

HB 1522-FN - AS INTRODUCED

2022 SESSION

22-2636

11/04

HOUSE BILL                    ***1522-FN***

AN ACT                    requiring the use of ballots with embedded security and relative to chain of custody of absentee ballots.

SPONSORS:            Rep. Abrami, Rock. 19; Rep. Aron, Sull. 7; Rep. Abramson, Rock. 37; Rep. Lanzara, Hills. 28

COMMITTEE:          Election Law

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ANALYSIS

This bill requires that elections are conducted using ballots with embedded security. The bill also specifies the chain of custody for ballots during and after an election.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                    requiring the use of ballots with embedded security and relative to chain of custody of absentee ballots.

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

1            1 Elections; General Responsibility of Ballots. Amend RSA 656:1 to read as follows:  
2            656:1 General Responsibility. Ballots for use in all state elections shall be ~~[prepared and~~  
3 ~~delivered by the secretary of state]~~, ***ordered by political subdivisions from the supplier***  
4 ***determined by the secretary of state***, at the expense of the state.

5            2 Voting Materials; Paper Ballots. Amend RSA 656:1-a to read as follows:  
6            656:1-a Paper Ballots. For purposes of facilitating the examination and recounting of votes cast,  
7 all elections shall be conducted using paper ballots in accordance with this title. ***All paper ballots***  
8 ***shall be produced using technologies that provide the ability to validate the authenticity of***  
9 ***the ballot, including but not limited to magnetic inks, specialized paper, water marks, or***  
10 ***other industry tools available to safeguard against counterfeit ballots. The secretary of***  
11 ***state shall design and source the paper ballots with review and approval by the attorney***  
12 ***general. Ballot paper technology shall be reviewed and upgraded, as necessary, every 5***  
13 ***years.***

14            3 Elections; General Provisions; State General Election. Amend RSA 656:3 to read as follows:  
15            656:3 Preparation. At least 6 days before any state general election is to be held, the official  
16 state general election ballot shall be sent by the ***supplier chosen by the*** secretary of state to the  
17 city and town clerks.

18            4 Preparation of Voting Materials; Inspection. Amend RSA 656:20 to read as follows:

19            656:20 Delivery of Ballots; Inspection.

20            I. The ***supplier chosen by the*** secretary of state shall send the state general election  
21 ballots in a sealed package to the town and city clerks so they shall receive them no later than  
22 Tuesday immediately preceding the day of the state general election. The package shall be marked  
23 on the outside to clearly designate the town or city for which it is intended and the number of ballots  
24 enclosed. The secretary of state shall keep a record of the time when and the manner in which the  
25 packages were sent to the clerks and a record of the number of ballots so forwarded. A town or city  
26 clerk shall sign a receipt for the ballots received.

27            II. Each town or city clerk, prior to election day, shall open the package in which the ballots  
28 are enclosed, in the presence of at least one other legal voter, to verify that the ballots in the package  
29 are all the proper ballots for that town or city. ***The town or city clerk shall count and log all***

**ballots received.** 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. All ballots received shall after inspection be stored in locked boxes and encrypted such that only the senior election official shall have the ability to access the ballots. Every ballot shall be accounted for before and after the election.**

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 the **supplier chosen by the** secretary of state 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 656:26-29 to read as follows:

656:26 Number. The **supplier chosen by the** secretary of state 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 chosen by the** secretary of state 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 chosen by the** secretary of state 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 chosen by the** secretary of state 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 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**

1 **proof** sealer the time of day and shall sign his or her name in the appropriate blank on the sealer.  
2 The clerk or the clerk's designee shall, without breaking the seals or otherwise changing the  
3 condition of the containers, deposit the containers in the town or city hall **in a locked facility with**  
4 **video monitoring, visitor logs, and locked storage containers**, where the ballots shall be kept  
5 for a period set forth in RSA 33-A:3-a.

6 8 General Provisions for Recounts; Disposal of Ballots. Amend RSA 660:16, I to read as follows:

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

18 9 Absentee Ballot Application. Amend RSA 657:4, II(a) to read as follows:

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

27 10 Absentee Voting; Procedure by Applicant. Amend RSA 657:6 to read as follows:

28 657:6 Procedure by Applicant. An application form for an absentee ballot shall be mailed or  
29 delivered to any person who applies therefor to ~~[the secretary of state or to]~~ any town or city clerk. It  
30 shall be filled out by the applicant and sent to the clerk of the town or city in which he or she desires  
31 to vote. Alternatively, a person may apply for an official absentee ballot by sending to said clerk a  
32 written statement containing the information required by RSA 657:4, I or by the federal official post  
33 card form.

34 11 Absentee Ballots and Related Materials. Amend the introductory paragraph of RSA 657:7 to  
35 read as follows:

36 Prior to any state election, the **supplier chosen by the** secretary of state shall prepare the  
37 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 a photocopied documentation sufficient to prove residency and identification.

13 Opening Absentee Ballot Outer Envelopes. 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 the 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 Electronic Ballot Counting Devices; Rules. Amend RSA 656:42, IX to read as follows:

***IX. Any electronic digital image of a marked ballot made by a ballot counting device, [whether stored on the device, on a removable memory device, or on a government computer, shall be non-public and exempt from RSA 91-A] shall be made accessible to every citizen through digital imaging made public by every city or town within 8 hours of the close of the polls. Citizens shall be able to perform a "citizen's audit" to tie the counts in the official records to the ballot images. Citizens shall be informed at the time of casting ballots that digital copies of the ballots will be preserved and made public to protect any concerns over privacy.***

15 Effective Date. This act shall take effect January 1, 2023.

**HB 1522-FN- FISCAL NOTE**  
**AS INTRODUCED**

AN ACT requiring the use of ballots with embedded security and relative to chain of custody of absentee ballots.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☒ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill removes the authority to prepare ballots from the Secretary of State and provides it to a third party "supplier" chosen by the Secretary of State. The bill adds further requirements to paper ballots and removes the Secretary of State from the process of mailing an application form for an absentee ballot. It also requires absentee voters to include photocopied evidence of a voter's domicile and identity information. Lastly, it requires special security measures to store ballots in the cities and towns after the elections and digital images of all ballots to be made available by cities and towns within eight hours of the close of the polls.

The Department of State indicates there would be an indeterminable increase on state expenditures. The Department states they are unable to determine the increase on state expenditures above and beyond those already incurred in the ballot printing process, until they put the language in this bill out to bid.

The New Hampshire Municipal Association states the new requirements to secure and store the ballots as well as produce digital images to be made available to the public would result in an indeterminable increase in local expenditures.

**AGENCIES CONTACTED:**

Department of State and New Hampshire Municipal Association