

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

SECTION 5 VOTING SUBMISSION

TO: Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

DATE: July 20, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:
Laws of 2010, Chapter 172

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits **Laws of 2010, Chapter 172**, relative to retention of election records, for preclearance by the U.S. Department of Justice.

Submission: In accordance with 28 CFR §51.27 and 51.28, the submission is as follows:

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting (new law).

Laws of 2010, Chapter 172, amending:

1. (Sec 1, 2, 3) RSA 33-A:3-a;
2. (Sec 4, 5) RSA 654:12;
3. (Sec 6) RSA 654:13;
4. (Sec 7) RSA 654:23;
5. (Sec 8) RSA 654:34;
6. (Sec 9) RSA 654:34-a;
7. (Sec 10) RSA 654:36;
8. (Sec 11) RSA 654:36-a;

9. (Sec 12) RSA 654:36-b;
10. (Sec 13) RSA 654:37;
11. (Sec 14) RSA 654:44;
12. (Sec 15) RSA 657:16;
13. (Sec 16) RSA 657:21;
14. (Sec 17) RSA 659:33;
15. (Sec 18) RSA 659:75;
16. (Sec 19) RSA 659:95;
17. (Sec 20) RSA 659:98;
18. (Sec 21) RSA 659:100;
19. (Sec 22) RSA 659:101;
20. (Sec 23) RSA 659:102;
21. (Sec 24) RSA 659:103.

See Attached Exhibit 2010:172, #1

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).

1. (Sec 1, 2, 3) RSA 33-A:3-a; See Attached Exhibit 2010:172, #2
2. (Sec 4, 5) RSA 654:12; See Attached Exhibit 2010:172, #3
3. (Sec 6) RSA 654:13; See Attached Exhibit 2010:172, #4
4. (Sec 7) RSA 654:23; See Attached Exhibit 2010:172, #5
5. (Sec 8) RSA 654:34; See Attached Exhibit 2010:172, #6
6. (Sec 9) RSA 654:34-a; See Attached Exhibit 2010:172, #7
7. (Sec 10) RSA 654:36; See Attached Exhibit 2010:172, #8
8. (Sec 11) RSA 654:36-a; See Attached Exhibit 2010:172, #9
9. (Sec 12) RSA 654:36-b; See Attached Exhibit 2010:172, #10
10. (Sec 13) RSA 654:37; See Attached Exhibit 2010:172, #11
11. (Sec 14) RSA 654:44; See Attached Exhibit 2010:172, #12
12. (Sec 15) RSA 657:16; See Attached Exhibit 2010:172, #13
13. (Sec 16) RSA 657:21; See Attached Exhibit 2010:172, #14
14. (Sec 17) RSA 659:33; See Attached Exhibit 2010:172, #15
15. (Sec 18) RSA 659:75; See Attached Exhibit 2010:172, #16
16. (Sec 19) RSA 659:95; See Attached Exhibit 2010:172, #17
17. (Sec 20) RSA 659:98; See Attached Exhibit 2010:172, #18
18. (Sec 21) RSA 659:100; See Attached Exhibit 2010:172, #19
19. (Sec 22) RSA 659:101; See Attached Exhibit 2010:172, #20
20. (Sec 23) RSA 659:102; See Attached Exhibit 2010:172, #21
21. (Sec 24) RSA 659:103. See Attached Exhibit 2010:172, #22

(c) A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

1. (Sec 1, 2, 3) RSA 33-A:3-a; See Attached Exhibit 2010:172, #2. These changes clarify the duty to preserve election materials by expanding the description of what must be preserved in RSA 33-A:3-a, which is the section of State law which sets retention periods for municipalities for all governmental records. Preservation requirements were previously set forth in the election law section of State law. As other changes addressed below will explain, those election law sections will now direct readers to this statute.

The records that must be retained and the period of retention for specified records has been extended from 5 to 7 years to align the retention period with the statute of limitations for felony election laws violations to ensure the availability of those records should criminal cases develop later during the period prior to the statute of limitations running.

2. (Sec 4, 5) RSA 654:12; See Attached Exhibit 2010:172, #3. RSA 654:12 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a in 4 places. The section addressing an applicant's age qualifications is amended to more clearly reflect that a 17 year old may register to vote prior to turning 18, provided he or she will be age 18 on election day.
3. (Sec 6) RSA 654:13; See Attached Exhibit 2010:172, #4. RSA 654:13 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a in 2 places.

The duty for supervisors of the checklist to send notice to election officials in New England states of a person previously registered in their jurisdiction having registered to vote in New Hampshire removed New Hampshire from the list of covered states. The statute then establishes current practice in law, requiring that the statewide centralized voter registration database provide electronic notice to the New Hampshire voting jurisdiction where the voter was previously domiciled and registered to vote. Under previously established procedures that jurisdiction will remove the voter from its checklist upon a determination that there is no apparent error in the report. Previously established procedures require that when an apparent error is identified, the

two jurisdictions must communicate to resolve this so that when the process is complete the voter is on the checklist of only one New Hampshire town or city ward.

4. (Sec 7) RSA 654:23; See Attached Exhibit 2010:172, #5. RSA 654:23 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a in two places.

A requirement is added that upon voting to reject an application for registration as a voter in addition to sending the previously required notice to the applicant of the reason for the rejection, the word "REJECTED" must be written on the voter registration application form.

The section is also amended to add a requirement that a copy of an approved application as an overseas voter be sent to the town or city clerk. This ensures the clerk has this additional information to aid in ensuring absentee ballots are sent to these voters in accordance with law.

5. (Sec 8) RSA 654:34; See Attached Exhibit 2010:172, #6. RSA 654:34 amends the change of party affiliation form to remove reference to the Libertarian party. Under New Hampshire law the Libertarian party was once a recognized political party, but for many election cycles has failed to have candidates receiving sufficient votes for the organization to retain political party status. The Libertarian entity is now recognized as a political organization and as such is not entitled to a party column or to have voters registered as affiliated.

RSA 654:34 is also amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. Finally, the previously existing duty of the supervisors of the checklist to change the voter's party affiliation in accordance with the voter's request is restated in more clear language.

6. (Sec 9) RSA 654:34-a; See Attached Exhibit 2010:172, #7. RSA 654:34-a is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. Pronouns are corrected to make the statute gender neutral.
7. (Sec 10) RSA 654:36; See Attached Exhibit 2010:172, #8. RSA 654:36 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. RSA 654:36 is also amended to reflect the statewide voter registration database providing supervisors of the checklist the notice that a voter has moved his or her domicile and has registered to vote in a different New Hampshire town.

8. (Sec 11) RSA 654:36-a; See Attached Exhibit 2010:172, #9. RSA 654:36-a is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.
9. (Sec 12) RSA 654:36-b; See Attached Exhibit 2010:172, #10. RSA 654:36-b is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. In addition a reference to RSA 654:44 is added to the previously existing sentence providing that when a voter fails to respond to a notice that their name will be removed from the checklist if the voter does not respond within 30 days, the name is to be removed. This is not a change to existing law or practice, just the addition of a reference to another statute to make the provision more clear.
10. (Sec 13) RSA 654:37; See Attached Exhibit 2010:172, #11. RSA 654:37 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference to the clerk.
11. (Sec 14) RSA 654:44; See Attached Exhibit 2010:172, #12. RSA 654:44 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference.
12. (Sec 15) RSA 657:16; See Attached Exhibit 2010:172, #13. RSA 657:16 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference. Finally, a further instruction clarifies existing practice by specifying that upon receipt of a properly completed registration form from an absentee voter the clerk shall forward the registration forms to the supervisors of the checklist. This facilitates the supervisors adding that voter to the checklist.
13. (Sec 16) RSA 657:21; See Attached Exhibit 2010:172, #14. RSA 657:21 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference. Finally, the addition of the phrase “at the next session of the supervisors of the checklist” clarify when the supervisors must act. This requires that when such affidavits are received on election day, in accordance with this statute and New Hampshire previously existing practice of election day registration, the armed services or overseas citizen absentee voter would be registered on election day and the voter’s ballot would be counted.

14. (Sec 17) RSA 659:33; See Attached Exhibit 2010:172, #15. RSA 659:33 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.
15. (Sec 18) RSA 659:75; See Attached Exhibit 2010:172, #16. RSA 659:75 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.
16. (Sec 19) RSA 659:95; See Attached Exhibit 2010:172, #17. RSA 659:95 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.

The words “and rejected” are added to the sentences describing the duty to seal successfully challenged absentee ballots in the envelope in which they were received along with other preserved ballots and the exemption from the state’s Right-to-Know (sunshine/FOIA) law. This does not change the law or practice in New Hampshire and serves only to clarify the duty.

A new sentence establishes a duty on the part of the moderator to number each sealed box of ballots, noting on each the total number of boxes. New Hampshire has previously used a seal calling for this information. This statute makes providing the information mandatory. Having the total number of boxes noted on each box helps ensure that all boxes are present when placed in storage or collected for transport to a recount.

17. (Sec 20) RSA 659:98; See Attached Exhibit 2010:172, #18. RSA 659:98 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. The use of gender specific pronouns are replaced with gender neutral references. A reference to a statute is corrected to include the entire cite.
18. (Sec 21) RSA 659:100; See Attached Exhibit 2010:172, #19. RSA 659:100 is amended to replace a specific retention requirement with a reference to record retention being required in accordance with RSA 33-A:3-a, which sets forth all retention requirements in one section.
19. (Sec 22) RSA 659:101; See Attached Exhibit 2010:172, #20. RSA 659:101 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.

RSA 659:101 is also amended to clarify that absentee ballots that are successfully challenged and rejected, that is not counted, are to be preserved. This does not change past practice, it makes the requirements of existing law

more clear. The retention period for materials not specified in the retention laws is changed to require retention until the election is settled and all appeals periods have expired or all appeals have been finally decided, or one year following the election, whichever period is longer. This change does not change existing practice, which is to preserve materials during the pendency of an appeal. It makes that practice more explicitly mandatory by statute.

20. (Sec 23) RSA 659:102; See Attached Exhibit 2010:172, #21. RSA 659:102 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. The use of gender specific pronouns are replaced with gender neutral references.

21. (Sec 24) RSA 659:103. See Attached Exhibit 2010:172, #22. RSA 659:103 is amended to replace specific retention terms with a reference to record retention being required in accordance with RSA 33-A:3-a.

(d) The name, title, address, and telephone number of the person making the submission.

Orville B. Fitch II, Deputy Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1238

Between 8/1/2010 and 8/31/2010 contact:

Richard Head, Associate Attorney General
New Hampshire Attorney General's Office
33 Capitol Street
Concord, New Hampshire 03301
(603) 271-1248

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

Attorney General Michael A. Delaney
State of New Hampshire

(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

Not applicable

(g) Identification of person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

This change is an act of the New Hampshire General Court, New Hampshire's state legislature, with approval of the legislation by the Governor of the State of New Hampshire.

(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The New Hampshire Constitution Part Second, Article 2, grants supreme legislative power within the state to the House of Representatives and Senate, who with a right to negate each other are granted power to make law through Part Second, Article 5. The legislature, through a bicameral process passed each Chapter Law set forth above. Each bill was signed into law by the Governor or allowed to become law without signature, pursuant to New Hampshire Constitution Part Second, Article 44.

(i) The date of adoption of the change affecting voting.

June 17, 2010.

(j) The date on which the change is to take effect.

August 16, 2010.

(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

These changes to New Hampshire's voting laws have not been enforced or administered.

(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

This change affects the entire State of New Hampshire.

(m) A statement of the reasons for the change.

The purpose of many of these changes is implement the changes required by the MOVE Act or to facilitate the efficient administration of elections to aid the State in implementing that federal mandate.

1. (Sec 1, 2, 3) RSA 33-A:3-a; See Attached Exhibit 2010:172, #2. These changes clarify the duty to preserve election materials by expanding the description of what must be preserved in RSA 33-A:3-a, which is the section of State law which sets retention periods for municipalities for all governmental records. Preservation requirements were previously set forth in the election law section of State law. As other changes addressed below will explain, those election law sections will now direct readers to this statute. The purpose of these changes is to make the retention periods easy to find in a single section of law, more easily understood, and thereby ensuring compliance.

The records that must be retained and the period of retention for specified records has been extended from 5 to 7 years to align the retention period with the statute of limitations for felony election laws violations to ensure the availability of those records should criminal cases develop later during the period prior to the statute of limitations running.

2. (Sec 4, 5) RSA 654:12; See Attached Exhibit 2010:172, #3. RSA 654:12 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a in 4 places. The section addressing an applicant's age qualifications is amended to more clearly reflect that a 17 year old may register to vote prior to turning 18, provided he or she will be age 18 on election day.
3. (Sec 6) RSA 654:13; See Attached Exhibit 2010:172, #4. RSA 654:13 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a in 2 places.

The duty for supervisors of the checklist to send notice to election officials in New England states of a person previously registered in their jurisdiction having registered to vote in New Hampshire removed New Hampshire from the list of covered states. The statute then establishes current practice in law, requiring that the statewide centralized voter registration database provide electronic notice to the New Hampshire voting jurisdiction where the voter was previously domiciled and registered to vote. Under previously established

procedures that jurisdiction will remove the voter from its checklist upon a determination that there is no apparent error in the report. Previously established procedures require that when an apparent error is identified, the two jurisdictions must communicate to resolve this so that when the process is complete the voter is on the checklist of only one New Hampshire town or city ward. The reason for this change is to bring the language of the statute into conformance with previously established changes implementing the statewide voter registration system required by the Help America Vote Act.

4. (Sec 7) RSA 654:23; See Attached Exhibit 2010:172, #5. RSA 654:23 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a in two places.

A requirement is added that upon voting to reject an application for registration as a voter in addition to sending the previously required notice to the applicant of the reason for the rejection, the word "REJECTED" must be written on the voter registration application form. The purpose of this change is to ensure that the voting records at any moment in time reflect the current status of a pending application.

The section is also amended to add a requirement that a copy of an approved application as an overseas voter be sent to the town or city clerk. This ensures the clerk has this additional information to aid in ensuring absentee ballots are sent to these voters in accordance with law. In some New Hampshire communities voting records are maintained at a central facility where both the supervisors of the checklist and the clerk can access the same files, in other jurisdictions the records are maintained separately. Therefore New Hampshire election laws in several areas require the clerk and the supervisors to provide the other with copies of records either initially collect or create. Both supervisors and clerks have on-line access to the statewide voter registration database.

5. (Sec 8) RSA 654:34; See Attached Exhibit 2010:172, #6. RSA 654:34 amends the change of party affiliation form to remove reference to the Libertarian party. Under New Hampshire law the Libertarian party was once a recognized political party, but for many election cycles has failed to have candidates receiving sufficient votes for the organization to retain political party status. The Libertarian entity is now recognized as a political organization and as such is not entitled to a party column or to have voters registered as affiliated. The purpose of the change is to make the form more clear by eliminating this outdated choice.

- RSA 654:34 is also amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. Finally, the previously existing duty of the supervisors of the checklist to change the voter's party affiliation in accordance with the voter's request is restated in more clear language.
6. (Sec 9) RSA 654:34-a; See Attached Exhibit 2010:172, #7. RSA 654:34-a is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. Pronouns are corrected to make the statute gender neutral.
 7. (Sec 10) RSA 654:36; See Attached Exhibit 2010:172, #8. RSA 654:36 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. RSA 654:36 is also amended to reflect the statewide voter registration database providing supervisors of the checklist the notice that a voter has moved his or her domicile and has registered to vote in a different New Hampshire town.
 8. (Sec 11) RSA 654:36-a; See Attached Exhibit 2010:172, #9. RSA 654:36-a is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.
 9. (Sec 12) RSA 654:36-b; See Attached Exhibit 2010:172, #10. RSA 654:36-b is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. In addition a reference to RSA 654:44 is added to the previously existing sentence providing that when a voter fails to respond to a notice that his or her name will be removed from the checklist if the voter does not respond within 30 days, the name is to be removed. This is not a change to existing law or practice, just the addition of a reference to another statute to make the provision more clear.
 10. (Sec 13) RSA 654:37; See Attached Exhibit 2010:172, #11. RSA 654:37 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference to the clerk.
 11. (Sec 14) RSA 654:44; See Attached Exhibit 2010:172, #12. RSA 654:44 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference.
 12. (Sec 15) RSA 657:16; See Attached Exhibit 2010:172, #13. RSA 657:16 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference. Finally, a further instruction clarifies existing practice by

specifying that upon receipt of a properly completed registration form from an absentee voter the clerk shall forward the registration forms to the supervisors of the checklist. This facilitates the supervisors adding that voter to the checklist.

13. (Sec 16) RSA 657:21; See Attached Exhibit 2010:172, #14. RSA 657:21 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. It also is amended to change use of a pronoun to a gender neutral reference. Finally, the addition of the phrase “at the next session of the supervisors of the checklist” clarify when the supervisors must act. This requires that when such affidavits are received on election day, in accordance with this statute and New Hampshire previously existing practice of election day registration, the armed services or overseas citizen absentee voter would be registered on election day and the voter’s ballot would be counted.
14. (Sec 17) RSA 659:33; See Attached Exhibit 2010:172, #15. RSA 659:33 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.
15. (Sec 18) RSA 659:75; See Attached Exhibit 2010:172, #16. RSA 659:75 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.
16. (Sec 19) RSA 659:95; See Attached Exhibit 2010:172, #17. RSA 659:95 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.

The words “and rejected” are added to the sentences describing the duty to seal successfully challenged absentee ballots in the envelope in which they were received along with other preserved ballots and the exemption from the state’s Right-to-Know (sunshine/FOIA) law. This does not change the law or practice in New Hampshire and serves only to clarify the duty.

A new sentence establishes a duty on the part of the moderator to number each sealed box of ballots, noting on each the total number of boxes. New Hampshire has previously used a seal calling for this information. This statute makes providing the information mandatory. Having the total number of boxes noted on each box helps ensure that all boxes are present when placed in storage or collected for transport to a recount. Recounts in New Hampshire are conducted by the State at a central location. It is therefore necessary for the State to collect sealed boxes of ballots, transport them to a central state storage facility, and to move them from the secure storage room to the public room where recounts occur, then back to secure storage. Having the seals on the

box document how many boxes exist for that polling place ensures that the full set of boxes are accounted for and moved each time.

17. (Sec 20) RSA 659:98; See Attached Exhibit 2010:172, #18. RSA 659:98 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. The use of gender specific pronouns are replaced with gender neutral references. A reference to a statute is corrected to include the entire cite.
18. (Sec 21) RSA 659:100; See Attached Exhibit 2010:172, #19. RSA 659:100 is amended to replace a specific retention requirement with a reference to record retention being required in accordance with RSA 33-A:3-a, which sets forth all retention requirements in one section.
19. (Sec 22) RSA 659:101; See Attached Exhibit 2010:172, #20. RSA 659:101 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a.

RSA 659:101 is also amended to clarify that absentee ballots that are successfully challenged and rejected, that is not counted, are to be preserved. This does not change past practice, it makes the requirements of existing law more clear. The retention period for materials not specified in the retention laws is changed to require retention until the election is settled and all appeals periods have expired or all appeals have been finally decided, or one year following the election, whichever period is longer. This change does not change existing practice, which is to preserve materials during the pendency of an appeal. It makes that practice more explicitly mandatory by statute.

20. (Sec 23) RSA 659:102; See Attached Exhibit 2010:172, #21. RSA 659:102 is amended to add a reference to record retention being required in accordance with RSA 33-A:3-a. The use of gender specific pronouns are replaced with gender neutral references.
21. (Sec 24) RSA 659:103. See Attached Exhibit 2010:172, #22. RSA 659:103 is amended to replace specific retention terms with a reference to record retention being required in accordance with RSA 33-A:3-a.

(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

There is no anticipated adverse effect on members of racial or language minority groups.

(o) Identify any past or pending litigation concerning the change or related voting practice.

(p1) A Statement that the prior practice has been precleared, with the date, or is not subject to the preclearance requirement and

1. (Sec 1, 2, 3) RSA 33-A:3-a; See Attached Exhibit 2010:172, #2. RSA 33-A:3-a was first enacted in 2005 and a preclearance request for that change is being submitted simultaneously with this submission to catch up preclearance of changes to this statute to allow preclearance of this change, see submission 2005:187.
2. (Sec 4, 5) RSA 654:12; See Attached Exhibit 2010:172, #3. RSA 654:12 was precleared on 8/5/2004 by Department of Justice non-objection letter 2004-2560, 2562, 2596.
3. (Sec 6) RSA 654:13; See Attached Exhibit 2010:172, #4. RSA 654:13 was precleared on 7/22/2004 by Department of Justice non-objection letter 2004-2557.
4. (Sec 7) RSA 654:23; See Attached Exhibit 2010:172, #5. RSA 654:23 was precleared on 7/22/2004 by Department of Justice non-objection letter 2004-2557.
5. (Sec 8) RSA 654:34; See Attached Exhibit 2010:172, #6. RSA 654:34 was precleared on 10/6/2005 by Department of Justice non-objection letter 2005-2823.
6. (Sec 9) RSA 654:34-a; See Attached Exhibit 2010:172, #7. RSA 654:34-a was precleared on 10/6/2005 by Department of Justice non-objection letter 2005-2801.
7. (Sec 10) RSA 654:36; See Attached Exhibit 2010:172, #8. RSA 654:36 was precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.
8. (Sec 11) RSA 654:36-a; See Attached Exhibit 2010:172, #9. RSA 654:36-a was first enacted in 2006 and a preclearance request for that change is being submitted simultaneously with this submission to catch up preclearance of

changes to this statute to allow preclearance of this change, see submission 2006:243.

9. (Sec 12) RSA 654:36-b; See Attached Exhibit 2010:172, #10. RSA 654:36-b was first enacted in 2006 and a preclearance request for that change is being submitted simultaneously with this submission to catch up preclearance of changes to this statute to allow preclearance of this change, see submission 2006:243.
10. (Sec 13) RSA 654:37; See Attached Exhibit 2010:172, #11. RSA 654:37 was precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.
11. (Sec 14) RSA 654:44; See Attached Exhibit 2010:172, #12. RSA 654:44 was precleared on 12/7/2005 by Department of Justice non-objection letter 2005-3935.
12. (Sec 15) RSA 657:16; See Attached Exhibit 2010:172, #13. RSA 657:16 was precleared on 7/22/2004 by Department of Justice non-objection letter 2004-2557.
13. (Sec 16) RSA 657:21; See Attached Exhibit 2010:172, #14. RSA 657:21 was precleared on 8/5/2004 by Department of Justice non-objection letter 2004-2560, 2562, 2596.
14. (Sec 17) RSA 659:33; See Attached Exhibit 2010:172, #15. RSA 659:33 was precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.
15. (Sec 18) RSA 659:75; See Attached Exhibit 2010:172, #16. RSA 659:75 as enacted in 1979 was precleared. See submission RSA 659:75, Exhibit 3. A preclearance request for changes in 1994 and 2007 are being submitted simultaneously with this submission to catch up preclearance of changes to this statute to allow preclearance of this change, see submission RSA 659:75.
16. (Sec 19) RSA 659:95; See Attached Exhibit 2010:172, #17. RSA 659:95 was precleared on 7/22/2004 by Department of Justice non-objection letter 2004-2557.
17. (Sec 20) RSA 659:98; See Attached Exhibit 2010:172, #18. RSA 659:98 was precleared on 8/6/2004 by Department of Justice non-objection letter 2004-2564, 2566, 2568, 2570, 2571, 2573, 2574, 2575, 2579.

18. (Sec 21) RSA 659:100; See Attached Exhibit 2010:172, #19. RSA 659:100 as enacted in 1979 was precleared. See submission RSA 1987:208. A preclearance request for a change in 1987 is being submitted simultaneously with this submission to catch up preclearance of changes to this statute to allow preclearance of this change, see submission RSA 1987:208.
19. (Sec 22) RSA 659:101; See Attached Exhibit 2010:172, #20. RSA 659:101 as amended in 2003 was precleared. See submission RSA 659:101. A preclearance request for changes in 2006 and 2009 are being submitted simultaneously with this submission to catch up preclearance of changes to this statute to allow preclearance of this change, see submission RSA 659:101.
20. (Sec 23) RSA 659:102; See Attached Exhibit 2010:172, #21. RSA 659:102 as enacted in 1979 was precleared. See submission RSA 659:102. A preclearance request for changes in 1981, 1983, and 1994 are being submitted simultaneously with this submission to catch up preclearance of changes to this statute to allow preclearance of this change, see submission RSA 659:102.
21. (Sec 24) RSA 659:103. See Attached Exhibit 2010:172, #22. RSA 659:103 was precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.

(p2) A statement that the procedure for the adoption of the change has been precleared, with the date, or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

New Hampshire's Constitution, in its current form, was adopted June 2, 1784, four years before the United States Constitution took effect upon its ratification by New Hampshire on June 21, 1788. No amendments to Part Second, article 2 or Part Second, article 44 have occurred since 1784, therefore the authority for adopting law changes predates New Hampshire's ten towns becoming subject to Preclearance on effective November 1, 1968.

(q) For redistrictings and annexations.

Not applicable.

(r) Supplemental

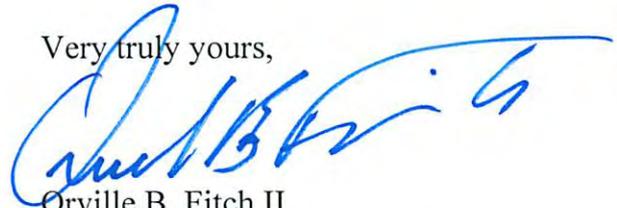
None.

§51.28 (g) Public notice that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection and invites comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

Exhibit A is a copy of a press release issued July 19, 2010 announcing the 2010 round of Preclearance submissions, the availability of copies at the New Hampshire Attorney General's Website and Office, and inviting comments to the United States Attorney General.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,

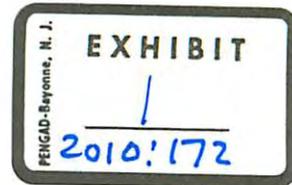


Orville B. Fitch II
Deputy Attorney General
bud.fitch@doj.nh.gov
(603) 271-1238

Attachments

CC: Secretary of State William M. Gardner

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CHAPTER 172

HB 1574-FN – FINAL VERSION

04/21/10 1341s

2010 SESSION

10-2452

03/05

HOUSE BILL *1574-FN*

AN ACT relative to retention of election records.

SPONSORS: Rep. Drisko, Hills 5; Rep. Perry, Straf 3

COMMITTEE: Election Law

ANALYSIS

This bill makes various changes relative to retention of election records.

This bill was requested by the department of state.

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.

04/21/10 1341s

10-2452

03/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to retention of election records.

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

172:1 Disposition and Retention Schedule. Amend RSA 33-A:3-a, XXXVI-XXXVIII to read as follows:

XXXVI. Elections-federal elections: ballots *and absentee ballot applications, affidavit envelopes, and lists: by the town clerk until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer.*

XXXVII. Elections-not federal[~~all other~~]: ballots *and absentee ballot applications, affidavit envelopes, and lists: by the town clerk until the contest is settled and all appeals have expired or at least 60 days after the election, whichever is longer.*

XXXVIII. Elections-challenge affidavits *by the town clerk:*

(a) *Federal elections: until the contest is settled and all appeals have expired or [one year] 22 months after the election, whichever is longer.*

(b) *Non-federal elections: until the contest is settled and all appeals have expired or 60 days after the election, whichever is longer.*

172:2 Disposition and Retention Schedule. Amend RSA 33-A:3-a, CXL-CXLI to read as follows:

CXL. Voter checklist-marked copy kept by town pursuant to RSA 659:102: [5] 7 years.

CXLI. Voter registration:

(a) [~~Purged record cards~~] *Forms, including absentee voter registration forms: until voter is removed from checklist plus [5] 7 years.*

(b) *Same day, returned to undeclared status, form and report from statewide centralized voter registration database: [5] 7 years.*

(c) *Party change form: until voter is removed from checklist plus 7 years.*

(d) *Forms, rejected, including absentee voter registration forms, and denial notifications: 7 years.*

(e) *Qualified voter affidavit: until voter is removed from checklist plus 7 years.*

(f) *Domicile affidavit: until voter is removed from checklist plus 7 years.*

(g) *Overseas absentee registration affidavit: until voter is removed from checklist plus 7 years.*

(h) *Absentee ballot voter application form in the federal post card application format, for voters not previously on the checklist: until voter is removed from checklist plus 7 years.*

(i) Absentee ballot affidavit envelope for federal post card applicants not previously on the checklist: until voter is removed from checklist plus 7 years.

(j) Notice of removal, 30-day notice: until voter is removed from checklist plus 7 years.

(k) Report of death: until voter is removed from checklist plus 7 years.

(l) Report of transfer: until voter is removed from checklist plus 7 years.

(m) Undeliverable mail or change of address notice from the United States Postal Service: until voter is removed from checklist plus 7 years.

172:3 New Paragraph; Disposition and Retention Schedule. Amend RSA 33-A:3-a by inserting after paragraph CLIV the following new paragraph:

CLV. Election return forms, all elections: permanently.

172:4 Determining Qualifications of Applicant. Amend RSA 654:12, I(a)-(c) to read as follows:

(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The qualified voter affidavit shall be in the following form, ***and shall be retained in accordance with RSA 33-A:3-a:***

Date: _____

QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

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

Notary Public/Justice of the Peace/

Official Authorized by RSA 659:30

(b) AGE. Any reasonable documentation indicating the applicant [is] *will be* 18 years of age or older *at the next election*, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, a qualified voter affidavit, *which shall be retained in accordance with RSA 33-A:3-a.*

(c) DOMICILE. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form, *which shall be retained in accordance with RSA 33-A:3-a:*

DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address:

Street Ward Number

Town or City Zip Code

Date when current domicile was established: Month: _____ Year: _____

Place and date of birth: _____

Address of last previous domicile:

Street Ward Number

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that my established domicile is at the current domicile address I have entered above. I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

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

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

172:5 Determining Qualifications of Applicant. Amend RSA 654:12, III to read as follows:

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved

photo identification with him or her may establish identity through any reasonable means, including, but not limited to: photo identification not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or clerk, verification of the person's identity by another person registered as a voter and known to the supervisor or clerk, or completion of the qualified voter affidavit, ***which shall be retained in accordance with RSA 33-A:3-a***. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

172:6 Actions by Supervisors. Amend RSA 654:13 to read as follows:

I. If the supervisors decide to add the name of the applicant to the checklist, then they shall retain the original of the registration form for their own file, ***which shall be retained in accordance with RSA 33-A:3-a***, forward one copy to the supervisors of the checklist of the city or town of the applicant's last voting address if said address is in the state of ~~[New Hampshire,]~~ Vermont, Maine, Massachusetts, Connecticut, or Rhode Island, and send another copy to the clerk of their town or city. ***Upon entry of the voter record in the statewide centralized voter registration database, the supervisors of the checklist in another New Hampshire city or town will receive notice through the statewide centralized voter registration database that the voter has moved.***

II. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification in writing to the applicant within 7 days stating the reason for the denial. They shall write the word "REJECTED" and the date of rejection across the registration form. They shall retain the original ~~[in a separate file for proof that such an application was made]~~ ***registration form and a copy of the denial notification in accordance with RSA 33-A:3-a.***

172:7 Overseas Citizen Voting; Effect. Amend RSA 654:23 to read as follows:

654:23 Effect. Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, domiciled outside the United States, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit properly executed, cause his or her name to be added to the checklist together with a mark or sign clearly indicating that the application has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizens absentee ballot at both federal primary and general elections. ***The supervisors shall retain the registration form in accordance with RSA 33-A:3-a and forward a copy of the form to the clerk.*** If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial. ***The supervisors of the checklist shall write the word "REJECTED" and the date of rejection across the registration form. They shall retain the registration form and a copy of the denial notification in accordance with RSA 33-A:3-a.***

172:8 Change of Registration. Amend RSA 654:34, V to read as follows:

V.(a) At any primary, the supervisors of the checklist shall make available within the polling place a card to enable a voter who was registered as an undeclared voter but who changed registration on the day of the primary in order to vote as a registered member of a party to change registration so that the voter is registered once again as an undeclared voter. The card shall be in substantially the following form:

Name _____

(Print)

Address _____

I hereby request that my political party registration be changed as follows:

From: Democrat or Republican [~~or Libertarian~~]

To: Undeclared

Signed under the pains and penalties of perjury.

(b) The supervisors of the checklist, upon receipt of such a card, shall keep it ~~until~~ *in accordance with RSA 33-A:3-a and at* their next session of supervisors of the checklist ~~[for changing party registration at which time the sender's party registration]~~ shall ~~be changed~~ *change the party of the voter* as indicated on the card.

172:9 Changes of Registration. Amend RSA 654:34-a, VII to read as follows:

VII. The town or city clerk shall present to the next meeting of the supervisors of the checklist, in accordance with the checklist guidelines as provided by RSA 654:25, the name of any person who made application to him *or her* for a change of party affiliation and the name of the party with which ~~[he]~~ *the person* desires to be affiliated or that he *or she* desires to be affiliated with no party. The supervisors of the checklist shall cause the party affiliation of the applicant to be changed on the checklist. Any change submitted which is prohibited by the provisions of RSA 654:34, IV shall be ~~retained~~ *kept* by the supervisors *until acted upon*; and the change shall be made as soon as permitted by law. *Forms shall be retained in accordance with RSA 33-A:3-a.*

172:10 Reports of Transfer. Amend RSA 654:36 to read as follows:

654:36 Reports of Transfer. If the supervisors of the checklist have received a notice of

transfer from *any other state or from* another board of supervisors of the checklist in the state of New Hampshire *through the statewide centralized voter registration database* that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. They shall retain the notice *in accordance with RSA 33-A:3-a* as proof of their reasoning in striking the name from the checklist.

172:11 Request to Correct Checklist. Amend RSA 654:36-a, II to read as follows:

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist. *The supervisors of the checklist shall retain a copy of the notice in accordance with RSA 33-A:3-a.*

172:12 Reports of Change of Address. Amend RSA 654:36-b to read as follows:

654:36-b Reports of Change of Address. If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. *The supervisors of the checklist shall retain the report in accordance with RSA 33-A:3-a.* As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice *as set forth in RSA 654:44.*

172:13 Reports of Death. Amend RSA 654:37 to read as follows:

654:37 Reports of Death. Whenever there is filed in [~~his~~] *the office of the clerk* an official notice of the death of any person or persons of the age of 18 years or over, the town or city clerk shall notify the supervisors of the checklist of said deaths by submitting a notice of same to the supervisors at their next regular meeting. Upon receipt of such notice, the supervisors shall examine the checklist; and, if the name of said deceased person appears thereon, it shall be removed [~~prior to the next election~~]. *The notice shall be retained in accordance with RSA 33-A:3-a.* Any supervisor who shall neglect or refuse to erase the name of such deceased voter from the checklist after receiving such notice from the town or city clerk shall be guilty of a violation.

172:14 Removing Names from Checklist. Amend RSA 654:44, I to read as follows:

I. The supervisors shall remove no person's name from the checklist of their town or ward unless they shall send notice by mail to the last known address of the person whose name they wish to remove from the checklist stating the reason they are considering removing such person's name from the checklist. Such notice shall also state the time and the place at which the supervisors shall meet to consider the removal of that person's name and shall

give the date of such meeting which shall be at least 30 days after they send such notice. At such meeting, the person whose name the supervisors wish to remove shall have a chance as he *or she* wishes to state in person or to present in writing personally, or by mail or other messenger, or by any such combination of these as ~~[he]~~ *the person* chooses, the reasons why his *or her* name should be left on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of the written or oral statement, if any, of the person whose name they wish to remove from the checklist at the meeting held at least 30 days after they sent the notice this section requires. The supervisors shall ~~[keep records as proof of compliance with this paragraph]~~ *retain a copy of the notice in accordance with RSA 33-A:3-a.*

172:15 Refusal to Certify; Procedure. Amend RSA 657:16 to read as follows:

657:16 Refusal to Certify; Procedure. If he or she refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit in the return envelope that contains the absentee ballot affidavit envelope. The town or city clerk shall mark the exterior of the absentee ballot affidavit envelope with the words "Not Registered." If the applicant returns the required documents in proper form with the absentee ballot and if the applicant is found to be qualified, ~~[he or she]~~ *the town or city clerk shall forward the registration forms to the supervisors of the checklist and the applicant* shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. If the ballot is returned without the required documents in proper form, the ballot shall be marked ~~[and preserved]~~ in the manner set ~~[for]~~ forth by law for successfully challenged absentee ballots *and preserved in accordance with RSA 33-A:3-a.* The clerk shall preserve the application of any applicant who is not registered as a voter until the time set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court has jurisdiction in equity upon such notice as he or she may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

172:16 Registration of Voters. Amend RSA 657:21 to read as follows:

657:21 Registration of Voters. Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his *or her* name shall be added to the checklist *at the next session of the supervisors of the checklist.* The supervisors of the checklist shall ~~[then]~~ *retain a copy of the affidavit envelope and absentee ballot request form in accordance with RSA 33-A:3-a and* return the affidavit envelopes unopened to the city or town clerk who shall see that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or

overseas citizen federal election absentee ballot submitted by said voter to the 2 corresponding envelopes and retain them until election day.

172:17 Affidavits Preserved. Amend RSA 659:33 to read as follows:

659:33 Affidavits Preserved. The town clerk shall preserve all affidavits of challenged voters as provided in RSA [~~659:103~~] **33-A:3-a**.

172:18 Forwarding; Retaining Copies of Return. Amend RSA 659:75 to read as follows:

659:75 Forwarding; Retaining Copies of Return. One copy of the election return shall be forwarded by the town or ward clerk to the secretary of state no later than the Monday following a state election unless the secretary of state orders them sooner. The other shall be kept by the town or city clerk *in accordance with RSA 33-A:3-a* and shall be open to public inspection at reasonable times. If an official state election return is sealed along with the ballots, the clerk having custody of the sealed ballots shall, at the request of the secretary of state, and in the presence of a state election official, unseal the ballots and retrieve the election return. The ballots shall be immediately resealed and the election return shall be delivered to the secretary of state by the election official.

172:19 Sealing and Certifying Ballots. Amend RSA 659:95 to read as follows:

I. Immediately after the ballots cast at a state election have been tabulated and the result has been announced and the return has been made, the moderator or the moderator's designee, in the presence of the selectmen or their designee, shall place the cast, cancelled, and uncast ballots, including such ballots from any additional polling places, and further including the successfully challenged *and rejected* absentee ballots still contained in their envelopes, in the containers provided by the secretary of state as required by RSA 659:97 and shall seal such container with the sealer provided by the secretary of state as required by RSA 659:97. The moderator or the moderator's designee shall then enter in the appropriate blanks on such sealer on each container the number of cast, cancelled, and uncast ballots in such container and shall endorse in the appropriate place on such sealer a certificate in substance as follows: Enclosed are the ballots from the state election in the town of _____ (or in ward _____ in the city of _____) held on _____, 20____, required by law to be preserved *in accordance with RSA 33-A:3-a*. *The moderator shall identify on each sealer what number the container is and the total number of ballot containers from that town or ward as follows: Box ___ of ___.* The moderator and the selectmen or their designee shall sign their names in the appropriate blanks on the sealer.

II. Ballots, including cast, cancelled, and uncast ballots and successfully challenged *and rejected* absentee ballots still contained in their envelopes, prepared or preserved in accordance with the election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to any ballots or absentee voter affidavit envelopes prepared for or used in any election conducted by the state or any political subdivision, including federal elections.

172:20 Delivery of Ballots to Town Clerk. Amend RSA 659:98 to read as follows:

659:98 Delivery of Ballots to Town Clerk. The moderator, or ~~[his]~~ *the moderator's* designee, and the selectmen, or their designee, after they have sealed and certified the state election ballots as provided in RSA 659:95 and ~~[96]~~ *RSA 659:96*, shall deliver the sealed containers to the town or city clerk, or to ~~[his]~~ *the clerk's* designee, who shall in their presence enter in the appropriate place on each sealer the time of day and shall sign his *or her* name in the appropriate blank on the sealer. The clerk or ~~[his]~~ *the clerk's* designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the town or city hall, where the ballots shall be kept for a period ~~[of 60 days]~~ *set forth in RSA 33-A:3-a.*

172:21 Destruction of Ballots. Amend RSA 659:100 to read as follows:

659:100 Destruction of Ballots. All state election ballots remaining in the possession of the town or city clerk may be destroyed ~~[at the expiration of 60 days after a state election]~~ *in accordance with RSA 33-A:3-a.*

172:22 Preservation of Voting Materials. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials, Election Day Affidavits, and Domicile Affidavits. The affidavit envelopes and application forms processed by the moderator as provided in RSA 659:50, *the absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53*, and the qualified voter affidavits and domicile affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official ~~[may]~~ *shall* be preserved in ~~[the same manner that ballots are preserved]~~ *accordance with RSA 33-A:3-a.* Qualified voter, voter registration, and domicile affidavits shall be retained for ~~[3 years after the election in which they are used]~~ *the period set forth in RSA 33-A:3-a*, and other materials may be destroyed ~~[one year after the first state general election at which the individual may vote]~~ *after the election is settled and all appeals have expired or one year after the election, whichever is longer.*

172:23 Preservation of Checklists. Amend RSA 659:102 to read as follows:

659:102 Preservation of Checklists. No later than the second Friday after each regular state general election, and for each presidential primary election, the supervisors of the checklist in the towns, and the corresponding officers in the cities, shall send one of the marked checklists which were used in that election, certified by the officers, to the state archives. In addition, they shall send one of the unmarked checklists which were used in the state general election at which a president was elected to the clerk of the federal district court for the district of New Hampshire. One marked copy of every checklist used in any election shall be turned over to the town or city clerk by the supervisors. The clerk shall preserve such checklists in his *or her* custody for a public record for a period ~~[of no less than 5 years]~~ *set forth in RSA 33-A:3-a.*

172:24 Preservation of Challenge Affidavits. Amend RSA 659:103 to read as follows:

659:103 Preservation of Challenge Affidavits. The affidavits made by challenged voters as provided in RSA 659:27 shall be preserved ~~[by the town clerk for at least one year following]~~

~~the date of a state election. In contested elections, all affidavits shall be retained by the town clerk until the contest is settled and all appeals periods have expired or for at least one year, whichever is longer] in accordance with RSA 33-A:3-a.~~

172:25 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 17, 2010

Effective Date: August 16, 2010



TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 33-A

DISPOSITION OF MUNICIPAL RECORDS

Section 33-A:3-a

33-A:3-a Disposition and Retention Schedule. – The municipal records identified below shall be retained, at a minimum, as follows:

- I. Abatements: 5 years.
- II. Accounts receivable: until audited plus one year.
- III. Aerial photographs: permanently.
- IV. Airport inspections-annual: 3 years.
- V. Airport inspections-daily, including fuel storage and vehicles: 6 months.
- VI. Annual audit report: 10 years.
- VII. Annual reports, town warrants, meeting and deliberative session minutes in towns that have adopted official ballot voting: permanently.
- VIII. Archives: permanently.
- IX. Articles of agreement or incorporation: permanently.
- X. Bank deposit slips and statements: 6 years.
- XI. Blueprints-architectural: life of building.
- XII. Bonds and continuation certificates: expiration of bond plus 2 years.
- XIII. Budget committee-drafts: until superseded.
- XIV. Budgets: permanently.
- XV. Building permits-applications and approvals: permanently.
- XVI. Building permits-lapsed: permanently.
- XVII. Building permits-withdrawn, or denied: one year.
- XVIII. Capital projects and fixed assets that require accountability after completion: life of project or purchase.
- XIX. Cash receipt and disbursement book: 6 years after last entry, or until audited.
- XX. Checks: 6 years.
- XXI. Code enforcement specifications: permanently.
- XXII. Complaint log: expiration of appeal period.
- XXIII. Contracts-completed awards, including request for purchase, bids, and awards: life of project or purchase.
- XXIV. Contracts-unsuccessful bids: completion of project plus one year.
- XXV. Correspondence by and to municipality-administrative records: minimum of one year.
- XXVI. Correspondence by and to municipality-policy and program records: follow retention requirement for the record to which it refers.
- XXVII. Correspondence by and to municipality-transitory: retain as needed for reference.
- XXVIII. Current use applications and maps: until removed from current use plus 3 years.
- XXIX. Current use release: permanently.
- XXX. Deed grantee/grantor listing from registry, or copies of deeds: discard after being updated and replaced with a new document.
- XXXI. Deferred compensation plans: 7 years.

- XXXII. Dig safe forms: 4 years.
- XXXIII. Dredge and fill permits: 4 years.
- XXXIV. Driveway permits and plans: permanently.
- XXXV. Easements awarded to municipality: permanently.
- XXXVI. Elections-federal elections ballots: 22 months after election.
- XXXVII. Elections-not federal, all other ballots: 60 days after election.
- XXXVIII. Elections-challenge affidavits: one year after election.
- XXXIX. Elections-ward maps: until revised plus 1 year.
- XL. Emergency medical services run reports: 10 years.
- XLI. Equipment maintenance: life of equipment.
- XLII. Excavation tax warrant and book or list: permanently.
- XLIII. Federal form 1099s and W-2s: 7 years.
- XLIV. Federal form 941: 7 years.
- XLV. Federal form W-1: 4 years.
- XLVI. Fire calls/incident reports: 10 years.
- XLVII. Grants, supporting documentation: follow grantor's requirements.
- XLVIII. Grievances: expiration of appeal period.
- XLIX. Health-complaints: expiration of appeal period.
- L. Health-inspections: 3 years.
- LI. Health-service agreements with state agencies: term plus 7 years.
- LII. Health and human services case records including welfare applications: active plus 7 years.
- LIII. Inspections-bridges and dams: permanently.
- LIV. Insurance policies: permanently.
- LV. Intent to cut trees or bushes: 3 years.
- LVI. Intergovernmental agreements: end of agreement plus 3 years.
- LVII. Investigations-fire: permanently.
- LVIII. Invoice, assessors: permanently.
- LIX. Invoices and bills: until audited plus one year.
- LX. Job applications-successful: retirement or termination plus 50 years.
- LXI. Job applications-unsuccessful: current year plus 3 years.
- LXII. Labor-public employees labor relations board actions and decisions: permanently.
- LXIII. Labor union negotiations: permanently or until contract is replaced with a new contract.
- LXIV. Ledger and journal entry records: until audited plus one year.
- LXV. Legal actions against the municipality: permanently.
- LXVI. Library:
 - (a) Registration cards: current year plus one year.
 - (b) User records: not retained; confidential pursuant to RSA 201-D:11.
- LXVII. Licenses-all other except dog, marriage, health, and vital records: duration plus 1 year.
- LXVIII. Licenses-dog: current year plus one year.
- LXIX. Licenses-dog, rabies certificates: disposal once recorded.
- LXX. Licenses-health: current year plus 6 years.
- LXXI. Liens-federal liens upon personal property, other than IRS liens: permanently.
- LXXII. Liens-hospital liens: 6 years.
- LXXIII. Liens-IRS liens: one year after discharge.
- LXXIV. Liens-tax liens, state liens for support of children: until court order is lifted plus one year.
- LXXV. Liens-tax liens, state meals and rooms tax: until release plus one year.
- LXXVI. Liens-tax sale and record of lien: permanently.
- LXXVII. Liens-tax sales/liens redeemed report: permanently.
- LXXVIII. Liens-Uniform Commercial Code leases: lease term plus 4 years; purge all July 1, 2007.
- LXXIX. Liens-Uniform Commercial Code security agreements: 6 years; purge all July 1, 2007.
- LXXX. Meeting minutes, tape recordings: keep until written record is approved at meeting. As soon

as minutes are approved, either reuse the tape or dispose of the tape.

- LXXXI. Minutes of boards and committees: permanently.
- LXXXII. Minutes of town meeting/council: permanently.
- LXXXIII. Minutes, selectmen's: permanently.
- LXXXIV. Motor vehicle-application for title: until audited plus one year.
- LXXXV. Motor vehicle-titles and voided titles: sent to state division of motor vehicles.
- LXXXVI. Motor vehicle permits-void and unused: until audited plus one year.
- LXXXVII. Motor vehicle permits and registrations-used: current year plus 3 years.
- LXXXVIII. Municipal agent daily log: until audited plus one year.
- LXXXIX. Notes, bonds, and municipal bond coupons-cancelled: until paid and audited plus one year.
- XC. Notes, bonds, and municipal bond coupon register: permanently.
- XCI. Oaths of office: term of office plus 3 years.
- XCII. Ordinances: permanently.
- XCIII. Payrolls: until audited plus one year.
- XCIV. Perambulations of town lines-copy kept by town and copy sent to secretary of state: permanently.
- XCV. Permits or licenses, pole: permanently.
- XCVI. Personnel files: retirement or termination plus 50 years.
- XCVII. Police, accident files-fatalities: 10 years.
- XCVIII. Police, accident files-hit and run: statute of limitations plus 5 years.
- XCIX. Police, accident files-injury: 6 years.
- C. Police, accident files-involving arrests: 6 years.
- CI. Police, accident files-involving municipality: 6 years.
- CII. Police, accident files-property damage: 6 years.
- CIII. Police, arrest reports: permanently.
- CIV. Police, calls for service/general service reports: 5 years.
- CV. Police, criminal-closed cases: statute of limitations plus 5 years.
- CVI. Police, criminal-open cases: statute of limitations plus 5 years.
- CVII. Police, motor vehicle violation paperwork: 3 years.
- CVIII. Police, non-criminal-internal affairs investigations: as required by attorney general and union contract and town personnel rules.
- CIX. Police, non-criminal-all other files: closure plus 3 years.
- CX. Police, pistol permit applications: expiration of permit plus one year.
- CXI. Property inventory: 5 years.
- CXII. Property record card: current and last prior reassessing cycle.
- CXIII. Property record map, assessors: until superceded.
- CXIV. Property tax exemption applications: transfer of property plus one year.
- CXV. Records management forms for transfer of records to storage: permanently.
- CXVI. Road and bridge construction and reconstruction, including highway complaint slips: 6 years.
- CXVII. Road layouts and discontinuances: permanently.
- CXVIII. Scenic roads: permanently.
- CXIX. School records: retained as provided under RSA 189:29-a.
- CXX. Septic plan approvals and plans: until replaced or removed.
- CXXI. Sewer system filtration study: permanently.
- CXXII. Sign inventory: 7 years.
- CXXIII. Site plan review: life of improvement plus 3 years.
- CXXIV. Site plan review-lapsed: until notified that planning board action and appeal time has expired plus one year.
- CXXV. Site plan review-withdrawn or not approved: appeal period plus one year.
- CXXVI. Special assessment (betterment of property): 20 years.
- CXXVII. Street acceptances: permanently.

CXXVIII. Street signs, street lights and traffic lights-maintenance records: 10 years.

CXXIX. Subdivision applications-lapsed: until notified that planning board action and appeal period has expired plus one year.

CXXX. Subdivision applications-successful and final plan: permanently.

CXXXI. Subdivision applications-withdrawn, or not approved: expiration of appeal period plus one year.

CXXXII. Subdivision applications-working drafts prior to approval: expiration of appeal period.

CXXXIII. Summary inventory of valuation of property: one year.

CXXXIV. Tax maps: permanently.

CXXXV. Tax receipts paid, including taxes on land use change, property, resident, sewer, special assessment, and yield tax on timber: 6 years.

CXXXVI. Tax-deeded property file (including registered or certified receipts for notifying owners and mortgagees of intent to deed property): permanently.

CXXXVII. Time cards: 4 years.

CXXXVIII. Trust fund minutes, quarterly reports, and bank statements: permanently.

CXXXIX. Vehicle maintenance records: life of vehicle plus 2 years.

CXL. Voter checklist-marked copy kept by town pursuant to RSA 659:102: 5 years.

CXLI. Voter registration:

(a) Purged record cards: 5 years.

(b) Same day, returned to undeclared status: 5 years.

CXLII. Vouchers and treasurers receipts: until audited plus one year.

CXLIII. Warrants-land use change, and book or list: permanently.

CXLIV. Warrants-property tax, and lists: permanently.

CXLV. Warrants-resident tax, and book or list: permanently.

CXLVI. Warrants-town meeting: permanently.

CXLVII. Warrants-treasurer: until audited plus one year.

CXLVIII. Warrants-utility and betterment tax: permanently.

CXLIX. Warrants-yield tax, and book or list: permanently.

CL. Welfare department vouchers: 4 years.

CLI. Work program files: current year plus 6 years.

CLII. Writs: expiration of appeal period plus one year.

CLIII. Zoning board of adjustment applications, decisions, and permits-unsuccessful: expiration of appeal period.

CLIV. Intent to excavate: completion of reclamation plus 3 years.

Source. 2005, 187:3, eff. Aug. 29, 2005. 2006, 119:2-5, eff. May 12, 2006.



TITLE LXIII ELECTIONS

CHAPTER 654 VOTERS AND CHECKLISTS

General Voter Registration

Section 654:12

654:12 Determining Qualifications of Applicant. –

I. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile, as provided in the following categories:

(a) Citizenship. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The qualified voter affidavit shall be in the following form:

Date: _____

QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

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

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

(b) Age. Any reasonable documentation indicating the applicant is 18 years of age or older, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, a qualified voter affidavit.

(c) Domicile. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form:

DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address: _____
Street Ward Number

Town or City Zip Code

Date when current domicile was established: Month: _____ Year: _____

Place and date of birth: _____

Address of last previous domicile: _____
Street Ward Number

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that my established domicile is at the current domicile address I have entered above. I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

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

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

II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

(a) Any one of the following documents is presumptive evidence that the individual seeking to vote meets the domicile requirement, provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:

- (1) New Hampshire driver's license.
- (2) New Hampshire vehicle registration.
- (3) Armed services identification, or other photo identification issued by the United States government.

(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a qualified voter, domicile, or election day affidavit:

- (1) Photo driver's license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

(c) The presumptions established in this paragraph may be defeated by evidence establishing that it is more likely than not that the applicant is not qualified as a voter.

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved photo identification with him or her may establish identity through any reasonable means, including, but not limited to: photo identification not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or clerk, verification of the person's identity by another person registered as a voter and known to the supervisor or clerk, or completion of the qualified voter affidavit. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

IV. Any person who is applying for registration as a voter and who is currently registered to vote in a

different town or ward in New Hampshire shall complete the voter registration form provided for in RSA 654:7. If the election official receiving the application confirms through the centralized voter registration database required by RSA 654:45 that the applicant is currently registered to vote in New Hampshire, the applicant shall prove identity and domicile, but shall not be required to prove his or her age or citizenship.

V. (a) The election official approving the application for registration as voter of a person who does not present an approved form of photo identification as proof of identity when registering, shall mark the voter registration form to indicate that no photo identification was presented. The person entering the voter information into the centralized voter registration database shall determine if the person is listed in the system as having been previously registered in the town or ward reported by the applicant on the voter registration form. If the person is a new registrant who has not been previously registered anywhere in New Hampshire or if the centralized voter registration database does not confirm a previous registration claimed on the voter registration form, the election official shall cause the record created in the centralized voter registration database to indicate that the person is a new applicant in New Hampshire and that no photo identification was presented. When municipalities enter information on people who register on election day into the centralized voter registration database, to the extent practical applicants who are registering for the first time in New Hampshire and who also register without presenting an approved photo identification shall be entered first.

(b) The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter identified at a state general election as a first-time election day registrant in New Hampshire who also did not verify his or her identity with an approved photo identification. The letter shall be mailed within 90 days after the general election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the person that a person who was unable to present photo identification registered or registered and voted using his or her name and address and instruct the person to contact the attorney general immediately if he or she did not register and vote.

(c) The secretary of state shall cause any letters mailed pursuant to subparagraph (b) that are returned as undeliverable by the United States Post Office to be referred to the attorney general. Upon receipt of notice from a person who receives a letter of identity verification that the person did not register and vote, or upon receipt of a referral from the secretary of state, the attorney general shall cause an investigation to be made to determine whether fraudulent registration or voting occurred.

Source. 1979, 436:1. 1990, 119:8. 1992, 287:6, 7. 1994, 4:3. 1996, 169:1. 2003, 289:29. 2006, 300:1, eff. Sept. 1, 2006. 2009, 278:1, eff. Jan. 1, 2010.

TITLE LXIII ELECTIONS



CHAPTER 654 VOTERS AND CHECKLISTS

General Voter Registration

Section 654:13

654:13 Action by Supervisors. –

I. If the supervisors decide to add the name of the applicant to the checklist, then they shall retain the original of the registration form for their own file, forward one copy to the supervisors of the checklist of the city or town of the applicant's last voting address if said address is in the state of New Hampshire, Vermont, Maine, Massachusetts, Connecticut, or Rhode Island, and send another copy to the clerk of their town or city.

II. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification in writing to the applicant within 7 days stating the reason for the denial. They shall write the word ""REJECTED" and the date of rejection across the registration form. They shall retain the original in a separate file for proof that such an application was made.

Source. 1979, 436:1. 1987, 199:1. 2003, 289:51, eff. Sept. 1, 2003.

TITLE LXIII ELECTIONS



CHAPTER 654 VOTERS AND CHECKLISTS

Overseas Citizens Voting: Federal Elections Only

Section 654:23

654:23 Effect. – Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, domiciled outside the United States, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit properly executed, cause his or her name to be added to the checklist together with a mark or sign clearly indicating that the application has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizens absentee ballot at both federal primary and general elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

Source. 1979, 436:1. 1988, 73:2; 209:4. 2003, 289:52, eff. Sept. 1, 2003.



TITLE LXIII ELECTIONS

CHAPTER 654 VOTERS AND CHECKLISTS

Checklists: Additional Provisions for Primary Elections

Section 654:34

654:34 Change of Registration. –

I. Change of registration of a voter whose party membership has been previously registered.

(a) Any legal voter whose party membership has been registered may change such registration by appearing in person before the supervisors of the checklist for his town or ward any time they meet, except as prohibited by paragraph IV, and stating to them under oath or affirmation, if required, that:

(1) He intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party; or

(2) He does not wish to be registered as a member of any party, in which case his party designation shall be removed from the checklist.

(b) He may also change such registration at any primary, upon making oath or affirmation to the same effect, but he shall not be permitted in such case to vote the ballot of any party at such primary.

II. Change of registration of a voter who has been registered as an undeclared voter.

(a) Any legal voter who has been registered as an undeclared voter may register as a member of the party of the voter's choice by appearing before the supervisors of the checklist for the voter's town or ward any time they meet, except as prohibited by paragraph IV, and stating to them, under oath or affirmation, if required, that the voter intends to affiliate with and generally supports the candidates of the party with which the voter offers to register, in which case the voter shall be registered as a member of such party.

(b) A voter may also register as a member of a party at any primary by requesting to be registered as a member and voting the ballot of the party of the voter's choice. A voter may also register once again as an undeclared voter after voting in a primary as a registered member of a party by returning the card provided for in paragraph V to the person at the polls designated by the town or city clerk to accept the card. All such cards shall be in the possession of the supervisors of the checklist at the close of the polls on election day.

III. Notwithstanding any provision of paragraphs I and II to the contrary, no person who has voted in a primary may thereafter on the day of said primary change the person's party registration, unless, prior to voting in the primary, the person was registered as an undeclared voter, in which case the person may once again register as an undeclared voter, as provided in subparagraph II(b).

IV. No person, who is already registered to vote, whether his party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in June and the day before the state primary election.

V. (a) At any primary, the supervisors of the checklist shall make available within the polling place a card to enable a voter who was registered as an undeclared voter but who changed registration on the day of the primary in order to vote as a registered member of a party to change registration so that the voter is registered once again as an undeclared voter. The card shall be in substantially the following form:

Name _____

(Print)

Address _____

I hereby request that my political party registration be changed as follows:

From: Democrat [] or Republican [] or Libertarian []

To: Undeclared []

Signed under the pains and penalties of perjury.

(b) The supervisors of the checklist, upon receipt of such a card, shall keep it until their next session of supervisors of the checklist for changing party registration at which time the sender's party registration shall be changed as indicated on the card.

Source. 1979, 400:3, 4; 436:1. 1981, 308:3-5. 1987, 129:2. 1993, 193:2-5, eff. Aug. 8, 1993.



TITLE LXIII ELECTIONS

CHAPTER 654 VOTERS AND CHECKLISTS

Checklists: Additional Provisions for Primary Elections

Section 654:34-a

654:34-a Application to Town or City Clerk; Changes to be Forwarded. –

I. A town or city shall permit changes in party affiliation to be registered with a town or city clerk.

II. In addition to the methods of changing party affiliation provided in RSA 654:34, any person whose name appears on the checklist of a town or ward may apply to the town or city clerk for the purpose of having his party affiliation changed. A person desiring to change his party affiliation shall state to the town or city clerk under oath or affirmation that:

- (a) He intends to affiliate with and generally supports the party with which he offers to register; or
- (b) He does not wish to be registered as a member of any party.

III. No application for a change of party affiliation shall be accepted on the day of a primary election, except as provided in RSA 654:34, I and II.

IV. Any application made under the provisions of this section shall be made during the regular office hours of the town or city clerk.

V. Town and city clerks shall have power to administer oaths to the applicants that appear before them for the purposes of this section.

VI. Any application made under the provisions of this section shall be signed and dated by the applicant.

VII. The town or city clerk shall present to the next meeting of the supervisors of the checklist, in accordance with the checklist guidelines as provided by RSA 654:25, the name of any person who made application to him for a change of party affiliation and the name of the party with which he desires to be affiliated or that he desires to be affiliated with no party. The supervisors of the checklist shall cause the party affiliation of the applicant to be changed on the checklist. Any change submitted which is prohibited by the provisions of RSA 654:34, IV shall be retained by the supervisors; and the change shall be made as soon as permitted by law.

Source. 1979, 400:1. 1981, 308:6. 1992, 287:5. 1994, 218:3, eff. May 25, 1994.

TITLE LXIII ELECTIONS



CHAPTER 654 VOTERS AND CHECKLISTS

Periodic Maintenance and Verification of Checklists

Section 654:36

654:36 Reports of Transfer. – If the supervisors of the checklist have received a notice of transfer from another board of supervisors of the checklist in the state of New Hampshire that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. They shall retain the notice as proof of their reasoning in striking the name from the checklist.

Source. 1979, 436:1, eff. July 1, 1979.



TITLE LXIII ELECTIONS

CHAPTER 654 VOTERS AND CHECKLISTS

Periodic Maintenance and Verification of Checklists

Section 654:36-a

654:36-a Request to Correct the Checklist. –

I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist.

Source. 2006, 243:1, eff. July 31, 2006.



TITLE LXIII ELECTIONS

CHAPTER 654 VOTERS AND CHECKLISTS

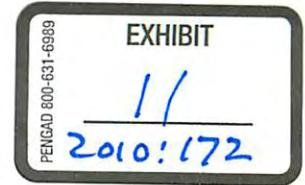
Periodic Maintenance and Verification of Checklists

Section 654:36-b

654:36-b Reports of Change of Address. – If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice.

Source. 2006, 243:1, eff. July 31, 2006.

TITLE LXIII ELECTIONS



CHAPTER 654 VOTERS AND CHECKLISTS

Periodic Maintenance and Verification of Checklists

Section 654:37

654:37 Reports of Death. – Whenever there is filed in his office an official notice of the death of any person or persons of the age of 18 years or over, the town or city clerk shall notify the supervisors of the checklist of said deaths by submitting a notice of same to the supervisors at their next regular meeting. Upon receipt of such notice, the supervisors shall examine the checklist; and, if the name of said deceased person appears thereon, it shall be removed prior to the next election. Any supervisor who shall neglect or refuse to erase the name of such deceased voter from the checklist after receiving such notice from the town or city clerk shall be guilty of a violation.

Source. 1979, 436:1, eff. July 1, 1979.

TITLE LXIII ELECTIONS



CHAPTER 654 VOTERS AND CHECKLISTS

Checklists: Special Provisions

Section 654:44

654:44 Removing Names from Checklist; Notice Required. –

I. The supervisors shall remove no person's name from the checklist of their town or ward unless they shall send notice by mail to the last known address of the person whose name they wish to remove from the checklist stating the reason they are considering removing such person's name from the checklist. Such notice shall also state the time and the place at which the supervisors shall meet to consider the removal of that person's name and shall give the date of such meeting which shall be at least 30 days after they send such notice. At such meeting, the person whose name the supervisors wish to remove shall have a chance as he wishes to state in person or to present in writing personally, or by mail or other messenger, or by any such combination of these as he chooses, the reasons why his name should be left on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of the written or oral statement, if any, of the person whose name they wish to remove from the checklist at the meeting held at least 30 days after they sent the notice this section requires. The supervisors shall keep records as proof of compliance with this paragraph.

II. The provisions of this section do not apply to the removal of the names of persons for whom the supervisors have received a report of transfer or death as provided in RSA 654:36 or 654:37, nor to the removal of names during the period for verification of the checklist as provided in RSA 654:38 or 654:39, nor to the removal of names of persons for whom they have received a notice from a duly authorized board of registration from a community outside New Hampshire stating that a person whose name is on the checklist of the town or ward in New Hampshire has registered to vote outside New Hampshire.

Source. 1981, 378:1, eff. Aug. 22, 1981.

TITLE LXIII ELECTIONS

CHAPTER 657 ABSENTEE VOTING



Procedure for Absence, Religious Observance, and Disability and Overseas Voting

Section 657:16

657:16 Refusal to Certify; Procedure. – If he or she refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit in the return envelope that contains the absentee ballot affidavit envelope. The town or city clerk shall mark the exterior of the absentee ballot affidavit envelope with the words ""Not Registered." If the applicant returns the required documents in proper form with the absentee ballot and if the applicant is found to be qualified, he or she shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. If the ballot is returned without the required documents in proper form, the ballot shall be marked and preserved in the manner set forth by law for successfully challenged absentee ballots. The clerk shall preserve the application of any applicant who is not registered as a voter until the time set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court has jurisdiction in equity upon such notice as he or she may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

Source. 1979, 436:1. 2003, 289:54, eff. Sept. 1, 2003.

TITLE LXIII ELECTIONS



CHAPTER 657 ABSENTEE VOTING

Procedure for Armed Services and Federal Overseas Citizen Voting

Section 657:21

657:21 Registration of Voters. – Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his name shall be added to the checklist. The supervisors of the checklist shall then return the affidavit envelopes unopened to the city or town clerk who shall see that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or overseas citizen federal election absentee ballot submitted by said voter to the 2 corresponding envelopes and retain them until election day.

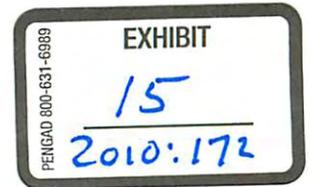
Source. 1979, 436:1. 1988, 209:12, eff. June 28, 1988.

TITLE LXIII ELECTIONS

CHAPTER 659 ELECTION PROCEDURE

Challenges

Section 659:33



659:33 Affidavits Preserved. – The town clerk shall preserve all affidavits of challenged voters as provided in RSA 659:103.

Source. 1979, 436:1, eff. July 1, 1979.



TITLE LXIII ELECTIONS

CHAPTER 659 ELECTION PROCEDURE

Election Returns

Section 659:75

659:75 Forwarding; Retaining Copies of Return. – One copy of the election return shall be forwarded by the town or ward clerk to the secretary of state no later than the Monday following a state election unless the secretary of state orders them sooner. The other shall be kept by the town or city clerk and shall be open to public inspection at reasonable times. If an official state election return is sealed along with the ballots, the clerk having custody of the sealed ballots shall, at the request of the secretary of state, and in the presence of a state election official, unseal the ballots and retrieve the election return. The ballots shall be immediately resealed and the election return shall be delivered to the secretary of state by the election official.

Source. 1979, 436:1. 1994, 4:17. 2007, 75:1, eff. Aug. 10, 2007.

TITLE LXIII ELECTIONS



CHAPTER 659 ELECTION PROCEDURE

Preservation of Ballots and Other Election Materials

Section 659:95

659:95 Sealing and Certifying Ballots. –

I. Immediately after the ballots cast at a state election have been tabulated and the result has been announced and the return has been made, the moderator or the moderator's designee, in the presence of the selectmen or their designee, shall place the cast, cancelled, and uncast ballots, including such ballots from any additional polling places, and further including the successfully challenged absentee ballots still contained in their envelopes, in the containers provided by the secretary of state as required by RSA 659:97 and shall seal such container with the sealer provided by the secretary of state as required by RSA 659:97. The moderator or the moderator's designee shall then enter in the appropriate blanks on such sealer on each container the number of cast, cancelled, and uncast ballots in such container and shall endorse in the appropriate place on such sealer a certificate in substance as follows: Enclosed are the ballots from the state election in the town of _____ (or in ward _____ in the city of _____) held on _____, 20 __, required by law to be preserved. The moderator and the selectmen or their designee shall sign their names in the appropriate blanks on the sealer.

II. Ballots, including cast, cancelled, and uncast ballots and successfully challenged absentee ballots still contained in their envelopes, prepared or preserved in accordance with the election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to any ballots or absentee voter affidavit envelopes prepared for or used in any election conducted by the state or any political subdivision, including federal elections.

Source. 1979, 436:1. 1985, 292:1. 2003, 289:60, eff. Sept. 1, 2003.



TITLE LXIII ELECTIONS

CHAPTER 659 ELECTION PROCEDURE

Preservation of Ballots and Other Election Materials

Section 659:98

659:98 Delivery of Ballots to Town Clerk. – The moderator, or his designee, and the selectmen, or their designee, after they have sealed and certified the state election ballots as provided in RSA 659:95 and 96, shall deliver the sealed containers to the town or city clerk, or to his designee, who shall in their presence enter in the appropriate place on each sealer the time of day and shall sign his name in the appropriate blank on the sealer. The clerk or his designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the town or city hall, where the ballots shall be kept for a period of 60 days.

Source. 1979, 436:1. 1985, 292:2, eff. Aug. 13, 1985.



TITLE LXIII ELECTIONS

CHAPTER 659 ELECTION PROCEDURE

Preservation of Ballots and Other Election Materials

Section 659:100

659:100 Destruction of Ballots. – All state election ballots remaining in the possession of the town or city clerk may be destroyed at the expiration of 60 days after a state election.

Source. 1979, 436:1. 1987, 208:1, eff. July 14, 1987.

TITLE LXIII ELECTIONS



CHAPTER 659 ELECTION PROCEDURE

Preservation of Ballots and Other Election Materials

Section 659:101

659:101 Preservation of Absentee Voting Materials, Election Day Affidavits, and Domicile Affidavits. – The affidavit envelopes and application forms processed by the moderator as provided in RSA 659:50, and the qualified voter affidavits and domicile affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official may be preserved in the same manner that ballots are preserved. Qualified voter, voter registration, and domicile affidavits shall be retained for 3 years after the election in which they are used, and other materials may be destroyed one year after the first state general election at which the individual may vote.

Source. 1979, 436:1. 2003, 289:59. 2006, 94:3, eff. July 8, 2006. 2009, 278:6, eff. Jan. 1, 2010.

TITLE LXIII ELECTIONS



CHAPTER 659 ELECTION PROCEDURE

Preservation of Ballots and Other Election Materials

Section 659:102

659:102 Preservation of Checklists. – No later than the second Friday after each regular state general election, and for each presidential primary election, the supervisors of the checklist in the towns, and the corresponding officers in the cities, shall send one of the marked checklists which were used in that election, certified by the officers, to the state archives. In addition, they shall send one of the unmarked checklists which were used in the state general election at which a president was elected to the clerk of the federal district court for the district of New Hampshire. One marked copy of every checklist used in any election shall be turned over to the town or city clerk by the supervisors. The clerk shall preserve such checklists in his custody for a public record for a period of no less than 5 years.

Source. 1979, 436:1. 1981, 510:5. 1983, 426:11. 1994, 4:20, eff. May 27, 1994.



TITLE LXIII ELECTIONS

CHAPTER 659 ELECTION PROCEDURE

Preservation of Ballots and Other Election Materials

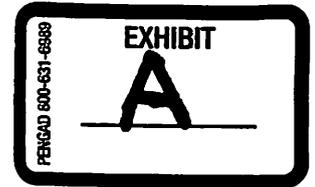
Section 659:103

659:103 Preservation of Challenge Affidavits. – The affidavits made by challenged voters as provided in RSA 659:27 shall be preserved by the town clerk for at least one year following the date of a state election. In contested elections, all affidavits shall be retained by the town clerk until the contest is settled and all appeals periods have expired or for at least one year, whichever is longer.

Source. 1979, 436:1, eff. July 1, 1979.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397



MICHAEL A. DELANEY
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL.

News Release

RELEASED BY: Attorney General Michael A. Delaney

SUBJECT: Voting Rights Act – Submissions of requests for preclearance of 2010 changes to New Hampshire Voting laws and procedures

DATE: July 19, 2010

RELEASE TIME: Immediate

Contact: Deputy Attorney General Bud Fitch (603) 271-1238

Attorney General Michael A. Delaney announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance. Submissions will be made over the next several weeks until all 2010 changes to New Hampshire's election laws have been submitted.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. The State has submitted preclearance requests for most of the changes made to New Hampshire voting law and is in the process of completing that updating of preclearance.

Federal regulations require that the public be notified that the State has filed requests for preclearance and that the submissions be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Delaney and the federal Department of Justice invite persons interested in pending submissions to submit comments and information, in writing or by telephone, to the Voting Section of the Civil Rights Division at the earliest possible date to assure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7254 - NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington D.C. 20530 (the envelope and first page should be marked "Comment under Section 5"). Further information on the federal Department of Justice's Voting Rights Section can be found at:

<http://www.justice.gov/crt/voting/>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov

A Letter describing the historical circumstances of the ten New Hampshire towns becoming subject to the Voting Rights Act preclearance requirements, originally sent to the federal Department of Justice in 2004, is available at:

<http://www.doj.nh.gov/elections/>

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