

Amendment to SB 418-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Findings.

4 I. According to the secretary of state, over the past 45 years, New Hampshire has had 44
5 state elections that ended in a tie or in a one-vote victory. On average, that is almost once per year,
6 not including the 1974 U.S. Senate race that was won by 2 votes - the closest U.S. Senate race in
7 history. This clearly proves that just one improperly cast vote can adversely influence an election
8 each year. Every improperly cast vote invalidates one legal vote. In the 2016 general election, at
9 least 10 illegal ballots were cast by voters who admitted guilt and were prosecuted by the attorney
10 general and counted, including one woman who was caught voting in both Massachusetts and in
11 Plymouth, New Hampshire. She only paid a \$500 fine; hardly a deterrent. In that same election,
12 the attorney general's office, after extensive investigation, was unable to verify the identity of 230
13 qualified and domicile affidavit voters. Allowing unverified votes to count in an election enables the
14 corruption of New Hampshire's electoral process. This must be addressed immediately to restore the
15 integrity of New Hampshire elections.

16 II. Currently, New Hampshire law allows for votes to be cast and counted by signing an
17 affidavit, even when the voter fails to produce documents to prove his or her identity, or that he or
18 she is a New Hampshire citizen or an inhabitant of that town, city, ward, or district. Although these
19 laws do allow for the post-election investigation of these unverified ballots, this merely identifies
20 when unqualified votes have been cast. It does nothing to prevent the nullification of legitimate
21 votes by the casting, counting, and certification of illegitimate ballots.

22 2 New Section; Election Procedure; Affidavit Ballot. Amend RSA 659 by inserting after section
23 the following new section:

24 659:23-a Affidavit Ballots.

25 I.(a) For all elections, if a voter on election day does not have a valid photo identification
26 establishing such voter's identification or does not meet the identity requirements of RSA 659:13,
27 then such voter shall vote by affidavit ballot pursuant to this section.

28 (b) For all elections, if a voter on election day is registering to vote for the first time in
29 New Hampshire, and does not possess proper documentation, as defined in statute, establishing
30 citizenship and establishing domicile in that town, city, ward, or district, then such voter shall vote
31 by affidavit ballot pursuant to this section.

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1 II. The authorized election official shall hand the affidavit ballot voter an affidavit voter
2 package and explain its use. The affidavit voter package shall be designed, produced, and
3 distributed by the secretary of state, and shall contain the following:

4 (a) A prepaid U.S. Postal Service Priority Mail Express (overnight delivery) envelope
5 addressed to the secretary of state for the affidavit voter to return the affidavit verification letter
6 described in subparagraph (b) and any required missing documentation that necessitated voting by
7 affidavit ballot. The return address on this envelope shall be for the office of the secretary of state.

8 (b) An affidavit voter verification letter, in duplicate form, which lists all the documents
9 required to qualify to vote in the state of New Hampshire. The authorized election official shall
10 mark on both copies of the verification letter which qualifying documents were not provided, thereby
11 necessitating voting by affidavit ballot. One copy of the affidavit verification letter shall be given to
12 the voter; the other copy shall be retained by the authorized election official. The voter shall be
13 required to return their copy of the affidavit verification letter and a copy of any required
14 documentation to the secretary of state in the provided prepaid U.S. Postal Service envelope within
15 10 days of the date of the election in order for the ballot to be certified.

16 III. The moderator shall mark each affidavit ballot "Affidavit Ballot #___" sequentially,
17 starting with the number "1".

18 IV. All affidavit ballots shall be cast in person at the polling place, placed in a container
19 designated "Affidavit Ballots," and hand counted after polls have closed using a method prescribed
20 by the secretary of state for hand counting and confirmation of candidate vote totals. After
21 completion of counting, the moderator shall note and announce the total number of votes cast for
22 each candidate, and the total number of affidavit ballots cast in the election. No later than one day
23 after the election, the moderator shall forward all affidavit ballot verification letters to the secretary
24 of state using a secure means of transmission or delivery.

25 V. On the tenth day after the election, if an affidavit ballot voter has failed to return the
26 verification letter with the missing voter qualifying documentation to the secretary of state, either in
27 person or using the prepaid U.S. Postal Service Priority Mail Express Envelope, the secretary of
28 state shall instruct the moderator of the town, city, ward, or district in which the affidavit ballot was
29 cast to retrieve the associated numbered affidavit ballot and list on a tally sheet, by candidate or
30 issue, the votes cast on that ballot. The counting of votes on affidavit ballots identified by the
31 secretary of state as unqualified shall be conducted by the town, city, ward, or district using the
32 same methods of counting and observation utilized on the day of the election for hand counted
33 ballots. The votes cast on such unqualified affidavit ballots shall be deducted from the vote total for
34 each affected candidate or each affected issue.

35 VI. No later than 14 days after the election, any town, city, ward, or district in which any
36 affidavit ballots were cast, and not subsequently verified, shall provide to the secretary of state a
37 summary report, by race or ballot issue, of the total votes cast by the unqualified voters. The total

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1 vote minus the unqualified affidavit ballot vote for each race or issue shall be the final vote to be
2 certified by the appropriate certifying authority.

3 VII. The names of affidavit voters whose verification letters are either not returned to the
4 secretary of state or which do not provide the required voter qualifying information shall be referred
5 by the secretary of state to the New Hampshire attorney general's office for investigation in
6 accordance with RSA 7:6-c.

7 VIII. Any written, electronic, or other information related to an affidavit voter who provides
8 the required information verifying their right to vote shall not be subject to disclosure under RSA 91-
9 A or any other law.

10 IX. All written documentation relating to affidavit ballots shall be delivered to the secretary
11 of state by local election officials in sealed packages using a secure means of transportation and
12 stored pursuant to RSA 659:95 through 659:103.

13 3 New Section; General Provisions for Recounts; Affidavit Ballots. Amend RSA 660 by inserting
14 after section 17 the following new section:

15 660:17-a Affidavit Ballots; Recounts. In any election or referendum, if the total number of
16 affidavit ballots submitted for any local, district, county, or statewide race or issue would, if counted
17 in favor of either candidate or position, alter the outcome of the election, the deadlines for filing
18 recount requests imposed by RSA 660:1, 660:7, 660:10, 660:12, and 660:13 shall be extended until
19 after the deadline for submitting affidavit verification materials in RSA 659:23-a. In such instance,
20 the secretary of state shall publish new deadlines for filing recounts.

21 4 Election Procedure; Obtaining a Ballot. Amend RSA 659:13, I(c) to read as follows:

22 (c)(1) If the voter does not have a valid photo identification, the ballot clerk shall ***direct***
23 ***the voter to see the supervisor of the checklist.***

24 (2) ***The supervisor of the checklist shall review the voter's qualifications and***
25 ***determine if the voter's identity can be verified.***

26 (3) ***If the supervisor of the checklist cannot verify the voter's identity, the***
27 ***supervisor of the checklist shall*** inform the voter that he or she may execute a challenged voter
28 affidavit ***and cast an affidavit ballot in accordance with RSA 659:23-a.*** The voter shall receive
29 an explanatory document prepared by the secretary of state explaining the proof of identity
30 requirements. If the voter executes a challenged voter affidavit ***and casts an affidavit ballot,*** the
31 ballot clerk shall mark the checklist in accordance with uniform procedures developed by the
32 secretary of state.

33 ~~[(2)] (4)~~ If the voter executes a challenged voter affidavit ***and casts an affidavit***
34 ***ballot,*** the moderator or the moderator's designee shall take a photograph of the voter and
35 immediately print and attach the photograph to ~~to, and thus make it a part of, the affidavit form.~~
36 ~~However, if a photograph was taken under RSA 654:12, then a notation shall be made on the~~
37 ~~challenged voter affidavit stating that the photograph is attached to the qualified voter affidavit or~~

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1 ~~sworn statement on the general election day registration form]~~ ***the duplicate copy of the affidavit***
2 ***voter verification letter to be delivered to the secretary of state.*** The photograph shall be 2
3 inches by 2 inches, or larger, and may be in color or in black and white. The moderator or his or her
4 designee who took the photograph and the voter shall then sign the challenged voter affidavit. The
5 moderator or designee shall delete the photograph from the camera in the presence of the voter. If
6 the moderator or his or her designee is unable to take the voter's photograph due to equipment
7 failure or other cause beyond the moderator's or his or her designee's reasonable control, the voter
8 may execute a challenged voter affidavit ***and cast an affidavit ballot*** without a photograph.

9 [43] (5) If the voter objects to the photograph requirement because of religious
10 beliefs, he or she may execute an affidavit of religious exemption in accordance with RSA 659:13-b,
11 which shall be attested to by an election officer and attached to the challenged voter affidavit.

12 [44] (6) The person entering voter information into the centralized voter registration
13 database shall cause the records to indicate when a voter has not presented a valid photo
14 identification and has executed a challenged voter affidavit ***and cast an affidavit ballot.***

15 5 Voting Procedure; Obtaining a Ballot. Amend RSA 659:13, II(b) to read as follows:

16 (b) In addition to the forms of photo identification authorized in subparagraph (a), the
17 identification requirements of paragraph I may be satisfied by verification of the person's identity by
18 a moderator or supervisor of the checklist or the clerk of a town, ward, or city, provided that if any
19 person authorized to challenge a voter under RSA 659:27 objects to such verification, identifies the
20 reason for the objection in writing, and states the specific source of the information or personal
21 knowledge upon which the challenge of the photo identification is based, the voter shall be required
22 to execute a challenged voter affidavit as if no verification was made. ***When an election official***
23 ***uses personal recognizance as a substitute for required documentation under this section,***
24 ***the moderator or clerk shall print in the margin of the checklist, next to the name of the***
25 ***voter so qualified, one of the following to identify the official who validated the voter: "P-x-***
26 ***AB" where "P" indicates personal recognizance; "x" shall be "M" for moderator or "C" for***
27 ***clerk; and AB are the first and last initials of the moderator or clerk. By initialing the***
28 ***checklist, the moderator or clerk personally affirms, under penalty of perjury, the identity***
29 ***of the voter they are qualifying to vote.***

30 6 New Subparagraphs; Voting Procedure; Obtaining a Ballot. Amend RSA 659:13, II by
31 inserting after subparagraph (c) the following new subparagraphs:

32 (d) The secretary of state shall provide training for supervisors of the checklist on how
33 the nonpublic data in the statewide centralized voter registration database may be used to satisfy
34 voter identification requirements.

35 (e) The secretary of state shall develop and make available an informational pamphlet
36 explaining the procedure established in RSA 260:21 for obtaining a picture identification card for
37 voter identification purposes only.

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1 7 Effective Date. This act shall take effect upon its passage.