

Senate Election Law and Municipal Affairs Committee
Vivian Hall 271-3091

HB 1266, allowing election moderators access to the area designated for counting votes during the performance of their duties.

Hearing Date: April 1, 2026

Time Opened: 1:02 p.m.

Time Closed: 1:10 p.m.

Members of the Committee Present: Senators Gray, Lang, Perkins Kwoka and Long

Members of the Committee Absent : Senator Rochefort

Bill Analysis: This bill allows election moderators to access the area designated for counting votes during the performance of their duties.

Sponsors:
Rep. Harb

Who supports the bill: Representative Robert Wherry, Hillsborough, District 13; Brendan O'Donnell, Deputy Secretary of State; Sarah Burke Cohen, New Hampshire Municipal Association; Brodie Deshaies, New Hampshire Municipal Association; Kevin Major, Moderator, Sandown, David B. Nelson, Katherine Phelps, and Cory Stone.

Who opposes the bill: Angelique Hall and Kelly Butler.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Robert Harb, Hillsborough 13

- Representative Harb said New Hampshire law allows moderators on the ballot as moderators to be inside the voting/counting area, though they cannot handle ballots
- If they are running for any other office, they must stay outside that area.
- He argued that this restriction makes it harder to properly oversee elections, since moderators are responsible for ensuring fairness and answering questions.
- From experience, he said workers still come to him for guidance even when he is forced to stay outside, which is inefficient.

- The proposed amendment would allow moderators to be inside the election area regardless of what office they're running for, while still prohibiting them from handling ballots.
- Representative Harb noted that the amendment passed unanimously in the House.

Kevin Major, Moderator, Sandown:

- Mr. Major explained that the moderator is the chief election official who gets their authority from the New Hampshire Constitution, part two, article 32, and requires moderators to ensure that election officers know their jobs and that they're present.
- The election duties for a moderator are defined in 38 pages of the manual.
- Mr. Major explained that a good moderator knows the job also of the town clerk, the supervisor, checklist, board of selectman, and the ballot clerks to properly run an election. moderators design, set up, and oversee the election process.
- House Bill 1266 would amend RSA 65958 which will allow the moderator to stay inside the guardrail and perform the duties of their office at the end of the election.
- He explained that the moderator's role has become increasingly complex over time, involving tasks such as organizing ballot-counting teams, closing tabulators, verifying all ballots, reconciling results from multiple sources, and handling write-ins.
- He said that moderators tally the voter checklist, which requires supervision of volunteers.
- There is a steep learning curve, and moderators must attend training through NHMA, the Secretary of State, or the Attorney General.
- House Bill 1266 allows moderators to continue to perform that oversight and management at the end of the night and perform our constitutional duties.

Brendan O'Donnell, Deputy Secretary of State

- Mr. O'Donnell noted that HB 1266 maintains the prohibition on counting votes, touching marked ballots and overall, this strikes a good balance between the moderator's authority and duty to oversee an election and the integrity of the actual counting of the votes.