

HB 1821-FN - AS INTRODUCED

2026 SESSION

26-3087

08/06

HOUSE BILL ***1821-FN***

AN ACT exempting certain information collected from electronic ballot counting devices from right-to-know law restrictions.

SPONSORS: Rep. Soti, Rock. 35; Rep. Potenza, Straf. 19; Rep. O'Rourke, Ches. 7; Rep. Read, Rock. 10

COMMITTEE: Election Law

ANALYSIS

This bill clarifies the retention period for ballot images and cast vote records and requires that such images and records be made publicly available within the 48 hours following each election and before the statutory recount request deadline.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT exempting certain information collected from electronic ballot counting devices from right-to-know law restrictions.

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

1 1 New Paragraph; Ballot Images; Exempted from Right-to-Know Laws. Amend RSA 91-A:5 by
2 inserting after paragraph XIII the following new paragraph:

3 XIV. Access to ballot images and cast vote records shall be in compliance with RSA 91-A:4
4 except for the requirement such images and records are released with the 48 hours following an
5 election.

6 2 Public Access to Images and Cast Vote Records. Amend RSA 656:42, IX to read as follows:

7 IX.(a) Ballot images and cast vote records shall be retained as provided in RSA 33-A:3-A,
8 XXXVI and XXXVII relative to paper ballots.

9 (b) All ballot images are backed up in at least 2 secure storage locations, one at the state
10 level and one at the municipal level, to prevent tampering or data loss.

11 (c) The secretary of state shall provide a mandatory training program for clerks who
12 handle such records.

13 (d) Ballot images and cast vote records shall be posted on a public website managed by
14 the secretary of state to guarantee uniform access and to prevent selective release.

15 (e) All electronic ballot counting devices shall be certified as capable of producing ballot
16 images and cast vote records in a consistent standardized format before use in any election.

17 (f) Ballot images and cast vote record access shall be recorded via an audit log which
18 shall show when, how and by whom ballot images and cast vote records were accessed.

19 (g) If the electronic ballot counting device allows, the clerk shall provide for an
20 identifying indicator to be linked to ballots or ballot images or both, that when combined with access
21 to the cast vote record shall allow a person a reasonable basis to independently confirm tabulation
22 results. An identifying indicator shall not be linked to a voter.

23 (h) Where there are fewer than 10 absentee ballots or fewer than 10 of another
24 identifiable ballot design, such ballot images and cast vote records shall be exempt from the
25 provisions of RSA 91-A:4, III-a.

26 (i) The clerk or secretary of state may charge a fee equal to the actual cost for providing
27 electronic media if it is necessary to transfer data to a requestor.

28 (j) Cast vote records shall be available in a sortable format.

29 (k) Local election officials shall not be liable for any personal identifying information,
30 handwritten statements, or other notations made by the voter that are included in the ballot images.

1 (l) Any person who knowingly uses any combination of election records to reveal how
2 another person voted without that person's written consent shall be guilty of a misdemeanor.

3 (m) Contents of an image or cast vote record as marked by the voter shall not be altered.
4 Any person who violates this subparagraph shall be guilty of a misdemeanor.

5 (n) Election officials who fail to release ballot images and cast vote records within the
6 required 48-hour time frame shall be liable for a civil fine of \$250 to \$1,000 for each separate
7 violation. Each day past the deadline or each record not released as required shall constitute a
8 separate violation. Fines shall be deposited into the election fund established in RSA 5:6-d.

9 (o) In this section, "cast vote records" means electronic records of the voters' selections as
10 captured by an electronic ballot counting device from a ballot or a ballot image that cannot be linked
11 to a specific voter.

12 3 Write-In Votes. Amend RSA 659:17 to read as follows:

13 659:17 Marking the Ballot; Instructions to Voters. The secretary of state shall provide on the
14 top of the general election ballot the following voting instructions. The secretary of state is
15 authorized to replace the phrase "Make the appropriate mark" with an appropriate description and
16 example of the mark to be made for the type of ballot in use, such as "Make a cross (X) in the box" or
17 "Completely fill in the oval":

18 1) To Vote

19 Make the appropriate mark to the right of your choice. For each office vote for up to the number
20 of candidates stated in the sentences: "Vote for not more than 1" (if there is only one office to be
21 filled, such as governor or state senator); or "Vote for up to X;" "X will be elected" (insert the number
22 of offices to be filled). If you vote for more than the stated number of candidates, your vote for that
23 office will not be counted.

24 2) To Vote by Write-In

25 To vote for a person whose name is not printed on the ballot, ~~[write in]~~ **clearly print** the name
26 of the person in the "write-in" space. In cities and towns where an electronic ballot counting device
27 is used for the counting of ballots, as provided in RSA 656:40, there shall be a square, box, oval, or
28 other appropriate symbol for directing the voters where to make the appropriate mark directly to the
29 right of each "write-in" space.

30 4 Counting Write-In Votes. Amend RSA 659:64-a, IV-V to read as follows:

31 IV. If the device report or the digital image is used to tally write-in votes, a copy of the
32 report shall be preserved with the ballots used at the election. ~~[The printed report or digital image
33 showing the write-in votes in the voter's handwriting shall be a non-public record, and shall be
34 exempt from RSA 91-A.]~~ The moderator shall also provide the clerk with a copy of the printed or
35 digital images of all write-in votes to be available ~~[as a non-public record]~~ to assist with post-election
36 reporting.

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1 V. For all *municipal*, state, *and federal* elections, if used in the ballot counting process,
2 the moderator and the clerk shall retain a copy of the printed and the digital images of all write-in
3 votes to be available for reference if needed to resolve questions regarding the return of votes. [~~The~~
4 ~~copy shall be a non-public document and shall be stored and used in a manner that limits the risk of~~
5 ~~exposing, through recognition of handwriting, the candidate written in by any voter.]~~

6 5 Effective Date. This act shall take effect 60 days after its passage.

**HB 1821-FN- FISCAL NOTE
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FISCAL IMPACT:

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable Increase more than \$10,000 to \$100,000 per municipality		

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from the Department of State. The Department was initially contacted on 12/1/25 for a fiscal note worksheet, with follow-up contact made on 12/8/25. When completed, the fiscal note will be forwarded to the House Clerk's Office.

METHODOLOGY:

This bill would make ballot images and cast vote records generated by electronic ballot counting devices publicly accessible within 48 hours of an election. The bill requires secure backups at both state and municipal levels, standardized formatting, audit logs, and public posting on a website managed by the Secretary of State. Additionally, the bill introduces civil fines ranging from \$250 to \$1,000 for election officials who fail to release the records on time, with each day or record constituting a separate violation. The bill further amends procedures for write-in votes.

The New Hampshire Municipal Association (NHMA) states that municipalities may face an indeterminable increase in costs for the need to upgrade or replace ballot counting equipment to comply with the bill's technical requirements. NHMA estimates these expenses could range from \$10,000 to \$100,000 per municipality, with potentially higher costs for larger municipalities. Additionally, municipalities might incur costs if they choose to cover fines imposed on election officials for late reporting.

It is assumed that any fiscal impact would occur after FY 2026.

AGENCIES CONTACTED:

Department of State and New Hampshire Municipal Association