

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW HAMPSHIRE**

NEW HAMPSHIRE YOUTH MOVEMENT,

Plaintiff,

v.

DAVID M. SCANLAN, in his official capacity
as New Hampshire Secretary of State,

Defendant.

Consolidated Cases

Case No. 1:24-cv-00291-SE-TSM

COALITION FOR OPEN DEMOCRACY, *et*
al.,

Plaintiffs,

v.

DAVID M. SCANLAN, in his official capacity as
New Hampshire Secretary of State, *et al.*,

Defendants.

**THE OPEN DEMOCRACY PLAINTIFFS'
PROPOSED FINDINGS OF FACT**

Coalition for Open Democracy, League of Women Voters of New Hampshire, The Forward Foundation, Miles Borne, Alexander Muirhead, and Lila Muirhead (the “Open Democracy Plaintiffs”) respectfully submit these proposed findings of fact.¹

I. BACKGROUND

A. Registering & Voting Prior to HB 1569

1. Even before HB 1569, New Hampshire had one of the most restrictive voting regimes in the country, as it does not have online registration or early voting, allows mail registration and absentee voting only under limited circumstances, restricts who may return an absentee voter’s ballot, and prohibits registration drives. PX 18 (Mayer Expert Report) at 5. It is also one of only a few states that do not have provisional balloting. Feb. 20 AM Tr. 48:21–23. A voter also may be removed from the voter rolls because of inactivity. *Id.* at 17. New Hampshire conducts voter list maintenance every 10 years (in each year ending in 1), removing registrants who have not voted in the previous 4 years and do not respond to a written notice within 30 days. *Id.* In 2021, per the 2022 EAVS, New Hampshire removed 195,165 registrants from the voter rolls using its 10-year maintenance process; per SVRS data, 197,259 registrants were removed in the 2021 10-year maintenance process. *Id.* at 20.

2. During the period between 2016 and 2024, 420,374 New Hampshire registrants registered to vote for the first time. PX 18 at 19. Between 2016 and 2024, 347,199 New Hampshire voters registered on election day in general elections, and 175,856 voters relied on election day registration in primary elections. *Id.*²

¹ The Open Democracy Plaintiffs join and incorporate herein the proposed findings of fact put forward by the New Hampshire Youth Movement Plaintiff.

² These totals include those registering for the first time and those renewing their registration for reasons such as a new domicile or prior removal.

3. RSA 654:12 requires individuals registering to vote to provide proof of citizenship to register to vote. *See* DX AAA1. Prior to HB 1569, the statute permitted applicants to submit “as proof of citizenship: the applicant’s birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter affidavit, a sworn statement on the voter registration form used starting 30 days before an election and on election day, or any other reasonable documentation which indicates the applicant is a United States citizen.” *Id.* (quoting RSA 654:12(I)(a) (effective through Nov. 10, 2024)).

4. Accordingly, before HB 1569, registrants who lacked documentary proof of citizenship (“DPOC”) could satisfy the statute by completing a Qualified Voter Affidavit (“QVA”). *See* DX SS at 33 (“Best practice is to have all applicants who do not have proof of citizenship complete a qualified voter affidavit.”); *see also id.* at 314 (QVA). By signing the QVA, applicant swore—“under the penalties for voting fraud”—that he or she was qualified to vote. *See id.* at 314.

5. Data in the Statewide Voter Registration System (the “SVRS”), which provides an undercount of the number of voters who attested to their citizenship using a QVA, indicates that between April 29, 2024 (when the SVRS was implemented), and November 10, 2024, at least 14,306 voters had relied on a QVA for citizenship when registering, which represents 16.8% of the 85,099 registrations that occurred during that time period. PX 18 at 21–22.

6. RSA 659:27 permits the right of any voter to cast a ballot in a given election to be challenged by any registered voter of the same town or ward, election official, challenger appointed in writing by the political party committees, or the Attorney General. DX AAA1 at 43. To initiate a challenge, a challenger must complete an “Asserting a Challenge” form and sign it under oath. DX SS at 79, 275, 276; *see id.* at 317–18 (“Asserting a Challenge” form).

7. If the challenge concerns age, citizenship, or domicile, the Supervisors of the Checklist determine whether the challenged voter is qualified. *Id.* at 80, 277. In the case of citizenship, a voter could establish their qualifications by presenting documentary proof of citizenship. Challenges on any other ground are decided by the moderator. *Id.*

8. Prior to HB 1569, if a challenge was deemed well-grounded, RSA 659:27 permitted the challenged individual to vote if he or she completed and swore to a Challenged Voter Affidavit (“CVA”), attesting to their eligibility. DX AAA1 at 43 (citing RSA 659:27(II) (effective through Nov. 11, 2024)). The CVA had to be sworn before an election officer, notary public, justice of the peace, or any person authorized by law to administer oaths. DX SS at 277. If the challenge was not deemed well-grounded, the challenged person could vote without completing the CVA. *Id.* at 80. As Deputy O’Donnell testified, the CVA “operated as a safeguard against the erroneous deprivation of that voter’s voting right.” Feb. 18 AM Tr. 20:16–18.

B. HB 1569

9. HB 1569 was passed by the New Hampshire House of Representatives on March 14, 2024, and by the New Hampshire Senate on May 23, 2024. Dkt. 132, ¶ 45.

10. On September 12, 2024, Governor Sununu signed HB 1569, and it went into effect on November 11, 2024. *Id.* ¶ 46.

11. HB 1569 changed the documentary requirements for registering to vote and responding to voter eligibility challenges at the polls. *See* PX 1 (HB 1569).

12. HB 1569 eliminated the QVA. The statute repealed and reenacted N.H. Rev. Stat. Ann. § 654:12, removing the Qualified Voter Affidavit from the list of permissible proofs of citizenship. *See* DX AAA1 at 36. As reenacted, RSA 654:12(I)(a) permitted registrants to establish citizenship only through “the applicant’s birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, or any other reasonable documentation which indicates the

applicant is a United States citizen.” *Id.* (quoting RSA 654:12(I)(a) (effective through Sep. 29, 2025)).

13. As a result, following HB 1569, all New Hampshire residents who (1) register to vote for the first time, (2) re-register after having been removed from the voter rolls at a polling place that cannot connect to the statewide voter database on election day, (3) update their registration information at a polling place that cannot connect to the statewide voter database on election day, or (4) face a challenge to their voting eligibility at the polling place on election day must show a birth certificate, U.S. passport, naturalization papers, or “other reasonable documentation” to prove U.S. citizenship. DX AAA1 at 36; *see* PX 1 at 1.

14. “Other reasonable documentation” is not defined in the statute. *See generally* PX 1. Instead, the statute simply states that “the evidence described or presumptions established may be defeated by evidence that it is more likely than not that the applicant is not qualified as a voter.” DX AAA1 at 37 (quoting RSA 654:12(II)). The January 23, 2025, guidance refers officials to the Election Procedure Manual for “further explanation and images of common documents that prove United States citizenship.” PX 18 at 27; DX RR (January 23, 2025 guidance) at 4. But the Election Procedure Manual simply reiterates that passports, passport cards, or U.S. birth certificates qualify as proof of citizenship, and that New Hampshire residents born abroad to at least one U.S. citizen parent can prove citizenship with a U.S. State Department Consular Report of Birth Abroad (FS-240) or a Certificate of Citizenship for someone born abroad but already in the United States. PX 18 at 27; *see* DX SS (Election Procedure Manual) at 340–44.

15. HB 1569 also eliminated the CVA procedure for resolving challenges to a voter’s eligibility. DX AAA1 at 43. The statute repealed and reenacted RSA 659:27. As reenacted, the statute provides: “If the moderator determines that it is more likely than not that the challenge is

well grounded, the moderator shall not receive the vote of the person so challenged.” *Id.* (quoting RSA 659:27(II) (effective November 11, 2024)).

16. HB 1569 repealed and re-enacted RSA 659:27-a. As re-enacted, that provision states: “A person aggrieved by the moderator’s decision on a voter challenge may obtain immediate review of the decision in the superior court pursuant to RSA 654:12.” *Id.* (RSA 659:27-a.II(b) (effective Nov. 11, 2024)).

C. HB 464

17. On August 1, 2025, Governor Ayotte signed House Bill 464. Dkt. 132, ¶ 47; *see generally* PX 3 (HB 464). Sections 9 and 10 of HB 464 became effective on December 31, 2025, Section 5 became effective February 1, 2026, and the remainder of the bill took effect on September 30, 2025. Dkt. 132, ¶ 47.

18. As relevant here, HB 464 amended RSA 654:12 (as re-enacted by HB 1569) to add “proof that the applicant was previously . . . registered to vote in a different town or ward in New Hampshire” to the list of acceptable proofs of citizenship. DX AAA2 at 12 (quoting RSA 654:12(I)(a) (effective Sep. 30, 2025)).

19. As amended, RSA 654:12(I)(a) provides: “citizenship: the applicant’s birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, proof that the applicant was previously or is currently registered to vote in a different town or ward in New Hampshire, or any other reasonable documentation which indicates the applicant is a United States citizen.” *Id.* (quoting RSA 654:12(I)(a) (effective Sep. 30, 2025)).

20. HB 464 also created a new provision, codified at RSA 654:12(VI). DX AAA1 at 12 (quoting RSA 654:12(VI) (effective Feb. 1, 2026)). That provision states:

The department of state shall provide access to data from centralized voter registration records, records from the department of safety, and New Hampshire vital records provided in accordance with RSA 654:45 to assist voters in providing

proof of citizenship, age, domicile, and identity to the city and town clerks. The secretary of state shall work with the city and town clerks to ensure access on election day at the polling location. If proof of age, citizenship, domicile, or identity information of a voter is provided pursuant to this section, it shall satisfy that registration requirement for that qualification. Absence of data shall not disqualify a person. It shall be the applicant's responsibility to provide appropriate additional proof of their qualifications as required by this chapter.

D. Authority of the Secretary of State & Attorney General

21. The Secretary of State, David Scanlan, is a constitutional officer and the state's chief elections officer. N.H. Const. pt. II, art. 67; RSA 652:23. Dkt. No. 132, ¶ 48.

22. The Attorney General, John Formella, is the state's chief legal officer and responsible for enforcing state election laws. RSA 7:6; RSA 7:6-c. *Id.* ¶ 49.

II. EXPERTS

A. Dr. Mayer

23. Plaintiffs presented the expert testimony of Dr. Kenneth Mayer, who has spent over 30 years studying election administration, a topic which encompasses “the practices and requirements of the actual implementation of elections by either state or local officials, the effect of those practices on the ability of eligible individuals to register and vote, the turnout implications of various practices, and the underlying data that is used in the context of basically administering an election.” Feb. 10 AM Tr. 79:9-14. Dr. Mayer's work on election administration also includes “data and voter registration files, underlying data, for example, that might reflect the forms of ID that people have as reflected in other databases such as Department of Transportation or DMV files” and “voter confidence.” *Id.* at 17-22.

24. Dr. Mayer holds a PhD in political science from Yale University and was a “professor of political science at the University of Wisconsin Madison from 1989 to May of 2024.” *Id.* 78:22-23; PX 18 at Appendix B. Dr. Mayer has also done work for “the U.S. Department of Justice in 2012 to analyze claims that were being made by the state of Florida that there were

noncitizens registered to vote based on data in driver’s license files” and “was part of a research group retained by the -- what was then called the Government Accountability Board, which is the statewide election administration agency in Wisconsin, to conduct analysis of implementation of Help America Vote Act requirements and to survey local election officials.” Feb. 10 AM 79:83–80:13. In 2022, he “chaired a county commission on election security in Dane County, Wisconsin, and we produced a report on the physical security of election infrastructure.” *Id.* Dr. Mayer is extensively published on the topic of election administration and has authored numerous articles published in peer-reviewed journals. PX 18 at Appendix B.

25. Dr. Mayer has served as an expert witness in 43 other cases, with courts frequently relying on his opinions. Feb. 10 AM Tr. 80:25–81:15. No court has ever excluded Dr. Mayer’s expert testimony. *Id.*

26. Dr. Mayer was retained by the Open Democracy Plaintiffs to “provide empirical analysis about the effects of HB 1569 and HB [464].” *Id.* 77:15–17. As part of his analysis, Dr. Mayer reviewed many pieces of relevant data and source material, including but not limited to, the text of the relevant laws, data derived from the Statewide Voter Registration System for New Hampshire, copies of QVAs submitted in certain cities in New Hampshire, survey data on possession of documentary proof of citizenship, and materials and guidance concerning voting and registering in the state of New Hampshire. PX 18 at 2–3. In forming his opinion, Dr. Mayer applied the Cost of Voting Model, a framework used universally by those studying elections and voting and election administration to consider how the costs of voting, such as “the opportunity cost, time cost, monetary cost,” impact the likelihood that an individual will vote. Feb. 10 AM Tr. 87:10–22; PX 18 at 5–7; PX 22 at 8–9. “[T]he general framework [of the Cost of Voting Model] generates

hypotheses that as the cost of voting goes up, the likelihood that an individual votes goes down because of an inability to overcome the cost of voting.” Feb. 10 AM Tr. 87:19–22.

27. The parties have stipulated to Dr. Mayer’s qualifications as an expert on election administration, which includes database analysis and voter confidence, as well as to the admission of his expert reports. PX 18; PX 22. The Court finds him qualified to render the opinions provided at trial.

28. Based on Dr. Mayer’s relevant experience studying and working in election administration, the detailed findings in his reports, and his testimony and demeanor at trial, the Court finds Dr. Mayer to be a highly credible witness.

B. Dr. Minnite

29. Plaintiffs presented the expert testimony of Dr. Lorraine Minnite, who has extensively studied the incidence of voter fraud in American elections, including specifically in New Hampshire, for 25 years. Feb. 13 AM Tr. 22:4–6. Dr. Minnite is a professor of public policy and administration at Rutgers University and has a Ph.D. in political science. Feb. 13 AM Tr. 22:4–9; PX 20 at 4. Her peer-reviewed publication, *The Myth of Voter Fraud* (2010), was the first book to attempt to measure voter fraud in U.S. elections and encompassed a study of New Hampshire in particular. Feb. 13 AM Tr. 22:17–23:1, 35:18–36:14; PX 20 at 4–5. Dr. Minnite later re-examined voter fraud in New Hampshire in 2017 as an expert witness in *League of Women Voters, New Hampshire v. Gardner*, No. 226-2017-CV-0043 (N.H. Sup. Ct. Apr. 9, 2020). Feb. 13 AM Tr. 35:18–36:14. In this case, Dr. Minnite reviewed nearly 3,000 additional records, primarily consisting of official government documents, in order to identify every known case of voter fraud or other voting by non-U.S. citizens in New Hampshire. *Id.* 41:19–42:4.

30. Dr. Minnite has served as an expert witness in 14 other cases, and her analysis of voter fraud and voting by noncitizens has been relied upon by numerous courts. *See, e.g., Fish v.*

Kobach, 309 F. Supp. 3d 1048, 1084 (D. Kan. 2018) (finding Dr. Minnite to be “an objective expert witness, who provided compelling testimony about Defendant’s claims of noncitizen registration”), *aff’d sub nom. Fish v. Schwab*, 957 F.3d 1105 (10th Cir. 2020).

31. The parties have stipulated to Dr. Minnite’s qualifications as an expert on the subjects of voter fraud, political science, and public policy, as well as to the admission of her expert report, PX 20, and the Court finds her qualified to render the opinions she provided at trial. *See* Feb. 13 AM Tr. 24:24–25:12.

32. Based on Dr. Minnite’s experience studying voter fraud, including specifically in New Hampshire, her exhaustive review of official and public records, her detailed findings, and her testimony and demeanor at trial, the Court finds Dr. Minnite to be a highly credible witness.

C. Dr. Herron

33. Plaintiffs incorporate by reference the New Hampshire Youth Movement’s discussion of Dr. Herron’s qualifications in their Proposed Findings of Fact.

III. IMPACT OF QVA REMOVAL

A. Harm to Individual Plaintiffs

34. Plaintiff Miles Borne was born in 2007 in Portsmouth, New Hampshire. Parties’ Stipulations (Dkt. 132) ¶¶ 1–2. He graduated high school on June 6, 2025, and now attends Middlebury College in Vermont; and he lives at his parent’s house in Rye, New Hampshire. Parties’ Stipulations ¶ 3.

35. Borne currently possesses both a U.S. passport and a birth certificate. They are both kept in a fireproof box where he lives in Rye. Parties’ Stipulations ¶ 4. Borne’s birth certificate was issued on January 26, 2009 and he and his parents have maintained possession of this document since that time, approximately sixteen (16) years. Parties’ Stipulations ¶ 5. Borne’s passport was issued on June 21, 2022 and expires on June 20, 2027. Parties’ Stipulations ¶ 6. He

also holds a New Hampshire driver's license that expires when he turns twenty-one (in the year 2028). Parties' Stipulations ¶ 7. Borne's driver's license is a New Hampshire Real ID. Parties' Stipulations ¶ 8.

36. Borne registered to vote in 2025, on the day of his 18th birthday. Parties' Stipulations ¶ 9.

37. Although Borne testified that he does not know what the future will hold, he plans to vote in future elections, including voting in the November 2026 election in New Hampshire by absentee ballot. Parties' Stipulations ¶ 14.

38. Both Lila Muirhead ("L.M.") and Alexander Muirhead ("A.M.") were born in 2008 in Austin, Texas and are presently seventeen (17) years old. Parties' Stipulations ¶ 15. Both A.M. and L.M. will turn eighteen (18) in 2026, months before the state primary and election. Parties' Stipulations ¶ 22. They live in Hanover, New Hampshire with their mother and father (next friend, Russell Muirhead). Parties' Stipulations ¶ 16.

39. Both A.M. and L.M. currently attend Hanover High School; A.M. anticipates graduating in June of 2026, while L.M. anticipates graduating early in January of 2026. Parties' Stipulations ¶ 17.

40. A.M. does not have any summer plans after graduation and anticipates attending Wesleyan University in Middletown, Connecticut. Parties' Stipulations ¶ 18. Wesleyan is about a three-hour drive from his home in Hanover, New Hampshire. Parties' Stipulations ¶ 19.

41. After graduating in January, L.M. plans on working in Hanover and taking time off to travel to Spain and Jackson Hole, Wyoming. Parties' Stipulations ¶ 20. L.M. does not have any summer plans, and she plans to attend Colorado College in Colorado Springs in the fall of 2026. Parties' Stipulations ¶ 21.

42. A.M. was issued a New Hampshire driver's license. He brought his birth certificate on the day he obtained it. Parties' Stipulations ¶ 23. It took three-and-a-half hours for A.M. to fulfill all of the obligations associated with obtaining his Real ID driver's license. Parties' Stipulations ¶ 24. On the date of his deposition, A.M. had lost his wallet and license for about a week. Parties' Stipulations ¶ 44.

43. As for L.M, she missed an entire day of school to obtain her driver's license—travelling to both Newport and Manchester from Hanover—an experience that lasted well over three hours. Parties' Stipulations ¶ 25. She cannot specifically recall what she brought with her that day, but she does recall gathering documents beforehand and bringing them with her. Parties' Stipulations ¶ 26.

44. A.M. is worried that his father may lose his passport or birth certificate. Parties' Stipulations ¶ 30.

45. A.M. plans to register to vote in person when he turns eighteen (18), but he has not thought about where he will register. Parties' Stipulations ¶ 32. He does not presently have a plan to register to vote, he expects to make a plan when he turns eighteen (18). Parties' Stipulations ¶ 35.

46. He expects to be living in Hanover when he graduates high school and will turn eighteen (18) before then. Parties' Stipulations ¶ 33.

47. In September 2026, although he expects he will be living in Middletown, Connecticut, he anticipates maintaining his domicile in New Hampshire for voting purposes and has no plans to vote in any other place. Parties' Stipulations ¶ 36. When asked what elections he plans to vote in, he stated that he has plans "to vote in the ones that I am able to." Parties' Stipulations ¶ 34.

48. He believes he will need assistance from his parents in finding his forms of identification in order to register to vote, “because those [documents] are kept with my parents who are often kind of in charge of that sort of stuff.” Parties’ Stipulations ¶ 37.

49. L.M. plans to register to vote primarily to enable her to vote in the federal elections. Parties’ Stipulations ¶ 38. She plans to register in Hanover in “late spring or early summer,” before the fall national election in 2026. Parties’ Stipulations ¶ 39. Other than this, she has no precise plan on when and where she will actually register to vote. Parties’ Stipulations ¶ 40.

50. L.M. believes that, in order to register to vote, she will need help from her mom to obtain the necessary documents and ask for help from her dad to go over the procedural aspect of registering. Parties’ Stipulations ¶ 40.

B. Harm to Organizations

i. ***Open Democracy***

51. Constance Olivia Zink, executive director of the Coalition of Open Democracy (“Open Democracy”), testified on behalf of Open Democracy. Ms. Zink became the executive director in April 2016, previously serving as a program coordinator at Open Democracy. Zink Tr. (Dkt. 143) 5:4–6. As executive director, Ms. Zink manages the staff, helps with fundraising, and oversees the organization’s “day-to-day operations.” *Id.* 5:9–12.

52. Open Democracy’s “core mission” is “political equality for all.” *Id.* 10:10. To accomplish this mission, Open Democracy engages in several core activities, including, but not limited to, “campaign finance research, training, and advocacy”; implementation of a “high school voter registration program”; “poll observer[] and poll worker recruitment”; and “general voter education.” *Id.* 10:20–11:10. Open Democracy operates throughout the State of New Hampshire in order to achieve its mission, including by conducting voter registration activities and recruiting poll observers across the state. Feb. 9 AM Tr. 11:11–12:7; 23:4–9; 31:15–25.

53. Through its high school voter registration program, Open Democracy seeks to have “all 18 year olds in the state of New Hampshire . . . register to vote,” regardless of their party affiliation. *Id.* 11:14–18; *see also* Feb. 11 AM Tr. (Dkt. 154) 46:5–8 (“[W]e just try to get high school seniors or eligible voters registered to vote and make it a rite of passage and a tradition at these schools.”). Open Democracy chose to target 18-year-olds because the organization believed there was a “gap[]” there with respect to voter education. Zink Tr. 11:24–12:2; *see* Feb. 11 AM Tr. 46:14–47:10 (testimony from Open Democracy’s high school voter registration coordinator regarding high school students’ limited understanding of “what’s needed of them in order to register to vote”).

54. To facilitate 18-year-olds registering to vote, Open Democracy hosts high school registration drives. Open Democracy began hosting high school registration drives in 2022 after learning that only 8% of 18-year-olds in New Hampshire were registered to vote. Zink Tr. 12:11–22. When Open Democracy started hosting high school registration drives in 2022, it did not have a full-time staff person dedicated to the effort. *See id.* 12:18–22. Open Democracy ultimately hired a full-time staff person, Samuel Cassin, in 2024. *See id.* 12:23–13:1, 22:13–23; *see also* Feb. 11 AM Tr. 44:6–7, 45:7–14, 47:13–16 (testimony from Samuel Cassin regarding role as “high school voter registration coordinator”).

55. In order to help high schools promote and then run a registration drive, Open Democracy created a “tool kit,” which contains a “whole host of resources” such as “sample letters to parents,” “sample letters to the supervisor of the checklist or town clerk,” and promotional materials like “social media posts.” Zink Tr. 14:5–18; *see* Feb. 11 AM Tr. 51:5–9 (noting that materials used for high school voter registration drives include “social media” and “fliers”). The tool kit is made available on Open Democracy’s website. Zink Tr. 14:19–21.

56. Following the enactment of HB 1569, Open Democracy’s staff had to review “every single document in [its] tool kit” and remove “any reference[s] to an affidavit being available.” *Id.* 15:4–7; *see also id.* 18:25–19:2 (explaining that Open Democracy made changes to “almost all of the documents” in the tool kit); Feb. 11 AM Tr. 56:5–14 (explaining that HB 1569 required Open Democracy to “[u]pdate a lot of materials” to make sure that it was “passing along the correct information to people who are looking to register”). For example, following the enactment of HB 1569, Open Democracy staff had to update the sample letters to parents (Zink Tr. 15:15–19), social media posts (*id.* 15:21–24), and posters (*id.* 18:1–11; *compare* PX 43 (pre-HB 1569 poster), *with* PX 44 (post-HB 1569 poster); *see also* Feb. 11 AM Tr. 51:10–53:11 (describing changes made to the posters due to HB 1569)). The process of updating the materials in the tool kit took Open Democracy’s staff approximately 52 hours. Zink Tr. 21:19–22. Although “Open Democracy always updates its voter registration education materials” when there is “a change in public-facing election laws,” prior changes in election law did not “require such an intensive document review and edits.” *Id.* 80:6–9, 89:25–90:4.

57. Following the enactment of HB 1569, Open Democracy also needed to add additional documents to the tool kit. *See id.* 21:6–11; *see also* PX 49 (document created due to “confusion” created by HB 1569).

58. Open Democracy staff also had to “recycle[]” any “printed materials” and “print new materials and new stickers” after the enactment of HB 1569. Zink Tr. 22:8–9.

59. Mr. Cassin testified that, during the registration drives held in 2024, “the vast majority” of students used a QVA to register. *See* Feb. 11 AM Tr. 57:15–19. In his experience, high school students typically do not carry a passport or birth certificate with them. *Id.* 57:4–7.

Indeed, in 2024, Open Democracy helped at least 650 high school students register, and Mr. Cassin did not recall seeing any applicant turned away. *Id.* 55:15–17, 58:7–12.

60. Despite updates to the toolkit and other efforts, since HB 1569 eliminated the QVA option, Open Democracy has been able to help fewer high school students register to vote, because students did not possess the necessary DPOC. *See* Zink Tr. 26:25–27:10 (explaining that Open Democracy registered fewer students in 2025 than 2023 because “the law had changed,” making it “more difficult for students to register to vote in 2025”); Feb. 11 AM Tr. 55:25–56:1 (“House Bill 1569 was one [voting law change] that had a significant burden . . . on the success of the [high school registration drive] initiative.”); *id.* 58:16–20 (“[C]itizenship or domicile . . . forms were used widely at these events. And so the removal of that would certainly hurt the total of, you know, students or eligible voters who are able to register.”); *id.* 59:24–60:1 (“[T]he affidavits were widely used in 2024 and so in 2025 when they were no longer available, more students were turned away due to lack of necessary documentation.”); *id.* 60:9–17 (testimony from Mr. Cassin that, in his opinion, the removal of the QVA to prove citizenship has “made it harder for students to register to vote” and Open Democracy’s drives less successful). *Compare* PX 47 (2025 high school registration drive tracker), *with* PX 46 (2024 high school registration drive tracker, which also shows 2023 registration drives). Fewer students registered in 2025 than in 2023 despite the fact that Open Democracy had a full-time staff member dedicated to high school registration drives in 2025 that it did not have in 2023, and despite the fact that Open Democracy updated the tool kit materials to emphasize the documents needed to register to vote. Zink Tr. 27:6–10, 31:11–14.

61. One example is Open Democracy’s drive at Manchester Central. Mr. Cassin testified that, during that drive, “[m]ore students were turned away . . . than actually registered to vote.” Feb. 11 AM Tr. 60:6–8.

62. Open Democracy expanded its poll observer program following the enactment of HB 1569, including to cover additional election years. *See* Zink Tr. 32:4–19 (“We send them to mostly general elections, except for in 2025 where we sent poll observers to municipal elections.”).

63. Open Democracy also had to update the materials it uses in connection with poll observer trainings following HB 1569. *See id.* 32:22–33:8; *see also id.* 33:9–35:3 (describing changes made to non-partisan poll observer training deck following HB 1569); PX 42 (non-partisan poll observer training). Open Democracy also had to change the way it spoke about the role of poll observers during these trainings following HB 1569. *See* Zink Tr. 36:10–37:5.

64. Following the enactment of HB 1569, Open Democracy has had a harder time recruiting poll workers. *See id.* 55:10–20. Indeed, one person expressed that they were “nervous about having to tell somebody that they couldn’t vote” in explaining their interest in serving as a poll worker.³ *Id.* 55:18–20. Open Democracy also had to update its poll worker training materials following HB 1569. *See id.* 56:8–11.

65. Open Democracy had to divert resources that otherwise would have been spent on other of its core activities, such as campaign finance research, to address the consequences of HB 1569. *See id.* 22:2–5 (the 52 hours Open Democracy spent updating the tool kit materials could have been used to “execut[e]” “[o]ther priorities,” such as “a high school voter registration [drive],” “outreach,” or “updating [Open Democracy’s website]”), 61:16–25 (because of time spent on “voter outreach” and attending the Job Corps to talk to “students about registering to vote,” Open Democracy staff was “not able to do other work, like campaign finance research or board training”).

³ Plaintiffs offer this testimony to show the effect on Open Democracy’s ability to recruit poll workers.

ii. *League of Women Voters–NH*

66. Elizabeth Tentarelli, the president of the League of Women Voters – New Hampshire (“LWV-NH”), testified on behalf of LWV-NH. Feb. 9 PM Tr. (Dkt. 152) 9:12–16. Ms. Tentarelli has served as the President of LWV-NH since 2013. *Id.*

67. The League of Women Voters is a member organization. *Id.* 9:22–25. LWV-NH is the state league for New Hampshire, and it carries out its mission throughout the state. *Id.* 10:8–11:2; 12:3–19; 13:2–21; 18:16–19:14; 23:4–14; 23:24–24:25; PX 61. The LWV-NH is run by volunteers with no paid staff. Feb. 9 PM Tr. 10:10–10:11.

68. The LWV-NH’s mission is to “empower voters and to defend democracy.” *Id.* 12:7–8. The LWV-NH believes that a voter is empowered when they “feel they can be part of that representative democracy process” and when they “understand what it means to vote, they understand who is qualified, how to do it, how to register first, and then how to access a ballot...” *Id.* 12:12–19.

69. The LWV-NH’s core programs to achieve its organizational mission include engaging in activities to inform prospective voters. Among other activities, this involves hosting candidate forums, tabling at community events, and giving presentations to groups that request the LWV-NH to discuss issues of voting, particularly new election laws. *Id.* 13:4–13, 18:20–19:10, 23:5–14. The LWV-NH also creates informational handouts to inform potential voters, which can be printed and distributed at events. *Id.* 13:8–17.

70. The LWV-NH also publishes information on voting on its website and social media and includes information about registration, upcoming elections, and changes in the law in its regular newsletters and legislative alerts. *Id.* Ms. Tentarelli manages the Facebook page and website for the LWV-NH. *Id.* 10:14, 13:22–25.

71. Following the passage of HB 1569, the LWV-NH increased its posting on Facebook to inform potential voters about the registration requirements and the new law. *Id.* 14:11–17. In order to meet its core mission of educating the public about voter registration requirements, the LWV-NH spent about \$440 “boosting” Facebook posts related to HB 1569 in 2025. *Id.* 16:18–17:1; 17:20–21. Ms. Tentarelli estimates that she drafted about 16 posts on behalf of the LWV-NH primarily concerning relating to HB 1569 and spent “possibly twice as much time” managing the LWV-NH Facebook page and related activity compared to before HB 1569 was enacted. *Id.* 17:2–7, 18:12–15. For example, a Facebook post by the LWV-NH in mid-February 2025 sharing a New Hampshire Public Radio article which explained HB 1569 received a much higher level of engagement than a typical LWV-NH post, including 54 shares, 32,000 views, and 81 comments. *Id.* 14:25–15:20. Ms. Tentarelli, in her role of President of LWV-NH, was responsible for reviewing each of the Facebook comments and removing those that are inappropriate for the LWV-NH’s page. *Id.* 15:15–22. In doing so, Ms. Tentarelli observed many commenters indicating confusion about HB 1569’s requirements and responded to the comments where possible. *Id.* 15:22–16:10.

72. Over the past year, the LWV-NH has been asked about 8 times to give presentations to groups about the changes made by HB 1569. *Id.* 19:11–25; *see also* PX 74 (presentation deck which includes a slide explaining the changes to voter registration post-HB 1569). Before HB 1569, “[i]n a typical year [Ms. Tentarelli] might speak five or six times on various aspects of elections.” Feb. 9 PM Tr. 19:5–6.

73. Ms. Tentarelli credibly testified that, when it comes to voter registration post-HB 1569, audiences at the LWV-NH presentations are “confused. So we try to clarify that. Who does

it apply to? What documents are acceptable? And then the confusion goes but what about, and they ask what else can I use? Is my REAL ID proof of citizenship for instance?” *Id.* 20:22–21:7.

74. The LWV-NH also participates in “tabling” where, at community events such as old homes days, the hosts “may invite other groups to come and set up a table with information” and the LWV-NH has “signage for the League” and “materials which [they] distribute, and [they] answer questions and engage in conversation with people who come to that event.” *Id.* 23:4–14; *see also* PX 61 (a spreadsheet listing the tabling events attended by the LWV-NH in 2024 and 2025). Following the enactment of HB 1569, the LWV-NH had to update its tabling materials explaining to potential voters how to register to vote. Feb. 9 PM Tr. 25:6–27:17. The 2024 version of the “Voting in New Hampshire” handout “explained the photo ID, paperwork to show your age, citizenship, and where you live” and then “give[s] some examples of the kinds of documents that would qualify to show these things.” *Id.* 26:11–20. However, the 2024 version also stated that “[i]f you don’t have papers like these, you can sign a statement confirming your age, citizenship, or where you live.” PX 66; *see also* Feb. 9 PM Tr. 26:21–25. The 2025 version of the “Voting in New Hampshire” handout did not include a statement explaining that those without documents could sign a statement confirming age, citizenship, or domicile. PX 71. As a result, “the 2025 document is less effective because it’s more complicated and people get discouraged by complications. Clearly in 2024 [the LWV-NH] could explain a photo ID, [they] could explain the other things that were suggested one bring, but [they] also gave people the option that if you don’t have papers like these, you may sign a statement confirming them. [The LWV-NH] cannot do that in 2025. So in that way in terms of empowering voters, it’s less effective.” Feb. 9 PM Tr. 28:14–22.

75. Ms. Tentarelli credibly testified that individuals have raised concerns to the LWV-NH such as that they “don’t even know where my birth certificate is,” *id.* 30:1, or that they don’t have documentary proof of citizenship that matches their current name. *Id.* 35:21–36:15. “[I]t’s a problem in particular for women who upon marriage change their names and they admit that their birth certificate no longer matches their photo ID, whatever that may be. And so [the LWV-NH] explain[s] that you need to show the documents that would make that connection, such as a marriage certificate or a divorce certificate, if you went back to a different name or adopted a different name.” *Id.* 35:23–36:10.

76. The LWV-NH receives questions from individuals about how to register to vote post-HB 1569 with “other reasonable documentation” of citizenship. Feb. 9 PM Tr. 34:11–35:2. However, despite Ms. Tentarelli’s regular monitoring of the Secretary of State’s website and social media pages, the LWV-NH has not received or observed “any update on what that other reasonable documentation would be” in order to respond to questions from the public. *Id.* 35:3–20.

77. HB 1569 has forced the LWV-NH to redirect time towards “trying to explain the intricacies of the law. Where in the past [the LWV-NH] would talk more about voting itself, why it matters, what [they] can all accomplish by voting, why it takes a whole community to make these decisions.” *Id.* 30:22–31:3. This redirection of effort by LWV-NH is confirmed by Ms. Tentarelli’s timesheet for 2024 and 2025, at PX 64, containing an approximation of her time spent on LWV business. *Id.* 31:14–32:12. While the time sheet does not purport to be exhaustive, it shows many entries expressly listing time spent responding to HB 1569, and Ms. Tentarelli testified that many other entries also involved time responding to HB 1569, though not referencing the statute explicitly. PX 64; Feb. 9 PM Tr. 33:6–34:1.

iii. ***The Forward Foundation***

78. The Forward Foundation is a nonpartisan organization founded in 2022 that aims “to get more working-aged people to be civically engaged in New Hampshire.” Feb. 12 AM (Dkt. 156) Tr. 25:2–3; *see id.* 24:15–16, 25:4–22. The Forward Foundation “primarily focus[es] on engaging people who are under the age of 50 in New Hampshire” along with other people “less represented in our democracy” such as those with “diverse lived experiences, people who have recently moved here, [and] people who might have English as their second language.” *Id.* 25:25–26:9. The Forward Foundation carries out its mission throughout the State of New Hampshire, including by conducting voter registration and education activities and recruiting poll workers across the state. *Id.* 43:14–44:9; 64:2–5; PX 55; PX 57.

79. Julianne Gadoury has served as the Executive Director of The Forward Foundation since July 2024. Feb. 12 AM Tr. 23:24–24:6.

80. The Forward Foundation’s core programs to achieve its mission include voter education, governance, and legislative reform programs. *Id.* 26:12–27:4; *see also id.* 63:16–19 (confirming voter education is a core part of The Forward Foundation’s work).

81. The Forward Foundation’s voter education program “entails reaching out to voters who are least likely to vote, either because they have a low propensity, they haven’t voted very often in recent elections, or they’re not registered.” *Id.* 27:9–12.

82. To educate prospective voters, The Forward Foundation attends events, distributes pledge-to-vote cards, provides voter information through its newsletter, social media, text campaigns, pamphlets, flyers, mailers, and stickers, and produces video streaming content, among other efforts. *Id.* 42:22–43:13, 47:8–11, 54:21–23.

83. The Forward Foundation conducts voter education at nearly all the events it takes part in, because, in Ms. Gadoury’s words, it is “a core part of what we do.” *Id.* 43:14–18; *see* PX

55 (list of events The Forward Foundation organized or attended in 2024); *see also* Feb. 12 AM Tr. 44:23–45:21 (explaining which events The Forward Foundation attended, co-hosted, and organized). At almost all of those events, The Forward Foundation’s staff engage in voter education by handing out printed materials and discussing legal changes that may impact their right to vote. *Id.* 45:23–46:7.

84. As part of its effort to facilitate civic engagement in New Hampshire, The Forward Foundation also recruits and provides information to poll workers. *See* PX 58; *see also* Feb. 12 AM Tr. 26:18–21; *id.* 64:2–20 (explaining how The Forward Foundation recruits and provides information to potential poll workers); *id.* 65:9–17 (same).

85. The goal of The Forward Foundation’s Governance Program is to “support elected officials once they’re in office” and educate them on issue areas such as housing, as well as “the basics” of serving as an elected official, including reading a budget and Robert’s rules of order. *Id.* 27:19–28:4.

86. Through its legislative reform program, The Forward Foundation conducts education, commissions studies, and makes recommendations to make serving as a legislator in New Hampshire “more accessible to people who have jobs and kids and have to travel [] a far distance to be able to serve.” *Id.* 28:8–16.

87. After HB 1569’s passage, if a prospective voter doesn’t have documentation proving citizenship, The Forward Foundation recommends that they “apply, to get their passport or birth certificate as early as possible prior to the election.” *Id.* 29:25–30:5. “[T]hat’s basically all [The Forward Foundation] can tell them.” *Id.* 30:5–6.

88. In Ms. Gadoury’s experience, there are many people who are unfamiliar with what is required to register to vote after the passage of HB 1569, making The Forward Foundation’s

voter-education work “significantly more difficult.” *Id.* 39:17–22. This is in part because “there’s a lot more information [The Forward Foundation] ha[s] to share” including to “the voters who are least likely to vote.” *Id.* 39:14–17, 39:23–25.

89. In Ms. Gadoury’s experience as Executive Director, The Forward Foundation’s core constituencies, including new citizens, new movers to New Hampshire, communities of color, and young people are particularly susceptible to being harmed by HB 1569. *Id.* 40:3–13. This is in part because younger people move frequently, which makes it more difficult to “keep track of their documentation” proving citizenship. *Id.* 40:8–13.

90. HB 1569 required The Forward Foundation to update its mailers, making them more detailed and complicated. *Id.* 50:24–51:19. As Ms. Gadoury explained, a mailer they sent ahead of the Salem March 2024 elections, is typical of the mailers they distributed before HB 1569. *See* PX 56-A; Feb. 12 AM Tr. 48:19–24, 49:4–9. These mailers were purposefully “very minimally designed” simply to “alert[] people that there is an election happening,” with the date and time of the election. Feb. 12 AM Tr. 48:21–24.

91. Prior to HB 1569, The Forward Foundation sent mailers to people with a “low propensity to vote” and people under 50 as an effort to “get people out to vote.” *Id.* 49:23–50:4. After HB 1569, The Forward Foundation had to change the content of mailers—instead of just alerting people to an election, The Forward Foundation had to share “the full scope of information about what they would need to register to vote” and warn prospective voters that if their name on documentation doesn’t match their legal name, they would need additional information. *Id.* 49:23–51:7, 51:8–19. The Forward Foundation was compelled to change the goal of its mailers and the populations it targeted, shifting from targeting low propensity voters to unregistered voters, and making sure people were aware of the documents required to register. *Id.* 51:23–52:11. The

Forward Foundation had to change its vendor for sending out these mailers after HB 1569 to one that was more familiar with voter education. *Id.* 52:16–23. It required roughly “70 emails back and forth” to make sure the information was accurate, since there wasn’t clear guidance from the State on required documentation, including other reasonable documentation. *Id.* 53:5–7.

92. After HB 1569, The Forward Foundation has also done “multiple text chases” in addition to its previous efforts. *Id.* 55:2–6. Many of its text and mailer campaigns are handled by an outside vendor that The Forward Foundation pays. *Id.* 55:8–11.

93. If The Forward Foundation had not expended significant fiscal resources and staff time to increase its voter education work and change its scope, in Ms. Gadoury’s estimation, “significantly [fewer] people would know the requirements” imposed by HB 1569. *Id.* 58:18–24.

94. As a result of HB 1569, The Forward Foundation has “reallocated [its] resources” and impacted its “ability to [] carry out different aspects of [its] program and mission.” *Id.* 39:8–10. This has included “spend[ing] a lot more staff time and resources dedicated to voter education and voting rights” as a result of HB 1569. *Id.* 39:10–11.

95. Before HB 1569, The Forward Foundation had one staff member working on voter education, including through its partnership with the New Hampshire Campaign for Voting Rights. *Id.* 41:12–14. Now, The Forward Foundation has dedicated four staff members of its eight-person staff to voter education and voting rights. *Id.*; *see id.* 57:11–13; *id.* 24:17–19 (The Forward Foundation has eight staff members).

96. The Forward Foundation had planned “significantly more governance work” and “continuing [its] legislative reform program.” *Id.* 41:15–17. But because of HB 1569, The Forward Foundation wasn’t “able to hit [] all of [its] goals” because its “focus was more turned to voter education and voting rights” after HB 1569. *Id.* 41:20–22. For example, The Forward Foundation

had planned three governance program trainings at the beginning of 2025, but was only able to follow through with one. *Id.* 42:7–13. That is because it had to dedicate staff resources to voter education and poll observing after HB 1569. *Id.* 42:14–16; *see also id.* 42:17–19 (legislative reform program has been similarly impacted).

97. The Forward Foundation spent more on mailers for 2025 than it originally anticipated, and is sending out more mailers in 2026 compared to previous spring town elections. *Id.* 54:7–15; *see id.* 54:16–18 (each additional mailer costs The Forward Foundation money).

98. The Forward Foundation’s budget for voter education in 2024 was \$84,000; it ultimately spent over \$131,000. PX 54; Feb. 12 AM Tr. 56:22–57:2. This increase in spending was precipitated by HB 1569 and continued following its implementation. Feb. 12 AM Tr. 57:3–13, 58:3–6.

C. Harm to Individual Voters

i. ***NHCVR Observation of the Impacts of HB 1569***

99. The New Hampshire Campaign for Voting Rights (“NHCVR”) is a non-partisan coalition of organizations that work to ensure every eligible Granite Stater is able to cast their vote and have their ballot counted, to ensure that New Hampshire election officials are supported, and to increase confidence in elections. Feb. 11 AM Tr. 75:5–7; 76:2–6.

100. NHCVR runs a comprehensive election protection program. Feb. 11 AM Tr. 77:10–17; 77:20–78:10. The program includes recruiting, training, and deploying nonpartisan poll observers in polling locations on Election Day. *Id.* 78:8–10.

101. Sarah Chouinard, the voting rights manager at NHCVR, coordinates that program. Ms. Chouinard thoroughly trains NHCVR’s observers and instructs them to immediately report to her on various issues that may arise at the polling place, including those involving voters attempting to register. *Id.* 79:12–80:8; 81:6–25.

102. NHCVR routinely uses its poll observation program to track the effects of changes in election law. *Id.* 80:25–81:5. One purpose of the poll observation program is “to create an accurate record of what’s occurring at polling locations in all of our elections in the state,” accordingly, NHCVR “really tr[ies] to ensure that that information is accurate and precise from [its] observers.” *Id.* 82:10–15; *see also id.* 83:6–84:21 (additional testimony on reliability of poll observation).

103. Immediately after HB 1569 went into effect, NHCVR prioritized tracking “if voters were being turned away” under the new law and updated poll observer training to reflect the new changes and prepare for measuring the law’s impact on actual voters. Feb. 11 AM Tr. 93:17–94:4.

104. The first set of elections under HB 1569’s new requirement were town elections in March, April, and May of 2025. Feb. 11 AM Tr. 95:12–17. Spring town elections were held in “almost all” of the “over 200 towns” in New Hampshire. Feb. 11 AM Tr. 97:4–8. These are low turnout elections that tend to bring out the “most civically engaged and civically educated voters.” *Id.* 95:18–96:3.⁴

105. NHCVR was not expecting many same-day registrants in these municipal elections, especially “coming off the heels of the general election [in November 2024] where a ton of people registered to vote” Feb. 11 AM Tr. 96:4–9.

106. NHCVR ran a small program with poll observers at about 20 polling locations. *Id.* 97:9–12; *see* PX 4 at 1. NHCVR also made calls to election officials in about 90 towns immediately after the Spring Elections to verify the reports of their observers and obtain additional information about voters who were turned away due to HB 1569. Feb. 11 AM Tr. 103:11–22, 104:15–17.

⁴ Secretary Scanlan agreed with this sentiment in a recording forum where he described the town elections as “usually low-turnout affairs. The people that are voting are generally not registering on the day of the election. You know, they’ve been voting for some time.” PX 104B.

107. NHCVR created memoranda compiling the results of their election protection and poll monitoring efforts in 2025 elections. PX 4; PX 5. These business records bear extraordinary indicia of reliability, as they incorporate verified information reported from thoroughly trained and highly professional observers and from conversations with oath-bound election officials. *See generally* Feb. 11 AM Tr. 77:9–90:7; 92:22–136:25; 145:4–149:12.

108. In the March and April 2025 Town Elections, NHCVR’s poll observation program tracked 114 prospective voters who were turned away from the polls. PX 4 at 2; Feb. 11 AM Tr. 139:19–22.

109. The most common reason voters were turned away was for lacking documentary proof of citizenship. Feb. 11 AM Tr. 139:23–25. NHCVR observed at least 49 people turned away for lacking documentary proof of citizenship across an array of towns in March and April. PX 4 at 2; Feb. 11 AM Tr. 138:9–16. At least another four voters were women who were turned away because they lacked name change documentation that connected their current name to the name on their documentary proof of citizenship. PX 4 at 2; Feb. 11 AM Tr. 138:17–22. There were 55 people for whom NHCVR did not learn specifically which document they were lacking, but based on her knowledge and experience, Ms. Chouinard would not be surprised if the majority of them were lacking proof of citizenship. PX 4 at 2; Feb. 11 AM Tr. 139:2–18.

110. These numbers are an undercount of the total effect of HB 1569 in March and April, as NHCVR was only able to field observers at about 20 locations and speak to election officials in about 90 towns. PX 4 at 1–2; Feb. 11 AM Tr. 140:1–9.

111. More voters were observed being turned away during small number of additional town elections in May bringing NHCVR’s total count to 121 across the Spring elections. PX 5 at 2; Feb. 11 AM Tr. 149:20–150:8.

112. NHCVR was not able to track how many voters were able to return at a later time and successfully register. Feb. 11 AM Tr. 140:14–25. However, NHCVR is “certainly aware of situations where voters did return and we are certainly aware of situations where voters did not return.” Feb. 11 AM Tr. 141:1–3. This is consistent with the acknowledgement from the Secretary of State’s Elections Director that individuals told to leave a polling place to retrieve a document might not return to register and vote. Feb. 19 AM Tr. 147:25-148:1.

113. In Fall of 2025, cities held municipal elections—mostly in November, with some isolated elections in September and October. Feb. 11 AM Tr. 145:4–9. In November, 11 cities held elections across 69 polling locations. *Id.* 145:10–15.

114. City elections are also low turnout and bring out the most civically engaged and civically educated voters. Feb. 11 AM Tr. 145:21–146:4. Ms. Robert testified that, in Ward 10 in Manchester, for example, “municipal elections are slower, presidential general elections are busier,” with turnout in the 2024 general election exceeded 70 percent. Feb. 10 PM Tr. 52:4–5; 81:4–7.

115. After seeing many voters turned away in the Spring town elections, NHCVR sought to increase its poll observer presence and recruit observers in as many polling locations as possible to continue to measure the impact of the documentary proof requirements. Feb. 11 AM Tr. 146:53–10. In November, NHCVR had observers in 54 of the 69 polling locations. Feb. 11 AM Tr. 147:6–9.

116. In the Fall city elections, NHCVR observed at least 123 additional prospective voters turned away across a wide array of cities. PX 5 at 3.

117. At least 90 of those voters were turned away when attempting to register, “overwhelmingly” for “lack of documentary proof of citizenship.” PX 5 at 2–3; Feb. 11 AM Tr.

151:2–11. At least 5 voters were turned away for missing name change documentation that matched their documentary proof of citizenship. PX 5 at 3; Feb. 11 AM Tr. 151:12–15. Ms. Chouinard would not be surprised if some of the 16 turned-away voters for whom NHCVR lacked specifics were also turned away due to lack of documentary proof of citizenship. Feb. 11 AM Tr. 152:2–5.

118. These numbers are an undercount of the total effect of HB 1569 in the Fall elections, as NHCVR did not have observers at every polling location and were limited to observations collected when observers were on shift. PX 5 at 2; Feb. 11 AM Tr. 152:6–16. Accordingly, “[t]he true statewide impact is likely higher.” PX 5 at 2.

119. Based on same-day registration rates in the cities that held elections, some cities turned away as many as 10% of attempted registrants. PX 5 at 3; Feb. 11 AM Tr. at 152:17–21.

120. NHCVR was not able to track how many voters who were turned away during the Fall elections were able to return at a later time and successfully register. Feb. 11 AM Tr. 153:2–8. However, NHCVR knows some voters were not able to return and vote. *Id.* 152:22–153:1.

121. Across the Spring town election and Fall city elections, NHCVR tracked at least 244 prospective voters who were turned away. PX 5 at 3.

122. Prior to HB 1569, in the 2024 General Election, some towns had lines for registration that were two to three hours long. Feb. 11 PM Tr. 6:9–12. With the expected turnout for 2026 midterms, HB 1569 and HB 464 will result in “a lot of voters facing serious issues that could disenfranchise their right to vote,” including “very long lines” that cause voters to leave—especially voters who are “told they need to go home and retrieve an additional document” just to “come back and wait in that line” again. *Id.* 6:9–24.

123. The 2025 municipal elections featured the state’s “most active voters” and “most educated voters.” Feb. 11 Tr. PM 7:4–11. Given that such high-propensity voters faced barriers, during future statewide elections featuring the “more sporadic voters who really are only [voting] every couple of years . . . , there is no way that they are all aware of these very significant changes to New Hampshire voting law.” *Id.*

124. The changes will also add substantial burdens on election officials who are already heavily burdened, and as a result, will result in slower processing of voters and votes—and “the longer it takes for those results to be posted, the less confidence the general public would have in these elections as well.” Feb. 11 PM Tr. 7:15–8:4.

ii. ***Voters Turned Away or Otherwise Burdened***

125. Secretary Scanlan testified that HB 1569 introduced a “likelihood that there will be voters that show up on election day that do not have the documentation that they need to register to vote.” Feb. 20 Tr. 33:20-34:4. He also stated at a recorded forum with Votebeat that there that will be “individuals that we know are going to have difficulty proving that they’re qualified, even though they are.” PX 104B. The testimony from trial underscores the Secretary’s statements. *See generally* Section III(C)(ii) *infra*.

126. Secretary Scanlan also stated in the Votebeat forum that he knows from experience that there will be individuals that will not be exposed to the state’s efforts to educate the population about the requirements of HB 1569. *Id.*

127. Joshua Bogdan, a resident of Portsmouth, New Hampshire, went to the polling place in Portsmouth Ward 4 in November 2025 to vote in the local and city election. *See* Feb. 12 AM Tr. 7:10–11, 7:21–8:5. He sought to register same-day. *Id.* 8:8–10, 9:18–20. Mr. Bogdan was “excited” to vote that day, as he has “always enjoyed participating in the voting process.” *Id.* 8:15–18. When Mr. Bogdan went to register, he was told that “due to a recent law change,” he could not

prove citizenship with only his driver's license; he needed either his passport or birth certificate. *Id.* 10:18–21, 11:2–6. Mr. Bogdan does not own a passport. *Id.* 11:6. The election worker told Mr. Bogdan that he could go to Portsmouth Town Hall, which was “giving out a sort of one-day, single-use copy of . . . birth certificate[s]” for voting purposes, but that the Town Hall would “stop providing those at about five o'clock” and Mr. Bogdan “didn't think [he'd] be able to make it . . . in time.” *Id.* 11:6–10, 11:20–23, 13:3–4. He instead “opted to go home and look for [his] birth certificate.” *Id.* 13:4–5. Mr. Bogdan testified that he was “glad [he] had taken [his birth certificate] from [his] parents' house just a couple months earlier,” because his parents' home is approximately 60 or 70 miles from the polling place. *Id.* 15:11–13, 15:20–23. Mr. Bogdan did not see the election workers do anything to check his prior registration status. *See id.* 12:9–19. Mr. Bogdan testified that his voting experience left him feeling “[f]rustrated,” noting that “[i]t seemed unnecessary to require further documentation when it wasn't needed for any of the other elections [he had] participated in.” *Id.* 17:9–14.

128. Michael Blanchette, a resident of Manchester, New Hampshire, went to vote in the November 2025 city election in Manchester. Feb. 11 PM Tr. 38:10, 38:23–39:3. Mr. Blanchette had previously registered elsewhere in New Hampshire, *id.* 39:7–9, but he had not registered in Manchester prior to November 2025, *id.* 39:4–6. Because Mr. Blanchette was unsure of how to vote in Manchester, he called the City of Manchester on October 30. *Id.* 39:10–24. During that call, Mr. Blanchette was told that he needed to bring his driver's license—and nothing else—in order to register to vote on election day. *Id.* 40:17–41:13. When Mr. Blanchette arrived at the polling place, he was told by several people that he needed his birth certificate and/or passport, and Mr. Blanchette responded that he had been specifically told he only needed his driver's license. *See id.* 43:6–16, 44:7–45:5. Eventually, the Moderator called the City, and someone from the City

confirmed Mr. Blanchette was already in the system. *Id.* 45:6–19. Mr. Blanchette testified that, to the best of his knowledge, the Moderator called the City because the election workers did “not have the ability” to look up his prior registration. *Id.* 45:23–46:2. Once Mr. Blanchette received a reference number from the City, he was able to vote, but only after waiting another 10 to 12 minutes for several election workers to figure out how to input his information. *See id.* 45:14–19, 46:6–48:8. Overall, it took Mr. Blanchette over 45 minutes, perhaps “a full hour,” to vote that day. *Id.* 48:19–22. Given that Mr. Blanchette had just had oral surgery, he found the voting process “[p]ainful” and at times “embarrassing.” *Id.* 48:6–12, 48:23–49:6; *see id.* 42:4–5; *see also id.* 44:8–9 (“I also knew that if I went back home, I was going to take my pain meds and I wasn’t going back out again.”).

129. Former Election Law Unit Chief and current Deputy Secretary of State Brendan O’Donnell testified to his unsuccessful efforts during the Manchester city primary in 2025 to prevent the disenfranchisement of Earl Rinker, a longtime New Hampshire elected official who was turned away from the polls because he did not have proof of citizenship. Feb. 17 PM Tr. 8:25–9:23, 109:13–16.

130. In October 2025, several naturalized citizens, including Attorney SangYeob Kim, were turned away by officials in Stratham despite presenting a passport when registering. *See* Feb. 17 AM Tr. 28:8–24, 29:14–19; Feb. 17 PM Tr. 107:20–22; *see also* Feb. 9 AM Tr. 53:6–61:19 (Attorney Kim’s testimony regarding his voting experience and how it left him feeling like “another class of citizen”); PX 178. Deputy O’Donnell testified that the state only learned of the disparate treatment of naturalized citizens because Plaintiffs’ counsel contacted the Election Law Unit to report one of the incidents. Feb. 17 PM Tr. 108:12–21; *see* Feb. 9 AM Tr. 61:20–62:9. No one in Stratham called the state Election Law Hotline for guidance about these incidents. Feb.

18 AM Tr. 52:8–21. In fact, the state of New Hampshire has been aware of local election officials requiring naturalization papers from naturalized citizens, even when they present a valid U.S. passport, as far back as 2022, and had not resolved the misinterpretation of the law among local election officials. *See* PX 79.

131. Ann Underhill Shump is one of the Supervisors of the Checklist in Durham, New Hampshire, where the University of New Hampshire is located. Feb. 9 PM Tr. 55:7–9; 56:10–22. She has been in this role for 22 or 23 years. Feb. 9 PM Tr. 55:18–20. In Ms. Shump’s experience prior to November 2024, new registrants in Durham usually did not have all of the documentation needed to register to vote. Feb. 9 PM Tr. 61:23–62:2. Although they “usually would have a photo ID,” proof of citizenship “was always the one that was the most often missing.” *Id.* 62:4–20; *see also id.* 75:13–18 (in Ms. Shump’s experience, about 10 to 15% of voters have a birth certificate with them when they seek to register to vote on election day); *id.* 77:2–4 (maybe 30% have their passport with them). Indeed, in Ms. Shump’s experience, when someone tried to register to vote on election day in Durham, around 50 to 60% of those registrants would complete a QVA attesting to citizenship. *Id.* 62:25–63:12. So far, this has remained true after HB 1569. During the March 2025 municipal election, Ms. Shump testified that six people tried to register same day in Durham and of those six voters, only two brought DPOC. *Id.* 80:14–22.

132. Julie Seely is one of three Supervisors of the Checklist in Bethlehem, New Hampshire, where she has lived for 32 years. Feb. 12 AM Tr. 94:17; 97:10–11. She has been a Supervisor for eight years, since March 2018. Feb. 12 AM Tr. 97:15–16. In Bethlehem, the Supervisors register voters on Election Day, and their “primary duties are to gather the voter registrations that have been filled out in the clerk’s office ... to make sure that everything in is in order for those, to add those to the state database, [and] to keep the checklist tidy.” Feb. 12 AM

Tr. 101:11–19. Ms. Seely testified similarly to Ms. Shump about her experience in Bethlehem, both before and after HB 1569. *See* Feb. 12 AM Tr. 113:4–6 (“[W]e knew that a huge number of people simply don’t have their proof of citizenship with us. [sic] That was the most common lack.”); *id.* 119:5–11 (“potentially 25 percent of people . . . did not have birth certificates or passports with them”); *id.* 119:22–120:6 (it was “fairly common” before HB 1569 for Ms. Seely to encounter a voter who did not know where their birth certificate was and also a voter who did not have a passport). Indeed, she testified that citizenship was “far and away” the most common qualification proven with a QVA. *Id.* 119:12–14; *see also* Feb. 12 PM Tr. 16:1–20 (estimating that somewhere from 15 to 25 people out of 160 signed a QVA for citizenship during the 2024 election). Ms. Seely testified that it was her understanding that using a QVA for citizenship was common because of “the costs of passports” and the fact that people “didn’t know where their birth certificates were.” Feb. 12 AM Tr. 119:18–20.

133. Ms. Seely shared these concerns with the Governor and the Secretary of State’s Office in a July 3, 2024 email. PX 96.⁵ There, she expressed that she “can say with confidence [that HB 1569] will lead to eligible voters being turned away from the polls.” *Id.*

134. Katherine Robert is one of three Supervisors of the Checklist in Concord’s Ward 10, and she began working at Ward 10’s polls in 2019 or 2020. Feb. 10 PM Tr. 47:8–9, 14, 24–25. As a Supervisor of the Checklist, her primary responsibilities are to protect the integrity of the voter checklist within her ward, conduct Election Day voter registration, and make any changes to a voter’s registration that needs to be processed (like a name change or an address change). *Id.*

⁵ Exhibit 96 was admitted for the limited purpose of showing “that concerns were raised as to burdens on voters with the Secretary of State’s Office and the governor, as well as the fact that elected officials were aware of these concerns, . . . not for the truth of the factual statements that are made in the document.” Feb. 12 AM Tr. 115:21–116:1; *see also* Feb. 12 AM Tr. 118:6 (Court letting it in “for now”).

48:18–24. In Ms. Robert’s experience in Concord Ward 10, the most common qualification that voters would prove with an affidavit was citizenship, and a majority of QVAs were used for citizenship. *Id.* 52:9–14. According to Ms. Robert, when a prospective voter used a QVA for citizenship, it was “[m]ore often than not” because “[t]hey did not have access to their birth certificate.” *Id.* 52:18–20; *see id.* 53:19–24. Ms. Robert testified that she was concerned about the removal of the QVA because she was concerned that “people were not going to be able to come in and vote”; the fact people “didn’t have access to [their] birth certificate, [their] passport, the passport card, or naturalization papers” meant the law was “going to potentially be a barrier for folks.” *Id.* 54:15–22.

135. Ms. Zink, executive director of Open Democracy, testified to “collect[ing] stories from [Open Democracy’s] supporters,” through which the organization learned about people who did not have documentary proof of citizenship due to a house fire, adoption, and marriage. Zink Tr. 61:2–8.

136. Ms. Zink testified at trial about her experience as a poll observer. Ms. Zink that she observed four prospective voters “have issues with documentary proof of citizenship” in Conway at the April 2025 town meeting, two of whom “were unable to register the same day.” Zink Tr. 40:16, 42:4–8, 42:24–25. One had “already made dinner plans with a friend” and did not “have time to get the documents.” *Id.* 43:1–5. The other prospective voter did not know where her documentary proof of citizenship was and said “she’d probably not return.” *Id.* 43:6–8.

137. Ms. Zink testified that “six Colby Sawyer students were turned away” from the polls and were unable to register to vote in New London at the March 2025 town meeting. *Id.* 46:12–13, 46:22–24.

138. Ms. Zink testified that, at the municipal election in Keene Ward 3, she witnessed a voter named Trevor who was “sent home without being able to cast a ballot” because his prior registration could not be found in the “voter lookup tool.” *Id.* 48:19–20, 49:4–12, 50:25. She also testified that there was “another voter that [she] witnessed who believed they were previously registered to vote in a different ward in Keene” but was “not able to be found either on the lookup tool and/or the town clerk’s conversation with the supervisor of checklist,” so “that voter went home and never returned.” *Id.* 52:25–53:5.

139. Julianne Gadoury, executive director of The Forward Foundation, testified about her experience as a poll observer in the November 2025 elections in Manchester. Feb. 12 AM Tr. 31:16–32:3. Ms. Gadoury testified that a young man trying to vote for the first time was turned away for lack of proper documentation. *Id.* 32:5–13. Ms. Gadoury did not see the young man return to the polls. *Id.* 33:15–17.

140. Ms. Gadoury witnessed another individual turned away for not having documentary proof of citizenship, even though he had previously registered to vote in another New Hampshire town. *Id.* 32:14–33:2. He was ultimately able to vote, however, because before he left, the woman he was with explained that, despite also not having documentary proof of citizenship, she had been able to vote after being found in the state database; the election official the man was working with was less “proficien[t]” and apparently did not think to search the database. *Id.* 32:14–33:9, 33:18–34:1 (agreeing that the couple was “treated differently by two different election officials”). Although there was no line at the time, it took the man 25 or 30 minutes to vote. *Id.* 34:2–6.

141. Ms. Gadoury testified that her own voter registration information on the Secretary of State’s website was not updated several months after she re-registered in a different town in

New Hampshire. *Id.* 62:14–63:14. She registered to vote in Andover in October, but the website still showed her as registered in Concord as of a week before trial. *Id.* 63:4–7.

142. Ms. Shump testified that during the March 2025 municipal election in Durham, a high school teacher brought his whole class to the polling place because he had an 18-year-old student who wanted to register to vote. Feb. 9 PM Tr. 81:24–82:7. The student brought his driver’s license, but he did not have his passport or birth certificate. *Id.* 82:8–10. The election officials asked him if someone at home could send him a picture of his passport or birth certificate, and he said no. *Id.* 82:12–15. Ms. Shump told him to come back after school with his passport or birth certificate, but the student never returned. *Id.* 82:16–25. Ms. Shump asked him if he was a citizen, and he said yes. *Id.* 83:9–12. Another voter was turned away from the March 2025 municipal election in Durham because he did not have DPOC, but this individual returned later in the day with his birth certificate. *Id.* 81:21–23.

143. Ms. Shump testified that there were two people—a husband and wife—who came to vote toward the end of the day in the March 2025 municipal election in Durham. *Id.* 81:5–6. The couple did not have proof of citizenship, so they were told that they would not be able to register. *Id.* 81:7–9. Just as the couple was about to leave, election officials remembered that they could “look this up in SVRS.” *Id.* 81:10–11.

144. Ms. Seely testified that during the March 2025 town meeting in Bethlehem, an individual expressed interest in registering to vote, but when he was told he needed either a birth certificate or passport, he indicated that he did not have either with him. Feb. 12 PM Tr. 24:14–

25:15.⁶ This prospective voter said he would go home to look for the documents, but he never returned. *See id.* 25:14–26:4.

145. Between March 2025 after the town election and the February 2026 deliberative session, the Bethlehem Supervisors of the Checklist processed approximately 12 voter registrations. Most of these 12 registrations were processed when the supervisors met in October 2025. Feb. 12 PM 28:7–16. Ms. Seely stated that the Supervisors had to reject three registration applications because the applicants “were women who used birth certificates with their maiden names.” *Id.* 28:12–19. After being notified of this rejection, the three voters were able to later re-register using marriage licenses reflecting their name change. *Id.* 29:10–16. Two of these three women had marriage licenses issued outside of New Hampshire (Massachusetts). *Id.* 29:21–22. These same two women had birth certificates issued outside of New Hampshire (Massachusetts). *Id.* 29:23–30:2. None of these three women were previously registered to vote in New Hampshire. *Id.* 31:3–5. For the two women who were born outside of New Hampshire and whose marriage licenses were from outside of New Hampshire, HB 464 would not have helped them had it been in effect in October 2025. *Id.* 39:24–40:4. Ms. Seely testified that rejecting their registrations felt “terrible.” *Id.* 31:21.

146. During the February 2026 deliberative session in Bethlehem, Ms. Seely and her fellow Supervisors had to turn away another voter who attempted to register and participate in the deliberative session. As she explained: “[W]e told him he needed proof of domicile and citizenship. He said, I’ve lived here forever but I don’t carry my birth certificate around with me.

⁶ The Plaintiffs offer this testimony to demonstrate the effects on the listener, Ms. Seely, and for the fact that the statements were said by the individual, but not for the underlying truth of the statements.

. . . . He was gracious about it. He went and sat down with his friend. I mean, he grumbled a little bit, but he stayed for the meeting but as an observer.” *Id.* 44:12–23

147. Ms. Robert testified that she had to turn away a voter during the November 2025 city election in Concord. Feb. 10 PM Tr. 62:8–11. In that case, the prospective voter “was a recently-divorced woman” who “had purchased a new home inside the ward.” *Id.* 62:11-13. She needed to change her address, “but she did not have any proof of the name change”; “[s]he had changed her name back to her maiden name after her divorce.” *Id.* 62:13–16. “The voter rolls still had her married name,” so they “had to turn her away because she did not have the divorce decree or whatever . . . paperwork was necessary to kind of connect the two dots with the name change.” *Id.* 62:17–20. They were not able to use her prior registration as proof of citizenship because “[t]he name on her license did not match”; “[s]he had gotten an updated license.” *Id.* 63:5–9. The woman was “encouraged . . . to come back if she was able to find the paperwork, but she did not.” *Id.* 63:12–13. Ms. Robert testified that “it felt not great” to have to turn her away, lamenting that her ex-husband would have been “able to vote just fine.” *Id.* 63:17–23.

148. Ms. Seely testified that she anticipates that, because of HB 1569 and HB 464, election officials “will be turning more voters away.” Feb. 12 PM Tr. 46:2–6. She further testified that she anticipates “it will take longer in general, on average, to register those who are able to register because [they] will be looking up data on those [they] can.” *Id.* 46:7–9.

149. Ms. Robert testified that, based on her experience as a Supervisor, she is worried that “the administrative logistical burdens of having to go back and forth between [the] polling station and the city clerk’s office would be a barrier to people voting.” Feb. 10 PM Tr. 81:14–16; *id.* 81:17–23 (testifying that, based on her experience as Supervisor, the “removal of the QVA will absolutely keep people from being able to cast a vote”).

iii. ***Other Burdens Incurred by Voters***

150. The removal of the QVA significantly increases the costs and burdens imposed on individuals seeking to register to vote through “high direct monetary costs, high informational costs, high time costs, and complex administrative requirements.” PX 18 at 7; Feb. 10 AM Tr. 88:4–89:10.

151. Secretary Scanlan, Attorney General Formella, and then Election Law Unit Chief O’Donnell sought a meeting with the Senate Election Law Chair to share their concerns about HB 1569 prior to its passage. Feb. 17 PM Tr. 98:12–16; PX-158. A core piece of their concern was that for some people, it is difficult to timely acquire DPOC. Feb. 17 PM Tr. 99:4–10.

152. Plaintiffs offered the expert testimony of Dr. Mayer concerning the increased costs and burdens posed by HB 1569’s removal of the Qualified Voter Affidavit on Voters. *See generally* Feb. 10 AM Tr. 84:3–101:16; PX 18. Defendants offered no expert testimony rebutting Dr. Mayer’s testimony.

153. While neither the federal government nor the state of New Hampshire keep data on the number of people with documentary proof of citizenship, survey data is available to estimate the possession rates of DPOC. Survey data such as the 2024 Survey of the Performance of American Elections (“SPEA”) relied upon by Dr. Mayer found that 7.7% of registered voters in New Hampshire did not possess an unexpired passport in their current legal name or a birth certificate. PX 18 at 8-9.⁷ A 2025 survey by Dr. Michael Herron indicated that many of those that report possession of DPOC lack ready access to the document, “over 11 % of New Hampshire residents say they would need one day to get access to their DPOC, and almost 4% would need multiple days to obtain it.” *Id.* at 9.

⁷ This data does not reflect those that possess a birth certificate that does not match their current legal name.

154. “[P]eople who are less likely to report possession of documentary proof of citizenship are the young, the very old, members of minority groups.” Feb. 10 AM Tr. 93:14–16.

155. Those who lack documentary proof of citizenship will incur direct monetary costs in obtaining the documents necessary to register to vote. PX 18 at 8-10.

156. Dr. Mayer credibly testified that he believed the “lower bound” of those without documentary proof of citizenship (either at all, accessible, or in their current name) in New Hampshire “is easily into the six figures.” Feb. 10 AM Tr. 93:2–9.

157. A copy of a certified New Hampshire birth certificate costs \$15, or \$35 plus fees and shipping when ordered online. PX 18 at 10.

158. The Court credits Dr. Mayer’s expert testimony that “there are 14,000 different types of birth certificates,” Feb. 10 AM Tr. 90:9, and “no state offers free birth certificates.” PX 18 at 11. For example, a birth certificate from Massachusetts costs \$20 when obtained in person, \$32 when obtained via a request by mail, and \$54 when ordered online or in person. *Id.* “The cost of a birth certificate in other states ranges from \$10 (Florida) to \$34 (Michigan), and can be higher if ordered from a local government or ordered online.” *Id.*; *see also* Feb. 10 AM Tr. 90:7–19 (describing the different kinds of birth certificates and what does and does not count as proof of U.S. citizenship).

159. Many individuals may be unable to easily obtain a birth certificate or unable to obtain one at all. The Court credits Dr. Mayer’s expert opinion that “there is an academic literature on this that there are some people for whom those records simply don’t exist. And these include the people who might have been born at home, where there’s no official record of the birth, people who were born in rural areas outside of hospitals, people who were born in the south, where -- particularly members of minority groups who might have been born in the ‘30s through the ‘70s,

where the recordkeeping practices or what the literature shows the recordkeeping practices were less formalized.” Feb. 10 AM Tr. 94:5–14 (citing academic sources). To illustrate, Ms. Tentarelli also credibly testified that she reported to the legislators considering HB 1569 the story of Bob Davies, an elderly man who “was adopted as an infant in New York State, and until fairly recently all those adoption records were sealed” and as a result it took him multiple years and the assistance of legal counsel to obtain a birth certificate. *Id.* 37:7–38:11; PX 67; *see also* Feb. 10 AM Tr. 95:15–23 (acknowledging that the example described by Ms. Tentarelli “is a case where the testimony was that the record actually existed and it was difficult to get to, but there will be other cases where those records simply don’t exist. They never existed.”).

160. “A U.S. passport costs between \$65 (for a passport card) and \$165 (for a passport book), with an additional \$60 for expedited service, and \$22.05 more for 1-2 day mail return delivery. Renewing an expired passport is \$130.” PX 18 at 11 (citing sources); *see also* Feb. 10 AM Tr. 88:22–23.

161. “A Certificate of Citizenship (referenced in the New Hampshire Election Procedure Manual) costs \$1,335 for an online application and \$1,385 for a paper application.” PX 18 at 11–12 (citing sources).

162. “A replacement certificate of naturalization (form N-565) is \$505 via online applications and \$555 for paper applications.” *Id.* at 12.

163. “A Consular Report of Birth Abroad is \$50, and applications must be notarized.” *Id.*

164. “A non-U.S. citizen under the age of 18 automatically obtains U.S. citizenship if a parent naturalizes (USCIS 2015), but parents must apply for the certificate (or the child can apply

themselves after they turn 18), and the standard charges apply (\$1,385 for a paper applications, and \$1,335 for an online filing)." *Id.*

165. In addition to the direct monetary costs imposed, there are informational and time costs imposed on individuals who need to obtain documentary proof of citizenship to comply with HB 1569. *Id.* at 12–17. The Court credits Dr. Mayer's expert report which concludes that "[i]ndividuals attempting to obtain one or more of these documents will have to navigate multiple application processes: they must decide whether to order the documents from the federal, state, county, or municipal government; choose a mode of application; may have to work with a separate commercial entity (in addition to understanding whether they are applying to a government agency or a commercial company); may have to have their application notarized; may have to wait weeks or months to obtain the documents; and will have to incur costs that can easily run into the hundreds of dollars." *Id.* at 13.

166. Application forms for the necessary documents can be confusing, contradictory, or even outdated. *Id.* at 13–16.

167. Individuals applying for documentary proof of citizenship in most instances will need to travel to a state or local office during business hours, or wait weeks, potentially months, for a mail in or online application to process. *Id.* at 16–17 (detailing the processing times for mailed birth certificate requests, ranging from 1 to 12 weeks).

168. A Consular Report of Birth Abroad will take a minimum of 8 weeks to process and could take up to 7 months. *Id.* at 17.

169. Those without documentary proof of citizenship are unlikely to be able to obtain it quickly, which will be an insurmountable burden for residents that need to register near or on election day. *Id.*; *see also* Feb. 10 AM Tr. 99:24–100:20 ("[S]omeone who attempts to register on

election day now, without the documentary proof of citizenship, only has a limited time in order to procure it or to go get it if they already have it. And what it means is someone who does not have -- does not possess documentary proof of citizenship, there is no way they could apply for the underlying documents in time to be able to vote.”).

170. Approximately 10,500 New Hampshire voters used a QVA to attest to citizenship when registering to vote on election day in the November 2024 presidential election. Feb. 10 AM Tr. 99:24–100:5; PX 18 at 23.

171. Individuals that have changed their legal name since birth face additional burdens when registering to vote post-HB 1569. Feb. 10 AM Tr. 90:20-92:6. The Secretary of State’s guidance on HB 1569 provides that, for those presenting a birth certificate that does not match their current name election officials “will need to see a marriage certificate, divorce decree/certificate, or court order showing that a legal name change has occurred. To use the birth certificate as proof of United States citizenship or age, you need evidence that makes it more likely than not that the birth certificate listing a different name is the birth certificate of the applicant.” DX RR at 5; *see also* PX 121 (email from Bud Fitch, former General Counsel for the Secretary of State, explaining that “[i]f John Smith applies for voter registration and provides a birth certificate in the name of Ralph Brown as proof of United States citizenship, unless John Smith can show evidence that he was Ralph Brown at birth, he has not satisfied this requirement. A court order changing Ralph Brown’s name to John Smith would tie the birth certificate to the name on the application and proof of identity.”).

172. The requirement that those who have changed their name since birth show proof of name change to use a birth certificate to register to vote will disproportionately impact married women. *See* PX 121 (“We expect the most common circumstance you will encounter is a person

who adopted their spouse's last name at marriage.”); Feb. 10 AM Tr. 91:10–16 (expert testimony that the requirement “by a 15-to-1 margin will affect women more than men”); PX 18 at 10 (noting that a “2023 survey by the Pew Research Center estimated that over 80% of women in opposite-sex marriages took their husband's last name or hyphenated their surnames compared to only 6% of men”).

173. Prior to HB 1569, individuals lacking documentary proof of citizenship in their current name could attest to their citizenship using a QVA. Feb. 10 AM Tr. 93:19-25; PX 18 at 21.

iv. ***Defendants Have Refused and Opposed Tracking Burdened Voters***

174. The Secretary of State’s Office did not track the number of voters turned away from elections in 2025, including those that were unable to register due to a lack of documentary proof of citizenship. Feb. 20 AM 37:7–10.

175. Ms. Robert testified that the Concord City Clerk’s office created a “cover sheet” that election officials were “supposed to fill out if there was a voter who needed to be turned away for whatever reason.” Feb. 10 PM Tr. 59:25–60:15. She testified that she was not aware of any “comparable forms provided by the state.” *Id.* 61:3–6.

176. Ms. Chouinard testified that, to her knowledge, the state was not “tracking any information about voters who were turned away,” nor was the state “required to.” Feb. 11 AM Tr. 140:10–13. To Ms. Chouinard’s knowledge, elections officials were similarly not required to track voters who were turned away. *Id.* 141:11–13.

177. NHCVR publicized its findings regarding the number of voters turned away from the polls. *See* Feb. 11 AM Tr. 153:9–11. The Secretary of State’s office never reached out to Ms. Chouinard about the data NHCVR collected and publicized. *See* Feb. 11 AM Tr. 153:19–21.

178. Elections Director Patricia Piecuch testified at deposition and confirm at trial that the Secretary of State’s Office does “not get involved in with local elections . . . when supervisors

are registering their voters. . . . [A]s far as turning people away, they don't need to report that information to us." Feb. 19 PM Tr. 5:18–6:6. Elections Director Piecuch also testified that she has not received any calls from election officials regarding individuals that were not able to vote under HB 1569. Feb. 19 AM Tr. 35:2–5. Since the Court has concrete evidence of hundreds such individuals in the record, it can reasonably infer that local election officials are not calling the Secretary of State's office as a matter of course before turning individuals away from registering.

179. Secretary Scanlan opposed SB 437, legislation which would have helped track voters denied registration due to lack of DPOC. Feb. 20 AM Tr. 37:11–18.

180. Despite its failure to track potential voters turned away from the polls, the State was still aware of individuals who could not register in the 2025 elections due to HB 1569. Secretary Scanlan conceded in a recorded statement that, in 2025 municipal elections, they "weren't keeping track" but that there were voters "did not have the documentation that they needed" and "were sent home," and "some that just left and they never came back." PX 104B. "[W]hat that tells [Secretary Scanlan] is that we know that there's a population out there that are going to need some help." *Id.*

v. ***Impacts on Local Election Officials & Election Administration Impacting Voters***

181. Municipal elections are slower than general elections—turnout can be half that of a statewide general election—and the voters who turn out in those elections tend to be invested, engaged, and active in local affairs. Feb. 9 PM Tr. 80:4-8; Feb. 10 PM Tr. 52:4–8; *id.* 58:23–59:18; Feb. 12 PM 21:23–22:4.

182. Even before HB 1569, Ms. Shump testified that she and other Supervisors occasionally had trouble determining whether a particular document counted as proof of citizenship. Feb. 9 PM Tr. 63:13–64:4.

183. Ms. Shump testified that when she learned about HB 1569 and the removal of the QVA, she was “very nervous about how it would affect things and how many people we were going to have to turn away at the polls, which we don’t like to do.” Feb. 9 PM Tr. 65:10–20; *see also id.* 71:20–72:1 (“[M]y concerns were that a lot of those people who register same day would not realized that they need to have a passport with them who have heard through the grapevine that in the past people could fill out -- even if they knew they were supposed to be American citizens, that they might have heard through the grapevine from other people that have registered previously that they could fill out another form.”), 72:2–4 (“[W]e were very concerned . . . about how there could be a lot of arguments when we had to turn people away.”). Ms. Shump also testified that she was concerned that HB 1569 would “slow down the process.” *Id.* 69:11–16.

184. Ms. Shump raised these concerns in a June 12, 2024 email to Secretary Scanlan, in which she asked him to “STRONGLY recommend to [the Governor] that [HB 1569 and HB 1370] are not in the best interests of the voters in New Hampshire.” PX 97.⁸ She wrote this email because her “understanding was that Governor Sununu had said that he was going to listen to the Secretary of State and listen to his opinion.” Feb. 9 PM Tr. 68:23–69:1. She explained in the email, for example: “What if someone comes with their birth certificate, but do not have a passport (they are quite expensive), and have married or otherwise changed their name since birth? Their driver’s license and their birth certificate may not have the same last name. Do we turn them away? I’m guessing that this will be an issue mainly with married women, although there are some men who change their names. Will we have to turn them away unless they also have their marriage license or a court decree regarding the change of their name?” PX 97.

⁸ This email at PX 97 is introduced here only “for the purpose of identifying the concerns that were raised to Secretary Scanlan in connection with the legislation and not for the purpose of any factual statements that are in this e-mail.” Feb. 9 PM Tr. 70:18–21.

185. Ms. Shump also signed a letter submitted by election officials throughout New Hampshire urging the Governor to veto HB 1569. PX 164.⁹ The letter explained that “[a]ffidavits remain a last stop, catch-all in the instance a voter does not have all qualifying documents available on Election Day.” *Id.*

186. Ms. Shump testified that she was concerned that HB 1569 would make it harder to recruit volunteers to help on election day. Feb. 9 PM Tr. 72:12–15 (“I was concerned that if our volunteers found out that it might be their job to turn somebody away, they -- we might have fewer volunteers.”).

187. Ms. Shump testified that, based on her experience, HB 1569 will create even longer lines at the polling locations. *See* Feb. 9 PM Tr. 88:11–14 (“[O]n the big elections we’re in charge of the line of people, and we have -- usually from about 10 or 11 o’clock in the morning until 15 minutes before the polls close, we have a very long line.”); *id.* 89:1–3 (“Well, just with 1569 I think the line will be longer partly because we have to figure out what we’re going to do with those people we have to look up.”). Ms. Shump testified that, in her experience, when there are long lines for voters to register, some people get “very frustrated and occasionally . . . leave,” particularly the elderly. *Id.* 90:9–15.

188. Ms. Shump testified that she believes that they “need more” efforts to get-out-the-word about voter registration events “[b]ecause of the extra documents that are needed” following HB 1569. *See* Feb. 9 PM Tr. 90:18–91:10.

189. Ms. Seely testified that, during the November 2024 general election in Bethlehem and before HB 1569 went into effect, the Supervisors made a few changes to the way they

⁹ This letter is being offered “not for the truth of any factual assertions in there but to establish the concerns that were shared with the governor.” Feb. 9 PM Tr. 67:4–6.

operate—they “tried to be more careful about introducing [themselves] with the questions to voters” and asked questions to “not[e] how many people did not have the citizenship [documents].” Feb. 12 PM Tr. 15:5–24.

190. Ms. Seely testified that, during the 2024 general election, a prospective voter sought to register and provided his license, a military ID, and a social security card. *Id.* 16:21–17:8. When he was told that those documents did not prove citizenship, the prospective voter “became irate,” “very upset,” and “agitated.” *Id.* 17:8–14. When he was told that he could swear to citizenship, he said he would not be “filling out anymore paperwork.” *Id.* 18:23–25. In the end, this prospective voter was able to vote, as he had previously registered in a southern New Hampshire city. *Id.* 19:5–9. Had this occurred after HB 1569 went into effect, Ms. Seely testified that she expects this prospective voter “would have been more angry” and she “might have been sending someone upstairs to see if there was a police officer there.” *Id.* 20:4–9. She testified that she would have been “very fearful.” *Id.* 20:9.

vi. ***HB 1569 Results in Arbitrary Applications of Election Rules***

191. New Hampshire has 320 election jurisdictions. PX 18 at 1–2.

192. HB 1569 provides that registrants may provide “other reasonable documentation” of citizenship, but what qualifies under that standard remains largely undefined. *See, e.g.*, Feb. 10 AM Tr. 85:4–13; PX 18 at 27. This ambiguous provision of HB 1569 makes it a “certainty” that an election official in one part of the state will decide that a particular document meets the standard to prove citizenship, while an official in a different part of the state could determine that the same document does not prove citizenship. Feb. 10 AM Tr. 85:14–86:15.

193. Inconsistent use of discretion by local election officials is well documented, including in peer reviewed research, particularly with respect to “how election officials evaluate identification requirements.” PX 18 at 29; *see also* Feb. 10 AM Tr. 85:14–86:15.

194. Ms. Robert testified that she believes that polling places “have slightly different procedures.” Feb. 10 PM Tr. 93:12–15.

195. Election officials “[o]ccasionally . . . get an e-mail about [training] webinars,” but attendance is not mandatory. Feb. 12 PM Tr. 22:17–23:4.

196. Ms. Robert testified that the Concord Supervisors of the Checklist did not receive any training directly from the Secretary of State’s Office leading up to the November 2025 municipal election. Feb. 10 PM Tr. 60:16–20. She also testified that she does “not receive communication directly from the Secretary of State’s Office.” *Id.* 60:21–24.

197. Ms. Shump testified that she does not feel that she has a comprehensive understanding of what “other reasonable documentation” is acceptable to prove citizenship. Feb. 9 PM Tr. 77:24–78:2; *see id.* 78:12–14 (“Q. Do you consider yourself an expert on all forms of citizenship identification? A. Absolutely not.”). As one example, Ms. Shump testified that she just learned that she could accept a Global Entry card as proof of citizenship; she had previously been under the impression that she could not. *See id.* 78:15–79:2.

198. When asked what “other reasonable documentation” Ms. Seely would accept in Bethlehem, she said that a “handful of states . . . have a citizenship endorsement on their driver’s license,” so she would “accept that as proof of citizenship,” but “very little” beyond those specifically mentioned in the guidance. Feb. 12 AM Tr. 126:6–16; *see* DX RR (guidance); *see also* Feb. 12 AM Tr. 128:6–11; Feb. 12 PM Tr. 10:6–10. When asked whether Ms. Seely would consider an expired passport as reasonable proof of citizenship, Ms. Seely stated: “That is one I would have to look up on the fly. I do believe that we can take expired passports for older people. And there may be a window for if it’s expired within five years or something. We’ve not had that

situation arise, and I'm not as familiar with it." Feb. 12 PM Tr. 12:8–14. She testified that she did "not believe" a Global Entry card constituted "reasonable other documentation." *Id.* 12:15–16.

199. Ms. Robert could not answer what, if anything, she would accept as "other reasonable documentation" to prove citizenship because she did not know if she had "ever been presented anything that would be considered other reasonable documentation for citizenship." Feb. 10 PM Tr. 55:2–7. Ms. Robert testified that she received a "checklist" that lists "what pieces of documentation are approved for different requirements" from the City of Concord, but she did not recall seeing any language on the "checklist" identifying anything that has led her to believe there is a particular type of document that qualifies as "other reasonable documentation." *Id.* 55:8–25. Ms. Robert testified that, in her view as a Supervisor, an expired passport is reasonable proof of citizenship so long as it is "expired within five years." *Id.* 56:23–25. She did not know whether a Global Entry card constituted reasonable proof of citizenship. *Id.* 57:11–15. She would not accept a town annual report listing births to residents of the town from that year as proof of citizenship. *Id.* 58:10–12.

200. Ms. Seely testified that the standard that she believes applies in determining when "other reasonable documentation" indicates that a registrant is a citizen is "pretty arbitrary." Feb. 12 PM Tr. 10:2–6. Ms. Seely also testified that she expects, based on her experience as a Supervisor, that different election officials will reach different conclusions as to when a particular document proves citizenship and that this could "potentially" be "problematic." *Id.* 14:15–23. Ms. Robert testified that she "believe[s] it's very likely that different officials would interpret those – interpret some of the less-specific areas of guidance differently." Feb. 10 PM Tr. 58:20–22. Ms. Shump testified that she is "[a] little bit" worried that different election officials in different parts

of the state might reach different conclusions about different ways of proving citizenship. Feb. 9 PM Tr. 79:21–24.

201. Immediately upon HB 1569’s effective date in November 2024, the Secretary’s Office promulgated guidance explaining that “other reasonable documentation” refers to any document that “establishes that it is more likely than not that you are a United States citizen.” PX 209 at 2 (emphasis added). The “more likely than not” standard also featured in early 2025 guidance. *E.g.*, PX 210 at 2; PX 168 at 6–7. (Question 5, applying “the ‘more likely than not’ standard” to “digital images of a[] . . . birth certificate”). In September 2025, after all town elections and other local elections were held under this guidance, a Supervisor raised concerns with the Deputy Secretary of State during a virtual Q&A session that this standard was a misreading of the statute. Feb. 12 PM Tr. 5:3–12, 7:7–14, 9:13–10:1. About a week later, the Secretary of State removed the “more likely than not” language and replaced it with a generalized instruction to accept only “[o]ther reasonable documentation which indicates you are a United States citizen.” PX 211 at 2. No changes were made to other, still-operative guidance documents employing the “more likely than not” standard. Feb. 19 PM Tr. 6:14–19. The Secretary of State’s Election Director was unaware this change had occurred months later at trial, but she admitted it could be a “substantive change,” and that it would affect the Office’s position “[f]or some documentation.” Feb. 19 PM Tr. 9:9–23, 10:9–12, 11:25–12:3. However, she stated she “can’t determine how to figure out” the difference between the conflicting standards, even as she recognizes that “the supervisor . . . would have to make that determination.” Feb. 19 PM Tr. 11:1–5. Elections Director Piecuch also testified that if a supervisor called her office asking if a document not enumerated in the already provided guidance was a “reasonable” proof of citizenship she would have to consult the state’s legal counsel before providing an answer. *Id.* 132:13–16.

202. When asked whether specific documents qualified under the law as “other reasonable documentation” for citizenship—including Global Entry Cards, Annual Town Reports, affidavits from parents averring to their child’s domestic birth or citizenship via adoption, video recordings of naturalization ceremonies, and more—witnesses’, including state and local election officials, responses consistently conflicted. For example, for an expired passport, witnesses could not agree on whether a time restriction on the date of expiry applied. *Compare* Feb. 10 PM Tr. 55:9–21, 86:20–87:3 (Ms. Robert testifying that only if expired “within five years,” based on guidance that she believes “came from the Secretary of State’s office”); Feb. 12 PM Tr. 12:10–14 (Ms. Seely testifying that “there may be a window for if it’s expired within five years or something”), *with* Feb. 17 PM Tr. 92:24–93:9 (Deputy O’Donnell testifying that there are no time restrictions); *see also* Feb. 19 PM Tr. 133:12–134:15 (Elections Director Piecuch testifying that “[i]t could be” that a five-year limit applies, but she is unaware of the correct guidance). As a further example, town Supervisors have inconsistent views on whether they would accept a town’s annual report listing births. *Compare* Feb. 10 PM Tr. 58:10–12 (Ms. Robert testifying that she would not accept a town’s annual report listing births), *with* Feb. 12 PM Tr. 13:20–14:9 (Ms. Seely testifying that she would accept a town’s annual report listing births as proof of citizenship if they individual had an ID with the name listed).

203. Elections Director Piecuch’s testimony that she does not believe that election officials will be confused about what documentation qualifies as proof of citizenship, Feb. 19 AM Tr. 130:2–6, is inconsistent with the testimony from local election officials on the topic. *See supra*, ¶ 202; Feb. 9 PM Tr. 79:21–24; Feb. 12 PM Tr. 10:2–6; Feb. 10 PM Tr. 58:20–22.

204. In January 2025, the Secretary of State’s office promulgated guidance that Global Entry Cards were not acceptable proof of citizenship under HB 1569, *see* PX 168 at 11, even

though the cards clearly indicate citizenship, *see, e.g.*, PX 170 (image of Global Entry Card). The Secretary of State's office has since admitted this was wrong, as the cards clearly indicate citizenship, *see* Feb. 19 AM Tr. 149:14–17, and on January 9, 2026, confirmed in an interrogatory response for purposes of this litigation that election officials may accept Global Entry Cards. *See* PX 14 at 2–3. Its guidance, however, has not been updated to inform local officials, Feb. 19 AM Tr. 149:22–150:4, which Elections Director Piecuch conceded leaves voters at risk of being turned away, *id.* 151:25–152:3. Indeed, given the inconsistent guidance, local election officials have reached different conclusions: some say Global Entry Cards are not valid, some are unsure, and others only learned of the updated policy through their participation in this litigation. Feb. 12 PM Tr. 12:15–16 (Seely testifying that she does not believe a Global Entry card counts as other reasonable DPOC); Feb. 10 PM Tr. 57:11–15 (Robert testifying she does not know if a Global Entry card proves citizenship); Feb. 9 PM Tr. 78:15–79:6 (Shump testifying that she learned in connection with this litigation that a Global Entry card can prove citizenship).

205. Attorney Orville B. Fitch—legal counsel at the New Hampshire Secretary of State's Office from August 2017 to May 2025—testified at his deposition that it is possible that local election officials could reach different conclusions when presented with the same set of facts. *See* Dkt. 132, Fitch Dep. Tr. 133:24–134:24.

IV. HB 464 DOES NOT MEANINGFULLY REDUCE THESE BURDENS

A. Dr. Mayer's Expert Testimony

206. Dr. Mayer offered his expert testimony analyzing the impact of HB 464, and the resulting search function mandated by the law, on voters attempting to register in New Hampshire and credibly concluded that HB 464 will not meaningfully reduce the burdens imposed on voters by HB 1569's removal of the QVA. *See* PX 22; Feb. 10 AM Tr. 116:14; Feb. 10 PM Tr. 26:11.

Defendants did not offer expert testimony rebutting Dr. Mayer's analysis of HB 464 or the resulting search function.

207. After the passage of HB 464, but before the search function was implemented, Dr. Mayer submitted a supplemental expert report on September 26, 2025. PX 22. In his supplemental report, Dr. Mayer analyzed the theoretical search function required by HB 464 and contemplated by Secretary Scanlan in a presentation to include data such as that from the Systematic Alien Verification for Entitlements ("SAVE"), Electronic Verification of Vital Events ("EVVE"), NH Department of Motor Vehicles ("DMV"), NH State and Federal Courts, and business databases like Experian, *id.* at 2–6, and concluded that the contemplated system would not meaningfully reduce the burdens on those without documentary proof of citizenship and "that the DPOC requirements imposed by HB 1569 will continue to prevent eligible New Hampshire residents from registering to vote." *Id.* at 2. HB 464's requirement that the Secretary of State's Office "provide access to data from centralized voter registration records, records from the department of safety, and New Hampshire vital records" was implemented on January 5, 2026 through a search inquiry added to the Statewide Voter Registration Database. DX UU. This finalized search function only includes certain data from the New Hampshire Vital Records and the New Hampshire DMV and does not include information from systems such as SAVE or the Federal Court System. Feb. 10 AM Tr. 117:4–7.

208. Dr. Mayer analyzed the final search function implemented in response to HB 464, by reviewing materials such as: "instructions that would be provided to local officials to conduct searches, the form that voters would be asked to complete if they presented at the form -- at the polls without documentary proof of citizenship, an email from someone in the New Hampshire Department of Justice discussing the percent -- or the numbers of driver's licenses and ID in New

Hampshire that were REAL ID as opposed to noncompliant ID, a memorandum that the Secretary of State had sent to election officials describing the changes, and Secretary Scanlan's deposition on February 4th.” *Id.* 118:9-21; *see also id.* 123:14–130:12. Dr. Mayer is qualified to analyze the system implemented as a result of HB 464 due in part to his relevant knowledge and experience concerning database matching and reviewing the clarity of instructions and forms provided to research participants and those collecting data. *See, e.g., id.* 118:25–119:15; PX 18 at Appendix B. Defendants offered no expert testimony to rebut Dr. Mayer’s analysis of the SVRS search function implemented due to HB 464.

209. The Court credits Dr. Mayer’s testimony that, even if the system implemented by HB 464 were to work correctly, there are New Hampshire residents that will not be able to prove citizenship using the new search function, such as those that were born outside of New Hampshire, those with a name change that cannot be proven through a marriage or divorce that occurred in New Hampshire, those without a New Hampshire drivers license or identification, and those who have a New Hampshire drivers license or identification “but at the point where they applied for it they weren’t a citizen and subsequently naturalized.” Feb. 10 AM Tr. 120:12–25. Dr. Mayer’s conclusions are in line with the Secretary of State’s own memorandum to local election officials, which stated that: “It is important to note that this process is not guaranteed to prove a person’s citizenship in all cases. It may confirm citizenship for registrants: (i) who were previously registered to vote in New Hampshire; (ii) who were born in New Hampshire; (iii) who previously provided proof of citizenship when obtaining a New Hampshire driver’s license; or (iv) whose name change is reflected in a New Hampshire vital record or DMV record. The SVRS will not be able to prove the citizenship of other registrants, who will need to provide documentary proof of citizenship when registering to vote.” DX UU. As a result, “there will be large populations of

people for whom [HB 464] does not and for whom it cannot provide relief.” Feb. 10 AM Tr. 139:17–18.

210. New Hampshire’s Director & Registrar of Vital Records, Kristin Martino, testified that the SVRS “will not receive vital records from any individuals born, married or divorced outside of New Hampshire.” Feb. 18 PM Tr. 128:14–17. Approximately 60% of New Hampshire residents were not born in the state of New Hampshire, and thus the New Hampshire vital records will not have a record of their birth. Feb. 10 AM Tr. 122:21–123:8; PX 22 at 3.

211. For a married woman, who took her husband’s last name at marriage, to use the vital records system to prove her citizenship when registering to vote, she would need to have been born and married in the state of New Hampshire. Feb. 10 AM Tr. 120:12–17; 121:14–19. For a woman who has been married, and changed her name multiple times, her birth, marriage, divorce, and re-marriage would need to have occurred in New Hampshire to utilize the search function, as “someone who is either born in another state, married in another state, or divorced in another state, that information would not be complete in the vital records data.” *Id.* 122:1–4.

212. Dr. Mayer testified that whether individuals can prove their citizenship at registration using the system implemented by HB 464 will also depend on whether their polling place has both internet access and election officials working on site that have authorization to search the SVRS. *Id.* 121:2–11. As a result “from the standpoint of thinking about the cost of voting, a voter cannot know, they will not know, whether they can avail themselves of this process when they go try to register to vote.” *Id.* 139:19–22.

213. According to a survey conducted by the Secretary of State’s Office, approximately 16% of polling places in New Hampshire reported not having, or being unsure if they have, reliable

internet access. *Id.* 121:5–8; PX 76. Defendants have not introduced any evidence reflecting a plan to ensure these polling locations will have access to the internet to use the SVRS on election day.

214. Access to the SVRS is limited by statute, with only City and Town Clerks, Deputy and Assistant Clerks, Supervisors of the Checklist, and Assistant Supervisors of the Checklist granted access at the local level. Feb. 19 AM Tr. 45:18–25. Elections Director Piecuch has acknowledged that not every local election official can access the SVRS. *Id.* 108:23–25. Officials with access are prohibited from sharing their credentials and those who share their credentials to the SVRS may face consequences such as revocation of credentials. *Id.* 109:24–110:14. The Secretary of State’s Office monitors usage of the SVRS and will lock out users if they detect any suspicious usage, such as when a user runs multiple searches in a quick succession. *Id.* 110:25–111:17.

215. Municipalities, rather than the State, are responsible for providing local election officials with devices to access the SVRS, but not every municipality does so. Feb. 19 PM Tr. 77:5–16; *Id.* 73:23–74:6; Feb. 9 PM Tr. 86:9–12; Feb. 18 PM Tr. 77:25–78:2. Not every local election official has a personal laptop with which to access the SVRS and the guidance on whether it is even appropriate to access the SVRS on a personal device is unclear. Feb. 9 PM Tr. 86:13–14; Feb. 18 PM Tr. 78:3–8; Feb. 19 PM Tr. 80:10–25.

216. Deputy O’Donnell’s testimony that local election officials do not necessarily need to have SVRS access physically in the polling location so long as they have another employee at the town clerk or city clerk’s office that they can call to run a Vital Records or DMV inquiry for them is not credible. His interpretation directly conflicts with the operative Instructions on conducting such searches, which clearly and repeatedly states that “[b]efore ANY search can be completed within the vital records or DMV inquiries, the voter shall be present in front of *you*”

with certain required forms and documentation. The term “you” refers to the person who “perform[s] searches” and who is subject to criminal penalties for doing so “without the voter present.” Feb. 18 AM Tr. 24:24–27:17; PX 177.

217. Dr. Mayer described the conditions that would need to be in place for the search function implemented in the SVRS to comply with HB 464 to work as intended, namely: “it would have to be a polling location that has Internet access, a polling location that has an official authorized to initiate a search. It would have to have all of the information that the voter provided at the polls to be correctly entered into this -- the search because it uses a technique called exact matching, which means every character in every search field must match exactly between the two databases. And it also would require that the underlying data in vital records or driver's license data to be correct. If any one of those conditions is not met, the search process will not confirm citizenship, even when it should.” Feb. 10 AM Tr. 122:5–20.

218. The Secretary of State’s Office has not conducted any investigation into the accuracy of the vital records or DMV databases, nor has it conducted an investigation into the completeness of those databases. Feb. 20 AM Tr. 49:19–50:12.

219. Dr. Mayer credibly testified that, in his expert opinion, the new SVRS system will not work as intended. Feb. 10 AM Tr. 138:9–25 (finding that it is “not possible for the system to accurately verify the citizenship status of everyone who relies on it” as it is a “complicated, error-prone, unwieldy, ambiguous system that...does not mitigate the effects of HB 1569”).

220. In forming his conclusions about the search function implemented by HB 464, Dr. Mayer reviewed the Application for Confidential Verification of a New Hampshire Vital Record or DMV Record Search for the Purpose of New Hampshire Voter Registration (the “Application”). *Id.* 123:14–124:3 (discussing PX 176). Dr. Mayer testified about a variety of concerns about the

Application, including that “the document provides virtually no instructions to voters” about what they need to fill out and why, it asks for a large amount of personal information that “not relevant to the voter registration process and actually is not necessary to conduct a search of either vital records or DMV data,”¹⁰ and that it is “poorly labeled with inconsistent instructions” to both potential voters requesting the search and election officials implementing it. Feb. 10 AM Tr. 124:4–17. Critically, the Application “includes intimidating language, threatening voters with the penalties for voter fraud.” *Id.* Dr. Mayer testified that the consequences of these shortcomings are that voters will be confused about what information they need to provide in the Application and will likely take “five to ten minutes” to complete, “and that’s assuming a voter understands and doesn’t have questions about what they’re supposed to do.” *Id.* 126:11–15.

221. Once the Application is filled out and provided to an election official, Dr. Mayer testified that the official will have to enter the information manually, and, depending on how many sections a voter filled out, that search process could take another 10 or 15 minutes once the Application is filled out. *Id.* 126:16–20. The Court credits Dr. Mayer’s testimony that it could result in “anywhere from 10 to 30 minutes of processing time for a voter, and that’s assuming they are confirmed as a citizen, at which point they then can begin the voter registration process.” *Id.* 126:25–127:2.

¹⁰ Dr. Mayer further testified that the Application asks for “Person A, person B, individual B, that -- and, again, the -- the only information that is actually required to conduct a search of vital records or DMV is the voter’s name, the voter’s date of birth, the name on the birth certificate or, in the case of a marriage or divorce, the date of the marriage or divorce. That’s it. And yet it asks for a huge amount of information, the birth certificate section: Your mother’s name, your father’s name, the -- your name before you were married. It -- it just asks for an enormous range of information that -- that is not necessary and is actually -- is not required to conduct a search of records.” *Id.* 125:20–126:7.

222. The Application allows for potential registrants to request multiple types of SVRS searches, such as birth, marriage, divorce, or DMV. *See* PX 176. However, there are no instructions to election officials about what order they should sequence the searches or how they should handle a situation where there are multiple or conflicting results. Feb. 10 AM Tr. 127:5–9; Feb. 10 PM Tr. 21:13-23.

223. In his analysis of the system implemented by HB 464, Dr. Mayer also reviewed the instructions for “Inquiries – Vital Records and DMV” that was provided to officials through the SVRS (the “Instructions”). Feb. 10 AM Tr. 128:1–4; PX 177. Dr. Mayer testified about deficiencies and ambiguities in these Instructions, including that it “instruct[s] election officials to do things that they don’t have to do. It describes the data inaccurately. It describes the search process incorrectly. It includes inconsistent directives about the conditions under which they may conduct a search. It threatens election officials eight times with penalties for conducting an unauthorized search.” Feb. 10 AM Tr. 128:11–18. For example, the “instructions to officials on the death section are the same as for all the other sections, making no distinction between the person requesting the search and the voter. And you read the text of the Instructions, it appears to require the dead voter to be present before officials can initiate a search.” *Id.* 128:19–25; PX 177 at 19.

224. The Instructions warn officials 8 times throughout the document, in bold, red text, that “[s]hould you perform searches without the voter present or a completed form, your SVRS credentials could be suspended or revoked, and you could be subject to criminal penalties.” PX 177.

225. When the Instructions describe the various searches that can be performed in the SVRS and vital records data, it states that “[n]o partial names or information is allowed for

mandatory fields.” *Id.* Dr. Mayer credibly testified that “that appears to reference the fact that the matching between the -- this search and voter -- and vital records and DMV must be an exact match, which means that every character in every field must match.” Feb. 10 AM Tr. 129:24–130:2. Dr. Mayer creditably testified that the Instructions contained no language on using returned probabilities of matches, “[i]t’s either a match or it’s not a match. So [he was able to] infer from that that this is -- this is an exact matching process throughout, based on how the results are described.” *Id.* 134:3–12.

226. The Court credits Dr. Mayer’s testimony that the “problem with exact matching is that Elizabeth, Liz, Charles, Charlie, I mean, variants of names that people use. I mean, if those variants exist in these records, it will not match even if it’s the same person.” *Id.* 130:3–6. Dr. Mayer also testified that exact matching could create problems where there are errors in the underlying data, such as a misspelling on a birth certificate or a typo in the database. *Id.* 130:16–21; Feb. 10 PM Tr. 17:3–23. Dr. Mayer himself observed “errors in the SVRS where what is obviously supposed to be a letter is actually a number” for example, a zero (0) instead of an O. Feb. 10 AM Tr. 130:17–19; Feb. 10 PM Tr. 17:18–23. “[B]ecause this system uses exact matches, the risk of a false negative, failing to link to the data when that individual is actually there, is especially high.” Feb. 10 AM Tr. 130:22–25. In voter registration, false negatives are particularly problematic, where here “an individual would not be permitted to register unless they, otherwise, came up with documentary proof of citizenship or in the case of a DMV -- well, in the case of a DMV non-match, the voter would not be able to register unless they were able to provide documentary proof of citizenship.” Feb. 10 PM Tr. 19:7–12.

227. The Secretary of State agrees that the vital records and DMV search function through SVRS is an “exact match” system. Feb. 20 AM Tr. 52:8–12.

228. Deputy O'Donnell and Elections Director Piecuch testified that, although town and city election officials are limited to an exact match search (as is clearly indicated in the only guidance produced on such searches), certain state level user may be able to perform partial name searches. Feb. 18 AM Tr. 29:16–33:2; Feb. 19 AM Tr. 71:22–72:16; PX 177; DX UU. Deputy O'Donnell testified that he learned this at a training that “was primarily just walking through how each of those inquiries would work[, l]argely following the instruction document” identified at PX 177 and DX UU. Feb. 18 AM Tr. 29:16–33:2. This testimony directly conflicts with the contents of that guidance and with the Secretary of State's affirmance just days before trial as his agency's designated 30(b)(6) witness that “there's no part of the software that tries to return close matches”. Feb. 18 AM Tr. 31:22–32:19. To the extent Deputy O'Donnell and Elections Director Piecuch's testimony may be correct as a general matter, it is self-serving, and the Court finds that any such system is unlikely to function in a way that meaningfully lessens the burden on voters based on the plethora of conflicting testimony from defense witnesses on this matter, the lack of evidence that any local election officials are aware of such a system, and credible testimony suggesting the overwhelming lack of outreach by election officials to the Secretary of State's Office or Attorney General's Office when facing issues with voters' proof of citizenship.

229. Elections Director Piecuch and Deputy O'Donnell's testimony that the state employees could perform remote DMV and Vital Records searches by phone for local election officials without having the voter present in front of them is not credible. The Instructions, PX 177, state that any “election official,” which Deputy O'Donnell agrees covers his role as Deputy Secretary of State, Feb. 18 AM Tr. 34:14–16, would be subject to criminal prosecution for doing just that. PX 177. This testimony also conflicts with the testimony of the Secretary of State just days before trial as his office's designated 30(b)(6) witness that no such authority or system yet

existed to allow state-level staff to perform a remote search without the voter present. Feb. 18 AM Tr. 33:3–38:7. In fact, Deputy O’Donnell does not believe that there is any exception for state-level users, and he “would be very upset to learn that any statewide official has done a search” that does not follow the Instructions explicitly, Feb. 18 AM Tr. 35:10–18, while Elections Director Piecuch claimed that a state user does not need the search authorization form or voter in front of them to run the vital records or DMV search. Feb. 19 AM Tr. 72:25–73:2. In light of the contradictory testimony and evidence, the Court finds that a search of the SVRS for vital records or DMV data can only occur, consistent with the Instructions, if the voter is in front of the person running the search with a completed Application form.

230. Even if local election officials were able to call into a state hotline to ask a state SVRS user to run a vital records and DMV search, the system would be unworkable and unhelpful for those seeking to register to vote on election day. Only 8 state level officials have access to the SVRS for purposes of running searches of the vital records and DMV data, and those 8 officials have other important responsibilities on election day outside of answering calls to run searches in the SVRS. *Id.* 55:12–21. In his supplemental report, Dr. Mayer credibly predicted, in analyzing a potential call center contemplated by HB 464, that “[a]ny such system is likely to be stressed on election day. Data from the New Hampshire SVRS show that 10,539 election day registrants in November 2024 relied on a Qualified Voter Affidavit to confirm their citizenship, something no longer permitted under HB 1569, suggesting that these voters did not have DPOC with them when they registered. If these voters were processed via a central ‘voter assistance center’ that linked to other federal and state databases to confirm citizenship, even a large operation with a staff of 30 would be instantly overwhelmed, with hours-long queues occurring almost immediately.” PX 22

at 5.¹¹ This point is underscored by the fact that Elections Director Piecuch testified that when the Elections Desk did receive a call from a local election official during a 2025 election, the call went to voicemail and by the time that call was returned, the official had solved the search inquiry question on their own. Feb. 19 AM Tr. 117:16–118:2. Secretary Scanlan also testified that, with hundreds if not thousands of individuals expected to show up at the polls in future statewide elections without documentary proof of citizenship, he anticipates his office would be “swamped” to a problematic degree if they received thousands of calls to the hotline. Feb. 20 Tr. 73:1–4.

231. Dr. Mayer testified that in the Instructions, at PX 177, “the search results for DMV will show one of the -- one of the columns is whether the DMV data indicate that that person is a citizen. And all it says, this person is a citizen, this person is a permanent resident, this person is not a citizen. Citizenship flag does not indicate whether it’s a REAL ID or not.” Feb. 10 AM Tr. 135:8–13; *see also* Feb. 19 PM Tr. 34:9–35:7 (Ms. Piecuch acknowledging that DMV data can be self attested and that whether the individual has a REAL ID is not indicated in the search results). The Court credits Dr. Mayer’s testimony that it is not clear from the materials in the record whether the SVRS search results return “citizenship for people who have a REAL ID, meaning that they have provided underlying documentation proving that they are a U.S. citizen” or citizenship data for people who have a “noncompliant ID” which would reflect citizenship “based on whether they have checked a space on the driver's license application, whether they are attesting to their citizenship.” Feb. 10 AM Tr. 134:20-135:5.

¹¹ Much of Elections Director Piecuch’s testimony asks the Court to believe that new, unfinalized guidance, trainings, and procedures are conveniently coming down the pipeline immediately after trial, guidance and procedures that contradict materials that *are* in evidence, and which—in many cases—have been the operative public position of the Secretary of State’s Office for months or even a year. *See, e.g.*, Feb. 19 PM Tr. 47:17–21. The Court declines to rely on speculation regarding guidance or materials from the state to local election officials that was not finalized and offered as evidence at trial.

232. If the SVRS contains data for only those with REAL IDs, the system implemented by HB 464 “still requires time, effort, and expense to obtain the necessary documentation to prove their citizenship to the agency maintaining the database. For example, in order for Real ID records at the DMV to show citizenship status, an individual would have had to present a birth certificate, unexpired passport, naturalization documents, or certificates of citizenship, along with proof of a social security number and documentation of any name changes through marriage, divorce, or adoption.” PX 22 at 2. As a result, a New Hampshire resident unable to provide documentary proof of citizenship to register to vote “would also likely lack the necessary DPOC to apply for a Real ID, which means the DMV database would do little to help those who need it most.” *Id.* About 30 percent of New Hampshire residents lack a REAL ID. Feb. 10 AM Tr. 135:14-20.

233. Defendants have not proven that the DMV citizenship data is verified, rather than self-reported. *See* Feb. 19 PM Tr. 66:22–67:13. In fact, a letter from Secretary Scanlan to the DMV director shortly before HB 464’s enactment requesting access to DMV data that discusses “how the licensee reported their United States Citizenship status when obtaining a license of non-driver ID from your office” and stating his “understanding” that “[t]he data point is as provided by the applicant [on their license application], it has not been vetted or verified for purposes of determining [U.S.] citizenship by the [DMV].” PX 145A; *see also* PX 270 (earlier draft of guidance, with a statement that “DMV records will confirm whether the person used citizenship documents such as birth certificates, passports, etc.” which was removed from final guidance).

234. If the SVRS contains data reflecting the self attestation of citizenship for noncompliant IDs, then the confirmation of citizenship through the DMV search is no different than the attestation of citizenship through the prior use of a QVA.

235. Survey data indicates that “2 percent to 7 or 8 percent” of citizens lack any form of license or non-drivers ID. *Id.* 135:23—25.

236. According to the Secretary of State’s data, 43,354 active, pending, or pending removal voters have or had at the time of registering an out of state license and therefore would not have been in the DMV data. PX 287.

237. It is possible for a U.S. citizen to appear in DMV data as not a citizen, a phenomenon that Dr. Mayer has testified he has observed in his professional work. Feb. 10 AM Tr. 137:13-25. When analyzing non-citizenship flags by the state of Florida based on DMV data, Dr. Mayer found that “99.9 percent of those non-citizenship flags were incorrect, that the person was actually a U.S. citizen and had naturalized after first obtaining a driver's license or ID.” *Id.* 138:5–7; Feb. 10 PM Tr. 15:2–8 (explaining that it is “almost universally understood that the DMV citizenship data will be outdated for voters who are not a citizen when they apply for a driver’s license. . . for most voters who are subsequently naturalized, the DMV data will be incorrect). Based on this, citizens who naturalized after obtaining an ID from the DMV may appear incorrectly as noncitizens in the SVRS DMV search results and be turned away from registering to vote. *Id.* 15:14–24.

238. Following HB 464, there are many populations of New Hampshire residents that are otherwise eligible but will not be able to vote due to lack of documentary proof of citizenship, such as: “people who don’t have documentation, not just of citizenship, but of the sequence of name changes, someone who has not registered in New Hampshire before, someone who does not have a New Hampshire driver’s license, someone who is not born in New Hampshire,” someone with information inaccurately entered into a database, individuals naturalized after obtaining an

ID from the DMV, or individuals who live in a ward with a polling place that lacks internet and/or access to the SVRS. Feb. 10 PM Tr. 25:5-26:4

B. Testimony of Local Election Officials, the Secretary of State’s Office, and Others Confirm Dr. Mayer’s Findings

239. The Secretary of State’s office’s own documents on the system implemented by HB 464 warns that the data to be searched has substantial gaps, including for instance, any birth records before 1935—and several seemingly random years between then and present, and any delayed birth records; marriage records before 1960; divorce records before 1979 or within the last six months; all but one year of civil union records; and dissolution records prior to 2008. PX 177 at 4, 7, 10, 13, 16; DX UU at 2.

240. The data in the SVRS also does not include, divorce and dissolution records that the county did not forward to the Vital Records Division. DX UU at 3.

241. The guidance provided to election officials on the search function implemented by 464 further warns that “vital records or DMV information may be incomplete or absent,” in which case “individuals must prove their qualification . . . with documentation.” *Id.*; *see also* PX 177 at 2 (describing “incomplete” records and records that were not provided); *id.* at 7, 10 (noting “inconstenc[ies]” in the searchability of marriage and divorce records based on the year of marriage). However, the Secretary of State’s office has not determined how many records are missing or have fatal data flaws. Feb. 20 Tr. 49:19–50:12.

242. Ms. Seely, a Supervisor of the Checklist in Bethlehem, testified that she can not search out-of-state voter registration records. *See* Feb. 12 PM Tr. 38:12–39:13. She says HB 464 did not address her concerns about HB 1569, and it created a “second class of citizens who are out-of-staters.” *Id.* 39:19–20. Ms. Shump, a Supervisor of the Checklist for Durham, also testified

that it is her understanding individuals have to be from New Hampshire to benefit from the vital records search implemented after HB 464. *See* Feb. 9 PM Tr. 83:21 – 84:8, 84:18-85:4.

243. Ms. Robert, a Supervisor of the Checklist for Concord, comes across people registering to vote who were not previously registered in New Hampshire, who were not born in New Hampshire, and who have non-New Hampshire IDs. Feb. 10 PM Tr. 74:16-24. These voters would not be found in the search of the SVRS implemented following HB 464.

244. The search function implemented by HB 464 only would have helped one of the three voters whose registrations Ms. Seely had to reject in October 2025, as two of the women had a name change from marriages out of state. Feb. 12 PM Tr. 29:21-22; 39:24-40:4.

245. Ms. Seely testified that she does not always remember to perform an SVRS inquiry when registering voters. *See* Feb. 12 PM Tr. 45:4–16.

246. Ms. Robert testified that Supervisors of the Checklist in Concord do not have SVRS access. *See* Feb. 10 PM Tr. 71:3–72:14. In Concord, no election officials have access to the SVRS at the polls on election day. *Id.* 71:19–25. As a result, no one at the polling locations on election day in Concord would be able to run the searches of the SVRS to verify registrants' citizenship. *See* PX 177 (requiring that the search be performed with the voter in front of the official running the search). Instead, Concord election workers “would have to send the voter down to city hall to fill out that form in front of the clerk or whoever it is that was looking in the SVRS.” Feb. 10 PM Tr. 78:3-24. Ms. Robert testified that in her experience “I don’t believe that if people are told they have to go down to city clerk’s office to fill out a form and come back to the polling station, that we would see everyone come back. So I think that we would see lower vote numbers.” *Id.* 79:4–19.

247. The Secretary of State does not currently know whether Manchester has enough individuals with SVRS credentials to ensure that someone with access to the SVRS is present at each ward. Feb. 20 AM Tr. 52:4–7. Elections Director Piecuch also testified that she is aware that some cities, such as Concord, Manchester, and Nasuha, do not have supervisors of the checklist with access to the SVRS. Feb. 19 PM Tr. 77:5–16, 80:3–9.

248. Ms. Shump testified that only 3 people in Durham working on election day registration have access to the SVRS; the assistant supervisors and volunteers that help with registration on election day do not have access. Feb. 9 PM Tr. 60:25–61:9. In the November 2024 election about 2,500 Durham residents registered to vote on election day. *Id.* 61:11–13. Durham has not yet figured out how they will run searches during larger elections with only three credentials to run the searches. Feb. 10 PM Tr. 86:20–87:3.

249. Ms. Shump testified that she believes lines will be longer following HB 464 and HB 1569 “because we have to figure out what we're going to do with those people we have to look up. So they may be directed someplace else after they've been standing in line. So if there are a lot of them, then there could be just another line of people waiting for that to happen.” *Id.* 89:1–7. She also testified that at times it can be slow to search a voter in the SVRS database, particularly on election days. *Id.* 33:17–34:1. Ms. Robert testified that the Application for the SVRS search requests a lot of duplicate information from other voter registration forms and will “absolutely add time to the registration process.” Feb. 10 PM Tr. 80:1–81:2.

250. Many cities and towns, like Durham, do not provide election officials laptops or tablets to access the SVRS. Feb. 9 PM Tr. 86:9–19.

251. There has been no playground offered to local election officials to test the SVRS search function. Feb. 12 PM Tr. 43:14-20. Ms. Seely testified that she has “virtually no

understanding of how that system works. Because right on the first page is -- in bright red letters is something that says you can be prosecuted for misusing the system. So we've not gotten to practice. We've not gotten to look at it. I mean, we're terrified to touch it. You have to have the voter in front of you having signed a form giving you authorization. And we've not had to use it yet so we hope it goes well when we do." *Id.* 35:17–25.

252. Ms. Shump testified that Wi-Fi is “not a hundred percent reliable” in Durham, Feb. 9 PM Tr. 89:19, and that students in Durham have had trouble using the Wi-Fi to show proof of domicile. Feb. 9 PM Tr. 89:22–25.

V. IMPACT OF THE CVA REMOVAL

A. Harm to Open Democracy

253. Ms. Zink, executive director of Open Democracy, testified that she is concerned that HB 1569’s removal of the CVA will mean that challenged voters may not be able to cast a ballot on election day. *See* Zink Tr. 8:12–15.

254. Due to HB 1569’s removal of the CVA, Open Democracy is training its poll observers to “watch out” for challenges on election day and to call or text Open Democracy immediately. *See id.* 8:22-9:3. To do so, it has had to update its poll observer training deck. *See id.* 34:12–13, 34:23–35:17.

255. Prior to HB 1569, Open Democracy could train poll observers who witnessed a voter challenge to inform the challenged voter that they could sign a CVA in order to cast a ballot. *See id.* 36:14–20. After HB 1569, there is “not a lot” that poll observers can do if they witness a voter challenge, other than call or text Open Democracy’s staff immediately. *See id.* 36:25–37:16.

B. Harm to Individual Voters

i. *Expert Evidence on CVAs*

256. Dr. Mayer credibly testified as to the impact of the removal of the CVA on voters facing a challenge to their eligibility. Defendants did not offer any expert testimony in rebuttal.

257. Dr. Mayer testified that the removal of the CVA “means that a voter whose eligibility is actually challenged at the polls has no idea what they might have to do in order to be able to register and vote.” Feb. 10 AM Tr. 86:23–25. The Court credits his testimony that this “introduces a level of uncertainty that was not present before because before HB 1569, a voter who was challenged, even if the supervisor or moderator said or agreed that it was -- that the challenge was reasonable, the voter could attest to their eligibility using a CVA, which they no longer can do.” *Id.* 87:1–6.

258. Dr. Mayer also testified that the removal of the CVA introduces increased informational costs on voters as they “won’t know if anyone is going to challenge their eligibility” and therefore won’t know what documents to bring to the polls. *Id.* 101:21–23. For example, “for the purposes of documentary proof of citizenship, what it means is that someone who appears at the polls is registered. They might have already shown documentary proof of citizenship. If they are challenged, their eligibility is challenged on the basis of citizenship and the supervisor of the checklist concludes that it is well grounded, they will have to show documentary proof of citizenship again. And so, you know, in effect, it could create a situation where every voter in New Hampshire would have to bring documentary proof of citizenship with them to vote every time they vote to be certain that they would be allowed to vote.” *Id.* 102:6–17.

259. The Court credits Dr. Mayer’s testimony “that voter challenges are not very common or have not been common, in part because people could attest to their eligibility, but the

removal of the CVA turns that into a high-stakes process” due to the risk of disenfranchisement absent affidavits to attest to their quantifications. *Id.* 103:21–24.

260. Under the new procedure, if the Supervisor of the Checklist rules that the challenge on citizenship grounds is well grounded, the voter would have to show documentary proof of citizenship to be permitted to vote or be turned away from the polls without casting a ballot. *Id.* 104:24–105:2.

261. The standard for deciding a challenge to a voter’s eligibility is whether the challenge is “well grounded” which, as Dr. Mayer testified, “is entirely subjective,” in the discretion of local election officials, and “the archetype of language that will be administered inconsistently around the state.” *Id.* 106:1–7.

262. Following HB 1569’s removal of the CVA, Dr. Mayer testified that it is “likely, that [voter challenges] now becomes a more common practice.” *Id.* 107:4.

263. Concerning whether a voter who is successfully challenged at the polls on election day will be able to obtain a court order to avoid disenfranchisement, Dr. Mayer testified that the concept is “preposterous. Voters are not going to know this. They are not going to know what they have to do, do they need a lawyer, where is the superior court, what do they have to do. And to expect all this to happen on election day I think is completely unrealistic.” *Id.* 107:17–21.

ii. ***Other Burdens on Voters from CVAs***

264. According to Deputy O’Donnell, the Attorney General’s Office has not done a “specific analysis” to determine the “number of people who may [have] need[ed] to use the [CVA] and are thus impacted by its elimination.” Feb. 18 AM Tr. 6:23–7:3. But testimony shows that voter challenges happen. *See id.* 20:5–8 (testimony that Deputy O’Donnell saw “attempts to lodge mass challenges against voters in New Hampshire, including most recently [in] the November 2024 election”). Indeed, Ms. Shump testified that it is a “common occurrence” for party-appointed

challengers to be present at the polls on election day. Feb. 9 PM Tr. 93:2–6; *see* Feb. 20 AM Tr. 42:17–19 (Secretary Scanlan’s testimony that “political parties in New Hampshire can appoint challengers”).

265. Voter challenges may happen with more frequency following HB 1569. Indeed, Secretary Scanlan himself testified that it is “possible that political parties may start challenging voters on a wider scale” now that “there is no longer a [CVA] and you can prevent someone from voting by raising a challenge.” Feb. 20 AM Tr. 42:20–24.

266. Ms. Zink testified that she has seen calls on social media for challengers to show up at the polls to challenge prospective voters. Zink Tr. 36:6–9, 38:23–39:1; *see also* PX 42 (“[W]e are now seeing coordinated challenges in other states and have been used in the past to grind voting to a halt in NH.”).

267. Ms. Shump testified that she has witnessed “people trying to look over the shoulder of people who are registering to vote” and “who got a little closer than they were supposed to.” Feb. 9 PM Tr. 94:24–95:3. Ms. Shump also testified that, in her experience as a Supervisor, challengers tend to “listen[] more carefully” to college students at the polls on election day because many college students have out-of-state driver’s licenses. Feb. 9 PM Tr. 93:7–23; *see id.* 95:14–96:23 (describing complaints that “college kids shouldn’t be voting” in Durham); *see also* Feb. 20 AM Tr. 44:1–11 (Secretary Scanlan’s testimony that he “would believe there’s a population that would believe” that “college students should [not] be allowed to claim their college address as a domicile for voting purposes” and that he “would not be surprised” that “there’s a population that believes” that people should not be able to use out-of-state driver’s licenses to prove identity while voting).

268. Following HB 1569, a person no longer has the option to complete a CVA. Feb. 17 AM Tr. 100:22–25. The voter’s only option is to appeal the election official’s decision to the superior court. *Id.* 100:25–101:2, 104:7–14.

269. The “Asserting a Challenge” form does not mention the right to appeal. Feb. 18 AM Tr. 11:14–19; *see* PX 213.

270. Some prospective voters who need to appeal an election official’s decision may want the assistance of an attorney to file that appeal. Feb. 18 AM Tr. 12:2–3. In New Hampshire, the average hourly rate for an attorney is \$300, and it would take an attorney approximately two hours to file an appeal. *Id.* 12:4–12. Deputy O’Donnell testified that he is not aware of any process offered by the New Hampshire judiciary to appoint counsel to voters appealing election officials’ decisions regarding their qualifications. *Id.* 12:13–16. He also testified that he is not “aware of any prospective ruling that certain categories of appellants,” such as individuals challenging voter qualification decisions, would not “be responsible for fee waivers.” *Id.* 12:21–13:1.

271. Much is unknown about the appeal process. For instance, it is not clear who the proper defendant is. *See id.* 13:23–25, 14:5–7 (Deputy O’Donnell’s testimony that the proper defendant would be “some combination of either the moderator and the supervisors or the moderator” and that he is “not sure” the proper defendant is not the Secretary of State). It is similarly unclear whether the defendants would need to be served by the challenged voter. *See id.* 15:22–16:5 (Deputy O’Donnell’s testimony that he does not “think for most election day challenges, including ones involving candidates and parties, that the formalities of service are something that has ever come up”).

272. To the extent there are processes in place for the appeal, they are not always communicated to voters. *See* DX HH-2 at 1 (“All attorneys who may appear in the case must be

disclosed in the initial pleading to permit a thorough conflict check.”); Feb. 18 AM Tr. 16:13–20 (Deputy O’Donnell’s testimony that he does not “know that a voter would specifically know” which defense counsel to disclose in the initial pleading).

273. As part of the appeal, “a telephonic or other conference will be arranged with the parties, clerk and judge to determine the appropriate location for any hearings or conferences and set a schedule for the timely resolution of the dispute.” DX HH-2 at 1. Either the local election official who upheld the challenge, or the town’s counsel, “may need to attend a court conference in the middle of election day.” Feb. 18 AM Tr. 18:17–21. If the town’s counsel will be attending the hearing, that counsel would “presumably need to interview their election official client to obtain even a baseline understanding of the facts.” *Id.* 18:22–19:1. In order for relief to be obtained prior to the close of polls, “that interview would have to happen during election day.” *Id.* 19:2–5. The further “hearings or conferences” would also have to be held during election day. *See id.* 19:6–21. As Deputy O’Donnell testified, “[a] voter could be challenged at any point in the day on election day.” *Id.* 20:1–3.

274. If a person was challenged at the polls on the basis of citizenship, that person may need to show DPOC in order to survive the challenge and cast a ballot. *See* PX 18 (“[E]ven registered voters may have to carry citizenship documentation or other proof of their eligibility with them when voting, in order to respond to a challenge at the polls on election day, as HB 1569 . . . eliminated the ability for a challenged voter to cast a ballot in the face of a challenge with a [CVA].”). Ms. Shump testified that she “would not expect” a person who was already registered to vote and was challenged at the polls “to have their passport with them.” Feb. 9 PM Tr. 98:3–12.

275. Secretary Scanlan testified that he did not know whether his office had told election officials whether they could use a vital record or DMV record search to adjudicate a voter challenge. Feb. 20 AM Tr. 42:25–43:3.

iii. ***All Descriptions of Burdens to Voters for QVA Apply Equally to CVA Removal***

276. The burdens to voters due to the removal of the QVA set forth in Sections III and IV apply equally to the removal of the CVA, as voters who are challenged on the basis of citizenship would need to disprove the challenge with documentary proof without warning.

VI. DEFENDANTS’ PURPORTED STATE INTERESTS ARE UNSUPPORTED

A. Ensuring Every Qualified Voter Can Vote

277. Defendants intend to argue that the State’s “important regulatory interests” include “ensuring that every qualified voter who chooses to register or cast a ballot may do so prior to or on election day.” Dkt. 124, at 2–3.

278. Plaintiffs’ proposed findings of fact, set forth in Sections III, IV, and V above, illustrate that HB 1569 has already, and will continue to, disenfranchise voters. Thus, HB 1569 is fundamentally at odds with Defendants’ purported interest of “ensuring that every qualified voter who chooses to register or cast a ballot may do so prior to or on election day.” The State’s own witnesses’ testimony supports as much. *See, e.g.*, Feb. 18 PM 70:14–17 (Investigator Tracy’s testimony that “[i]f a voter is not able to obtain a birth certificate, passport or other citizenship documentation, . . . HB 1569 could prevent them from voting”); *id.* 71:5–7 (Investigator Tracy’s testimony that “[i]t’s possible some [voters] will” have “a difficult time registering to vote under HB 1569”); Feb. 20 Tr. 33:22–34:4 (Secretary Scanlan testifying that HB 1569 creates “likelihood that there will be voters that show up on election day that do not have the documentation that they need to register to vote”); *id.* 39:16–21 (Secretary Scanlan agreeing that he expects that “as a matter

of statistical fact, voters [will be] turned away at the next state general election because they don't have documentation"). Defendants have not presented any evidence demonstrating that HB 1569—namely the removal of the QVA and CVA—will “ensur[e] that every qualified voter who chooses to register or cast a ballot may do so prior to or on election day.”

B. Promoting Election Integrity

i. ***Lack of Evidence of Any Meaningful Noncitizen Voter Registration & Voting***

1. Dr. Minnite's Expert Report & Testimony

279. The Court credits Dr. Minnite's un rebutted testimony that voter fraud and noncitizen voting in New Hampshire are exceedingly rare, based on her comprehensive review of public and investigative records, the consistent rejection of claims of voter fraud by numerous election and other officials documented in Dr. Minnite's report, the academic consensus confirming the rarity of unlawful voting, and the low rate of voting-related violations despite significant efforts by federal government and state agencies to prioritize such investigations and cases.

280. From 1998 to 2024, Dr. Minnite identified only eight non-U.S. citizens who may have unlawfully cast a ballot in an election in New Hampshire, including one alleged voter, Mr. Naseef Bryan, whose criminal prosecution remains ongoing. Feb. 13 AM Tr. 42:22–43:22, 49:16–22. Mr. Bryan is of course presumed innocent until proven otherwise, but because the inclusion of his alleged acts of wrongful voting does not materially alter the Court's findings or analysis, the Court will count him among the total of eight noncitizens who may have voted unlawfully in the state.

281. The eight non-U.S. citizens who have voted in New Hampshire make up a small fraction of the total number of cases of wrongful voting in the state. Overall, including both U.S.

citizens and non-U.S. citizens, Dr. Minnite found 47 cases of wrongful voting in the state since 1998, most of which involved an individual casting more than one ballot in an election or registering to vote outside of their domicile. *Id.* 63:21–64:24.

282. Dr. Minnite credibly testified that those eight noncitizens collectively cast at most 26 ballots in New Hampshire between 1998 and 2024, representing about 0.00031% of all ballots. *Id.* 49:23–50:24. Dr. Minnite’s estimate is based on the more than 8.3 million votes cast in the 14 federal and state general elections that took place over that 26-year period. *Id.*; PX 20 at 20. Thus, the estimate of 0.00031% is an *overestimate*, because the 8.3 million figure omits ballots cast in local elections (whereas the 26 ballots include ballots cast by a noncitizen in any type of election). Feb. 13 AM Tr. 49:23–50:24.

283. For several reasons, the Court also credits Dr. Minnite’s persuasive testimony and analysis that the extremely low rate of wrongful voting in New Hampshire reflects the reality that unlawful voting is rare, rather than being an undetected or under-investigated crime. Feb. 13 AM Tr. 51:4–52:12.

284. First, New Hampshire has devoted significant resources to detecting unlawful voting. In 2017, the state created a dedicated unit within the Department of Justice to prioritize the investigation and reporting of election law violations. PX 20 at 16. Previously, following the 2004 election, the state conducted a thorough investigation to identify voter fraud, including by stationing trained attorneys and investigators at polling places, setting up a complaint hotline, interviewing election officials, investigating every specific investigation, cross-checking voter registration records against various databases, and conducting legislative hearings—“basically everything [one] could try to do to track down evidence of fraud” in the election—and found only six violations, none of which involved a noncitizen. Feb. 13 AM Tr. 37:21–39:12; PX 20 at 12–

16. Those efforts show that even when the state devotes massive resources to find unlawful voting, there is little to be found. Feb. 13 AM Tr. 39:13–20.

285. Second, Dr. Minnite’s conclusion is consistent with the view of election and other public officials in New Hampshire. Secretary Scanlan, for instance, has repeatedly stated that voter fraud is not widespread in the state, and only “a very small number” of ineligible votes are cast in any given election. PX 20 at 24–25; *see also* Feb. 20 Tr. 53:3–8 (Secretary Scanlan agreeing there are a “miniscule” number of voter fraud cases in New Hampshire); Feb. 17 PM Tr. 66:12-15 (Deputy O’Donnell confirming that it is the position of the Attorney General’s office that there is not significant voter fraud in New Hampshire); Feb. 18 PM Tr. 89:9-89:11 (Investigator Tracy confirming that voter fraud in New Hampshire is “minimal”). Rep. Bob Lynn, who sponsored HB 1569, acknowledged that if “there’s a huge issue of voter fraud in New Hampshire,” the state “would know about it.” PX 20 at 23. Numerous other current and former officials in New Hampshire have similarly rejected claims of widespread voter fraud and defended the integrity of the electoral process in New Hampshire. PX 20 at 10–13, 21–25, 36–37.

286. Third, the low rate of unlawful voting in New Hampshire is consistent with the national picture, as well as other states’ experience. Like New Hampshire, both the federal government and various state governments have undertaken extensive efforts to identify noncitizen voting and voter fraud. PX 20 at 29-30. Reports from the federal Government Accountability Office, for example, found that “election fraud related cases were taken seriously and thoroughly investigated” by the federal government from 2001-2017 and that such cases were nonetheless among “the least frequent crimes” to be prosecuted. *Id.* Notably, one such report concluded that, during the George W. Bush administration, “the investigation and prosecution of election crimes . . . was outranked [in official agency prioritization] only by crimes involving terrorism and

espionage,” and despite prioritizing such cases, the U.S. Department of Justice secured convictions against only 26 individuals, during a period when more than 200 million votes were cast in federal general elections alone. PX 20 at 29.

287. Similarly, Dr. Minnite has served as an expert witness in states such as Kansas, Georgia, North Carolina, and Arizona, which have also undertaken major efforts to identify voter fraud and noncitizen voting and, like New Hampshire, have found an infinitesimal number of cases. PX 20 at 46–58. Georgia, for instance, conducted an audit of its 8.2 million voters by matching against federal records—it ultimately found a total of 20 registered noncitizens, only nine of whom had ever voted. *Id.* at 55–56. In Kansas, 39 noncitizens registered to vote between 1999 and 2013, representing 0.002% of all registered voters. *Id.* at 48.

288. Fourth, Dr. Minnite provided unrebutted testimony as to a striking consensus among scholars that unlawful voting does not occur in significant numbers. Feb. 13 AM Tr. 31:13–32:21; PX 20 at 31–35. Researchers employing multiple techniques in order to detect various kinds of potential voter fraud have found that fraud is rare in U.S. elections. Feb. 13 AM Tr. 31:13–32:21; PX 20 at 31–35. Such efforts have attempted to identify voting by deceased voters, non-citizen voting, voter impersonation, and certain election-specific allegations, using a mix of data-driven and quantitative methods. Feb. 13 AM Tr. 31:13–32:21; PX 20 at 31–35. The Court finds that the convergence of these academic studies bolsters the strength of Dr. Minnite’s conclusion that unlawful voting in the United States is exceedingly rare. *See* PX 20 at 31 (“[C]onfidence in scientific findings is strengthened when researchers using different valid research methods of inquiry come to the same conclusions.”).

289. Fifth, Dr. Minnite testified that, in her decades of experience studying voter fraud, she has not seen any evidence that voter fraud is more difficult to detect than other kinds of crimes.

Rather, Dr. Minnite explained that even fraud can leave a paper trail, and the U.S. Department of Justice has concluded that voter fraud is not more difficult than other forms of fraud or white-collar crime. Feb. 13 AM Tr. 51:4–52:12.

290. Finally, Dr. Minnite explained that the penalties for unlawful voting by a non-U.S. citizen are harsh deterrents. In addition to criminal penalties under New Hampshire law, a noncitizen faces potential deportation for voting unlawfully. Feb. 13 AM Tr. 55:7–23. Whereas the penalties for unlawful voting are quite steep, the incentive to cast an unlawful ballot—based on the possibility that one’s ballot could swing an election—is highly improbable. *Id.* 55:7–56:1.

291. The Court further credits Dr. Minnite’s testimony that HB 1569 is not necessary for purposes of preventing voter fraud or noncitizen voting and that it would not have prevented the majority of the cases she had identified over the last 26 years.

292. Notably, of the eight noncitizens believed to have voted in New Hampshire, only Mr. Bryan has been criminally prosecuted. *Id.* 43:14–22. While Dr. Minnite has defined “voter fraud” as “intentional corruption” of the electoral process by a voter, her survey of election law violations in New Hampshire was “overinclusive” and included cases where the alleged unlawful voter cast a ballot without intending to commit fraud. *Id.* 26:4–6; 29:23–30:18.

293. According to the investigative findings of the New Hampshire Department of Justice, the remaining seven noncitizens all had mitigating circumstances that indicate a lack of fraudulent intent. *Id.* 43:12–44:12; DX GG.

- a. Five individuals were allowed to vote despite either (i) telling the election official that they are not a U.S. citizen, (ii) checking “No” on the U.S. citizenship question on the voter registration form, or (iii) providing a green card, which is proof of lawful permanent

residence, not U.S. citizenship. Feb. 13 AM Tr. 43:23–45:9; PX 20 at 18–20; DX GG. Among those cases was a lawful permanent resident from Chester, who asked election officials if he could vote as a town resident despite not being a U.S. citizen and was ultimately allowed to vote as many as 14 times over the years. DX GG at 10-13. The NH Department of Justice closed that case without any charges or penalties, finding “no indication” that the noncitizen “had any intention to deceive,” in part due to witness corroboration that the noncitizen disclosed his immigration status to election officials. *Id.* at 14–15.

- b. Of the remaining two noncitizens, both affirmatively informed a local election official of their immigration status and asked to be removed from the voter rolls after discovering that they should not have been registered. PX 20 at 18-19; DX GG at 1,7. One of them had mistakenly believed that she was a U.S. citizen, because she had immigrated when she was three years old. PX 20 at 19; DX GG at 1.

294. As Dr. Minnite explained, the types of documents that are acceptable proof of citizenship under HB 1569 are ill-defined, which continues to leave open the possibility that election officials may mistakenly believe that a green card is proof of citizenship even after the law is passed. Feb. 13 AM Tr. 53:24–55:2. Dr. Minnite persuasively testified that a small number of such mistakes is an inherent part of any human process, and that the error rate in New Hampshire, based on her review, is low. *Id.* 45:2–21.

295. The Court also credits Dr. Minnite’s testimony that, if the goal were to reduce cases of mistaken voting by noncitizens, one way to do so without burdening eligible voters is to increase or improve the training that election officials receive regarding eligibility to vote, because the fact patterns in many of the cases of noncitizen voting reveal a lack of sufficient training. *Id.* 45:2-46:10.

296. Dr. Minnite also credibly testified that the incidence of voter fraud committed by noncitizens—only one alleged case over the last 26 years—is so rare that a law like HB 1569 does not meaningfully reduce voter fraud and is instead more likely to prevent an eligible voter from participating in elections, which has the same distortive effect on election results as an unlawful ballot. *Id.* 55:3–57:7, 62:13–17.

ii. ***Defendants’ Concessions of Lack of Noncitizen Voter Fraud***

297. Dr. Minnite’s conclusions are consistent with Defendants’ own conclusions regardless the extreme rarity of voter fraud in general in New Hampshire.

298. Defendants concede that voter fraud in general and noncitizen voting in particular is virtually non-existent in New Hampshire.

299. For example, Deputy O’Donnell confirmed that it is the position of the Attorney General’s office that there is not significant voter fraud in the State of New Hampshire. Feb. 17 PM Tr. 66:12–15.

300. Secretary Scanlan agreed that there are a “miniscule” number of such cases. Feb. 20 Tr. 53:3–8; *see also* Tr. 9:14–10:14 (voter fraud in New Hampshire is “not on a large scale”).

301. Investigator Tracy likewise testified that there is “minimal” voter fraud in New Hampshire. Feb. 18 PM Tr. 89:9–11.

302. Defendants agree with Dr. Minnite that they have reached conclusions that noncitizens were able to register and vote in New Hampshire in only seven instances. Feb. 17 AM

Tr. 73:15–19 (Deputy O’Donnell); Feb. 18 PM Tr. 24:23–41:17 (Investigator Tracy). By and large, the Attorney General has concluded that these matters involved election official errors regarding people who affirmatively identified themselves as noncitizens and/or presented a green card or individuals who were honestly mistaken about their citizenship status. *See* Feb. 17 PM Tr. 70:8–82:5 (Deputy O’Donnell). The Attorney General repeatedly concluded that there was no indication that the individuals involved had any intention to deceive, and that election officials erred by allowing them to register to vote despite obvious evidence of noncitizenship. *See id.*

303. Of these seven, the Attorney General’s Office reached a conclusion that a noncitizen used a QVA in only one of those cases. Feb. 17 AM Tr. 90:15–17. However, even in that matter, the Attorney General’s Office concluded that it was clear that the election officials involved should not have accepted the registration in the first place, particularly after the registrant made statements about being a foreign national and asked if he was eligible to vote. Feb. 17 PM Tr. 77:20–78:3. The Attorney General’s Office also concluded that there was no indication that the individual had any intention to deceive, and due in part to errors by election officials, the Attorney General’s Office determined that further investigation or charges were inappropriate. *Id.* 78:4–12.

304. None of those seven matters involved the use of a CVA. *See* Feb. 18 PM Tr. 94:19–22 (Investigator Tracy testifying that he is not aware of a NH Department of Justice investigation regarding the use of a CVA by a potential non-citizen).

305. There is one ongoing matter—related to a complaint that postdates HB 1569’s passage—but Deputy O’Donnell does not consider it to be a founded case of wrongful voting because the defendant is presumed innocent until proven guilty. Feb. 17 AM Tr. 73:19–21; Feb. 17 PM Tr. 62:16–63:2, 63:3–13.

306. Whether any of the allegations in the matters are in fact true is not in the record in this case.¹²

307. Defendants also agree that if there were a big problem with non-citizen voting in New Hampshire, the state would know about it. *See* Feb. 18 PM Tr. 92:10–12 (Investigator Tracy).

308. For example, Deputy O’Donnell agrees with Rep. Bob Lynn—for whom Deputy O’Donnell clerked when Chief Justice Lynn served on the New Hampshire Supreme Court—that there is no “huge issue of voter fraud in New Hampshire,” because “if there was, we would know about it.”¹³ Feb. 18 AM Tr. 41:8–42:19.

iii. ***Other Testimony Supports the Extreme Rarity of Voter Fraud***

309. The Secretary of State created a Special Committee on Voter Confidence (“Special Committee”), of which Ms. Zink—executive director of Open Democracy—was a member. Zink Tr. 62:8–10. The Special Committee traveled around the state of New Hampshire, taking approximately 47 hours of public testimony from approximately 400 voters on their confidence in New Hampshire elections. *Id.* 62:12–21. The Special Committee made recommendations to Secretary Scanlan, none of which related to non-citizen voting. *See id.* 75:3–20.

310. Local election officials likewise testified about the absence of voter fraud.

311. Ms. Shump, the Supervisor of the Checklist in Durham, testified that in her twenty years as Supervisor, she is not “aware of any scenario in which someone used a QVA in Durham to fraudulently establish their citizenship.” Feb. 9 PM Tr. 65:6–9.

¹² In PX 104A, Secretary Scanlan generally referenced a few noncitizens who registered to vote and voted using a green card, but that testimony concerned his understanding, and it did not reflect any personal knowledge. In any event, the comment was not tied to any particular number of cases or alleged instances.

¹³ Plaintiffs do not offer the statement from Rep. Lynn for the truth of the matter when Rep. Lynn made the statement, but rather for Deputy O’Donnell’s reaction to the statement.

312. Ms. Robert, a Supervisor of the Checklist in Ward 10 in Concord, similarly testified that she is not “aware of any QVA that I processed that was done fraudulently.” Feb. 10 PM Tr. 54:6–10.

iv. ***Alternatives to Address Alleged Noncitizen Registration & Voting***

313. As Dr. Minnite’s testimony illustrates, an election official who is not adequately trained could believe that a green card constitutes reasonable proof of citizenship. *See* Feb. 13 AM Tr. 54:12–17 (“[I]f you look at a green card, it says United States of America, permanent resident, and if you didn’t know, you might say, well, you’re a permanent resident. You must be a citizen.”); *see also id.* 44:2–45:1, 54:5–7 (discussing cases in which green cards were accepted by local election officials as proof of citizenship).

314. In a May 2025 discussion with Votebeat titled “Checking Citizenship: A Conversation with Two Secretaries of State” Secretary Scanlan stated that if someone gets onto the voter rolls by presenting a green card, it was “because the official that was registering that individual just didn’t understand what that card means.” PX 104A.

315. To ensure that permanent residents could not register to vote, the State could have simply trained election officials not to accept green cards as proof of citizenship. *See* Feb. 13 AM Tr. 54:15–17 (an election official might accept a green card as proof of citizenship if that election official was not “trained to recognize what a green card was”). Secretary Scanlan himself testified as much. *See* Feb. 20 Tr. 53:13–22 (mistakes in which election officials allowed people to vote with a green card could be addressed by more training). Indeed, as Deputy O’Donnell testified, an election official “should be able to recognize” that a person who hands the official a green card “is not a United States citizen.” Feb. 17 PM Tr. 86:18–21.

316. Dr. Minnite testified that a situation in which a permanent resident registers to vote (because both the permanent resident and the election official mistakenly believe that the

permanent resident is qualified to vote) can still happen in a post-HB 1569 world due to the “other reasonable documentation” catchall. *See* Feb. 13 AM Tr. 54:18–55:2. Secretary Scanlan agreed that those same kinds of mistakes “could occur” even after HB 1569’s implementation. *See* Feb. 20 Tr. 81:7–82:3.

317. Deputy O’Donnell testified that eliminating the QVA “would not eliminate” all of the eight prior cases of noncitizen voting, including those “involv[ing] election officials who saw a permanent resident card or saw the answer no [to the citizenship question] on [the registration] form.” Feb. 17 AM Tr. 122:18–132:3.

C. Improving Public Confidence

i. ***Dr. Mayer’s Expert Report & Testimony***

318. Dr. Mayer credibly testified that, in his expert opinion, “what the data and academic literature show is not only will 1569 do nothing to enhance voter confidence, [] it will likely reduce it.” Feb. 10 AM Tr. 109:11–13. Defendants did not offer expert testimony to rebut Dr. Mayer’s testimony.

319. The Court credits Dr. Mayer’s testimony that HB 1569 and HB 464 may actually decrease voter confidence as “the academic literature [] shows that voters who have a frustrating experience at the polls, people who try to vote and can’t...they are more likely to report low confidence in election outcomes.” *Id.* 109:7–10.

320. There is no evidence that HB 1569’s removal of the QVA or CVA will do anything to enhance voter confidence. Dr. Mayer’s expert report reflects that “confidence in voting processes and election integrity is strongly affected by factors having nothing to do with the actual integrity of the voting process: key factors include partisanship, false claims of voter fraud and media consumption patterns, whether a voter’s preferred candidate wins, and attitudes toward racial minorities.” PX 22 at 6. In fact, survey data shows “that most voters aren’t even remotely

aware of the things that election officials do to protect the integrity of elections.” Feb. 10 AM Tr. 109:2–4.

ii. ***Dr. Minnite’s Expert Testimony***

321. The Court credits Dr. Minnite’s un rebutted analysis that electoral integrity and confidence depend in part on the ability of eligible citizens to participate in elections. PX 20 at 6. Specifically, electoral rules that burden voters “can undermine rather than promote electoral integrity by making it unnecessarily more difficult to register and vote.” *Id.* Such rules, by “suppressing turnout,” can “diminish[] confidence that the outcome reflects the full participation and will of the people.” *Id.*

322. The Court credits Dr. Minnite’s un rebutted testimony that unfounded claims of voter fraud, including in New Hampshire, have intensified in recent years. Feb. 13 AM Tr. 33:23–34:11. Such claims increased in prominence following the 2016 election, when President Donald Trump alleged that massive voter fraud was occurring in New Hampshire. *Id.* These false allegations of voter fraud and “stolen elections,” including those that baselessly accuse noncitizens of fraud, can damage voter confidence in elections regardless of the reality of elections being secure. PX 20 at 25.

iii. ***Local Election Officials and Election Community Leaders’ Testimony on Harm of HB 1569 to Voter Confidence***

323. Defendants did not introduce any expert testimony on whether HB 1569 was necessary to ensure that voters have confidence in New Hampshire elections.¹⁴ Nor did Defendants

¹⁴ See Feb. 20 AM Tr. 17:9–19 (Court noting the following: “The problem that I’m identifying is that [Secretary Scanlan] also testified that something in particular affects voter confidence. He is not qualified to testify that something in particular affects voter confidence. He can testify that the state has an interest in preserving voter confidence, but to make that causal connection between something happening and voter confidence is not testimony about the state’s interests. It’s expert testimony about whether something indeed affects voter confidence, or it’s just Secretary Scanlan’s

offer a single local election official or voter who testified that HB 1569 was necessary to ensure that voters have confidence in New Hampshire elections. As explained below, community leaders and local election officials, in fact, testified to the contrary.

324. Secretary Scanlan created the Special Committee on Voter Confidence on April 26, 2022. Zink Tr. 62:8–9; PX 114 at 1. Secretary Scanlan appointed Constance Olivia Zink, executive director of Plaintiff Open Democracy, as one of eight members of the Special Committee. Zink Tr. 62:8-23; PX 114 at 1.

325. The Special Committee went around the state—including traveling from Berlin to Nashua to Keene to Portsmouth—taking public testimony from voters on their confidence and faith in New Hampshire elections. Zink Tr. 62:12-15. The Special Committee took testimony from election workers, citizens, and anyone who showed up at the Special Committee’s hearings. The Committee heard about 47 hours of oral testimony. *Id.* 62:16–18. The Special Committee heard from about 400 people, which was in the form of both oral and written testimony. *Id.* 62:20–21; 76:16-22.

326. The Special Committee filed its final report on December 22, 2022, which proposed a list of bipartisan recommendations to improve voter confidence in New Hampshire. *Id.* 75:8–9; PX 114.

327. The Special Committee made no recommendations with respect to non-citizen voting. *Id.* 75:18–20. Nowhere in the Special Committee’s report did the Committee attribute any drop in voter confidence specially to non-citizen voting. *Id.* 91:5–7.

opinion about what affects voter confidence, in which case I would let it in.”); *see also* Feb. 20 A Tr. 96:3–4 (noting that “defendants haven’t offered any expert testimony”).

328. As HB 1569 was being considered, Special Committee Member Zink wrote an e-mail to Secretary Scanlan sharing her “strong concerns” about HB 1569 and another related bill, as well as raising “the numerous unanswered questions about [their] impact[.]” PX 53; Zink Tr. 63:17–19.¹⁵ She stated in this e-mail that the Special Committee’s final report “made no mention of, nor did it recommend, the restrictive measures proposed in HB 1569” PX 53. She added that “[t]he proposed legislation, which seeks to eliminate sworn legal statements as a means of proving voter qualifications, would only serve to disenfranchise thousands of eligible voters who may lack immediate access to documents such as birth certificates or passports.” *Id.*

329. Furthermore, Special Committee Member Zink explained that the measures in HB 1569 “are not only unnecessary but also counterproductive. They do not align with the recommendations from our report, which focus on enhancing transparency, expanding voter education, and ensuring the security and integrity of our elections through practical and inclusive means. Instead, these bills threaten to erode the very confidence our committee worked to better.” *Id.*

330. Sarah Chouinard, the voting rights manager at NHCVR, testified that the removal of the QVA makes her feel less confident in New Hampshire elections, as there is no evidence of widespread voter fraud, yet HB 1569 has imposed barriers that have already burdened or disenfranchised at least 244 would-be voters. Feb. 11 PM Tr. 5:10–20.

331. She further explained that, as NHCVR prepares for statewide elections to be held later in 2026, she is concerned about the “red tape, additional steps” that election workers must

¹⁵ This letter at PX 53 is introduced here only for the purpose of showing that Ms. Zink raised concerns to Defendant Secretary of State, not for the truth of the statements in this email. *See* Zink Tr. 71:22–72:1 (Court stating: “I’m going to let the e-mail come in for now I’m not going to rely on it in a way that’s inappropriate.”), *id.* 74:24–25 (Court stating: “Let’s revisit this issue if it turns out that this e-mail is essential to the disposition of the case.”).

now take under HB 1569 and HB 464. Feb. 11 PM Tr. 7:15–8:4. If this “red tape” imposed on election officials makes it take “longer for [election] results to be posted, the less confidence the general public would have in these elections as well.” *Id.* 7:15–8:4.

iv. ***Defendants Concede HB 1569 May Decrease Voter Confidence***

332. If large numbers of people are unable to vote because they arrive at a polling place without the required documentation, it could lead to a decrease in voter confidence. Feb. 20 Tr. 57:3–7.

333. Secretary Scanlan has no training in polling or surveys, which would include polling or surveys on voter confidence. *Id.* 29:17–19. Secretary Scanlan does not have any personal expertise in polling or survey methodologies, including on voter confidence. *Id.* 30:1-3 There is no statute directing the Secretary of State’s Office to assess or measure voter confidence. *Id.* 29:20–22. The Secretary of State’s Office does not employ a statistician who can conduct polling to measure voter confidence. *Id.* 29:23–25. Secretary Scanlan is not aware of any accepted methodology for assessing voter confidence in his field of election administration. *Id.* 31:25–32:2.

334. The Secretary of State’s Office has not done anything to measure the effect of HB 1569 on voter confidence. *Id.* 30:4–8.

335. Secretary Scanlan agrees that the existence of the CVA for overcoming voter challenges is not, by itself, a contributing factor to any declining voter confidence in New Hampshire. *Id.* 45:15–18.

336. Secretary Scanlan believes people in New Hampshire are more concerned about the way elections outside of New Hampshire are conducted than they are about the way elections are conducted within New Hampshire. *Id.* 55:4–8. He agrees that HB 1569 does not change the way states outside of New Hampshire conduct their elections. *Id.* 55:9–11.

337. Secretary Scanlan would agree that, to the extent that voter confidence has declined in recent years, a portion of what drove that is unfortunate statements about the state of our elections by political leaders of both parties, including about the integrity of the 2020 election. This includes unfortunate statements about the integrity of the 2020 election made by the presidential candidate who lost that election. *Id.* 55:12–56:6.

338. Secretary Scanlan testified that approximately 90% of New Hampshire voters already express confidence in the State’s elections—a level he characterized as high. *Id.* 54:19–55:3.

339. Secretary Scanlan does not attribute any decline in voter confidence to any particular law that existed in New Hampshire. *Id.* 56:7–10.

340. Secretary Scanlan does not believe that voters should lack confidence in New Hampshire elections that occurred before HB 1569 took effect. *Id.* 56:11–14. Additionally, Secretary Scanlan does not believe that, without HB 1569, voters would lack confidence in New Hampshire elections. *Id.* 56:15–17.

341. Secretary Scanlan agrees that, to the extent some people believe that unqualified voters are voting in New Hampshire, that perception is largely inconsistent with reality. *Id.* 56:18–21.

342. In 2022, Secretary Scanlan believed that New Hampshire had struck a good balance between ease of voting and voting security. *Id.* 59:18–61:13.

343. Secretary Scanlan has discussed the need to balance voter confidence against ensuring that every eligible voter can cast a ballot. This is one of his strongest beliefs regarding election administration. However, at this point, he does not know if HB 1569 has struck the right balance. *Id.* 61:15–24.

344. Secretary Scanlan conceded that, as Ms. Zink testified, the Special Committee¹⁶—which was not asked by the Secretary to come to any particular conclusions, *id.* 8:12–14—did not recommend removing the QVA as a way to improve voter confidence or reduce voter fraud. *Id.* 65:12–15. Similarly, the Special Committee did not recommend removing the CVA for those purposes. *Id.* 65:16–19. Secretary Scanlan agreed with the recommendations in the Special Committee’s report. *Id.* 65:9–11.

345. Similarly, nothing in the testimony of the New Hampshire Department of Justice witnesses at trial contradicted Secretary Scanlan’s testimony that HB 1569 may decrease voter confidence.

346. The New Hampshire Department of Justice has not performed any studies, analysis, or surveys related to voter confidence. Feb. 18 AM Tr. 22:18–24.

347. Deputy O’Donnell has never had a member of the general public express to him that the passage of HB 1569 improved the level of confidence that they have in New Hampshire elections. *Id.* 23:20–23. In fact, the New Hampshire Department of Justice assured voters that they should be confident in the QVA process prior to HB 1569. In response to one citizen expressing concerns about the QVA, the Election Law Unit explained in a November 4, 2024 email that the law required affidavits to be sworn subject to penalty of voter fraud, that statutes provided for subsequent verification, and that voters may be forwarded to the New Hampshire Department of Justice for investigation. PX 186; Feb. 17 PM Tr. 66:16–67:17. The New Hampshire Department

¹⁶ Secretary Scanlan explained that this was a committee he “created shortly after becoming Secretary of State just to address concerns that I had, along with former Secretary Bill Gardner before me, about a decline in voter confidence. And certainly that was occurring in a dramatic way at the national level, but to a much, much lesser degree in New Hampshire.” Feb. 20 Tr. 5:19–25.

of Justice concluded that “[t]hese investigations have not revealed any significant voter fraud in New Hampshire.” PX 186; Feb. 17 PM Tr. 67:18–21.

348. The New Hampshire Department of Justice’s Election Law Unit receives communications from complainants who refuse to accept the Unit’s conclusion that they found no fraud in investigating the complaint. Feb. 17 PM Tr. 65:4–8. By and large, those people either (1) believe that something is not fair regardless of whether it violates the law, (2) want to believe that there is more voter fraud occurring than there actually is, or (3) believe the Unit is misinterpreting the law. *Id.* 65:9–22. As to those in the second category who want to believe that there is more voter fraud occurring than there actually is, Deputy O’Donnell agrees that these people, like all people, have a cognitive bias where they like information that supports their preconceived conclusion and dislike information that undermines it. *Id.* 65:23–66:11.

349. Furthermore, Investigator Tracy does not want to discourage eligible voters from voting, and wants to make sure that every eligible person gets to cast a ballot. Feb. 18 PM Tr. 64:19–66:1.

350. In Investigator Tracy’s experience, most Americans take their right to vote seriously. *Id.* 68:10–12.

351. In Investigator Tracy’s experience, when eligible voters are turned away, they “aren’t happy” and are disappointed and pretty upset. When the right to vote is denied, it is a “crushing experience.” *Id.* 68:1–14.

352. Based on Investigator Tracy’s experience interacting with voters, the experience of an eligible voter being turned away undermines that voter’s confidence in the election process. *Id.* 68:16–20.

353. Investigator Tracy has expressed concerns with false allegations of widespread voter fraud. *Id.* 96:6–8.

354. In Investigator Tracy’s experience, it is sometimes difficult to convince people who believe in mass voter fraud that, in fact, it does not exist. *Id.* 97:16–18.

355. Investigator Tracy also believes that millions of people will believe the current President’s allegations of mass voter fraud, whether or not these allegations are true. *Id.* 98:18–99:1.

D. Protecting the Public Fisc

i. *Prior to HB 1569, Costs to State of Administering & Investigating QVAs and CVAs Was Minimal*

356. Investigator Tracy, the Chief Investigator at the New Hampshire Attorney General’s office who is currently assigned to the Election Law Unit, testified that the frequency of voter fraud in New Hampshire is minimal. Feb. 18 AM Tr. 64:17–18, 69:1–2; Feb. 18 PM Tr. 89:9–11.

357. Noncitizen voting investigations constitute approximately 2% of the Election Law Unit’s work. Feb. 18 PM Tr. 88:25–89:2. Deputy O’Donnell, former chief of the Election Law Unit, testified that the Unit has had sufficient staffing to handle those investigations and that, during his time as chief, he never felt the need to ask for more staffing to meet demand. Feb. 17 AM Tr. 9:25–10:1; Feb. 17 PM Tr. 56:4–6, 57:6–58:2.

358. With respect to the Election Law Unit’s investigations into wrongful voting, domicile investigations are the most common, and citizenship investigations are the least common. Feb. 18 PM Tr. 93:9–13. To the extent reports to the legislature referenced investigations into QVAs, those investigations related to proof of identity, not citizenship. *Id.* 95:3–12.

359. In light of the small number of investigations related to citizenship, and as Deputy O'Donnell testified at his deposition, the removal of the QVA for citizenship will not save the State meaningful resources. *See* Feb. 17 PM Tr. 85:2–21.

360. Investigator Tracy has never investigated the use of a CVA by a potential noncitizen. Feb. 18 PM Tr. 94:16–18. Nor is he aware of anyone at the Attorney General's office conducting any such investigations. *Id.* 94:19–22.

ii. *Costs to State of Carrying Out HB 1569 and HB 464 Are Immense & Will Only Increase*

361. Defendants have not introduced evidence of any public funding that has been saved due to the changes introduced by HB 1569, particularly savings incurred by the removal of the QVA for attesting to citizenship or the removal of the CVA for those successfully challenged at the polls.

362. By contrast, there is evidence that substantial public funds have already been spent implementing HB 1569 and the HB 464 regime. For instance, the State faces ongoing and anticipated litigation costs, both from the present cases and (potentially) from future disenfranchised voters. *See* Feb. 17 PM Tr. 99:11–25. Potential costs were raised to legislator(s) before HB 1569 was passed. *See id.* (Deputy O'Donnell testifying about warning that approximately \$3 million in costs were expended following “the last major change to New Hampshire election procedures,” SB 3).

363. The Secretary of State's office spent \$167,280 implementing changes to the SVRS that are necessary for HB 464. Feb. 20 Tr. 59:5–7. This amount does not include the costs associated with trainings on HB 464, nor the costs to the DMV to provide the data and the mechanisms. *Id.* 59:11–17. It also does not include the staff time spent implementing a search of the DMV file in SVRS. *Id.* 59:14–17.

364. The Secretary of State’s office does not know how much staff time it took to implement HB 464. *Id.* 58:21–23. However, Secretary Scanlan acknowledged that it required a “significant amount of staff time.” *Id.* 58:24–59:1.

365. Deputy O’Donnell testified at his deposition that approximately 24 hours of staff time had been spent “issuing guidance explaining the impact of HB 1569.” Feb. 17 PM Tr. 87:25–88:8. That amount of time “has continued to grow as additional explanations have been needed after HB 464.” *Id.* 88:9–12. Deputy O’Donnell further testified that Elections Director Piecuch and her staff will have to expend resources ensuring that local officials are trained on using the SVRS. *Id.* 88:20–89:3.

366. The Secretary of State’s office does not know how much staff time it took to negotiate the memorandum of understanding with the DMV. Feb. 20 Tr. 58:18–20.

367. HB 464, and the associated costs, would not have been necessary if HB 1569 had not become law. *Id.* 59:2–4.

VII. DEFENDANTS HAVE CONCEDED THEY CAN EFFECTUATE RELIEF WITHIN A SHORT, REASONABLE TIME

368. If the Court were to issue an order in early July saying that the state must allow the use of QVAs for proof of citizenship and reinstate the CVA for voter challenges, Secretary Scanlan is confident that his Office could still implement the order in time for the 2026 elections. Feb. 20 Tr. 65:20–66:1.

369. Elections Director Piecuch confirmed that even earlier implementation is possible. The current SVRS allows an election official to note that a voter has presented other reasonable documentation of citizenship. Feb. 19 PM Tr. 72:5–8. Accordingly, the Secretary of State’s Office could simply instruct local election officials to offer QVAs and mark the voter down in SVRS as

having presented “other reasonable documentation” of citizenship. *Id.* 94:14–96:17. That implementation of relief would not require any changes to SVRS. *Id.* 96:18–19.

Respectfully submitted on this March 5, 2026,

COALITION FOR OPEN DEMOCRACY,
LEAGUE OF WOMEN VOTERS OF NEW
HAMPSHIRE, THE FORWARD FOUNDATION,
MILES BORNE, ALEXANDER MUIRHEAD, BY
HIS NEXT FRIEND RUSSELL MUIRHEAD, AND
LILA MUIRHEAD, BY HER NEXT FRIEND
RUSSELL MUIRHEAD

By and through their attorneys,

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CERTIFICATE OF SERVICE

I certify that on today's date I served a copy of the foregoing on all counsel through the court's ECF system.

/s/ Gilles R. Bissonnette
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