

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

SUPERIOR COURT

Case No. 218-2025-CV-00951

ADELE ROBERTSON; DANIEL FRYE; and REGINA WILSON

Plaintiffs

v.

DAVID M. SCANLAN, in his official capacity as the New Hampshire Secretary of State;
and JOHN M. FORMELLA, in his official capacity as the New Hampshire Attorney General

Defendants

MOTION TO INTERVENE

The New Hampshire Republican State Committee (“NHRSC”) and the Republican National Committee (“RNC”), together (“Movants”) respectfully move the court, pursuant to N.H. Super. Ct. R. 15, to intervene as defendants in this action. Plaintiffs object to the relief sought by this motion. The Attorney General and Secretary of State take no position on the relief sought by this motion.

INTRODUCTION

1. Plaintiffs seek to overturn SB 287, a recently enacted law that enhances the security of and confidence in New Hampshire’s elections by requiring voters to prove their identity when requesting an absentee ballot. *See* SB 287, 169th Gen. Assem., Reg. Sess. (N.H. 2025) (codified at 2025 N.H. Laws ch. 302) (eff. Sep. 30, 2025). Movants support policies like

SB 287 because “[m]ail-in ballot safeguards protect voters and our elections from manipulation and abuse.”¹

2. Movants seek to intervene to defend SB 287 to protect Movants’ and their members’ distinct rights and interests that would undoubtedly suffer should a court invalidate SB 287. As federal and state courts routinely do in similar cases, this Court should grant intervention.² Doing so would also be consistent with custom in New Hampshire where “[t]he right of a party to intervene . . . has been rather freely allowed as a matter of practice.” *Brzica v. Trustees of Dartmouth College*, 147 N.H. 443, 446 (2002) (quoting *Scamman v. Sondheim*, 97 N.H. 280, 281 (1952)).

INTERESTS OF PROPOSED INTERVENORS

3. The NHRSC is a political party in New Hampshire under RSA 652:11 and 52 U.S.C. § 30101(15) that works to promote Republican values and to assist Republican candidates in obtaining election to partisan federal, state, and local office. To help achieve those goals, the NHRSC expends significant resources towards get-out-the-vote (“GOTV”) efforts and poll watcher recruitment, training, and deployment programs to ensure New Hampshire elections are

¹ Joe Gruters, Chairman, Republican Nat’l Comm., *RNC and Minnesota GOP Defend Minnesota’s Absentee Ballot Safeguard* (Sept. 6, 2025), <https://www.gop.com/press-release/rnc-and-minnesota-gop-defend-minnesotas-absentee-ballot-safeguard>.

² The RNC and affiliated Republican organizations have successfully intervened in cases challenging absentee ballot security measures around the country. *See e.g., Eakin v. Adams Cnty. Bd. of Elections*, No. 1:22-CV-340, 2023 WL 121864 (W.D. Pa. Jan. 6, 2023) (permitting RNC and state Republican Party intervention in challenge to state law requiring dating of absentee ballot envelopes); *LULAC v. BOP*, Doc. 135 at 9, No. 1:25-cv-946 (D.D.C. June 12, 2025) (permitting RNC intervention to defend presidential Executive Order to require delivery of mail-in or absentee ballots by Election Day); *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 304 (5th Cir. 2022) (permitting RNC and local parties to intervene to defend legislative changes to Texas’ vote-by-mail laws); *League of Women Voters of Ohio v. LaRose*, Doc. 25, No. 1:23-cv-2414 (N.D. Ohio Feb. 6, 2024) (permitting RNC and state party intervention to defend absentee ballot harvesting restrictions); *Ne. Ohio Coal. for the Homeless v. LaRose*, 2023 WL 2991932, *1 (N.D. Ohio Apr. 18) (granting state party intervention to defend modification to absentee ballot request deadline and ballot drop-box provisions); *Int’l All. of Theater Stage. Emps. Local 927 v. Lindsey*, Doc. 84, No. 1:23-cv-4929 (N.D. Ga. May 3, 2024) (Granting RNC and state party intervention to defend absentee ballot application deadline); and *New Georgia Project v. Raffensperger*, No. 1:21-CV-01229-JPB, 2021 WL 2450647, at *1 (N.D. Ga. June 4, 2021) (Granting RNC and state party intervention in cases challenging Georgia’s SB 202, including new absentee voting identification requirements).

administered lawfully. New Hampshire’s election laws, including SB 287, also govern how state Republican voters choose NHRSC’s leaders. Republicans elect delegates at the state primary election, and those delegates then select the NHRSC’s committee members at a state party convention. RSA 653:6, 652:5. 667:21, 667:22. The Republican Party is the largest political party in the state, representing over 320,000 voters.³

4. The RNC is a national committee as defined by 52 U.S.C. § 30101(14) that manages the Republican Party’s business at the national level. It supports Republican candidates for public office at all levels nationwide, including in New Hampshire directly and through monetary contributions to the NHRSC. The RNC coordinates fundraising and election strategy, develops and promotes the national Republican platform, and is responsible for nominating the party’s presidential and vice-presidential candidates. The RNC expends millions of dollars each election cycle in programs to protect the security and integrity of elections, including recruiting, training, and deploying poll watchers in New Hampshire. The RNC’s membership consists of the party chair, national committeeman, and committeewoman for each state and territory, including multiple representatives from New Hampshire who are registered Republican voters. New Hampshire’s delegates to the RNC’s national presidential nominating convention are popularly elected at each presidential primary election. RSA 653:5, 652:6.

ARGUMENT

5. New Hampshire permits “[a]ny person shown to be interested [to] become a party to any civil action” N.H. Super. Ct. Civil Rule 15. A party that “seeks to intervene in a case must have a right involved in the trial and [its] interest must be direct and apparent.” *In re*

³ N.H. Sec’y of State, *Party Registration History 1970–2025*, <https://www.sos.nh.gov/party-registration-history-1970-2025> (last visited Oct. 30, 2025).

Goodlander, 161 N.H. 490, 506 (2011) (quotation omitted). An intervenor’s interest must be one that “would suffer if not indeed be sacrificed were the court to deny the privilege.” *Id.*

A. Movants Have Rights Involved in the Case

6. Movants’ members are New Hampshire voters who seek to uphold their “equal right to vote” in free and fair elections. N.H. Const. Pt. 1, art. XI. “The object of [the] election laws” that Plaintiffs seek to upend “is to secure the rights of duly qualified voters.” *Opinion of the Justices*, 116 N.H. 756, 759 (1976). Thus, if this Court grants Plaintiffs’ requested relief, Movants will lose important safeguards that currently protect their “equal right to vote.” N.H. Const. Pt. 1, art. XI.

7. Movants’ members also include candidates running for elected office in New Hampshire up and down the ballot who have “an equal right to be elected into office.” N.H. Const. Pt. 1, art. XI. The right of candidates to be elected is “closely connected” to the right to vote. *Akins v. Sec’y of State*, 154 N.H. 67, 71 (2006). Indeed, like the right to vote, a candidate’s right to be elected is a “fundamental right” under the New Hampshire Constitution. *Id.* Thus, Plaintiffs’ requested relief would “inevitably discriminate[] against voters” supporting Movants’ candidates and harm their fundamental right to be elected. *Id.*

8. Plaintiffs’ requested relief also implicates Movants’ right of association under the New Hampshire and U.S. Constitutions because laws like SB 287 govern the election of party officials. The equal rights to vote and be elected apply to “any election,” including “primary elections.” N.H. Const. Pt. 1, art. XI; *Opinion of the Justices (Voting Age in Primaries I)*, 157 N.H. 265, 271 (2008). Delegates to the NHRSC’s state party convention are elected at each state primary administered under state election laws, including absentee voting requirements such as SB 287. *See* RSA 655:35, 653:6, 662:6, 667:22.

9. Delegates to the RNC's National Convention are elected at each presidential primary election administered under the same absentee voting rules. *See* RSA 653:5, 652:6. These delegates go on to select the party's presidential nominee and vote on the Republican Party's rules, platform, and other important matters.⁴

10. "Part I, Article 32, like the First Amendment to the Federal Constitution, 'protects the right of citizens to associate and to form political parties[] for the advancement of common political goals and ideas.'" *Opinion of the Justices (Voting Age in Primary Elections II)*, 158 N.H. 661, 667 (2009) (quoting *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 357 (1997)). This right extends to Movants' rights "to identify the people who constitute the association," "to select a standard bearer," and decide "how to organize [themselves], conduct [their] affairs, and select [their] leaders." *Id.* (citation modified). Election rules like SB 287 that Movants use to select party representatives to their respective conventions, where they select party leaders, adopt platform planks, and establish party rules, obviously implicate these associational freedoms.

B. Movants Have Direct and Apparent Interests in this Action

11. Movants have "direct" and "apparent interests" because SB 287's fate implicates Movants' mission of getting Republican voters to vote and Republican candidates elected. Defending the constitutionality of an election rule that protects the integrity, security, and orderliness of New Hampshire's elections, particularly its absentee voting process, is a sufficient interest to justify intervention. *See Pa. State Conf. of NAACP v. Chapman*, No. 1:22-CV-339, 2023 WL 121867, at *5 (W.D. Pa. Jan. 6, 2023) ("Republican Committees[] . . . have a

⁴ *See* Rules of the Republican Party as Adopted by the 43rd Republican National Convention on July 15, 2024, available at <https://tinyurl.com/2bl4zjp2>.

substantial and particularized interest in ensuring [a state] administers free and fair elections.”); *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 306 (5th Cir. 2022) (citation modified) (Republican Committees have a “direct” and “substantial” interest to defend “claims brought by the plaintiffs [that] could affect the Committees’ ability to participate in and maintain the integrity of the election process . . .”). Such interests “are routinely found to constitute significant protectable interests.” *Issa v. Newsom*, 2020 WL 3074351, at *3 (E.D. Cal. June 10); see also *N.H. Democratic Party v. Gardner*, et al., Docket No. 2017-CV-00432, at 7, N.H. Super. Ct. (Sept. 11, 2017) (holding “political parties have standing to assert, at least, the rights of [their] members who will vote in an upcoming election”) (citation modified).

12. Maintaining and improving voter confidence by ensuring laws like SB 287 remain in effect also has “independent significance” as a protectable interest, “because such confidence encourages citizen participation in the democratic process.”⁵ *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008). This is especially the case for Movants given that 98% of Republicans supported photo ID requirements.⁶

13. Second, Movants have a direct interest in their candidates winning. “The RNC has standing both in its own right (‘organizational’ standing) and standing to represent the interests of its members (‘associational’ standing) to defend” election rules “that directly benefit the electoral prospects of Republican candidates for federal office.” *League of United Latin Am. Citizens v. Exec. Off. of the President*, Doc. 135 at 6, No. 1:25-cv-946 (D.D.C. June 12, 2025). This interest entails maintaining the “competitive environment” surrounding elections in New

⁵ A recent survey conducted by States United Democracy Center demonstrated that “[u]p to 5 million fewer votes were cast in 2024 due to decreased voter confidence in elections . . .” <https://statesunited.org/resources/when-americans-trust-elections/>

⁶ Lydia Saad, *Americans Endorse Early Voting, Voter Verification*, Gallup (Oct. 2, 2024), <https://news.gallup.com/poll/652523/americans-endorse-early-voting-voter-verification.aspx> (last visited Oct. 30, 2025).

Hampshire. *Shays v. FEC*, 414 F.3d 76, 85 (D.C. Cir. 2005). Movants’ candidates are “governed by the challenged rule[],” and therefore have an interest to “demand adherence” to those requirements to maintain a competitive electoral environment within New Hampshire. *Id.* at 85, 88. More New Hampshire Democrats than Republicans vote absentee, evidencing that laxer absentee voting verification requirements would harm Movants’ electoral prospects, but merely being “put at a *potential* disadvantage” is sufficient to demonstrate Movants’ interest.⁷ *Becker v. Fed. Election Comm’n*, 230 F.3d 381, 386 (1st Cir. 2000) (emphasis added). Finally, not only does ensuring a successful defense of SB 287 protect Movants’ electoral prospects by improving voter confidence and therefore turnout, especially amongst Republican voters, *see supra* ¶ 11, invalidation of SB 287 increases the likelihood that votes for Movants’ candidates would be “diluted” by the counting of invalid absentee ballots by voters whose identities are unverified. *Reynolds v. Sims*, 377 U.S. 533, 555 (1964). This dilution is especially notable given New Hampshire’s tradition of close elections. The General Court recently noted that the Secretary of State estimated that “over the past 45 years, New Hampshire has had 44 state elections that ended in a tie or in a one-vote victory.” N.H. Gen. Ct., *Bill Text for HB 2108* (2022), <https://tinyurl.com/23lr9fd> (last visited Oct. 30, 2025).

14. Finally, invalidating SB 287 would require Movants to expend resources to change their voter-education, mobilization, and ballot monitoring programs. “A political party’s ‘need to raise and expend additional funds and resources’ satisfies the injury-in-fact requirement of organizational standing because ‘economic injury is a quintessential injury upon which to base

⁷ See NBC News, *2024 New Hampshire Results*, <https://www.nbcnews.com/politics/2024-elections/new-hampshire-results> (last visited Oct. 30, 2025) (NBC News data report that 37% of mail-in ballots cast were from registered Democrats and 33% from registered Republicans in the 2024 General Election); *see also* NBC News, *2022 New Hampshire Midterm Election Results*, <https://www.nbcnews.com/politics/2022-elections/new-hampshire-results/> (last visited Oct. 30, 2025) (2022 General Election data report that 44% of absentee ballots were requested by Democrats and 29% by Republicans).

standing.” *Republican Nat’l Comm. v. Wetzel*, 742 F. Supp. 3d 587, 592 (S.D. Miss.), rev’d in part, vacated in part on other grounds, 120 F.4th 200 (5th Cir. 2024) (quoting *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586 (5th Cir. 2006)).

15. Although most New Hampshire voters cast ballots in-person on election day, thousands of Republicans voted absentee in the 2024 election, *see* n.7, and Movants have and will continue to expend resources to educate eligible New Hampshire voters on how to do so. A decision invalidating SB 287 would require the Movants to expend resources to reduce confusion and inform voters that the identification requirement was not in effect for the 2026 primary and/or general elections or any special or local elections before then. More significantly, it would require Movants to allocate additional resources to their poll watching programs to respond to the removal of an important safeguard that verifies the identity of absentee voters before they even receive a ballot. “Absentee ballots are subject to challenge” in New Hampshire by party-appointed challengers, and removing SB 287’s safeguards could well result in Movants’ needing to appoint challengers in polling places across the state. RSA 664:4; N.H. Election Procedure Manual 277 (Aug. 2024). Movants would otherwise direct these resources to their GOTV activities.

16. It is for these reasons that Movants “have a sufficiently direct and apparent interest in the outcome of this case to allow them to intervene.” *American Federation of Teachers, et al. v. Gardner, et al.*, Docket No. 218-2020-CV-0570, at 2, N.H. Super. Ct. (Sept. 4, 2020) (Delker, J. granting intervention to RNC in lawsuit challenging New Hampshire absentee voting rules).

C. Movants Interests Would Suffer Were the Court to Deny Intervention

17. Movants' interests "would suffer if not indeed be sacrificed" were this Court to deny intervention. *Snyder v. N.H. Sav. Bank*, 134 N.H. 32, 35, 592 A.2d 506, 507 (1991). Here, the risks to Movants' interests are plain. If this Court enters the requested injunction, then SB 287's protections that protect the security and integrity of absentee voting for Movants' voters, candidates, and party officials would be upended, and plaintiffs' interests, as discussed *supra*, would suffer.

18. New Hampshire's permissive intervention rule does not incorporate the federal standard for intervention *of right* that requires inadequate representation by existing parties. *See* Fed. R. Civ. P. 24(a)(2). To the contrary, the right of intervention is generally freely given. *See* ¶2, *supra* citing *Brizca v. Trustees of Dartmouth College*, 147 N.H. 443, 446 (2002) (quoting *Scamman v. Sondheim*, 97 N.H. 280, 281 (1952)); 4 Gordon MacDonald, New Hampshire Practice: Civil Practice and Procedure §6:25 ("[t]he *Scamman* case has been consistently reaffirmed, and, together with its successors, establishes that intervention will be permitted by a person with a direct and apparent interest in the subject matter of a case . . .").

19. But even if New Hampshire's rule did incorporate the federal standard, the Court still should permit Movants to intervene because existing Defendants do not adequately share Movants' interests, which as stated above, include maintaining a competitive political environment, protecting their right of political association by ensuring the integrity of the processes for choosing their party leaders, and the preservation of their resources. State Defendants appear to share Movants' desire for the law to be upheld, but that is an open question at least to Plaintiffs. *See* Complaint for Dec and Injunctive Relief at 13 ("According to Defendants themselves, . . . there is no election integrity problem in New Hampshire . . ."). In

any event, Movants only need to show that their interests may not “fully overlap” with the state’s, *Berger v. N.C. State Conf. of the NAACP*, 597 U.S. 179, 181 (2022), “that representation of [Movants’] interest[s] may be inadequate; and the burden of making that showing should be treated as minimal.” *Trbovich v. UMW*, 404 U.S. 528, 538 n.10 (1972) (citation modified).

20. Movants’ proposed intervention is also timely and will not unduly delay this litigation or prejudice anyone. Movants swiftly moved to intervene while the case is in its early stages, and their participation will add no delay beyond the norm for multiparty litigation. After all, Plaintiffs put the constitutionality of the laws at issue and “can hardly be said to be prejudiced by having to prove a lawsuit [they] chose to initiate.” *Swenson*, Doc. 38, No. 20-cv-459-wmc (quoting *Security Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995)). Movants commit to submitting all filings in accordance with whatever briefing schedule the Court imposes, “which is a promise” that undermines any claims of undue delay. *Emerson Hall Assocs., LP v. Travelers Casualty Ins. Co. of Am.*, 2016 WL 223794, *2 (W.D. Wis. Jan. 19, 2016).

CONCLUSION

21. The Court should grant Movants’ motion and allow them to intervene as defendants.

WHEREFORE, putative intervenors New Hampshire Republican State Committee and Republican National Committee respectfully move that this Honorable Court:

- A. Grant this motion to intervene; and
- B. Grant such other relief as may be just and proper.

Respectfully Submitted
New Hampshire Republican State
Committee and Republican National
Committee,

By their attorneys,
Lehmann Major List, PLLC

October 30, 2025

/s/Richard J. Lehmann

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CERTIFICATION

I hereby certify that a copy of this pleading was forwarded to all counsel of record this day via the court's electronic service system.

October 30, 2025

/s/Richard J. Lehmann

Richard J. Lehmann