

HB 1542-FN - AS INTRODUCED

2022 SESSION

22-2752

11/05

HOUSE BILL            ***1542-FN***

AN ACT                relative to documentation required to prove a voter's eligibility to vote.

SPONSORS:           Rep. Abramson, Rock. 37; Rep. Ankarberg, Straf. 10

COMMITTEE:        Election Law

---

ANALYSIS

This bill requires voters to show certain documentation in order to cast a vote.

-----

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Two*

AN ACT                      relative to documentation required to prove a voter's eligibility to vote.

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

1            1 Election Procedure; Obtaining a Ballot. Amend RSA 659:13, I(c) to read as follows:

2            (c)(1) If the voter does not have a valid photo identification, the ballot clerk shall inform  
3 the voter that he or she may ~~[execute]~~ **cast** a ~~[challenged voter affidavit]~~ **provisional ballot in**  
4 **accordance with RSA 659:23-a**. The voter shall receive an explanatory document prepared by the  
5 secretary of state explaining the proof of identity requirements. If the voter ~~[executes]~~ **casts** a  
6 ~~[challenged voter affidavit]~~ **provisional ballot**, the ballot clerk shall mark the checklist in  
7 accordance with uniform procedures developed by the secretary of state.

8            (2) If the voter ~~[executes]~~ **casts** a ~~[challenged voter affidavit]~~ **provisional ballot**,  
9 the moderator or the moderator's designee shall take a photograph of the voter and ~~[immediately~~  
10 ~~print and attach the photograph to, and thus make it a part of, the affidavit form. However, if a~~  
11 ~~photograph was taken under RSA 654:12, then a notation shall be made on the challenged voter~~  
12 ~~affidavit stating that the photograph is attached to the qualified voter affidavit or sworn statement~~  
13 ~~on the general election day registration form]~~ **retain such photograph for later verification**.  
14 The photograph shall be 2 inches by 2 inches, or larger, and may be in color or in black and white.  
15 ~~[The moderator or his or her designee who took the photograph and the voter shall then sign the~~  
16 ~~challenged voter affidavit.]~~ The moderator or designee shall delete the photograph from the camera  
17 in the presence of the voter. If the moderator or his or her designee is unable to take the voter's  
18 photograph due to equipment failure or other cause beyond the moderator's or his or her designee's  
19 reasonable control, the voter may ~~[execute]~~ **cast** a ~~[challenged voter affidavit]~~ **provisional ballot**  
20 without a photograph.

21            (3) If the voter objects to the photograph requirement because of religious beliefs, he  
22 or she may execute an affidavit of religious exemption in accordance with RSA 659:13-b, which shall  
23 be attested to by an election officer and ~~[attached to the challenged voter affidavit]~~ **retained by the**  
24 **moderator**.

25            (4) The person entering voter information into the centralized voter registration  
26 database shall cause the records to indicate when a voter has not presented a valid photo  
27 identification and has ~~[executed]~~ **cast** a ~~[challenged voter affidavit]~~ **provisional ballot**.

28            2 Election Procedure; Obtaining a Ballot. Amend RSA 659:13, II(b) to read as follows:

29            (b) In addition to the forms of photo identification authorized in subparagraph (a), the  
30 identification requirements of paragraph I may be satisfied by verification of the person's identity by  
31 a moderator or supervisor of the checklist or the clerk of a town, ward, or city, provided that if any

**HB 1542-FN - AS INTRODUCED**  
**- Page 2 -**

1 person authorized to challenge a voter under RSA 659:27 objects to such verification, identifies the  
2 reason for the objection in writing, and states the specific source of the information or personal  
3 knowledge upon which the challenge of the photo identification is based, the voter shall be required  
4 to ~~[execute]~~ **cast** a ~~[challenged voter affidavit]~~ **provisional ballot** as if no verification was made.

5 3 Obtaining a Ballot. Amend RSA 659:13, IV to read as follows:

6 IV.(a) The secretary of state shall cause a letter of identity verification to be mailed by first  
7 class mail to each voter who executed ~~[a challenged voter affidavit or]~~ **an** affidavit of religious  
8 exemption in accordance with paragraph I, unless the same person is sent letter of identity  
9 verification pursuant to RSA 654:12, V(b). The letter shall be mailed by January 10 in every odd-  
10 numbered year in the case of persons executing ~~[challenged voter affidavits or]~~ affidavits of religious  
11 exemption at a state primary or general election, or within 90 days after any other election. The  
12 secretary of state shall mark the envelope with instructions to the United States Post Office not to  
13 forward the letter and to provide address correction information. The letter shall notify the person  
14 that a person who did not present valid photo identification voted using his or her name and address  
15 and instruct the person to return the letter within 30 days with a written confirmation that the  
16 person voted or to contact the attorney general immediately if he or she did not vote. The letter shall  
17 also inform the person of the procedure for obtaining a free nondriver's picture identification card for  
18 voting purposes.

19 (b) The secretary of state shall conduct an inquiry regarding any letters mailed pursuant  
20 to subparagraph (a) that are returned as undeliverable by the United States Post Office and of  
21 voters who were mailed letters under subparagraph (a) and have not responded to the secretary of  
22 state. The inquiry may include consulting with, and examining public records held by, municipal  
23 officials, which contain information relevant to a person's qualifications to vote in New Hampshire,  
24 and interviewing persons living at the address listed on the letters. After such inquiry, the secretary  
25 of state shall prepare and forward to the attorney general for investigation a list of those people  
26 whose identity or eligibility to vote could not be confirmed. The attorney general shall cause an  
27 investigation to be made to determine whether fraudulent voting occurred.

28 (c) Within 60 days after any election held after November 1, 2012, the secretary of state  
29 shall compile a report by voting district of the number of voters who registered or voted on election  
30 day but did not present valid photo identification, and forward the report to the speaker of the house  
31 of representatives, the president of the senate, and the chairpersons of the appropriate house and  
32 senate standing committees with jurisdiction over election law.

33 4 Verification of In-Person Absentee Voter. Amend RSA 657:17-a to read as follows:

34 657:17-a Verification of In-Person Absentee Voter.

35 I. An absentee voter who returns his or her completed absentee ballot to the clerk's office in  
36 person shall be treated as a verified voter provided:

**HB 1542-FN - AS INTRODUCED**  
**- Page 3 -**

1 (a) The voter voluntarily shows the clerk a photo identification that meets the  
2 requirements of RSA 659:13; or

3 (b) The voter voluntarily [~~completes a challenged voter affidavit~~] **casts a provisional**  
4 **ballot** in the same manner as is required for an election day voter who does not present a qualified  
5 voter identification.

6 II. The clerk shall mark the absentee ballot affidavit enveloped "voter verified" and note on  
7 the clerk's list of absentee voters that the voter has been verified. The verified voter's signatures on  
8 the application for an absentee ballot shall not be compared to the voter's signature on the absentee  
9 ballot affidavit on election day.

10 III. A voter who does not present a qualified photo identification and who does not [~~complete~~  
11 ~~a challenged voter affidavit~~] **cast a provisional ballot** shall not be treated as a verified voter, and  
12 his or her signatures on the application for an absentee ballot shall be compared to his or her  
13 signature on the absentee ballot affidavit on election day in the same manner as other absentee  
14 voters.

15 5 Election Procedure; Wrongful Voting; Penalties for Voter Fraud. Amend RSA 659:34, I(a) to  
16 read as follows:

17 (a) When registering to vote; when obtaining an official ballot; when casting a vote by  
18 official ballot; or when applying for a photo identification card for voting purposes, purposely or  
19 knowingly makes a false material statement regarding his or her qualifications as a voter to an  
20 election officer or submits a voter registration form, an election day registration affidavit, a qualified  
21 voter affidavit, [~~a challenged voter affidavit,~~] an affidavit of religious exemption, an identification  
22 card voucher, or an absentee registration affidavit containing false material information regarding  
23 his or her qualifications as a voter;

24 6 New Section; Election Procedure; Provisional Ballot. Amend RSA 659 by inserting after  
25 section 23 the following new section:

26 659:23-a Provisional Ballot for Voters without Proof of Identity.

27 I. If a voter does not present proof of identity in accordance with RSA 659:13, I(b), such voter  
28 shall be permitted to cast a provisional ballot. The provisions of RSA 659:15 through RSA 659:22  
29 shall apply to any voter casting a ballot in accordance with this section.

30 II. Such voter shall be provided a unique sticker with barcode to place on the ballot, as well  
31 as a receipt containing a matching barcode. The voter shall retain the receipt.

32 III. The moderator, upon receiving a provisional ballot, shall place such ballot in a separate  
33 storage location with other provisional ballots until such time as the voter returns with  
34 documentation complying with RSA 659:13, II(a).

35 IV. After casting a provisional ballot pursuant to paragraph III, and before all votes have  
36 been counted, a voter casting a provisional ballot shall return to the polling place where such ballot  
37 was cast to provide documentation complying with RSA 659:13, II(a). If such voter provides

**HB 1542-FN - AS INTRODUCED**

**- Page 4 -**

1 sufficient documentation to complete registration, the moderator shall match the receipt provided by  
2 the voter with the provisional ballot cast by such voter by comparing barcode identification, and  
3 shall then count such voter's provisional ballot. If such a voter does not return to provide sufficient  
4 documentation before the moderator has concluded counting the votes, such provisional ballot shall  
5 not be counted.

6       7 Effective Date. This act shall take effect January 1, 2023.

**HB 1542-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT                      relative to documentation required to prove a voter's eligibility to vote.

**FISCAL IMPACT:**    ☒ State                      ☐ County                      ☐ Local                      ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill requires the use of provisional ballots for voters who do not present valid identification. The Department of State indicates the fiscal impact of this bill will be an indeterminable increase to State General Fund expenditures. The Department states they will need to design and print provisional ballots as well as have instructions on how to vote using a provisional ballot and on taking photographs of provisional voters. The Department also indicates extensive training of local election officials and voter education will be necessary.

The New Hampshire Municipal Association states this has no fiscal impact on local revenues or expenditures.

**AGENCIES CONTACTED:**

Department of State and New Hampshire Municipal Association