SB 157-FN - AS AMENDED BY THE HOUSE

02/09/2023 0248s
4May2023... 1385h

2023 SESSION

23-0819
04/10

SENATE BILL ***157-FN***

AN ACT relative to election audits.

SPONSORS: Sen. Gray, Dist 6; Sen. Murphy, Dist 16; Sen. Perkins Kwoka, Dist 21; Rep. S. Smith, Sull. 3

COMMITTEE: Election Law and Municipal Affairs

AMENDED ANALYSIS

This bill requires the secretary of state to conduct audits of a certain number of ballot counting machines after state primaries, general elections, and presidential primaries.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 157-FN - AS AMENDED BY THE HOUSE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to election audits.

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

1 New Subdivision; Election Audits. Amend RSA 660 by inserting after section 31 the following new subdivision:

Election Audits

660:32 Audit Authorized. The secretary of state shall conduct an audit of tabulation of ballots after each state primary, general elections, and after the presidential primary.

660:33 Equipment and Technical Assistance. The secretary of state shall procure the equipment and arrange for any required technical assistance to support the audit process. The equipment selected shall be capable of:

I. Reading all ballots used by any town or city ward in its elections.

II. Scanning approximately 2,000 ballots per hour.

III. Capturing an image of both sides of the ballot.

IV. Recording the voters' choices.

V. Assigning a unique identifier to each record.

VI. Displaying the ballot image and voter choice for randomly selected ballots by the unique identifier.

660:34 State Election Audit.

I. The secretary of state shall randomly select not less than 8 towns or city wards to be audited. The secretary of state may divide towns or city wards into groups for the selection based on criteria such as the estimated number of election day ballots to be processed. The selection of towns or city wards to be audited shall be non-public and made after any ballot counting device memory cards have been programed.

II. The secretary of state shall not announce which towns or city wards have been selected to be audited until at least 12:00 p.m. on election day.

III. Each audit team shall consist of at least 2 individuals appointed by the secretary of state. One such individual shall have been trained by the secretary of state in the audit process and the use of audit equipment. The other individual, if not trained by the secretary of state in the audit process and the use of audit equipment, shall be an elected election official. The secretary of state may enlist the support of technical experts as an audit team member to assist with the technology being used.

IV. The audit shall be open to the public but no one except audit team members shall be allowed to touch any ballot or any of the audit equipment.

V. Preliminary results from each audit shall be announced by the audit team at the conclusion of the town or city ward audit. The secretary of state shall report final results pursuant to paragraph VII.

VI. A random sample of not fewer than 100 of the audited paper ballots scanned shall be selected shall be compared with the voters' choices recorded for each ballot. Any differences identified during the comparison shall be documented. In the event of significant differences, the secretary of state may expand the number of ballots sampled and compared with the voters' choices recorded for each ballot and may order a full hand recount.

VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m. on the Friday after the election, except that any full hand recount conducted under paragraph VI shall be performed under the provisions of RSA 660:4 through RSA 660:6 and no costs for such recount shall be assessed against any candidate. The secretary shall also report the results of all audits to the ballot law commission, and the chairpersons of the house of representatives and senate standing committees with jurisdiction over election law.

2 Effective Date. This act shall take effect upon its passage.

LBA
23-0819
Amended 6/9/23

SB 157-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2023-1385h)

AN ACT relative to election audits.

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	$122,000	$98,000	$74,000
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

METHODOLOGY:

This bill authorized and requires the Secretary of State to conduct an audit of tabulation of ballots after each state, primary, general elections, and after the presidential primary. It allows the Secretary of State to procure the equipment and arrange for any required technical assistance to support the audit process. The equipment selected shall be capable of:

I. Reading all ballots used by any town or city ward in its elections.
II. Scanning approximately 2,000 ballots per hour.
III. Capturing an image of both sides of the ballot.
IV. Recording the voters' choices.
V. Assigning a unique identifier to each record.
VI. Displaying the ballot image and voter choice for randomly selected ballots by the unique identifier.

The Department of State indicate this bill requires the department to conduct at least eight town or city wards to be audited and the audit results to be announced prior to 12:00pm on the Friday after the election. In order to comply with the bill, the department states they would need to purchase an additional scanner at a cost of $40,000. In addition to the scanner the department would need to purchase annual software subscriptions for two machines, which included programing for four audits, at a cost of $74,000, as well as additional audit programming costs of $2,000 per ballot audit. The increase in general fund expenditures would be as follows:

<u>FY 2024 - Cost $122,000 - Breakdown:</u>

- New high speed scanner $40,000

- Annual software and maintenance - $74,000 (programming for 4 audits included)
- Additional ballot programing (Presidential Primary) - $8,000 (4 audits @ $2,000)

FY 2025- Cost $98,000 - Breakdown:

- Annual software and maintenance - $74,000 (programming for 4 audits included)
- Additional ballot programing (State Primary) - $8,000 (4 audits @ $2,000)
- Additional ballot programing (General Election) - $16,000 (8 audits @ $2,000)

FY 2025- Cost $74,000 - Breakdown:

- Annual software and maintenance - $74,000

Lastly, the Department notes the bill states the Department should obtain a scanner capable of reading all ballots used in elections. The Department researched and believes there is not a scanner on the market capable of doing this.

It is assumed any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

Department of State