

# NH Secretary of State Briefing on HR 1, 2021 (federal)

Presenters:

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117TH CONGRESS

1ST SESSION

**H. R. 1**

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**AN ACT**

To expand Americans' access to the ballot box, reduce the influence of big money in politics, strengthen ethics rules for public servants, and implement other anti-corruption measures for the purpose of fortifying our democracy, and for other purposes.

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1 asking at least 18 States by Federal courts of ap-  
 2 peals (discretionary, unpublished) and certiorari  
 3 (discretionary, unpublished) and certiorari  
 4 (discretionary, unpublished) and certiorari  
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(7) Evidence of discriminatory voting practices  
 10 spans from decades ago through to the past several  
 11 election cycles. The 2018 midterms elections, for ex-  
 12 ample, demonstrated ongoing discrimination in vot-  
 13 ing.

(8) During the 118th Congress, congressional  
 14 committees in the House of Representatives held nu-  
 15 merous hearings, collecting substantial testimony  
 16 and other evidence which underscored the need to  
 17 pass a restoration of the Voting Rights Act.

(9) On December 6, 2019, the House of Rep-  
 18 resentatives passed the John R. Lewis Voting Rights  
 19 Advancement Act, which would restore and mod-  
 20 ernize the Voting Rights Act, in accordance with  
 21 language from the *Shelby County* decision. Congress  
 22 reaffirms that the barriers faced by too many voters  
 23 across this Nation when trying to cast their ballot  
 24  
 25

1 immediate implementation of many of the provisions  
 2 set forth in the Voting Rights Act.

(10) The 118th Congress will continue to work to  
 3 provide further evidence that systemic voter dis-  
 4 crimination and institutional obstacles to voter ac-  
 5 cess exist across the country, and to  
 6 ensure that all voters in the Nation are able to  
 7 exercise their right to vote in accordance with the  
 8 provisions of the Voting Rights Act.

(11) As of late February 2021, 47 States had  
 9 implemented, pending, or agreed upon 150 laws to re-  
 10 strict voting access that, primarily, limit mail voting  
 11 access, impose additional ID requirements, block  
 12 voter registration opportunities, and/or make more  
 13 restrictive voter roll purges.

(12) Purposes.—The purposes of this Act are to:

14 (1) know  
 15 (1) To improve access to the ballot for all citi-  
 16 zens.

17 (2) To establish procedures by which States  
 18 and localities, in accordance with past actions, vol-  
 19 untarily, and in accordance with past actions, vol-  
 20 untarily, and in accordance with past actions, vol-  
 21 untarily, and in accordance with past actions, vol-  
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## **Sec. 2. Organization of Act into divisions; table of contents**

### **(a) Divisions.—**

This Act is organized into divisions as follows:

- (1) Division A—Voting.
- (2) Division B—Campaign Finance.
- (3) Division C—Ethics.

Today's briefing will only discuss Division A which is the elections portion of HR 1.

Items in Division A that we will not discuss today:

- Provisions not specific to New Hampshire such as voting provisions for U.S. Territories, Tribal lands and the District of Columbia.
- Redistricting of Congressional Districts.
- Provisions of HR 1 already practiced in New Hampshire such as election day voter registration.
- Provisions of HR 1 that New Hampshire is already working toward such as electronic poll books, on-line voter registration portals, and increased accessible voting opportunities for individuals with disabilities.

## Section 3 (3)(C), page 20

- (C)As a result, Congress finds that it has the authority pursuant to section 5 of the Fourteenth Amendment to protect the right to vote. Congress also finds that States and localities have eroded access to the right to vote through restrictions on the right to vote including excessively onerous voter identification requirements, burdensome voter registration procedures, voter purges, limited and unequal access to voting by mail, polling place closures, unequal distribution of election resources, and other impediments.

# Section 4 (a), page 23

- 4. Standards for judicial review

- (a) In general

- For any action brought for declaratory or injunctive relief to challenge, whether facially or as-applied, the constitutionality or lawfulness of any provision of this Act or any amendment made by this Act or any rule or regulation promulgated under this Act, the following rules shall apply:
- (1) The action shall be filed in the United States District Court for the District of Columbia and an appeal from the decision of the district court may be taken to the Court of Appeals for the District of Columbia Circuit. These courts, and the Supreme Court of the United States on a writ of certiorari (if such a writ is issued), shall have exclusive jurisdiction to hear such actions.

## Section 1012 (d), page 55

- (d) Treatment of individuals under 18 years of age
- A State may not refuse to treat an individual as an eligible individual for purposes of this part on the grounds that the individual is less than 18 years of age at the time a contributing agency receives information with respect to the individual, so long as the individual is at least 16 years of age at such time. Nothing in the previous sentence may be construed to require a State to permit an individual who is under 18 years of age at the time of an election for Federal office to vote in the election.



# Section 1013 (b), page 57

- (b) Requirements for contributing agencies
- **(1) Instructions on automatic registration**
- With each application for service or assistance, and with each related recertification, renewal, or change of address, or, in the case of an institution of higher education, with each registration of a student for enrollment in a course of study, each contributing agency that (in the normal course of its operations) requests individuals to affirm United States citizenship (either directly or as part of the overall application for service or assistance) shall inform each such individual who is a citizen of the United States of the following:
  - (A) Unless that individual declines to register to vote, or is found ineligible to vote, the individual will be registered to vote or, if applicable, the individual's registration will be updated.

## Section 1013 (b)(2), page 58

- (2) Opportunity to decline registration required
- Except as otherwise provided in this section, each contributing agency shall ensure that each application for service or assistance, and each related recertification, renewal, or change of address cannot be completed until the individual is given the opportunity to decline to be registered to vote.

# Section 1013 (b)(3), page 58

- (3) Information transmittal
- Upon the expiration of the 30-day period which begins on the date a contributing agency as described in paragraph (1) informs an individual of the information described in such paragraph, unless the individual has declined to be registered to vote or informs the agency that they are already registered to vote, each contributing agency shall electronically transmit to the appropriate State election official, in a format compatible with the statewide voter database maintained under section 303 of the Help America Vote Act of 2002 (52 U.S.C. 21083), the following information:
  - (A) The individual's given name(s) and surname(s).
  - (B) The individual's date of birth.
  - (C) The individual's residential address.
  - (D) Information showing that the individual is a citizen of the United States.
  - (E) The date on which information pertaining to that individual was collected or last updated.
  - (F) If available, the individual's signature in electronic form.

# Section 1013 (e)(2), page 62

- (2) **Federal agencies**
- In each State, each of the following agencies of the Federal Government shall be treated as a contributing agency with respect to individuals who are residents of that State (except as provided in subparagraph (C)):
- (A) The Social Security Administration, the Department of Veterans Affairs, the Defense Manpower Data Center of the Department of Defense, the Employee and Training Administration of the Department of Labor, and the Center for Medicare & Medicaid Services of the Department of Health and Human Services.
- (B) The Bureau of Citizenship and Immigration Services, but only with respect to individuals who have completed the naturalization process.
- (C) In the case of an individual who is a resident of a State in which an individual disenfranchised by a criminal conviction under Federal law may become eligible to vote upon completion of a criminal sentence or any part thereof, or upon formal restoration of rights, the Federal agency responsible for administering that sentence or part thereof (without regard to whether the agency is located in the same State in which the individual is a resident), but only with respect to individuals who have completed the criminal sentence or any part thereof.
- (D) Any other agency of the Federal Government which the State designates as a contributing agency, but only if the State and the head of the agency determine that the agency collects information sufficient to carry out the responsibilities of a contributing agency under this section.

# Section 1015 (b), page 69

- (b) Limits on use of automatic registration
- The automatic registration of any individual or the fact that an individual declined the opportunity to register to vote or did not make an affirmation of citizenship (including through automatic registration) under this part may not be used as evidence against that individual in any State or Federal law enforcement proceeding, and an individual's lack of knowledge or willfulness of such registration may be demonstrated by the individual's testimony alone.

# Section 1017, page 78

- **1017. Payments and grants**
- (a) In general
- The Election Assistance Commission shall make grants to each eligible State to assist the State in implementing the requirements of this part (or, in the case of an exempt State, in implementing its existing automatic voter registration program).
- (b) Eligibility; application
- A State is eligible to receive a grant under this section if the State submits to the Commission, at such time and in such form as the Commission may require, an application containing—
- (1) a description of the activities the State will carry out with the grant;
- (2) an assurance that the State shall carry out such activities without partisan bias and without promoting any particular point of view regarding any issue; and
- **(3) such other information and assurances as the Commission may require.**

# Section 1201 (b), page 132

- (b) **Prohibition Against Voter Caging**
- No State or local election official shall prevent an individual from registering or voting in any election for Federal office, or permit in connection with any election for Federal office a formal challenge under State law to an individual's registration status or eligibility to vote, if the basis for such decision is evidence consisting of—
  - (1) a voter caging document or voter caging list;
  - (2) an unverified match list;
  - (3) an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material to an individual's eligibility to vote under section 2004 of the Revised Statutes, as amended (52 U.S.C. 10101(a)(2)(B)); or
  - (4) any other evidence so designated for purposes of this section by the Election Assistance Commission,
- except that the election official may use such evidence if it is corroborated by independent evidence of the individual's ineligibility to register or vote.

# Section 1201 (c)(2), page 132

- (2) Prohibition on challenges on or near date of election
- No person, other than a State or local election official, shall be permitted—
- (A) to challenge an individual's eligibility to vote in an election for Federal office on Election Day, or
- (B) to challenge an individual's eligibility to register to vote in an election for Federal office or to vote in an election for Federal office less than 10 days before the election unless the individual registered to vote less than 20 days before the election.



# Amends HAVA Section 306 – Early Voting

Page 183

- **306.Early voting**
- (a) Requiring Voting Prior to Date of Election
- (1) In general
- Each State shall allow individuals to vote in an election for Federal office during an early voting period which occurs prior to the date of the election, in the same manner as voting is allowed on such date.
- (2) Length of period
- The early voting period required under this subsection with respect to an election shall consist of a period of consecutive days (including weekends) which begins on the 15th day before the date of the election (or, at the option of the State, on a day prior to the 15th day before the date of the election) and ends on the date of the election.

# Amends HAVA Section 306 – Early Voting

Page 183

- (b) Minimum early voting requirements
- Each polling place which allows voting during an early voting period under subsection (a) shall—
  - (1) allow such voting for **no less than 10 hours on each day**;
  - (2) have uniform hours each day for which such voting occurs; and
  - (3) allow such voting to be held for some period of time prior to 9:00 a.m. (local time) and some period of time after 5:00 p.m. (local time).

# Amends HAVA Section 306 – Early Voting

Page 183

- (c) Location of polling places
- (1) Proximity to public transportation
- To the greatest extent practicable, a State shall ensure that each polling place which allows voting during an early voting period under subsection (a) is located within walking distance of a stop on a public transportation route.
- (2) Availability in rural areas
- The State shall ensure that polling places which allow voting during an early voting period under subsection (a) will be located in rural areas of the State, and shall ensure that such polling places are located in communities which will provide the greatest opportunity for residents of rural areas to vote during the early voting period.
- (3) College campuses
- The State shall ensure that polling places which allow voting during an early voting period under subsection (a) will be located on campuses of institutions of higher education in the State.

# Amends HAVA Section 306 – Early Voting

Page 184

- (e) Ballot processing and scanning requirements
- (1) In general
  - The State shall begin processing and scanning ballots cast during in-person early voting for tabulation at least 14 days prior to the date of the election involved.
- (2) Limitation
  - Nothing in this subsection shall be construed to permit a State to tabulate ballots in an election before the closing of the polls on the date of the election.
- (f) Effective date
  - This section shall apply with respect to the regularly scheduled general election for Federal office held in November 2022 and each succeeding election for Federal office.

# Amends HAVA Section 307 – Vote by Mail

Page 186

- **307.Promoting ability of voters to vote by mail**
- (a)Uniform availability of absentee voting to all voters
- (1)In general
- If an individual in a State is eligible to cast a vote in an election for Federal office, the State may not impose any additional conditions or requirements on the eligibility of the individual to cast the vote in such election by absentee ballot by mail.

# Amends HAVA Section 307 (c)(1)(A)

Page 194

- c)Transmission of applications, ballots, and balloting materials to voters
- (1)Automatic transmission of absentee ballot applications by mail
- (A)Transmission of applications
- Not later than 60 days before the date of an election for Federal office, **the appropriate State or local election official shall transmit by mail an application for an absentee ballot for the election to each individual who is registered to vote in the election,** or, in the case of any State that does not register voters, all individuals who are in the State's central voter file (or if the State does not keep a central voter file, all individuals who are eligible to vote in such election).

# Amends HAVA Section 307 (c)(2)(D)

Page 197

- **(D)Application for all future elections**
- At the option of an individual, a State shall treat the individual's application to vote by absentee ballot by mail in an election for Federal office as an application for an absentee ballot by mail in all subsequent Federal elections held in the State.

# Amend HAVA Section 307 (e), Page 198

- (e)Uniform deadline for acceptance of mailed ballots
- (1)In General
- A State may not refuse to accept or process a ballot submitted by an individual by mail with respect to an election for Federal office in the State on the grounds that the individual did not meet a deadline for returning the ballot to the appropriate State or local election official if—
- (A)the ballot is postmarked or otherwise indicated by the United States Postal Service to have been mailed on or before the date of the election, or has been signed by the voter on or before the date of the election; and
- (B)the ballot is received by the appropriate election official prior to the expiration of the 10-day period which begins on the date of the election.



# Amends HAVA Section 307 (f), Drop Off

Page 199

- **f)Alternative methods of returning ballots**
- (1)In general
- In addition to permitting an individual to whom a ballot in an election was provided under this section to return the ballot to an election official by mail, the State shall permit the individual to cast the ballot by delivering the ballot at such times and to such locations as the State may establish, including—
- (A)permitting the individual to deliver the ballot to a polling place on any date on which voting in the election is held at the polling place; and
- (B)permitting the individual to deliver the ballot to a designated ballot drop-off location, a tribally designated building, or the office of a State or local election official.

# Amends HAVA Section 307 (f)(2), Designee

Page 199

- (2) Permitting voters to designate other person to return ballot
- The State—
- (A) shall permit a voter to designate any person to return a voted and sealed absentee ballot to the post office, a ballot drop-off location, tribally designated building, or election office so long as the person designated to return the ballot does not receive any form of compensation based on the number of ballots that the person has returned and no individual, group, or organization provides compensation on this basis; and
- (B) may not put any limit on how many voted and sealed absentee ballots any designated person can return to the post office, a ballot drop off location, tribally designated building, or election office.

# Amends HAVA Section 309 – Postage

Page 207

- **309. Prepayment of postage on return envelopes for voting materials**
- (a) Provision of return envelopes
- The appropriate State or local election official shall provide a self-sealing return envelope with—
- (1) any voter registration application form transmitted to a registrant by mail;
- (2) any application for an absentee ballot transmitted to an applicant by mail; and
- (3) any blank absentee ballot transmitted to a voter by mail.

# Amends HAVA Section 310 (c), Page 269

- (c) Minimum hours of operation outside of typical working hours
- Each State shall establish hours of operation for all polling places in the State on the date of any election for Federal office held in the State such that no polling place is open for less than a total of 4 hours outside of the hours between 9:00 a.m. and 5:00 p.m. in time zone in which the polling place is located.

# Amends HAVA Section 311, Page 271

- 311. Use of secured drop boxes for voted absentee ballots
- (a) **Requiring use of drop boxes**
- In each county in the State, each State shall provide in-person, secured, and clearly labeled drop boxes at which individuals may, at any time during the period described in subsection (b), drop off voted absentee ballots in an election for Federal office.
- (b) Minimum period for availability of drop boxes
- The period described in this subsection is, with respect to an election, the period which begins 45 days before the date of the election and which ends at the time the polls close for the election in the county involved.

# Amends HAVA 312, Page 277

- **312. Prohibiting States from restricting curbside voting**
- (a) Prohibition
- A State may not—
- (1) prohibit any jurisdiction administering an election for Federal office in the State from utilizing curbside voting as a method by which individuals may cast ballots in the election; or
- (2) impose any restrictions which would exclude any individual who is eligible to vote in such an election in a jurisdiction which utilizes curbside voting from casting a ballot in the election by the method of curbside voting.
- (b) Effective date
- This section shall apply with respect to the regularly scheduled general election for Federal office held in November 2022 and each succeeding election for Federal office.

# Section 1909, Page 278

- **1909.Election Day as legal public holiday**
- (a)In general
- Section 6103(a) of title 5, United States Code, is amended by inserting after the item relating to Columbus Day the following:
- Election Day, the Tuesday next after the first Monday in November of every even-numbered year.
- .
- (b)Effective date
- The amendment made by subsection (a) shall apply with respect to the regularly scheduled general elections for Federal office held in November 2022 or any succeeding year.

# Section 1910A, Page279

- **1910A.Study on ranked-choice voting**
- (a)Study
- The Comptroller General shall conduct a study on the implementation and impact of ranked-choice voting in States and localities with a focus on how to best implement a model for Federal elections nationwide. The study shall include the impact on voter turnout, negative campaigning, and who decides to run for office.
- (b)Report
- Not later than 1 year after the date of enactment of this section, the Comptroller General shall transmit to Congress a report on the study conducted under subsection (a), including any recommendations on how to best implement a ranked-choice voting for Federal elections nationwide.



# Amends HAVA Section 313, Page 296

- 313.Requirements for websites of election officials
- (a)Accessibility
- Each State and local election official shall ensure that the official public website of the official is fully accessible for individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation as the website provides for other individuals.

# Amends NVRA Section 8A, Page 410

- **8A. Conditions for removal of voters from official list of registered voters**
- (a) Verification on basis of objective and reliable evidence of ineligibility
- (1) Requiring verification
- Notwithstanding any other provision of this Act, a State may not remove the name of any registrant from the official list of voters eligible to vote in elections for Federal office in the State unless the State verifies, on the basis of objective and reliable evidence, that the registrant is ineligible to vote in such elections.
- (2) Factors not considered as objective and reliable evidence of ineligibility
- For purposes of paragraph (1), the following factors, or any combination thereof, shall not be treated as objective and reliable evidence of a registrant's ineligibility to vote:
- (A) The failure of the registrant to vote in any election.
- (B) The failure of the registrant to respond to any notice sent under section 8(d), unless the notice has been returned as undeliverable.
- (C) The failure of the registrant to take any other action with respect to voting in any election or with respect to the registrant's status as a registrant.