CONSENT CALENDAR

October 31, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Election Law to which was referred HB 387,

AN ACT permitting election ballots to be viewed pursuant to a right to know request. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Connie Lane

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Election Law**
Bill Number:	**HB 387**
Title:	**permitting election ballots to be viewed pursuant to a right to know request.**
Date:	**October 31, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

This bill proposed allowing any voter to request a review of all ballots from any election pursuant to a right to know request under RSA 91-A. The original bill had many flaws, including omitting who was to pay for the review, limiting how many times a voter could request a review, outlining security for the ballots during the review process, not permitting ballot images to be reviewed in lieu of the actual ballots, and ignoring voters' rights to privacy regarding their ballot. Given the significant issues with the bill, the committee unanimously voted that the bill was Inexpedient to Legislate.

Vote 20-0.

Rep. Connie Lane
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Election Law

HB 387, permitting election ballots to be viewed pursuant to a right to know request. **INEXPEDIENT TO LEGISLATE.**

Rep. Connie Lane for Election Law. This bill proposed allowing any voter to request a review of all ballots from any election pursuant to a right to know request under RSA 91-A. The original bill had many flaws, including omitting who was to pay for the review, limiting how many times a voter could request a review, outlining security for the ballots during the review process, not permitting ballot images to be reviewed in lieu of the actual ballots, and ignoring voters' rights to privacy regarding their ballot. Given the significant issues with the bill, the committee unanimously voted that the bill was Inexpedient to Legislate. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 387

BILL TITLE: permitting election ballots to be viewed pursuant to a right to know request.

DATE: October 31, 2023

LOB ROOM: 306-308

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Lane Seconded by Rep. Ward Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Jessica Grill, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2023 SESSION

10/31/2023 8:10:53 AM
Roll Call Committee Registers Report

Election Law

Bill #: HB-387 **Motion:** ITL **AM #:** _____ **Exec Session Date:** 10-31-2023

Members	YEAS	Nays	NV
Berry, Ross Chairman	X		
Boehm, Ralph G. Vice Chairman	X		
Prudhomme-O'Brien, Katherine J.	X		
Qualey, James R.	X		
Ankarberg, Aidan	X		
Burnham, Claudine R	X		
Wherry, Robert J	X		
Wood, Clayton D	X		
Osborne, Jason M.	X		
Kuttab, Katelyn	X		
Lane, Connie Boyles	X		
Ward, Gerald W.R.	X		
Hamer, Heidi M.	X		
Hamblet, Joan L.	X		
Muirhead, Russell	X		
Bay, Luz	X		
Brennan, Angela	X		
Grill, Jessica Clerk	X		
Howard, Heath	X		
Rafter, Hal W	X		
TOTAL VOTE:	20		

HOUSE COMMITTEE ON Election Law

BILL NUMBER: **HB 387**

BILL TITLE: **permitting election ballots to be viewed pursuant to a right to know request.**

DATE: **March 15, 2023**

THE COMMITEE HAS VOTED TO RETAIN THIS BILL.

_____

Rep. S. Smith, Chair

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 387

BILL TITLE: permitting election ballots to be viewed pursuant to a right to know request.

DATE: March 15, 2023

LOB ROOM: 206-208

MOTIONS: **RETAINED**

Moved by Rep. Kennedy | Seconded by Rep. H. Howard | Vote: 19-0

Respectfully submitted,

Rep Jessica Grill, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2023 1:43:00 PM
Roll Call Committee Registers Report

2023 SESSION

Election Law

Bill #: HB 387 Motion: RETAIN AM #: _____ Exec Session Date: MARCH 15, 2023

Members	YEAS	Nays	NV
Smith, Steven D. Chairman ABSENT			
Berry, Ross Vice Chairman	X		
Prudhomme-O'Brien, Katherine J.	X		
Boehm, Ralph G.	X		
~~Qualey, James R.~~ HARVEY - BOLIA	X		
~~Ankarberg, Aidan~~ HARRINGTON	X		
Burnham, Claudine R	X		
Kennedy, Stephen J.	X		
Wherry, Robert J	X		
Wood, Clayton D	X		
Lane, Connie Boyles	X		
Ward, Gerald W.R.	X		
Hamer, Heidi M.	X		
Hamblet, Joan L.	X		
Muirhead, Russell	X		
~~Bay, Luz~~ KNAB	X		
Brennan, Angela	X		
Grill, Jessica	X		
Howard, Heath	X		
TOTAL VOTE:	19		
PALMER	X		

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 387

BILL TITLE: **permitting election ballots to be viewed pursuant to a right to know request.**

DATE: **February 27, 2023**

LOB ROOM: **306-308** **Time Public Hearing Called to Order:** **1:30 p.m.**

Time Adjourned: **2:34 p.m.**

Committee Members: Reps. Berry, Grill, Prudhomme-O'Brien, Boehm, Qualey, Burnham, Kennedy, Wherry, Wood, Lane, Ward, Hamer, Hamblet, Muirhead and Brennan

Bill Sponsors:
Rep. Hoell **Rep. Kofalt** **Rep. Mazur**
Rep. Hynes **Rep. Popovici-Muller**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Acting Chair Berry opened the public hearing.

Rep. Wood introduced the bill. He stated that the bill would permit election ballots to be viewed pursuant to a right-to-know request.

Natch Greyes of the NHMA spoke in opposition to the bill. He stated that the NHMA is concerned about aspects of the bill, and said that when it comes to the right-to-know law, if citizens make requests of their municipalities, they can either let you access the records or provide a copy of the records. He stated that he is concerned with the possibility of ballot manipulation by those who access the actual ballots, and said that we currently have processes in place for ensuring ballot security and recordkeeping. He also said that providing copies of the ballots would require significant time and money and does not fulfil the purpose of the right-to-know law, which is to let the public know what the government is doing. He stated that viewing the election ballots would not provide access to any new information that was not already made public.

Rep. Brennan said that she understood 91-A to include all members of the public, not just NH residents, and asked if any citizen would be able to file a 91-A request. Mr. Greyes said that the statute did not define "citizen" and said that this language may apply to either in-state citizens only or all US citizens. Rep. Brennan asked that given that there is no court ruling on the definition of "citizen," would it be reasonable to expect that anyone in the country would be able to request access to NH ballots? Mr. Greyes said that it may be possible, and that 91-A requests frequently come from out of state, particularly from companies looking for zoning records. Rep. Brennan asked if there are currently any municipalities that struggle to fill 91-A requests. Mr. Greyes said that all municipalities are required to respond to 91-A requests, and the biggest challenge comes from requests for access to a large volume of information. He said that those requests typically result in towns hiring an outside entity, such as their law firm, to handle the request. Rep. Brennan asked if requesting to view all ballots would be considered a voluminous request. Mr. Greyes said yes, but that he did not know if others would agree.

Rep. Hoell, sponsor, re-introduced the bill and spoke in favor. He stated that current law prevents ballots from being viewed by anyone outside of those who request a recount. He stated that some election materials, such as cancelled ballots or absentee ballot requests, include confidential information, but that cast ballots are essentially anonymous. He said that this bill would only make cast, anonymous ballots, public documents. He stated that high-speed scanners are readily available, and the benefit to scanning and publishing original data is that anyone can verify that their ballot

was counted. He said that it is not hard to think about storing ballot data long-term, and that most data is already stored electronically. He pointed out that we need to pay attention to certain kinds of ballots, like cancelled absentee ballots, because they are no longer anonymous, and said that he wants to maintain voter privacy. He stated that we are already used to seeing stacks of ballots at polling places and recounts, and the only difference between someone requesting a recount and a member of the public is that the public has not asked for a recount. He said that he does not believe the requirements of the bill to be burdensome given that we are already moving towards high-speed scanner technology statewide, and that the ballots could be scanned on election night.

Rep. Wherry asked how the scanning and storage would be funded. Rep. Hoell said that we could use funds currently allocated to elections to fund the purchase of high-speed scanners and data storage.

Rep. Brennan asked if Rep. Hoell consulted with town clerks about the ballot handling process or 91-A fulfillment process prior to drafting the bill. Rep. Hoell said he spoke with several town clerks and supervisors, and that they agreed that this was the best way to ensure security in our elections. He stated that as an engineer, the best way to show a system works is to publish the original data. Rep. Brennan asked if he was aware that our current ballot-counting machines do not use digital scanning technology, and that some of the new machines may or may not include this technology. Rep. Hoell said that while he knew the current machines did not have this capability, future machines would include this capability and they are readily available. Rep. Brennan asked who and how would be responsible for paying for high-speed scanners for all municipalities, as well as the cost of the time to scan and respond to requests. Rep. Hoell stated that this would likely be covered by federal grant money. Rep. Brennan asked how the funds would be provided within 60 days prior to the bill coming into effect. Rep. Hoell stated that he believed there were several million dollars set aside to fund election integrity efforts. He stated that the soonest election this would impact would be the November municipal elections. Rep. Brennan asked if the bill was based on the premise that we would have new ballot counting machines by 2024 in each municipality. Rep. Hoell said that 60 days to implement the bill would not mean the next election would take place in 60 days; the bill would need to be implemented in time for the next elections in November 2023 and March 2024. He stated that some machines are more expensive than others, but that the highest-end scanner was not necessary.

Rep. Lane asked who would pay for the staff and time required to respond to ongoing 91-A requests. Rep. Hoell stated that if the ballots are available and scanned on election night, the 91-A request would be simple. He said that if we put in the long-term effort to scan and store data, we could likely cut back on the amount of effort needed to count and fulfill requests as voters would be able to view the files on their own.

Rep. Qualey asked how the exemption in the bill does not contradict an earlier provision. Rep. Hoell stated that the exemption was an earlier statute. Rep. Qualey followed up to ask how the exception language would apply to the cancelled and uncast ballots. Rep. Hoell said that this was a drafting error.

Rep. Burnham asked whether the term “image scanners” was in the bill. Rep. Hoell said that it was not in the bill, but it was the easiest way to handle 91-A requests. Rep. Burnham asked whether the bill is determined by the equipment available at the time. Rep. Hoell confirmed this is the case.

Natch Greyes stated that he would not support any effort to use HAVA funds to use high-speed scanners for the purpose of fulfilling 91-A requests since this would not help anyone vote.

Rep. Berry asked to recap Mr. Greyes and the NHMA’s concerns with cost and tampering. He asked what concerns around tampering existed following election certification. Mr. Greyes said that ballots are stored in anticipation of potential recounts. Rep. Berry asked to confirm whether the ballots were of concern due to federal requirements. Mr. Greyes confirmed this is true. Rep. Berry asked whether the NHMA would still have concerns if funding was available and the election had been certified. Mr. Greyes said that the NH Supreme Court had already ruled that only electronic copies can be viewed electronically, but that if funding was fully covered, most of their concerns would be addressed.

Rep. Brennan asked whether the NHMA had additional concerns about ballot integrity given that the public would be allowed to take pictures of ballots under 91-A. Mr. Greyes stated that the NHMA was more concerned with ensuring the election was administered properly.

Rep. Wood asked that if we looked to phase this law in as we obtain new equipment, would that raise the same concerns? Mr. Greyes said that he does not know what the new machines are capable of, and the data files would only be provided for machine-counted ballots; they would not be available for affidavit ballots, hand-counted ballots, ect., so we may end up with the perception that the information is incorrect.

Deputy Secretary of State Erin Hennessey spoke in opposition to the bill. She referenced language within the bill that stated all election materials would apply to 91-A, as well as language that exempted uncast or cancelled ballots. Referencing HB415, she reiterated the volume of material involved in elections, and stated that she believes the bill would require the additional materials to be included as well. She stated that nothing in the bill referred to scanners or an electronic record, and said that if the electronic record is not available, the paper record would have to be presented. She said that the legislature required ballots to be stored securely with a log of who enters or leaves the location, and said that under the bill, anyone filing a 91-A request would be able to access the locked storage area. Aside from the conflicting language, she stated that the time constraints, implementation timing, and current technological capabilities would create a significant burden for local election officials as well as the state. She said that the law does not consider other laws that would need to be changed in order to implement the bill, such as those related to affidavit ballots or personal information. She stated that while the reason given for the bill was to increase confidence in our elections, not every ballot would be scanned by the new machines, and if anything, the bill might create more questions if someone was trying to re-calculate the results of an election using ballot records. She stated that she has not yet heard back from Vermont officials, but based on her research, Vermont provides access to ballots, but only after the public storage timeframe has ended so that the physical ballots cannot be altered during the recount period. She stated that from her understanding of the exemption law, while ballots were previously included under 91-A, they were not publicly accessible, to exempting them did not change actual policy.

Rep. Prudhomme-O'Brien asked if communities would interpret the bill differently with regards to image creation – i.e. one town would believe they did need to create images, while another did not? Ms. Hennessey said that 91-A does not require the creation of electronic images, but if one exists, it must be provided. She said that a town that does not have a high-speed scanner would not be able to provide images, but that others with the scanners would, so there would be inconsistencies in how 91-A information was provided to the public. Rep. Prudhomme-O'Brien asked that if every community asked for help funding the scanners, would that fall under HAVA provisions? Ms. Hennessey said that she would need to look into it, and if towns needed to purchase a ballot counting device, it would.

Rep. Burnham asked if 91-A requests are paid for by the requesting party. Ms. Hennessey said that there are limitations on potential charges, and the limitations do not cover the cost of many requests. Rep. Burnham asked that if we have devices with high-speed scanning capabilities in the future, would that reduce the cost of the request and be a feasible change? Ms. Hennessey said that when communities have access to those scanning devices, that would be a better time to look at similar legislation.

Rep. Muirhead asked if the required storage time for non-federal elections was 60 days. Ms. Hennessey said yes, but that the ballots must be preserved if there is any legal action pending.

Rep. Brennan asked about a scenario where a voter may want to look through ballots to find their own, and asked if that scenario would become more common under this bill. Ms. Hennessey said that this might occur, and that sometimes people sign or otherwise identify their ballot. Rep. Brennan asked if the SOS office would be concerned about ballot integrity if they were made available to the public. Ms. Hennessey said that this bill could invite ballot purchasing schemes, and could also violate the right to a private ballot.

Rep. Berry asked how privacy would be a concern if we allow people to take photos of ballots during recounts, what is the purpose of keeping ballots if they aren't made available to the public, and asked what the cost was of a previous recount outside of the 3% margin. Ms. Hennessey said that she would look into the ballot storage requirements, and stated that the cost of the recount was in the thousands and paid for by the requesting person.

Rep. Wherry asked if the SOS would object to the bill if the process was fully-funded. Ms. Hennessey stated that for voter confidence, we already conduct post-election audits.

Rep. Read spoke in support of the bill. She stated that an amendment to HB 415 addresses most of the language concerns raised in response to HB 387. She said that she is in favor of the concept of election transparency and restoring 91-A access to cast ballots. She stated that it is still constitutional to include ballots in 91-A, even though the Supreme Court ruled that they can be exempted. She referred to specific language in the amendment that ensures ballots are not viewed until after the election, clarifies differences between digital image and paper copy storage, and ensures voters' personal information is removed. She stated that the bill maintains security while still providing access to the ballots.

There were no entries on the blue sign-in sheet.

Acting Chair Berry adjourned the public hearing.

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB387 Date: 2/28/23

Committee: Election Law

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con

House Remote Testify

Election Law Committee Testify List for Bill HB387 on 2023-02-28

Support: 6 Oppose: 51 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane
Holstein, Susanne	Bedford, NH srholstein@comcast.net	A Member of the Public	Myself	Oppose	No	No
longley, margaret	sandwich, NH peggylongley@sbcglobal.net	A Member of the Public	Myself	Oppose	No	No
Desmarais, Doreen	Northwood, NH doreend@netzero.net	A Member of the Public	Myself	Oppose	No	No
Sims, Julie	Guild, NH jpmom39@gmail.com	A Member of the Public	Myself	Support	No	No
Boyer, Marjorie	Merrimack, NH marjorie.boyer847@gmail.com	A Member of the Public	Myself	Oppose	No	No
Davidson, Geri	Nashua, NH geridavidson15@gmail.com	A Member of the Public	Myself	Oppose	No	No
Salcito, Kayla	Manchester, NH kaylasalcito@gmail.com	A Member of the Public	Myself	Oppose	No	Yes
Pugh, Barbara	Amherst, NH barbara.pugh@comcast.net	A Member of the Public	Myself	Oppose	No	No
Pugh, Stephen	AMHERST, NH miaferal@comcast.net	A Member of the Public	Myself	Oppose	No	No
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No
Collins, Erin	Wilton, NH pleasantmountain13@gmail.com	A Member of the Public	Myself	Oppose	No	No
Weiner, Stephanie	Lancaster, NH sjweiner03@hotmail.com	A Member of the Public	Myself	Oppose	No	No
Kornhauser, Naomi	Durham, NH naomi.kornhauser@comcast.net	A Member of the Public	Myself	Oppose	No	No
Klinghoffer, Judith	Wilton, NH nhcowboy1@gmail.com	A Member of the Public	Myself	Oppose	No	No
Zavgren, John	Wilton, NH john@zavgren.com	A Member of the Public	Myself	Oppose	No	No
Mooney, Bridget	Wilton, NH Bridget@moonchick.com	A Member of the Public	Myself	Oppose	No	No
dion, trisha	milford, NH mrsdion@gmail.com	A Member of the Public	Myself	Support	No	No
Lowen, Rosalind	Lincoln, NH Roz.lowen@gmail.com	A Member of the Public	Myself	Oppose	No	No
Feller-Kopman, Michelle	Meriden, NH michelle@shore.net	A Member of the Public	Myself	Oppose	No	No
Andrews, Diane	Plainfield, NH dianemandrews@gmail.com	A Member of the Public	Myself	Oppose	No	No
D'Arcy, Rosemary	Bristol, NH rvdarcy@gmail.com	A Member of the Public	Myself	Oppose	No	No
Steel, Sandy	PLAINFIELD, NH selizabethsteel@gmail.com	A Member of the Public	Myself	Oppose	No	No

Farnum, Ellen	Tamworth, NH ellenlynnfarnum@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Lurie, Elizabeth	Plainfield, NH ehlurie@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Lenz, James	Meriden, NH jelenz@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Taylor, Frances	Holderness, NH egglady5@gmail.com	A Member of the Public	Myself	Oppose	No	No	
saad, david	rumney, NH davidsaad2017@gmail.com	A Member of the Public	Myself	Support	No	No	
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Support	No	No	
Richards, Martha	Holderness, NH Maplerichards@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Terwilliger, Linda	Gilford, NH lindaterwilliger364@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Hatcher, Phil	Dover, NH phil.hatcher@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Moreno, Laurie	Strafford, NH lzmstrafford@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Spencer, Louise	Concord, NH lpskenstreet@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Spencer, Rob	Concord, NH rfspencer@aol.com	A Member of the Public	Myself	Oppose	No	No	
Cicerchi, Renee	Strafford, NH rcicerchi@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Perry, Bob	Strafford, NH perry4nh@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Kelley, Mary	Dover, NH Midgekelley1@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Palmer, William	Cornish, NH Wpalmernh@gmail.com	An Elected Official	Myself	Oppose	No	No	
Lobdell, Sara	Concord, NH sara@opendemocracy.me	A Lobbyist	Open Democracy	Oppose	No	No	
Auger, Philip	Strafford, NH augerlandhelp@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Mulligan, Virginia	Strafford, NH ginibelize@gmail.com	A Member of the Public	Myself	Oppose	No	No	
DONTONVILLE, ROGER	Enfield, NH rdontonville@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Dontonville, Anne	Enfield, NH ardontonville@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Bundy, Linda	Antrim, NH n_bundy@mcttelecom.com	A Member of the Public	Myself	Oppose	No	No	
Tucker, Katherine	Wilmot, NH katherine.s.tucker@valley.net	A Member of the Public	Myself	Oppose	No	No	
Taylor, Susan	Plainfield, NH sueetaylor158@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Taylor, David	Plainfield, NH dstaylor342@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Ackerson, Judith	Franklin, NH ackerjack45@gmail.com	A Member of the Public	Myself	Oppose	No	No	

Ackerson, Kenneth	Franklin, NH ken.ackerson14@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Sumner, Deborah	Jaffrey, NH dsumner@myfairpoint.net	A Member of the Public	Myself	Support	No	No	
Tuthill, John	Acworth, NH johng.tuthill@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Tentarelli, Liz	Newbury, NH LWV@kenliz.net	A Member of the Public	Myself	Oppose	No	No	
Woods, Beverly	Wolfeboro, NH citizen@beverlywoods.net	A Member of the Public	Myself	Oppose	No	No	
Holt, David	Somersworth, NH davholt@aol.com	A Member of the Public	Myself	Oppose	No	No	
Oppel, Thomas	Canaan, NH oppeltp@gmail.com	A Member of the Public	Myself	Oppose	No	No	
White, Tim	Effingham, NH tl.white@gmail.com	A Member of the Public	Myself	Oppose	No	No	

Julie Sims

Please support by passing this legislation for granite staters to have free and fair elections!

Rosalind Lowen

This bill would make it easier for the votes To be tampered with.

Daniel Richardson

Exempting successfully challenged/rejected absentee ballots contained in their envelopes from RSA 91-A is an invitation to obfuscate attempted ballot fraud and denies transparency.
Everyone is biased. You should have no thought of city clerks or election poll workers supposedly being nonpartisan.

Laurie Moreno

I oppose Bill HB244 and would like you to vote NO.

Bob Perry

Requiring election ballots to be subject to the NH Right to Know law has been opposed by the secretary of state's office for many years, and with the good reasons expressed in committee in the past. But in this hyper-partisan political environment, it is even more important to retain the sanctity of ballots by not allowing so-called election-integrity organizations free access. There is no limit on the number of ballots individuals or organizations could demand under current law, nor is there a limit in HB 387. Audits conducted around the country revealed no fraud that would change an election result. There remains no need for public scrutiny of ballots. Bob Perry, Strafford

This could lead to the tampering of ballots.

Liz Tentarelli

No fiscal note, sponsor doesn't understand the nuances of counting ballots, and unrealistic timing of implementation.

HB 387 - AS INTRODUCED

2023 SESSION

23-0598
08/04

HOUSE BILL ***387***

AN ACT permitting election ballots to be viewed pursuant to a right to know request.

SPONSORS: Rep. Hoell, Merr. 27; Rep. Kofalt, Hills. 32; Rep. Mazur, Hills. 44; Rep. Hynes, Hills. 2; Rep. Popovici-Muller, Rock. 17

COMMITTEE: Election Law

ANALYSIS

This bill permits election ballots to be viewed pursuant to a right to know request.

- -

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.

23-0598
08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT permitting election ballots to be viewed pursuant to a right to know request.

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

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

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, canceled, 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, canceled, 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 ___, Box _____ of _____, to be preserved in accordance with RSA 33-A:3-a. 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 ***not*** be exempt from the provisions of RSA 91-A. This exemption shall apply to any ballots or absentee voter affidavits prepared for or used in any election conducted by the state or any political subdivision, including federal elections. ***Canceled 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. Under no circumstances shall a request under RSA 91-A for information to connect a ballot with a specific voter be granted.***

2 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 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 RSA 659:96, shall deliver the sealed containers to the town or city clerk, or to 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

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. Containers containing ballots and absentee balloting materials that have been sealed after an election according to instructions provided by the secretary of state shall be stored in a location under the direction of the clerk. A log shall be maintained by the clerk specifying the location and the containers at the location. Once stored, the containers shall be accessible only to individuals working under the direction of the town clerk, as required for recounts, ***by a person filing a right to know request under RSA 91-A,*** or as necessary for the secretary of state to verify the container storage. When the containers are removed to allow for destruction of ballots in accordance with RSA 33-A:3-a, the destruction of the ballots and absentee balloting materials shall be the final entry in the log.

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