

HB 574-FN - AS INTRODUCED

2025 SESSION

25-0734
08/09

HOUSE BILL

574-FN

AN ACT requiring background checks of the private companies and their contractors who program and maintain New Hampshire voting machines.

SPONSORS: Rep. Burnham, Straf. 2; Rep. Wherry, Hills. 13; Rep. Wood, Merr. 13

COMMITTEE: Election Law

ANALYSIS

This bill requires background checks of employees, contractors, directors, and partners of private companies that program and maintain the electronic ballot counting machines in the state. This bill also allows the public inspection of such records.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT requiring background checks of the private companies and their contractors who
program and maintain New Hampshire voting machines.

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

1 1 New Section; Background Checks. Amend RSA 656 by inserting after section 40 the following
2 new section:

3 656:40-a Background Checks; Personnel Programming or Maintaining Electronic Ballot
4 Counting Devices.

5 I. The distributor of electronic ballot counting devices in New Hampshire shall assign all
6 employees programming or maintaining electronic ballot counting devices in New Hampshire an
7 employee identification number and an identification card with the employee's name and
8 identification number on it. The distributor shall send a list of current employees programming or
9 maintaining electronic ballot counting devices in New Hampshire including their assigned employee
10 identification number to the secretary of state and the attorney general on the first of every month.
11 Such list shall be available for public review on the secretary of state's website.

12 II.(a) The distributor of electronic ballot counting devices shall provide to the secretary of
13 state the performance history of the distributor and of its officers and directors relative to the
14 operation and financial security. The attorney general shall conduct a background investigation of
15 the criminal record of all of the distributor's officers and directors, partners, and any individuals who
16 are responsible for programming or maintaining electronic ballot counting devices in New
17 Hampshire and make a report to the secretary of state. The cost of any investigation under this
18 paragraph shall be borne by the distributor.

19 (b)(1) The criminal background check shall consist of a fingerprint-based criminal record
20 check of national crime information databases. The persons described in subparagraph (a) shall
21 submit to the attorney general a criminal history records release form, as provided by the New
22 Hampshire division of state police, which authorizes the release of the person's criminal records, if
23 any. The person shall submit with the release form a complete set of fingerprints taken by a
24 qualified law enforcement agency and payment required by division of state police regulations.

25 (2) For the criminal record check required under this paragraph, the attorney
26 general shall submit the person's fingerprints to the department of safety, division of state police,
27 which shall conduct a criminal history records check through its records and through the Federal
28 Bureau of Investigation. Upon completion of the criminal record check, the division of state police
29 shall release copies of the criminal history records to the attorney general and to the secretary of
30 state.

1 III. Any employees programming or maintaining electronic ballot counting devices in New
2 Hampshire shall be covered by an adequate bond in an amount set by the secretary of state in rules
3 adopted under RSA 541-A.

4 IV. Any employee programming or maintaining electronic ballot counting devices in New
5 Hampshire shall present their employee identification card issued in accordance with paragraph I to
6 the town clerk, the moderator, or a selectman before working on any electronic ballot counting
7 device. The employee's full legal name and employee identification number shall be recorded in the
8 machine activity logs and maintenance invoices.

9 2 Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-A:5, IV to read
10 as follows:

11 IV. Records pertaining to internal personnel practices; confidential, commercial, or financial
12 information; test questions, scoring keys, and other examination data used to administer a licensing
13 examination, examination for employment, or academic examinations; and personnel, medical,
14 welfare, library user, videotape sale or rental, and other files whose disclosure would constitute
15 invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this
16 paragraph shall prohibit a public body or agency from releasing information relative to health or
17 safety from investigative files on a limited basis to persons whose health or safety may be affected.
18 ***Nothing in this paragraph shall prohibit the public inspection of the criminal records***
19 ***requests required of employees programming or maintaining electronic ballot counting***
20 ***devices and the officers, directors, and partners of the distributor of such electronic ballot***
21 ***counting devices in the state as required under RSA 656:40-a.***

22 3 Effective Date. This act shall take effect 60 days after its passage.

HB 574-FN- FISCAL NOTE
AS INTRODUCED

AN ACT requiring background checks of the private companies and their contractors who program and maintain New Hampshire voting machines.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Indeterminable Increase of more than \$222,000 to \$500,000	Indeterminable Increase of more than \$224,000 to \$500,000	Indeterminable Increase of more than \$223,000 to \$500,000
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill mandates that identification numbers or cards be assigned by the distributor to all employees involved in programming or maintaining electronic ballot counting devices in New Hampshire. It also requires the submission of a monthly list of all current employees, along with their identification numbers, to the Secretary of State and Attorney General, who will then make the information publicly available on the Secretary of State's website. Additionally, the bill mandates background checks for employees, contractors, directors, and partners of private companies responsible for programming and maintaining the electronic ballot counting machines in the State. This bill also allows for the public inspection of such records.

The Department of State states that it cannot determine whether distributors will comply with the requirements mentioned above, nor can it assess the fiscal impact on current contracts with municipalities and the State. As a result, the expenditures are considered indeterminable. Additionally, this bill requires that employees programming or maintaining electronic ballot counting devices in the state shall be covered by an adequate bond in an amount set by the Secretary of State in rules adopted under RSA 541-A.

The Department of Justice (DOJ) states that the Election Law Unit would handle the background checks. However, the bill does not detail how to calculate or bill labor costs for these investigations. It also lacks mandates for periodic background checks or enforcement of the bond requirement. The bill's revenue impact is expected to be neutral because any income from background check fees would offset the Election Law Unit's costs.

The Election Law Unit cannot estimate the expenditure impact due to variables within the bill. There could be potential right-to-know litigation concerning the public disclosure of background check information, which would generate legal costs if lawsuits were filed. Additionally, the number of right-to-know requests the office might receive is uncertain, requiring resources to process. There is also the possibility of more approved ballot-counting devices or distributors in the future, necessitating additional background checks. The turnover rates of individuals required to undergo background checks under this bill are uncertain, affecting the frequency of these checks. Due to these unknowns, the DOJ cannot fully estimate the expenditure impact, but it may range from \$222,000 to \$500,000 for additional personnel to carry out the bill's tasks. The potential cost for the additional personnel is shown in the table below.

ESTIMATED FISCAL IMPACT (ROUNDED)			
	FY 2026	FY 2027	FY 2028
Assistant Attorney General (1 position)	\$132,000	\$133,000	\$133,000
Investigative Paralegal (1 position)	\$90,000	\$91,000	\$94,000
Total Estimated Cost	\$222,000	\$224,000	\$227,000

However, this bill does not provide funding nor does it authorize new positions.

AGENCIES CONTACTED:

Department of Justice and Department of State