Bill as Introduced

SB 320- AS INTRODUCED

2000 SESSION

00-2629
04/10

SENATE BILL ***320***

AN ACT relative to ballot counting in cooperative school districts.

SPONSORS: Sen. Krueger, Dist 16; Sen. Johnson, Dist 3; Sen. Roberge, Dist 9

COMMITTEE: Education

ANALYSIS

This bill provides that in cooperative school districts the ballots from each constituent town in the cooperative school district shall be counted and recorded prior to being added to the cumulative vote count within the cooperative school district.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 320- AS INTRODUCED

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to ballot counting in cooperative school districts.

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

1 Counting Ballots; Cooperative School Districts. Amend RSA 671:26 to read as follows:

671:26 Counting Ballots. The town election officials shall act in like capacity for the school district in conducting the school district election. After the close of the polls, the town election officials shall turn all school district ballots over to the moderator of the school district, who shall then proceed to count the ballots publicly with the assistance of such legal voters of the district as the moderator of the school district shall appoint. Provided, however, that, in the case of cooperative school districts, the town election officials, immediately after the close of the polls, shall count the ballots for school district officers ***from ballots cast in each town of the cooperative school district*** and, within 24 hours, forward to the school district clerk a list of the number of votes received by each candidate for school district office. The list shall be signed by the town clerk and witnessed by the town moderator. Upon receipt of the list, the cooperative school district clerk shall record the results from each town and shall, when the results from all towns within the district have been recorded, determine and announce the names of the winning candidates. ***The results shall be available to the public after the final count from all polling places has been determined.***

2 Effective Date. This act shall take effect 60 days after its passage.

Committee Minutes

Date: **January 12, 2000**
Time: **9:32 A.M.**
Room: **105-A - SH**

The Senate Committee on **Education** held a hearing on the following:

SB 320 **relative to ballot counting in cooperative school districts.**

Members of Committee present: ***Senator McCarley***
Senator D'Allesandro
Senator Disnard
Senator Gordon
Senator Johnson
Senator Squires

The Chair, **Senator Caroline McCarley,** opened the hearing by calling on the prime sponsor of the bill, Senator Krueger, as the first speaker.

Senator Patricia Krueger, D. 16: I was asked to submit this bill. It basically provides that ballots from each of the constituent towns in cooperative school districts will be counted in that town and recorded. The results wouldn't be given until after all the towns had been counted.

But, the main reason being that the school officials and the town officials somewhat had been separated and that it was felt by the good people who are going to follow me and give you much more history on this, that there was a loss of control at the local level – relative to these elections.

So, that's the history of this and without further adieu, I am going to pass this chair to a gentleman who will tell you exactly where this came from and why.

Senator Caroline McCarley, D. 6: Thank you.

I will call on Jerry Beckman.

Jerry Beckman: This is a problem that has developed in my school district starting about 1994 or 1995. Prior to that time.....Oh, incidentally, I'm from the **Town of Lee** and my school district is the **Oyster River** and it is composed of the **Towns** of **Lee, Durham** and **Madbury.**

Around 1994 or 1995.....Prior to that time, anytime there was a ballot vote, it was always taken in the communities.....at that time, we were meeting in the traditional system – not the **Senate Bill 2** type thing.....And, we would meet in the school and we would vote in our different town polling places. They would tally the votes and then they would report the total.

But, the individual community votes were always on the record. So, if you went to the record, you could see the people in **Lee** voted this way on this question.

Around 1994 or 1995 – for some reason, the school department decided that they were not going to do it that way and they were just going to vote and co-mingle all the ballots and there was going to be one tally.

So, over the years, I've tried to talk to the moderator to try to get that back to the system so that we would know what is going on in our own communities – relative to the people's preference on the different articles that we were voting on.

So, I feel there is a violation here of some of our statutes. I wrote a long dissertation to the moderator, the school department.....handed it over to the school attorney. She wrote a long dissertation back and nothing's changed.

So, finally I thought that there are only two avenues left: Either go through the legislature and ask them to codify the right language in the law so that we can have it straightened out, or go to a court and ask a judge who is right! Well, I get tired going to the courts. And, it's expensive and there's no need of it!

So, that's sort of what's behind why the bill is here.

I guess the crowning problem that just occurred recently was our selectman, in the **Town of Lee** are not happy with the fact that we can't get the information. So, they went to the moderator. We had a special meeting scheduled November 16th this year for a vote on a bond.

Now, the selectmen asked the moderator, "would you please break out the votes by communities." He said, "well, if you get a ballot counting machine and use it in the town where we're polling, we will do it!" So, the selectmen brought the ballot machine and prior to the election, the school department said, "no, we're going to co-mingle!"

So, the selectmen....I went to their meeting on the 10th to reaffirm that statement I just made and they are very definitely upset about that. So, I would urge you to approve this bill.

I have a few suggestions, here. I think there needs to be some language in here to amend it a little bit. One of the problems – and, it's in the school attorney's response to what I had written back in 1997 – that the statutes, as they exist – which I was claiming they should be giving us the information – refer to town officials counting ballots for elections.

I think that some language should be added that school officials should also be included in that language. It also refers in this bill.....It talks about the election of candidates. It doesn't say anything about the information of the votes on the articles of the warrant, so some language should be in there.....We want to know how votes are cast for candidates and we want to know what the people's purposes were for all the articles on the warrant. So, that needs to get in there somehow.

I guess that basically covers my thought there.

Actually, to me, it flies in the face of **91-A,** if anyone wanted to talk about that. We can't get information that a governmental body does. Okay?

Senator James W. Squires, D. 12: That's a very interesting story. I sympathize with you and I think you're right in theory. My question is, why wouldn't the communities have forced the issue.....I mean, you could have done that by petition – putting an article on the warrant saying, "we the voters of the **Madbury School District** want our ballots counted that way."

That would have solved the problem without necessitating the intervention of the legislature.

Jerry Beckman: Well, I have an answer for you. This is my complaint to our moderator – and, I'll read it to you. I said, "At the 1997 annual meeting, the voters approved a non-binding amended warrant article which asks the question, 'shall the voters of the district favor the establishment of additional polling places in **Lee** and **Madbury** for the official ballot referendum in 1998?'

That got amended from the floor. Some folks stood up and said, "provided that the ballots from all polling places are co-mingled for counting and reporting." That was a non-binding vote.

What happens – particularly now .....and, there are other bills that will come forward here in February.....Petition articles that are going to these deliberative sessions under the official ballot form of government, are being amended to change the entire meaning. What happens is that the petitioners end up non-petitioners.

Senator James W. Squires, D. 12: All three districts **Senate Bill 2** or is it...

Jerry Beckman: We're one cooperative district – **Lee**, **Madbury** and **Durham**.....

Senator James W. Squires, D. 12: .....operating under **Senate Bill 2**.

Jerry Beckman: That's correct.

Senator James W. Squires, D. 12: So, this is as much a **Senate Bill 2** problem.....You can't get a straight question to the deliberative session. Is that correct?

Jerry Beckman: That's correct.

There is a bill here to try to deal with that problem. Since **Senate Bill 2** has been put in place, there's been a number of instances – not only in my district.....Many of the other districts have used that system – whereas our

citizens' petitions are just being trashed. I mean, you wouldn't recognize what comes out on the other end.

So, you can't get a question to the voters on the ballot.

Senator Edward M. Gordon, D. 2: I'm just trying to understand, too. Do you have 3 separate polling places?

Jerry Beckman: We do.

Senator Edward M. Gordon, D. 2: What you're telling me.....The way this bill is currently written, it only applies to the election of offices.

So, are you telling me that right now, that each of those 3 separate polling places are not calculating the election results in those areas?

Jerry Beckman: What's happening is, when the polls close – the ballot boxes are closed and its taken to **Durham** and **Durham** runs it through a counting machine.....When the numbers come out, the results are announced.

Now, 2 years ago, I came up here and sat down with **Deputy Secretary Ambrose** – with a selectman friend of mine from **Deering**, and we spent about an hour discussing this with him – which was whether it was proper or improper. In the analysis, I've been told by the moderator in my district, "well, when we use that machine, we can't separate these ballots by town!"

So, **Deputy Ambrose** picked up the phone – he called the company where they get the machine from, and the guy on the other end said that they can! All they do is they take the box from **Lee** – run it through the machine – tally it – reset the machine – do the next town – reset it and do the next town and they can do it! But, they refuse to.

So, then they said that if **Lee** gets a machine and puts it in Lee, they can count them in **Lee** and then send the results over. Whether **Madbury** does or not, that's up to **Madbury**.

Senator Edward M. Gordon, D. 2: I'm a school district moderator. We operate under **Senate Bill 2**. My understanding under the law was that in fact, they were voting on school district issues, that I was to appoint a

moderator for each of the 3 communities, or in my case, 7 communities – which I do. I appoint a moderator who oversees the counting at the completion at the polling place. I guess not knowing – having the statutes in front of me – I guess what you're saying is, there's no obligation in the law that those things be counted directly after the election.

Jerry Beckman: The best I can find is the statute that's cited in the bill – **671:26** – counting ballots. It doesn't really zero in on the problem I'm talking about. All I'm asking is to just get a little bit of the language changed then the process gets done.

Now, as best as I can find out in talking to my friends that I run into throughout the state.....I don't know of any place in the state that this is done like we're doing it where I live. As a matter of fact, if you were in a city and all of a sudden somebody says, "we're not going to tell you what the wards are doing," I think something would happen. It's the same kind of an argument to me.

Senator Edward M. Gordon, D. 2: In our district, even though they're represented (inaudible) – all 7 towns get to vote on the representatives. Is that the same case in your area and would it be possible for a town like **Lee** to vote for its representative, but because of the other votes for the other towns, they might elect someone other than the town's choice?

Jerry Beckman: I'm glad that you brought that up, because that happens. All our people, I believe, are at large and in fact, a number of years ago, it was changed because of the constitution – one man/one vote rule. **Durham** has about not quite 6,000 voters. We have about 2,000 and **Madbury** has a little over a thousand. So, things can get skewed a little bit.

My feeling is that if the people know what's happening within their community and get a little strength toward a given issue to get a little more strength and you keep coming back.....It helps to solve our problems. But, in this way, we're all in the dark.

The issue about whether town election officials or school district – that came up (I think) in **Newfields** last year. The **Newfields** town officials said, "we're not going to count these school ballots." They sent them back to **Exeter.**

Senator Caroline McCarley, D. 6: Thank you.

Senator Krueger, did you want to follow up before we close the hearing?

Senator Patricia Krueger, D. 16: Yes, thank you. One thing I failed to tell you about was that I did speak to the **Secretary of State's Office** regarding this particular bill and he supported it and he gave me an example in **Salem** and he was sorry that **Deputy Secretary** of **State Bob Ambrose** was not around or I could have had him appear today.

But, he gave me the example in **Salem** where there was concern out of certain wards that they didn't exactly know what direction those wards and those numbers come in all as one. There was starting to be a little bit of problems even within the city. So, I just wanted to pass that on.

He was in support of this legislation and I wanted to let you know I would be in support of this legislation as amended and as proposed earlier, because then that too would broaden its scope and make it a little clearer.

Senator George F. Disnard, D. 8: I don't know if I should be asking you or not, but why do the town officials count the votes in these co-op's instead of the school officials? I don't know who to ask.

Senator Patricia Krueger, D. 16: I would just as soon defer to one of the people who are involved.....

Jerry Beckman: What actually happens like in our town.....You know, they ask for people to volunteer – the moderator gets names and says, "would you act as selection of officials?" They're usually town people – not necessarily the officials.

Senator George F. Disnard, D. 8: Would it help your situation if that part in the law said "town election officials" or "school election officials" should count the ballots? Would that help you at all?

Jerry Beckman: Well, it might, but I can see a problem because the school elected officials – we have a board of, what – 5. In our case, I think we have 1 board member from **Lee** and the others are from the **Town of Durham**.....

Senator George F. Disnard, D. 8: I was just thinking of the locals. I apologize.

Senator Caroline McCarley, D. 6: Okay. We have no one else who wishes to testify. So, at this time, I will close the hearing on **Senate Bill 320.**

Hearing adjourned at 9:54 a.m.

Respectfully submitted,
Rosalie Brooks Patch, secretary

Speakers

SENATE EDUCATION COMMITTEE

Date 1/12/00 Time 9:30 Public Hearing on SB 320

Appearing in FAVOR: (Please print) Please check box at left to speak.

Speaking?	Name	Address	Representing
☑	Sen. Pat Krueger		Dist 16
☑	JERE BECKMAN	90 HARVEY MILL RD LEE	SELF
☐	Rick McGraw	12 OAK ST EXETER	
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☐			
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Appearing in OPPOSITION: (Please Print) Please check box at left to speak.

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Committee Report

Date: January 12, 2000 Time: 9:32 a.m.

The Senate Committee on Education held its hearing in Room 105-A - SH, Concord, New Hampshire.

BILL NO.: SB 320 TITLE: (relative to ballot counting in cooperative school districts.

Members of the Committee present:

Senator McCarley
Senator D'Allesandro
Senator Disnard
Senator Gordon
Senator Johnson
Senator Squires

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☐ Ought to Pass
- ☒ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON **Education**

to which was referred **Senate Bill 320**

AN ACT **relative to ballot counting in cooperative school districts.**

VOTE: 6-0

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Thomas R. Eaton
For the Committee