HB 482-FN - AS INTRODUCED

2023 SESSION

23-0580
08/10

HOUSE BILL ***482-FN***

AN ACT requiring the use of ballots with embedded security, traceability, and relative to the chain of custody for ballots cast in elections.

SPONSORS: Rep. Panek, Hills. 1

COMMITTEE: Election Law

ANALYSIS

This bill:

I. Requires the secretary of state to select a supplier to print and deliver ballots for elections.

II. Makes certain security requirements of ballots.

III. Specifies the chain of custody for ballots during and after an election.

IV. Requires photocopied proof of identity and residency when submitting an absentee ballot.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT requiring the use of ballots with embedded security, traceability, and relative to the chain of custody for ballots cast in elections.

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

1 Elections; General Responsibility of Ballots. RSA 656:1 is repealed and reenacted to read as follows:

656:1 General Responsibility. Ballots for use in all state elections shall be ordered by the secretary of state from a supplier determined by the secretary of state. The supplier shall deliver ballots directly to each political subdivision at the expense of the state using purchase orders issued by the secretary of state that clearly identify the quantity of test, in person, and absentee ballots for every polling location. The selected supplier shall be required to undergo an audit by a third party chosen by the state treasurer to ensure that the supplier is following the strict chain of custody tracking and ballot security procedures in this title as well as a general audit of the supplier's business controls. The supplier shall also maintain a secure facility with video surveillance of areas necessary for ballot printing and storage. All printing and shipping documentation relative to the ballots from the supplier shall be subject to the provisions of RSA 91-A.

2 Voting Materials; Paper Ballots. RSA 656:1-a is repealed and reenacted to read as follows:

656:1-a Paper Ballots. For purposes of facilitating the examination and recounting of votes cast, all elections shall be conducted using paper ballots in accordance with this title. All paper ballots shall be produced using technologies that provide the ability to validate the authenticity of the ballot, including but not limited to magnetic inks, specialized paper, water marks, or other industry tools available to safeguard against counterfeit ballots. The secretary of state shall design the paper ballots and select a supplier in accordance with RSA 656:1 and with review and approval by the attorney general. Commencing in 2023, every 5 years the secretary of state shall approach the ballot law commission with a review of the ballot technology being used and suggestions as to how it may be improved.

3 Elections; State General Election. Amend RSA 656:3 to read as follows:

656:3 Preparation. At least 6 days before any state general election is to be held, the official state general election ballot shall be sent by the ***supplier chosen by the*** secretary of state ***pursuant to RSA 656:1*** to the city and town clerks.

4 Preparation of Voting Materials. Amend RSA 656:20 to read as follows:

656:20 Delivery of Ballots; Inspection.

I. The ***supplier selected by the*** secretary of state ***pursuant to 656:1*** shall send the state general election ballots in a sealed package to the town and city clerks so they shall receive them no

later than Tuesday immediately preceding the day of the state general election. The package shall be marked on the outside to clearly designate the town or city for which it is intended and the number of ballots enclosed. The secretary of state shall keep a record of the time when and the manner in which the packages were sent to the clerks and a record of the number of ballots so forwarded. A town or city clerk shall sign a receipt for the ballots received.

II. Each town or city clerk, prior to election day, shall open the package in which the ballots are enclosed, in the presence of at least one other legal voter, to verify that the ballots in the package are all the proper ballots for that town or city ***and match the quantity to the bill of lading***. ***The town or city clerk shall count and log all ballots received and report the total number of ballots by test, in person, and absentee on the moderators certification.*** The clerk and one other legal voter shall then reseal the package with the [~~sealing label~~] ***tamper proof seals*** provided by the secretary of state.

III. After inspection, all ballots received shall be stored in locked containers. Access to ballots shall be by election officials only. Every ballot shall be accounted for before the election and after the election, including absentee ballots mailed and not returned by election day.

5 Ballot Preparation; State Primary. Amend RSA 656:22 to read as follows:

656:22 Preparation. The official state primary election ballots shall be prepared by ***supplier selected by*** the secretary of state ***pursuant to RSA 656:1*** and shall be delivered by [~~the secretary of state~~] ***such supplier*** to town and city clerks so that the ballots shall be received not later than the Tuesday immediately preceding the state primary election. Each town and city clerk, in the presence of at least one other legal voter, shall verify the contents of the ballot package as provided under RSA 656:20 and reseal the ballots for use on election day.

6 Preparation of Ballots. Amend RSA 656:26 - RSA 656:29 to read as follows:

656:26 Number. The ***supplier selected by the*** secretary of state ***pursuant to RSA 656:1*** shall furnish to each town or ward clerk the state primary election ballots of each political party in a number which the secretary of state shall deem sufficient for voting in the state primary.

656:27 Number for New Party. For the first state primary election at which a political party has candidates for nomination, the ***supplier selected by the*** secretary of state ***pursuant to RSA 656:1*** shall print for said party a sufficient number of state primary election ballots which in the secretary of state's discretion shall most closely approximate the figures provided in RSA 656:26.

656:28 Sample Ballots. The ***supplier selected by the*** secretary of state ***pursuant to RSA 656:1*** shall furnish 10 sample state primary election ballots of each political party printed on tinted paper to each town or ward clerk and, upon request, a reasonable number of such sample ballots to each person whose name appears upon the ballot as a candidate. Each town or ward clerk shall post one sample ballot of each political party in each of 2 public places in the clerk's town or ward within

one day of receiving such sample ballots and save the remainder to be posted on the day of the primary as provided in RSA 658:26.

656:29 Preparation. The official presidential primary election ballot for each political party shall be sent by the ***supplier selected by the*** secretary of state ***pursuant to RSA 656:1*** so as to be received by the city and town clerks no later than the Tuesday immediately preceding the presidential primary. Each town and city clerk, in the presence of at least one other legal voter, shall verify the contents of the ballot package as provided under RSA 656:20 and reseal the ballots for use on election day.

7 Ballot Preservation; 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 ***tamper proof*** 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 ***tamper proof*** 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 ***in a locked facility with video monitoring and visitor logs where the ballots shall be kept for a period set forth in RSA 33-A:3-a***. 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, 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.

8 General Provisions for Recounts; Disposal of Ballots. Amend RSA 660:16, I to read as follows:

I. Upon the conclusion of every recount, the secretary of state shall replace the unprotested ballots and absentee voter envelopes in a [~~suitable~~] ***secure*** container for storage. The secretary of state shall retain the ballots and the absentee envelopes for at least 60 days following the recount. Upon an order of the ballot law commission, the secretary of state shall produce the ballots for the inspection of the commission. Following the commission's inspection, the secretary of state shall replace the ballots and envelopes, seal them ***with tamper proof seals***, and certify the contents and the date when they were examined by the commission. The envelopes and ballots shall be subject to the order of the body to which such person claims to be elected or of the officers required by law to examine the records and to issue certificates of election to such office or of any court having jurisdiction over them. ***The envelopes and ballots shall be returned to the town and city clerks for storage in accordance with RSA 659:98.***

9 Absentee Ballot Application. Amend RSA 657:4, II(a) to read as follows:

(a) Any person, other than the city or town clerk or the ***supplier selected by the*** secretary of state ***pursuant to RSA 656:1***, that publishes, mails, or distributes in any manner any written communication that contains a form or post card which a reasonable person would consider as intended to be used by the recipient of the communication to submit a request for an absentee ballot shall identify who is publishing, mailing, or distributing the communication, and attach a copy of the form prepared by the secretary of state pursuant to paragraph I of this section to the communication or include in the communication a complete facsimile of the form prepared by the secretary of state pursuant to paragraph I of this section.

10 Absentee Voting; Procedure by Applicant. Amend RSA 657:6 to read as follows:

657:6 Procedure by Applicant. An application form for an absentee ballot shall be mailed or delivered to any person who applies therefor to [~~the secretary of state or to~~] any town or city clerk. It shall be filled out by the applicant and sent to the clerk of the town or city in which he or she desires to vote. Alternatively, a person may apply for an official absentee ballot by sending to said clerk a written statement containing the information required by RSA 657:4, I or by the federal official post card form. ***Any application for an absentee ballot that is not presented in person in the town or city, in which the applicant resides shall include proof of identity and residency with the application.***

11 Absentee Ballots and Related Materials. Amend the introductory paragraph of RSA 657:7 to read as follows:

657:7 Absence, Religious Observance, and Disability. Prior to any state election, the ***supplier selected by the*** secretary of state ***pursuant to RSA 656:1*** shall prepare the following forms in such quantity as he deems necessary:

12 New Paragraph; Absentee Ballots and Related Materials. Amend RSA 657:7 by inserting after paragraph II the following new paragraph:

II-a. Absentee voters shall include within the outer envelope photocopied documentation sufficient to prove residency and identification.

13 Opening Absentee Ballot Outer Envelope. Amend RSA 659:53 to read as follows:

659:53 Forms Not in Order.

I. If the moderator finds that the absentee voter is not entitled to vote, the moderator shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter" "voted in person," "affidavit improperly executed," "not signed by proper person," or whatever the reason is and shall record next to the name of the absentee voter on the clerk's list of absentee voter applicants prepared pursuant to RSA 657:15 the word "rejected" and the reason for the rejection. The clerk shall record this information in the statewide centralized voter registration database. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

II. If the moderator finds that the absentee voter has not included photocopied documentation sufficient to show residency and identification pursuant to RSA 657:7, II-a, the moderator shall contact such voter in an attempt to cure such deficiency and shall set aside such ballot until the voter provides the required documentation. Voters shall have up to the close of the polls on the day of the election to provide required documentation. Absentee ballots shall only be counted if the voter complies with this paragraph. If documentation is not provided, the moderator shall record next to the name of the absentee voter on the clerk's list of absentee voter applicants prepared pursuant to RSA 657:15 the word "rejected" and the reason for the rejection. The clerk shall record this information into the statewide centralized voter registration database.

14 Effective Date. This act shall take effect January 1, 2024.

LBA
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Revised 1/23/23

HB 482-FN- FISCAL NOTE
AS INTRODUCED

AN ACT requiring the use of ballots with embedded security, traceability, and relative to the chain of custody for ballots cast in elections.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill requires the Secretary of State to select a supplier to print and deliver ballots with embedded security and traceability to political subdivision. As well as specifying certain requirements for the chain of custody for ballots during and after an election. Lastly, it requires photocopied proof of identity and residency when submitting an absentee ballot.

The Department of State indicates this bill will require the ballot supplier to have video surveillance of areas necessary for ballot printing and storage by the supplier. It requires new security requirements and safeguards against counterfeit ballots as well as authenticity tools reviewed and improved every 5 years. Lastly, the Department would be required to purchase locked ballot storage boxes. The Department estimates the new requirements in this bill will significantly increase State and Local expenditures.

The New Hampshire Municipal Association (NHMA) states this bill requires voted ballots to be preserved "in the town or city hall in a locked facility with video monitoring and visitor log where the ballots shall be kept for a period set forth in RSA 33-A:3-a. NHMA notes, in some cases, municipalities will need to construct new additions or renovations to town halls to provide video monitoring of facilities where voter ballots are kept. NHMA also states the

additional staffing and compensation for the new requirements in the bill is unknown and dependent upon locations. NHMA states this bill will have an indeterminable increase in local expenditures starting in FY 2024.

AGENCIES CONTACTED:

Department of State and New Hampshire Municipal Association