

HB 480 - AS INTRODUCED

2021 SESSION

21-0653

11/10

HOUSE BILL            **480**

AN ACT                relative to verification of ballots cast in an election.

SPONSORS:           Rep. Edwards, Rock. 4; Rep. O'Hara, Belk. 9

COMMITTEE:        Election Law

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ANALYSIS

This bill allows for public access to cast ballots.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to verification of ballots cast in an election.

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

1 1 Sealing and Certifying Ballots. Amend RSA 659:95, II to read as follows:

2 II. ~~[Ballots, including cast, canceled, and uncast ballots and]~~ Successfully challenged and  
3 rejected absentee ballots still contained in their envelopes, prepared or preserved in accordance with  
4 the election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to  
5 ~~[any ballots or]~~ absentee voter affidavits prepared for or used in any election conducted by the state  
6 or any political subdivision, including federal elections.

7 2 Disposal of Ballots. Amend RSA 660:16 to read as follows:

8 II. ~~[Ballots, including cast, canceled, and uncast ballots and]~~ Successfully challenged  
9 absentee ballots still contained in their envelopes, prepared or preserved in accordance with the  
10 election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to ~~[any~~  
11 ~~ballots or]~~ absentee voter affidavit envelopes prepared for or used in any election conducted by the  
12 state or any political subdivision, including federal elections.

13 3 New Subdivision; Public Review of Ballots. Amend RSA 660 by inserting after section 31 the  
14 following new subdivision:

15 Public Review of Ballots

16 660:32 Statement of Purpose. The state of New Hampshire recognizes that the fundamental  
17 right to vote includes the right for voters to have their votes counted and reported accurately, as  
18 provided in part I, articles 1, 2, 7, 8, and 11 and part II, articles 5, 32, 41, and 84 of the state  
19 constitution. Therefore, registered New Hampshire voters who were not candidates on election  
20 ballots they ask to review may view cast ballots after the recount period is over to ensure accuracy of  
21 the vote count and evaluate the performance of election officials. Review of ballots shall be in a  
22 manner that is least restrictive to the public and that is efficient and least cumbersome to the ballot  
23 custodian or designee.

24 660:33 Custody of Ballot. Town and city clerks shall retain custody of the ballots until the  
25 retention period has ended, 22 months for all federal offices, 60 days for all other offices. In the case  
26 where custody is transferred for a recount the secretary of state shall remain the custodian until the  
27 retention period has ended.

28 660:34 Application and Timing of Access.

29 I. Review of ballots shall only be allowed after the recount period for that election has ended.  
30 Application for ballot review shall be made in writing to the custodian of the ballots, stating specific  
31 times of availability or unavailability, if applicable.

1           II. The ballots shall be made available for inspection in a timely manner. However,  
2 responding to applications for inspection shall not take priority over the previously scheduled work  
3 activities of the town or city clerks.

4           III. The custodian shall schedule the appointment within 5 business days to accommodate  
5 those wishing to review ballots and the individual supervising the review. Citizens requesting the  
6 review may recruit counters if needed.

7           IV. Additional appointments may be necessary to complete the review or answer new  
8 questions that may arise.

9           V. Towns and cities may request reimbursement of additional expenses from the secretary of  
10 state from the election fund established under RSA 5:6-d.

11       660:35 Supervision of Ballot Review and Box Contents.

12           I. It is the duty of the custodian or designee to ensure the integrity of the ballots and  
13 contents of the sealed boxes.

14           II. The custodian shall remove the seal from boxes in the presence of those requesting the  
15 review and those who will supervise.

16           III. Reviewers shall witness the identification of seals removed and new seals applied after  
17 review.

18           IV. Depending on the number of boxes involved and time allowed for initial review, the  
19 supervisor and reviewer may agree whether one or more boxes shall be opened at one time.

20           V. No person shall in any manner, nor for any reason, make any mark upon either the face  
21 or reverse side of any ballots during the counting process. All notes shall be done in pencil upon  
22 separate pieces of paper.

23           VI. Ballots shall not be traceable to a voter. If there are 10 or fewer absentee ballots cast in  
24 a location, those ballots may be excluded from the review to maintain the confidentiality of the secret  
25 ballot. Absentee ballot envelopes shall be excluded from review. If the reviewer or supervisor  
26 witnesses any identifying marks on a ballot that would allow it to be traced to a voter, the witness  
27 shall report the violation to the moderator, who shall report it to the attorney general.

28           VII. Reasonable administrative regulations designed to ensure the integrity of the ballots  
29 may be established by the clerks in conjunction with the secretary of state. Such regulations, if  
30 required, shall be limited to requiring the individual seeking access to provide identification and sign  
31 his or her name, and the keeping of bags, briefcases, or other items off the table where ballots are  
32 placed.

33           VIII. Supervisors at the local level may include members of the board of recount, other  
34 election officials, a designated town employee, or a law enforcement official.

35       660:36 Right To Copy. The right to public access shall include compliance with the provisions of  
36 RSA 91-A:4, I.

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1       660:37 Denial of Access. In extraordinary circumstances, the custodian of the ballots, after  
2 consultation with the attorney general and the secretary of state may deny access to ballots to  
3 certain individuals for good cause and give the reasons in writing. Good cause shall be limited to  
4 previous conviction for theft or fraud, or prior destruction of, defacement of, or tampering with public  
5 records. Denial of access may be appealed to the superior court, with RSA 91:A-8 remedies available  
6 if the denial was not based on good cause.

7       660:38 Fraud or Error. The custodian of the ballots shall request that any person reviewing  
8 ballots under this subdivision report to the state political parties and to the moderator any evidence  
9 of fraud or error in any vote count of one percent or more. The moderator shall forward any such  
10 report to the secretary of state, the attorney general, and, if applicable, local law enforcement  
11 authorities.

12       4 Preservation of Challenged Absentee Ballots. Amend RSA 669:33, II to read as follows:

13           II. ~~[Ballots, including cast, canceled, and uncast ballots and]~~ Successfully challenged  
14 absentee ballots still contained in their envelopes, prepared or preserved in accordance with the  
15 election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to ~~[any~~  
16 ~~ballots or]~~ absentee voter affidavit envelopes prepared for or used in any election conducted by the  
17 state or any political subdivision, including federal elections.

18       5 Effective Date. This act shall take effect 60 days after its passage.