

HB 1370-FN - AS AMENDED BY THE SENATE

05/16/2024 1903s

2024 SESSION

24-2447

12/10

HOUSE BILL **1370-FN**

AN ACT relative to eliminating voter identification exceptions.

SPONSORS: Rep. Wherry, Hills. 13; Rep. Burnham, Straf. 2; Rep. Wood, Merr. 13; Rep. H. Howard, Straf. 4; Rep. Aures, Merr. 13; Rep. K. Perez, Rock. 16; Rep. Panek, Hills. 1

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill removes any exceptions for proving voter identification. This bill also removes the voter affidavits as proof of identification and repeals the procedures for affidavit ballots.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to eliminating voter identification exceptions.

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

1 1 Determining Qualifications of Applicant; General Voter Registration. RSA 654:12 is repealed
2 and reenacted to read as follows:

3 654:12 Determining Qualifications of Applicant.

4 I. When determining the qualifications of an applicant desiring to register to vote in New
5 Hampshire for the first time, whether the applicant seeks to register before election day or on
6 election day, the supervisors of the checklist, or the town or city clerk, shall require the applicant to
7 present proof of citizenship, age, domicile, and identity as provided in the following categories:

8 (a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall
9 accept from the applicant any one of the following as proof of citizenship: the applicant's birth
10 certificate, passport, naturalization papers if the applicant is a naturalized citizen, or any other
11 reasonable documentation which indicates the applicant is a United States citizen.

12 (b) AGE. Any reasonable documentation indicating the applicant will be 18 years of age
13 or older at the next election.

14 (c) DOMICILE.

15 (1) A person who possesses one of the following qualified documents identifying the
16 applicant's name and the address claimed as domicile must present that document when applying
17 for registration: (i) New Hampshire driver's license or identification card issued under RSA 260:21,
18 RSA 260:21-a, or RSA 260:21-b; (ii) New Hampshire resident vehicle registration; (iii) a picture
19 identification issued by the United States government that contains a current address; (iv) a
20 government issued check, benefit statement, or tax document.

21 (2) A person who attests under penalty of voter fraud that they do not possess any of
22 the qualified documents listed in subparagraph (c)(1) may present any reasonable documentation of
23 having established a physical presence at the place claimed as domicile, having an intent to make
24 that place their domicile, and having taken a verifiable act to carry out that intent. The
25 documentation must establish that it is more likely than not that the applicant has a domicile and
26 intends to maintain that domicile, as defined in this chapter, at least until election day, in the town
27 or ward in which they desire to vote. Reasonable documentation may include, but is not limited to,
28 evidence of:

29 (A) Having established domiciliary at the location of an institution of learning
30 the applicant attends, as set forth in RSA 654:1, I-a;

1 (B) Renting or leasing an abode at that place for a period of more than 30 days,
2 to include time directly prior to an election day;

3 (C) Purchasing an abode at that place;

4 (D) Enrolling the applicant's dependent minor child in an established public or
5 private elementary or secondary school which serves the town or ward of that place, using the
6 address where the registrant resides;

7 (E) Listing that place as the person's physical residence address on state or
8 federal tax forms, other government identification showing the address, or other government forms
9 showing the address;

10 (F) Providing the address of that place to the United States Post Office as the
11 person's permanent address, provided it is not a postal service or commercial post office box;

12 (G) Obtaining public utility services for an indefinite period at that place; or

13 (H) Arranging for a homeless shelter or similar service provider located in the
14 town or ward to receive United States mail on behalf of the individual.

15 (I) Any other reasonable documentation which establishes that it is more likely
16 than not that the applicant is domiciled at the address in the town or ward in which the applicant
17 desires to vote. An applicant whose domicile is at an abode of another and whose name is not listed
18 on the document offered as proof of domicile may provide a written statement from a person who is
19 listed as owner, property manager, or tenant on the document that the applicant resides at that
20 address, signed by that person under penalty of voting fraud if false information is provided.

21 (d) IDENTITY. Any one of the following is presumptive evidence of the identity of an
22 applicant sufficient to satisfy the identity requirement of this section:

23 (1) Photo driver's license issued by any state or the federal government.

24 (2) United States passport, armed services identification, or other photo
25 identification issued by the United States government.

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

27 (4) Any other evidence that reasonably establishes that it is more likely than not
28 that the person is who they claim to be, including verification of the person's identity by the
29 moderator or another election official.

30 Residents of a nursing home or similar facility may prove their identity through verification of
31 identity by the administrator of the facility or by his or her designee. For the purposes of this
32 section, the application of a person whose identity has been verified by an official of a nursing home
33 or similar facility shall be treated in the same manner as the application of a person who proved his
34 or her identity with a photo identification.

35 II. The evidence described or presumptions established in paragraph I may be confirmed or
36 defeated by evidence establishing that it is more likely than not that the applicant is or is not
37 qualified as a voter.

1 (a) Notwithstanding laws to the contrary, data contained in state databases may be used
2 by the secretary of state or other state agencies to verify the information requested of the applicant
3 when registering to vote for the first time or to prove identity when the applicant has not provided
4 sufficient documentation.

5 (b) On election day, the secretary of state shall coordinate a group of state agencies
6 which shall include individuals from the secretary of state, the attorney general, the department of
7 motor vehicles, and any other agencies determined necessary by the secretary of state. Their
8 responsibilities shall include providing real time verification of data request of applicants on voter
9 registration forms and proof of identity when the applicant or voter has not presented sufficient
10 documentation.

11 III. Any person who is applying for registration as a voter and who is currently or was
12 registered to vote in a different town or ward in New Hampshire shall complete the voter
13 registration form provided for in RSA 654:7. If the election official receiving the application confirms
14 through the centralized voter registration database required by RSA 654:45 that the applicant is
15 currently registered to vote in New Hampshire, the applicant shall prove identity and domicile, but
16 shall not be required to prove his or her age or citizenship.

17 IV. A person who has registered to vote in the town or ward in which the person seeks to
18 vote prior to election day need not provide proof of citizenship, age, or domicile at the polling place on
19 election day, but shall provide proof of identification establishing that he or she is the same person
20 who previously registered to vote.

21 V. Any dispute as to whether a person has met the requirements to register to vote or to
22 vote shall be decided by the election official of the town or ward in charge of voter registration or in
23 charge of the polling place if the dispute arises at the polling place. A person aggrieved by the
24 decision of said official may take an immediate appeal to the superior court, which shall hear the
25 appeal forthwith and shall make every reasonable effort to decide the matter prior to noon on the
26 last day for candidates to request a recount. The aggrieved person may be given a ballot in
27 accordance with RSA 659:23-a.

28 VI. The secretary of state shall train and provide assistance to election officials in the use of
29 official records that may be used to verify the qualification documents presented by the applicant.

30 2 General Voter Registration; Voter Registration Form. RSA 654:7 is repealed and reenacted to
31 read as follows:

32 654:7 Voter Registration; Voter Registration Form.

33 I. Any person registering to vote shall be:

34 (a) At least 18 years of age on the day of the next election; and

35 (b) A United States citizen; and

36 (c) Domiciled in the town or city in which the applicant is registering to vote and not
37 otherwise disqualified to vote.

HB 1370-FN - AS AMENDED BY THE SENATE

- Page 4 -

1 II. The applicant shall be required to produce appropriate proof of qualifications as provided
2 in RSA 654:12 and fill out the form as prescribed in paragraph III.

3 III.(a) Standard registration application forms shall be used throughout the state. The
4 registration forms shall be no larger than 8 ½ inches by 11 inches.

5 (b) The secretary of state shall prescribe the form of the voter registration form to be
6 used for voter registrations, transfers, or updates, which shall be in substantially the following form:

7 ___ NEW REGISTRATION I am not registered to vote in New Hampshire

8 ___ TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a
9 new town or ward in New Hampshire

10 ___ NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have
11 changed my name/address

12 Date _____

13 VOTER REGISTRATION FORM

14 (Please print or type)

15 1. Name

16
17 Last (suffix) First Full Middle Name

18 2. Domicile Address

19
20 Street Ward Number

21
22 Town or City Zip Code

23 3. Mailing Address if different than in 2

24
25 Street

26
27 Town or City Zip Code

28
29 4. Place and Date of Birth

30 Town or City State

31 _____
32 Date _____

33 5. Are you a citizen of the United States? Yes _____ No _____

34 If a naturalized citizen, give name of court where and date when naturalized

35 _____
36 6. Place last registered to vote

37 _____

HB 1370-FN - AS AMENDED BY THE SENATE
- Page 5 -

1 Street Ward Number

2 _____

3 I am not currently registered to vote elsewhere (initial here _____), or I request that my name
4 be removed as a registered voter in _____ (fill in your address where
5 previously registered, street, city/town, state, and zip code)

6 7. Name under which previously registered, if different from above

7

8 8. Party Affiliation (if any)

9

10 9. Driver's License Number or nondriver's picture identification card number

11 _____

12 State

13 _____ Check here if you do not have a drivers license or a nondriver's picture identification card

14 The last four digits of your social security number _____

15 My name is _____. I am today registering to vote in the city/town of
16 _____, New Hampshire. If a city, ward number _____.

17 I understand that to vote in this ward/town, I must be at least 18 years of age, I must be a United
18 States citizen, and I must be domiciled in this ward/town.

19 I understand that a person can claim only one state and one city/town as his or her domicile at a
20 time. I understand that my domicile for voting is that one place from which I participate in
21 democratic self-government and that I have acted to carry out that intent. By registering or voting
22 today, I am acknowledging that I am not domiciled or voting in any other state or any other
23 city/town.

24 In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or
25 federal elections in another state.

26 If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a
27 supervisor of the checklist is available to address my questions or concerns.

28 I acknowledge that I have read and understand the above qualifications for voting and do hereby
29 swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-
30 stated city/town, and, if registering on election day, that I have not voted and will not vote at any
31 other polling place this election.

32 Date _____ Signature of Applicant _____

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

HB 1370-FN - AS AMENDED BY THE SENATE
- Page 6 -

1 3 General Voter Registration; Registering at the Polling Place; Election Day Registration. RSA
2 654:7-a is repealed and reenacted to read as follows:

3 654:7-a Registering at the Polling Place; Election Day Registration.

4 I. Any person whose name is not on the checklist, but who is otherwise a qualified voter
5 shall be entitled to vote by requesting to be registered to vote at the polling place on election day.
6 The applicant shall be required to produce appropriate proof of qualifications as provided in RSA
7 654:12. If registered, the voter may then vote at that election.

8 II. Any person who is waiting to register to vote at the polling place on election day at the
9 time scheduled for the closing of the polls shall be allowed to vote if determined to be qualified to
10 register.

11 4 Election Procedure; Challenge of Voter; Affidavit. RSA 659:27 is repealed and reenacted to
12 read as follows:

13 659:27 Challenge of Voter; Affidavit.

14 I. A voter offering to vote at any state election may be challenged by any other voter
15 registered in the town or ward in which the election is held, an election official, a challenger
16 appointed by a political committee pursuant to RSA 666:4, or a challenger appointed by the attorney
17 general pursuant to RSA 666:5.

18 II. Upon receipt of a written challenge, the moderator shall determine if the challenge to the
19 ballot is well grounded. If the moderator determines that it is more likely than not that the
20 challenge is well grounded, the moderator shall not receive the vote of the person so challenged. If
21 the moderator determines that the challenge is not well grounded, the moderator shall permit the
22 voter to vote. The secretary of state shall provide assistance to moderators in reviewing the
23 challenge.

24 5 Challenges; Asserting a Challenge. RSA 659:27-a is repealed and reenacted to read as follows:

25 659:27-a Asserting a Challenge.

26 I. No challenge may be asserted except in the form of a signed affidavit, under oath
27 administered by an election official, in the following form:

28 **INFORMATION ON THE PERSON MAKING THE CHALLENGE**

29 Name of Person Making the Challenge:

30
31 Last Name First Name Middle Name/Initial

32
33 Party affiliation

34 If person making a challenge is a voter: Physical Address--Street Name & Number

35
36 If person is a political party or attorney general appointee: mailing address & phone number

37

HB 1370-FN - AS AMENDED BY THE SENATE
- Page 7 -

1 The challenger's qualifications to assert the challenge

2 INFORMATION ON THE VOTER BEING CHALLENGED: The person making the challenge shall
3 complete the following:

4 Name being used by the voter who you wish to challenge:

5 _____

6 Last Name First Name Middle Name

7 GROUNDS FOR THE CHALLENGE: The person making the challenge shall indicate the ground on
8 which the challenge is made (check all grounds that apply).

9 The person seeking to vote is not the individual whose name he or she has given

10 The person seeking to vote has already voted in the election at (name polling place) _____
11 at approximately (state time if known) _____

12 The person seeking to vote is disqualified as a voter by conviction of a willful violation of the
13 elections laws (state offense, court, and date of conviction)

14 The person seeking to vote is under 18 years of age

15 The person seeking to vote is not a United States Citizen

16 The person seeking to vote is not domiciled in the town or ward where he or she is seeking to
17 vote (state person's true domicile--town/city)

18 The person seeking to vote is not domiciled at the address listed for that person on the checklist

19 The person seeking to vote is an incarcerated convicted felon who is currently sentenced to
20 incarceration (state name of institution person is in)

21 This is a primary and the person seeking to vote in the (state political party name) _____
22 primary is not a declared member of the party he or she claims to be affiliated with

23 The person seeking to vote is ineligible to vote pursuant to the following state or federal statute
24 or constitutional provision:

25 BASIS FOR THE CHALLENGE: The person making the challenge shall state the specific source of
26 the information or personal knowledge upon which the challenge of the particular individual is
27 based:

28 OATH: The person making the challenge shall complete the following:

29 I hereby swear and affirm, under the penalties of perjury, that to the best of my knowledge and
30 belief the information above is true and correct.

31 _____

32 (Signature of challenger)

33 On the date shown above, before me, _____ (print name of notary public, justice of the peace,
34 election officer), appeared _____ (print name of person whose signature is being notarized),
35 known to me or satisfactorily proven (circle one) to be the person whose name appears above, and he
36 or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this
37 affidavit are true to the best of his or her knowledge and belief.

1 _____

2 Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

3 TO BE COMPLETED BY THE MODERATOR ruling on the challenge:

4 If the ground at issue is age, citizenship, domicile, or identity: The supervisors of the checklist have
5 ruled that the challenged voter is: Qualified as a voter; not qualified as a voter (circle one).

6 The moderator rules on challenges based on other grounds: The moderator rules that the challenge
7 is: well grounded; not well grounded (circle one).

8 _____

9 Signature of Moderator or Election Official

10 II.(a) A challenge may be asserted only upon personal knowledge or other basis of probable
11 cause that the challenged voter is ineligible to vote. No challenge may be accepted unless one of the
12 following grounds is asserted and specific facts are offered in support of such grounds:

13 (1) The person seeking to vote is not the individual whose name he or she has given.

14 (2) The person seeking to vote has already voted in the election at the time and place
15 specified in the challenge.

16 (3) The person seeking to vote is disqualified as a voter by conviction of a willful
17 violation of the elections laws, such conviction having been for the offense specified in the challenge.

18 (4) The person seeking to vote is under 18 years of age.

19 (5) The person seeking to vote is not a United States citizen.

20 (6) The person seeking to vote is not domiciled in the town or ward where he or she
21 is seeking to vote because the person's true domicile is in the town or city specified in the challenge.

22 (7) The person seeking to vote is not domiciled at the address listed for that person
23 on the checklist.

24 (8) The person seeking to vote is an incarcerated convicted felon who is currently
25 sentenced to incarceration in the institution specified in the challenge.

26 (9) The person is attempting to vote in a primary and the person is not a declared
27 member of the party with which he or she claims to be affiliated.

28 (10) The person is ineligible to vote pursuant to some other state or federal statute
29 or constitutional provision specified in the challenge.

30 (b) Before ruling on the challenge, the moderator shall give the challenged voter an
31 opportunity to be heard. A person aggrieved by the moderator's decision on a voter challenge may
32 obtain a review of the decision in the superior court pursuant to RSA 654:12, V.

33 6 Obtaining a Ballot; Affidavit Ballots Removed. RSA 659:13, I(c) is repealed and reenacted to
34 read as follows:

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

HB 1370-FN - AS AMENDED BY THE SENATE

- Page 9 -

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

3 If the supervisor of the checklist determines that the voter's qualifications and identity are
4 established, the voter shall be allowed to vote. If the supervisor of the checklist determines that the
5 voter's qualifications and identity have not been established, the voter shall not be allowed to vote.
6 A voter not allowed to vote as a result of the determination of the supervisor of the checklist may
7 take an appeal to the superior court as provided in RSA 654:12, V.

8 7 Election Procedure; Challenges; Record by Clerk. RSA 659:32 is repealed and reenacted to
9 read as follows:

10 659:32 Record by Clerk. The town clerk shall record the name and domicile of all challenged
11 voters, the name and domicile of the person who challenged each such voter, the reason for each
12 challenge, and the ruling on each challenge by the moderator or election official.

13 8 Election Fund; Cross Reference Removed. Amend RSA 5:6-d, III to read as follows:

14 III. The secretary of state is authorized to accept, budget, and, subject to the limitations of
15 this paragraph, expend monies in the election fund received from any party for the purposes of
16 conducting elections, voter and election official education, the purchase or lease of equipment that
17 complies with the Help America Vote Act of 2002, Public Law 107-252[~~, or with RSA 659:13, V,~~]
18 reimbursing the department of safety for the actual cost of voter identification cards, election law
19 enforcement, enhancing election technology, making election security improvements, and
20 improvements to related information technology, including acquisition and operation of an
21 automated election management system. With the exception of federal and state portions of funds
22 associated with the 2018 Election Reform Program, the secretary of state shall not expend any
23 monies in the election fund unless the balance in the fund following such expenditures shall be at
24 least 12 times the estimated annual cost of maintaining the programs established to comply with the
25 Help America Vote Act of 2002, Public Law 107-252.

26 9 Ballots Pending Judicial Review. RSA 659:23-a is repealed and reenacted to read as follows:

27 659:23-a Ballots Pending Judicial Review.

28 Persons aggrieved by the decision of an election official which denies that person the opportunity
29 to vote may cast a ballot pending judicial review which shall be processed as follows:

30 I. An authorized election official shall hand the voter a ballot pending judicial review
31 package and explain its use. This package shall be designed, produced, and distributed by the
32 secretary of state, and shall contain a ballot, a ballot pending judicial review request and
33 instructions for its use.

34 II. The moderator shall mark each ballot pending judicial review "ballot pending judicial
35 review #_____" sequentially starting with the number one.

36 III. All ballots pending judicial review shall be placed in a designated container and hand
37 counted after polls have closed using a method prescribed by the secretary of state for hand counting

1 and confirmation of candidate vote totals. After completion of counting, the moderator shall note
2 and announce the total number of votes cast for each candidate, and the total number of ballots
3 pending judicial review requests cast in the election. No later than one day after the election, the
4 moderator shall forward a copy of the requests for a ballot pending judicial review to the secretary of
5 state using a secure means of transmission or delivery.

6 IV. If the voter who has cast a ballot pending judicial review does not obtain a court order
7 that their ballot shall be counted by noon on the last day for candidates to request a recount, then
8 the votes cast on such unqualified ballots pending judicial review shall be deducted from the vote
9 total for each affected candidate or each affected issue.

10 V. The total vote minus the unqualified ballot pending judicial vote for each race or issue
11 shall be the final vote to be certified by the appropriate certifying authority.

12 VI. All written documentation relating to ballots pending judicial review shall be in sealed
13 packages, use a secure means of transportation, and be stored pursuant to RSA 659:95 through RSA
14 659:103.

15 10 Ballots Pending Judicial Review; Recounts. RSA 660:17-a is repealed and reenacted to read
16 as follows:

17 660:17-a Ballots Pending Judicial Review; Recounts.

18 In any election or referendum recount only those ballots pending judicial review that have a
19 court order that the ballot is to be counted shall be counted during the recount.

20 11 Appropriation; Secretary of State. There is hereby appropriated to the secretary of state the
21 sum of \$1 for the fiscal year ending June 30, 2025 for the purpose of determining the qualifications
22 of voters. The governor is authorized to draw a warrant for said sums out of any money in the
23 treasury not otherwise appropriated.

24 12 Repeal. RSA 659:13, III, IV, and V, relative to affidavit ballots and the secretary state, is
25 repealed.

26 13 Effective Date. This act shall take effect upon its passage.

**HB 1370-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to durable and tamper-proof containers for preserving ballots.

FISCAL IMPACT: State County Local None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? No
- Does this bill authorize new positions to implement this bill? N/A

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	\$0 - \$10,000	\$0 - \$10,000	\$0 - \$10,000

METHODOLOGY:

This bill requires the Secretary of State to prepare and provide, to each town and ward clerk, ballot preserving containers which are secure, durable, reusable, transportable, and stackable.

The Department of State indicates the current distribution to the town and ward clerks include custom-sized cardboard boxes, red tape designed to be tamper-evident, and sealers that necessitate signatures, although they lack tamper-evident features. Currently, the Department ships electronic ballot-counted ballots in custom-sized boxes to prevent damage, considering ballot sizes and quantities. For manual count towns, folded ballots are transported in the smallest available boxes. Due to the multiple sized and custom boxes needed to comply with this bill the Department would need to contract with a reusable, lockable container manufacturer to purchase the boxes.

The Department notes, RSA 33-A:3-a, XXXVI mandates the retention of federal election ballots and related documents by town clerks until the contest is resolved or at least 22 months after the election, whichever is longer. The secretary of state anticipates procuring reusable containers for the initial 5 elections (1 presidential primary, 2 state primaries, and 2 state general elections), with minimal additional purchases afterward for replacements or increased ballot shipments, provided municipalities return the reusable containers after the retention period.

The Department assumes the cost to coordinate the return shipment of all state elections containers would be bore by the Department as well as the increased cost from the change in the container resulting in increased shipping costs from and to the Department. The exact cost is currently unknown. The Department plans to solicit proposals for lockable, durable, reusable, transportable, and stackable containers, along with container locks and tamper-evident sealers. However, the costs for these new containers, locks, and sealers cannot be determined at this time but would result in an indeterminable increase to State General Funds starting in FY 2025.

The New Hampshire Municipal Association states to comply with the bill they would need training, but it is assumed the Department of State would cover this costs. Any other incidental costs would be minimal.

AGENCIES CONTACTED:

Department of State and New Hampshire Municipal Association