicant for registration who is required to complete an affidavit by:

Amend section 49, RSA 652:14 as amended to read as follows:

652:14 Election Officer. "Election officer" shall mean any moderator, *deputy moderator, assistant moderator*, town clerk, *deputy town clerk, city clerk, deputy city clerk*, selectman, supervisor of the checklist, *registrar, or deputy registrar*, ~~or inspector of election.~~

Deleting section 41. Section 59 duplicates section 41 and makes the proposed change of replacing the list of officials with the term "election officer." Section 59 should be kept in its current form.

#7

In anticipation of passage of HB693, which removes the Ballot Law Commission's Additional Jurisdiction Statute, RSA 665:7, from the Ballot Law Commission laws, amend HB577 to conform to HB693.

Amended Section 9 to read as follows:

Add a new section RSA 665:9-a.

RSA 665:9-a, Administrative Complaint Resolution.

The Ballot Law Commission shall hear and resolve complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252, as provided in RSA 666:14.

In the alternative identify some other existing or new body to serve as the alternative dispute resolution body required by HAVA.

#8

Amend section 1 and 43 to conform to SB14 – It is unclear whether the intent of the legislature in enacting SB14 was to alter the provisions of RSA 7:33 which provides that the Superior Court would appoint a county attorney, apparently on a temporary basis, in

the event the elected county attorney was absent or unable to perform his or her duties. The obvious alternative of shifting the appointment authority to the county delegation would leave unanswered what process would be followed to determine if an absence or inability to perform duties exists. It would be an easy case where the county attorney left the country or was struck by illness that left him or her unable to communicate and hospitalized, however, a more difficult case if the issue is habitual but not constant absence or disability from mental illness.

1 County Attorneys; Election, Vacancies. Amend RSA 7:33 to read as follows:

7:33 Election; Vacancies. There shall be a county attorney for each county, who shall be a member of the New Hampshire bar, elected biennially by the ~~[inhabitants]~~ **voters** of the county. If the county attorney is absent at any term of court or unable to discharge the duties of the office, the superior court, acting as a body, shall appoint a county attorney, who shall be a member of the New Hampshire bar, for the time being and allow said appointee such compensation for his **or her** services as they think reasonable.

43 Vacancies Among County Officers; County Commissioner. Amend RSA 661:9, II(a) to read as follows:

(a) If a vacancy occurs in the office of a county commissioner, ~~the superior court members of the county convention~~ shall fill the vacancy **by majority vote** until the next biennial election of county officers. If the term filled is less than the unexpired term, then notwithstanding any provisions of RSA 653:1, VI, the commissioner district filled pursuant to this paragraph shall be added to the next biennial election ballot to be chosen by the ~~[inhabitants]~~ **domiciliaries** of the county for a 2-year term.

#9

Add a new section to HB 627, exempting ballots used for elections from RSA 91-A. This proposed amendment is prompted by a recent Superior Court Order declaring that the ballots cast in an election are not exempt from the right-to-know law and requiring a town to provide a person making a 91-A demand to have access to all the ballots preserved from a recent town meeting. The integrity of ballots and the finality of election results requires that there be limited and highly controlled access to the ballots used for elections. The existing recount and recount appeal provisions provide adequate access to ballots under circumstances

Amend RSA 659:95; 669:33 by adding a new paragraph exempting any ballots case at a state election from the right-to-know law.

RSA659:95. Sealing and Certifying Ballots.

I. Immediately after the ballots cast at a state election have been tabulated and the result has been announced and the return has been made, the moderator or his designee, in the presence of the selectmen or their designee, shall place the cast, cancelled and uncast ballots, including such ballots from any additional polling places, and further including the successfully challenged absentee ballots still contained in their envelopes, in the

containers provided by the secretary of state as required by RSA 659:97 and shall seal such container with the sealer provided by the secretary of state as required by RSA 659:97. The moderator or his designee shall then enter in the appropriate blanks on such sealer on each container the number of cast, cancelled and uncast ballots in such container and shall endorse in the appropriate place on such sealer a certificate in substance as follows: Enclosed are the ballots from the state election in the town of

(or in ward) _____
in the city of _____ held on _____, 20_____, required by law to be preserved. The moderator and the selectmen or their designee shall sign their names in the appropriate blanks on the sealer.

II. Ballots, including spoiled or canceled ballots, unused ballots, challenged absentee ballots and affidavit envelopes, prepared or preserved in accordance with the election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to any ballots or absentee voter affidavit envelopes prepared for or used in any election conducted by the state or any political subdivision, including federal elections.

RSA 669:33. Preservation of Ballots after Recount.

I. Upon the conclusion of the recount, the clerk shall place the ballots and all envelopes or wrappers which had previously contained them in a suitable container showing the contents and the date when and the reason why it was opened; and said clerk shall retain said ballots until the expiration of 60 days from the date of the recount unless some action is pending which makes their further preservation necessary or unless enjoined by action brought before the superior court.

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To: Senate Internal Affairs Committee
Senator Robert K. Boyce, Chair

From: Bud Fitch,
Assistant Attorney General

Date: April 30, 2003

Re: HB577 - Help America Vote Act – Election Fund

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HB 364-FN - AS AMENDED BY THE HOUSE

25mar03... 0792h

2003 SESSION

03-0074

03/09

HOUSE BILL **364-FN**

AN ACT relative to the use of automatic telephone dialing systems for political advocacy.

SPONSORS: Rep. Dokmo, Hills 47; Rep. Spiess, Hills 47; Rep. Hess, Merr 37; Rep. Bergin,
 Hills 47; Sen. Below, Dist 5

COMMITTEE: Election Law

ANALYSIS

This bill establishes requirements for the use of automatic telephone dialing systems for political advocacy.

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 Three

AN ACT relative to the use of automatic telephone dialing systems for political advocacy.

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

1 1 New Section; Political Expenditures and Contributions; Political Advertising; Use of Automatic
2 Telephone Dialing Systems. Amend RSA 664 by inserting after section 16-a the following new
3 section:

4 664:16-b Use of Automatic Telephone Dialing Systems.

5 I. In this section:

6 (a) "Automatic telephone dialing system" means any automatic terminal equipment
7 which stores or produces numbers to be called randomly or sequentially and which delivers a
8 prerecorded message to the number called without assistance of a live operator.

9 (b) "Caller identification information" means:

10 (1) The telephone listing number and/or name of the customer from whose telephone
11 instrument a telephone number is dialed; or

12 (2) Other information that may be used to identify the specific originating number or
13 originating location of a wire or electronic communication transmitted by a telephone instrument.

14 (c) "Per-call blocking" means a telecommunications service that prevents the
15 transmission of caller identification information to a called party on an individual call if the calling
16 party acts affirmatively to prevent the transmission of the caller identification information.

17 (d) "Per-line blocking" means a telecommunications service that prevents the
18 transmission of caller identification information to a called party on every call unless the calling
19 party acts affirmatively to release the caller identification information.

20 (e) "Solicitation" means the unrequested initiation of a telephone call to a residential
21 telephone subscriber for the purposes of political advertising; or to gain a pledge, promise, or
22 contribution in circumstances where there is no pre-existing relationship between the caller and the
23 person called; or to obtain information, data, or opinions relating to a party, measure, or candidate.

24 II.(a) Any person, except a candidate using his or her own voice, intending to use an
25 automatic telephone dialing system for solicitation in this state shall, at least 5 business days prior
26 to using the system, register with the department of state the information required by paragraph III.
27 At the time of filing, the registrant shall also pay to the department a fee established by the
28 secretary of state.

29 (b) The registrant shall be responsible for providing timely identification and automatic
30 disconnect in accordance with paragraphs IV and V.

31 (c) All transmissions shall be randomly generated in unequal intervals, and shall not

1 infiltrate any emergency lines, such as police, fire, or ambulance lines, which are either 911 circuits
2 or 7-digit telephone numbers designated as emergency lines.

3 III. Each registration pursuant to subparagraph II(a) shall contain the following
4 information:

5 (a) The name and address of the registrant, including the name under which the
6 registrant is doing or intends to do business and the name under which the registrant is registered
7 pursuant to RSA 664:3.

8 (b) The complete street addresses of all locations from which the registrant will be
9 conducting its activities.

10 IV. Any automatic telephone dialing system used in this state shall be operated so that the
11 system will automatically disconnect or release within 10 seconds after the called party hangs up.

12 V. Any solicitation message made through the use of an automatic telephone dialing system
13 shall disclose immediately after telephone contact:

14 (a) The name of the person, company, and/or organization making the call.

15 (b) The purpose of the call and the party, measure, or candidate whose success or defeat
16 the caller is advocating, if any.

17 (c) The name of the person or organization paying for the delivery of the message, and
18 the name of the fiscal agent, if applicable.

19 VI. No person using an automated telephone dialing system or any other method for
20 solicitation in this state shall use any method, including per-call blocking or per-line blocking, that
21 prevents caller identification information for the telephone solicitor's lines used to make telephone
22 calls to a residential telephone subscriber from being shown by a device capable of displaying caller
23 identification information. The caller identification information displayed shall contain a telephone
24 number at which the telephone solicitor may receive telephone calls if the telephone solicitor leaves a
25 message on a telephone answering device or uses an automatic telephone dialing system that plays a
26 recorded message when a connection is completed to a telephone number.

27 VII. Violators of this section shall not be subject to penalties under RSA 664:21, V, but shall
28 be subject to an administrative fine of \$250 per incident up to a total of \$50,000.

29 2 Effective Date. This act shall take effect upon its passage.

HB 364-FN - AS AMENDED BY THE HOUSE

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LBAO
03-0074
1/7/03

HB 364-FN - FISCAL NOTE

AN ACT relative to the use of automatic telephone dialing systems for political advocacy.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2003 through 2007.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Internal Affairs

to which was referred House Bill 577-FN

AN ACT

(New Title) relative to implementing the Help America
Vote Act of 2002 and relative to rulemaking by the
secretary of state.

VOTE: 3-0

2003-1638s

Having considered the same, report the same with the following amendment and
recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Robert K. Boyce
For the Committee

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HB577 Docket

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Bill Title: (3rd New Title) relative to implementing the Help America Vote Act of 2002 and relative to use of government property for electioneering.

<u>Date</u>	<u>Body</u>	<u>Description</u>
1/9/2003	H	Introduced and ref to Elec Law; HJ 12, p201
1/28/2003	H	Report due 3/6/2003
1/29/2003	H	Hearing Feb 12 11:00 RM308,LOB
3/3/2003	H	Maj Report OTP/AM for Mar 12 (Vote 11-0;Reg)
3/3/2003	H	Prop Comm Am{0449}(New Title); HC20, p465-467
3/12/2003	H	Comm Am, AA VV; Passed with Am and ref to Finance VV; HJ23, p558-561
3/13/2003	H	Fin DivI Subcom Work & Exec Sess Mar 21 9:00 RM209,LOB
3/31/2003	H	Fin Maj Report OTP/AM for Apr 10 (Vote 23-0;CC)
3/31/2003	H	Prop Fin Comm Am{0970}; HC31, p1031
4/10/2003	H	Passed with Am; HJ34, p1090 + 1142
4/17/2003	S	Introduced and Ref. to Internal Affairs; SJ 13, Pg.331
4/23/2003	S	Hearing; April 30, 2003, Room 103, LOB, 11:00 a.m.; SC20
5/15/2003	S	Committee Report; Ought to Pass with Amendment{1638},(New Title), [05/22/03]; SC23, Pg.17-18
5/22/2003	S	Committee Amendment{1638},(New Title), AA, VV; SJ 17, Pg.453-454
5/22/2003	S	Ought to Pass with Amendment{1638},(New Title), MA, VV; Refer to Finance [Rule 26]; SJ 17, Pg.455
5/29/2003	S	Committee Report; Ought to Pass, [06/05/03]; SC25
6/5/2003	S	Ought to Pass; SJ 19, Pg.598
6/5/2003	S	Sen. Larsen Floor Amendment{1947},(New Title), AA, VV; SJ 19, Pg.598-599
6/5/2003	S	Ought to Pass with Amendment{1947}, MA, VV; SJ 19, Pg.599
6/5/2003	S	Sen. Clegg Rules Suspension 2/3 nec. For thirid Reading and Final Passage; SJ 19, Pg.599
6/5/2003	H	House Nonconc with Sen Am, req Conf Comm, Rep Whalley MA VV; HJ 47, p1542
6/5/2003	H	(Spkr appts Reps: Dickinson, Whalley, Rodeschin & Drisko House Alt: Weed -HJ 47, p1545)
6/5/2003	S	Sen. Boyce Accede to House Request for Committee of Conference, MA, VV
6/5/2003	S	President Appoints; Senators Boyce, Roberge, Cohen
6/11/2003	H	Conf Comm meeting June 16 10:00 RM308,LOB
6/16/2003	H	Continued Conf Comm meeting June 17 10:30 RM308,LOB
6/17/2003	S	Conferee Change; Senator Flanders Replaces Senator Cohen
6/19/2003	S	Committee of Conference Report; Sen. Am+New Am.{2154}, Filed;
6/24/2003	S	Conference Committee Report{2154}, Adopted, VV
6/24/2003	H	Conf Comm Report Adopted RC(224-129);

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Docket Abbreviations