

**CONSENT CALENDAR**

**March 9, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Election Law to which was referred  
HB 1457-FN,**

**AN ACT relative to chain of custody of ballot boxes after  
an election. Having considered the same, report the  
same with the following amendment, and the  
recommendation that the bill OUGHT TO PASS WITH  
AMENDMENT.**

**Rep. Peter Torosian**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Election Law</b>
Bill Number:	<b>HB 1457-FN</b>
Title:	<b>relative to chain of custody of ballot boxes after an election.</b>
Date:	<b>March 9, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT 2022-0967h</b>

### STATEMENT OF INTENT

This bill proposed to set new requirements relative to the chain of custody of ballot boxes after an election, eliminating the destruction of ballots, as is currently allowed after 22 months, and provided for transport of every container of ballots from every jurisdiction in the state to a central location in Concord for permanent storage. The committee viewed this bill as an attempt to deal with a legitimate issue. the appropriate storage of ballots after an election, but believed the bill went far beyond what would be reasonably necessary. While the Windham audit was a clear example of containers that were not sealed appropriately, other recounts have raised issues with a municipality's storage practices. The bill as proposed was problematic because of logistics, cost, and the possibility of misplaced ballots.

Vote 20-0.

Rep. Peter Torosian  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Election Law

**HB 1457-FN**, relative to chain of custody of ballot boxes after an election. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter Torosian for Election Law. This bill proposed to set new requirements relative to the chain of custody of ballot boxes after an election, eliminating the destruction of ballots, as is currently allowed after 22 months, and provided for transport of every container of ballots from every jurisdiction in the state to a central location in Concord for permanent storage. The committee viewed this bill as an attempt to deal with a legitimate issue. the appropriate storage of ballots after an election, but believed the bill went far beyond what would be reasonably necessary. While the Windham audit was a clear example of containers that were not sealed appropriately, other recounts have raised issues with a municipality's storage practices. The bill as proposed was problematic because of logistics, cost, and the possibility of misplaced ballots. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

Rep. B. Griffin, Hills. 6  
March 4, 2022  
2022-0967h  
07/08

Amendment to HB 1457-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Preservation of Ballots; Secretary of State. Amend RSA 659:98 to read as follows:

4 659:98 Delivery of Ballots to Town Clerk. The moderator, or the moderator's designee, and the  
5 selectmen, or their designee, after they have sealed and certified the state election ballots as  
6 provided in RSA 659:95 and RSA 659:96, shall deliver the sealed containers to the town or city clerk,  
7 or to the clerk's designee, who shall in their presence enter in the appropriate place on each sealer  
8 the time of day and shall sign his or her name in the appropriate blank on the sealer. The clerk or  
9 the clerk's designee shall, without breaking the seals or otherwise changing the condition of the  
10 containers, deposit the containers in the town or city hall [~~where the ballots shall be kept for a~~  
11 ~~period set forth in RSA 33-A:3-a~~]. ***Containers containing ballots and absentee balloting***  
12 ***materials that have been sealed after an election according to instructions provided by the***  
13 ***secretary of state shall be stored in a location under the direction of the clerk. A log shall***  
14 ***be maintained by the clerk specifying the location and the containers at the location. Once***  
15 ***stored, the containers shall be accessible only to individuals working under the direction of***  
16 ***the town clerk, as required for recounts, or as necessary for the secretary of state to verify***  
17 ***the container storage. When the containers are removed to allow for destruction of ballots***  
18 ***in accordance with RSA 33-A:3-a, the destruction of the ballots and absentee balloting***  
19 ***materials shall be the final entry in the log.***

20 2 Effective Date. This act shall take effect 60 days after its passage.

**Amendment to HB 1457-FN**  
**- Page 2 -**

**2022-0967h**

**AMENDED ANALYSIS**

**This bill modifies the retention policy for ballot boxes.**





2022 SESSION

Election Law

Bill #: HB1457 Motion: OT/A AM #: 2022-0967H Exec Session Date: 3/9/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman	✓		
MacDonald, Wayne D. Vice Chairman	✓		
Prudhomme-O'Brien, Katherine J.	✓		
Sweeney, Joe	✓		
Hayward, Peter T.	✓		
Torosian, Peter E.	✓		
Berry, Ross	✓		
Groen, Fenton	✓		
Qualey, James R.	✓		
Wells, Natalie J. Clerk	✓		
Alexander, Joe H.	✓		
<del>Cote, David E.</del> <i>Chase</i>	✓		
Ward, Gerald W.R.	✓		
Bergeron, Paul R.	✓		
<del>Sandler, Catt</del> <i>massimilla</i>	✓		
Hamer, Heidi M.	✓		
Lane, Connie B.	✓		
Freitas, Mary C.	✓		
Hamblet, Joan L.	✓		
Muirhead, Russell	✓		
<b>TOTAL VOTE:</b>	<b>20</b>	<b>0</b>	





2021 SESSION

Election Law

Bill #: HB1457 Motion: OTP AM #: 2022-0967H Exec Session Date: 3/9/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman	✓		
MacDonald, Wayne D. Vice Chairman	✓		
Prudhomme-O'Brien, Katherine J.	✓		
Sweeney, Joe	✓		
Hayward, Peter T.	✓		
<del>Mooney, Maureen C.</del> <i>Alexander</i>	✓		
Torosian, Peter E.	✓		
Berry, Ross	✓		
Groen, Fenton	✓		
Qualey, James R.	✓		
Wells, Natalie J. Clerk	✓		
<del>Cote, David E.</del> <i>Wendy Chase</i>	✓		
Ward, Gerald W.R.	✓		
Bergeron, Paul R.	✓	✓	
<del>Sandler, Catt</del> <i>Linda Massimilla</i>	✓		
Hamer, Heidi M.	✓		
Lane, Connie B.	✓		
Freitas, Mary C.	✓		
Hamblet, Joan L.	✓		
Muirhead, Russell	✓		
<b>TOTAL VOTE:</b>	<b>20</b>	<b>5</b>	



## HOUSE COMMITTEE ON ELECTION LAW

### PUBLIC HEARING ON HB 1457-FN

**BILL TITLE:** relative to chain of custody of ballot boxes after an election.

**DATE:** January 20, 2022

**LOB ROOM:** 306-308                      **Time Public Hearing Called to Order:** 11:33 a.m.

**Time Adjourned:** 12:15 p.m.

**Committee Members:** Reps. B. Griffin, W. MacDonald, Wells, Prudhomme-O'Brien, Sweeney, Hayward, Torosian, Berry, Groen, Qualey, Alexander Jr., Cote, Ward, Bergeron, Sandler, Hamer, Lane, Freitas, Hamblet and Muirhead

**Bill Sponsors:**

Rep. Yakubovich

Rep. Layon

Rep. Gorski

### TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep Yakubovich - Merrimack District 24

- Talk about transparency
- After election there was no uniformity of box storage in towns.
- Keep boxes secure, everything being done secure ballots
- Bill says FN - Says boxes stored in permanent
- I'm in favor of storing boxes for 2 years

Ken Eyring

- After report AG-SOS Windham
- 11 page report showed multiple errors
- My opinion - I now shift to have our ballots overseen
- \_\_\_ first half dozen boxes not sealed properly. Tape not correct,
- Have towns transfer boxes to SOS office, any errors seen they could contact town for corrections - ie: signatures

Question - Chairwoman Griffin - Windham boxes provided to SOS - store - were not used?

Answer - Yes, Windham says boxes were after. correction showed they were delivered ahead.

Answer - Clearly they were delivered on time. This was a violation, not using proper boxes from SOS office. Disturbed why are ballots put in storage after election night, should be defined as followed.

Question - Why were people not prosecuted?

Answer - Yes, but for this bill, this is a tool properly managed. I didn't feel strongly on this until I read report.

Question - Rep Prudhomme-O'Brien - Do you think awareness for Election, for clerk moderators, other people?

Answer - Don't know one moderator. I will do my best to put out fires, enormous endeavor to find out 11/3 and subsequent issues, not germane to the bill.

Christina Guilford - Derry Moderator

- Absentee Ballots comes in late, clerk should not destroy.
- I don't think anything should be destroyed.

Question - Rep Pimentel - Just curious, State or Federal?

Question - Line 2 any state official?

Kelly Chow -

- Problem with chain of custody.

- We need to support HB1522

Question - Rep Prudhomme-O'Brien - Thank you for watching process. Did you get to see sealing of boxes in your district?

Answer - I am all over the place, couldn't observe.

SOS - I would like to say goes to heart on voter.

- We are going to take step voters how were protected
- Ballots after Election we do have chain custom
- Ballots - We train but have high turnover
- Boxes should have red security tape. Always a percent who don't meet the standard.
- Have spot visits, have as many observations to see how town clerks are addressing the storage.
- Once leave boxes from clerk SOS puts bar code on boxes to archive for recounts.
- Regards destruction of ballots violation on federal statutes.
- any election must be preserved for 22 months.
- Need to record a ballot, might be received but late
- During an election cycle could have 5,000 boxes
- Look for other alternatives

Question - Rep Prudhomme-O'Brien - I like what you say about spot checking. 2020 Election what grade would you give election officials in Windham?

Answer - Some do better than others. Statewide a B, Windham is unique in many ways. 2020 problem dealt with absentee ballots. Windham took shortcuts and a folding machine wasn't official machine.

Question - I have watched. I saw boxes from Windham would be an F.

Answer - Not best.

Question -Rep Berry - You said that voter integrity was a big issue for you. Spot checking, other measures. This committee uses this bill for other measures. Security seals do better. Confidence with boxes closed, not open. Right now, red security tape if lifted, can't stick or shown if moved. Keep using boxes with each machine, go to that set. We are open to suggestions.

Question Rep Groen - When boxes come in recount 80%.

Answer - Don't hold me to 80%. Most boxes are acceptable but always a percent of boxes don't meet standards. We send van to pick up boxes, once secured, we put bar code, clerk signs off, archives, mgr signs off. We have inventory content on each box.

Question - That was an estimate that bothered so I appreciate procedures and spot checks and if additional funding is needed for SOS, I will fight for it.

Answer - Thank you.

Question - Rep Lane - You support?

Answer - I did not support the bill but subject. We need to have conversations.

Question - Rep Pimentel - What is within your power for you to make change of custody and what required Legislators?

Answer - After bar codes, record of that without Legislative Bill, all boxes delivered to the Archives would have. Right now just for recounts

Question - Rep Groen - What is the level of uniformity and control? Local control, boxes sealed?

Answer - Depends from community. but uniformity changed 20 years through HAVA - Training boxes, properly sealed, secured place. Some towns were given grants for better.

Question - You implied to bring ballots to Concord. Your thoughts keep local in state.

Answer - I think if stored in secure storage there is no reason why they can't be in community. Need to be able to show for transparency, but I think we can make this happen.



# House Remote Testify

## Election Law Committee Testify List for Bill HB1457 on 2022-01-20

Support: 18 Oppose: 3 Neutral: 1 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Hodgkins, Russell	Amherst, NH hodgkins_russ@yahoo.com	A Member of the Public	Myself	Support	No	No	1/14/2022 3:51 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	1/16/2022 5:55 PM
Greyes, Natch	Concord, NH ngreyes@nhmunicipal.org	A Lobbyist	New Hampshire Municipal Association	Oppose	No	No	1/17/2022 9:07 AM
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Oppose	No	No	1/17/2022 11:46 AM
Podlipny, Ann	Chester, NH apodlipny57@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/17/2022 12:47 PM
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/17/2022 12:50 PM
Hayward, Marcia	Laconia, NH mjhayward131@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 1:40 PM
Nelson, Elizabeth	Derry, NH BethDavid@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/17/2022 7:33 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 9:57 PM
Falk, Cheri	Wilton, NH falk.cj@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:06 AM
Claflin, Kyri	Concord, NH kyriclaflin@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:53 AM
Brenton, Anne	Atkinson, NH anne.berg1@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 4:00 PM
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 4:20 PM



Aronson, Laura	MANCHESTER, NH laura@mlans.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:36 PM
Clark, Denise	Milford, NH denise.m.clark03055@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:50 PM
Frost, Sherry	Dover, NH s.frost@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	1/19/2022 9:05 AM
Murphy, Marcia	Northwood, NH Ladefish@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 9:26 AM
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:06 AM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	1/19/2022 2:24 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:34 PM
Sinclair-pappas, Barbara	Chichester, NH bespappas@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:39 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/19/2022 9:01 PM
Rettew, Annie	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 9:46 PM
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 9:56 PM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 6:43 AM
Dewey, Karen	NEWPORT, NH pkdewey@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/20/2022 8:11 AM
perez, maria	milford, NH mariaeli63@gmail.com	An Elected Official	Myself	Oppose	No	No	1/20/2022 9:40 AM
Hayes, Randy	Canterbury, NH rcompostr@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 9:47 AM
Steel, Sandra	Plainfield, NH selizabethsteel@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:56 AM
Petrusewicz, Carol	Rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Support	No	No	1/20/2022 6:45 PM

HB 1457-FN - AS INTRODUCED

2022 SESSION

22-2319

11/08

HOUSE BILL            ***1457-FN***

AN ACT                relative to chain of custody of ballot boxes after an election.

SPONSORS:            Rep. Yakubovich, Merr. 24; Rep. Layon, Rock. 6; Rep. Gorski, Hills. 7

COMMITTEE:          Election Law

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ANALYSIS

This bill requires that ballot boxes be sent to the secretary of state's office for storage within 48 hours of an election. This bill also modifies the retention policy for such boxes.

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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 relative to chain of custody of ballot boxes after an election.

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

1 1 Absentee Voting; Election Day; Preservation of Ballot. Amend RSA 657:22 to read as follows:  
 2 657:22 Cutoff. In any state election, a town or city clerk shall not accept any completed  
 3 absentee ballots delivered to the clerk after 5:00 p.m. on election day except as provided in RSA  
 4 657:21-a, V and RSA 659:20-a. The clerk shall record absentee ballots received after such time in  
 5 the statewide centralized voter registration database with the return date and shall mark the ballot  
 6 as rejected due to absentee ballot receipt after election day. The clerk shall ~~retain the unopened~~  
 7 ~~ballot until the time set for the destruction of other state election ballots as provided in RSA 659:100~~  
 8 ~~at which time the envelopes shall likewise be destroyed]~~ **destroy the envelopes**, unopened and  
 9 unexamined.

10 2 Preservation of Ballots; Secretary of State. Amend RSA 659:98 through 659:99 to read as  
 11 follows:

12 659:98 Delivery of Ballots to Town Clerk. The moderator, or the moderator's designee, and the  
 13 selectmen, or their designee, after they have sealed and certified the state election ballots as  
 14 provided in RSA 659:95 and RSA 659:96, shall deliver the sealed containers to the town or city clerk,  
 15 or to the clerk's designee, who shall in their presence enter in the appropriate place on each sealer  
 16 the time of day and shall sign his or her name in the appropriate blank on the sealer. The clerk or  
 17 the clerk's designee shall, **within 48 hours of the election and** without breaking the seals or  
 18 otherwise changing the condition of the containers, ~~deposit the containers in the town or city hall,~~  
 19 ~~where the ballots shall be kept for a period set forth in RSA 33-A:3-a]~~ **arrange for the local police,**  
 20 **county sheriff, or state troopers to transport such containers to the secretary of state's**  
 21 **office in Concord for storage in accordance with RSA 659:99.**

22 659:99 ~~[Forwarding]~~ **Storage of** Ballots to the Secretary of State. ~~[If any person shall make a~~  
 23 ~~request for a recount as provided in RSA 660, or if the secretary of state shall request the ballots of~~  
 24 ~~the recent election, the clerk having the custody of such ballots shall, at the request of the secretary~~  
 25 ~~of state, forward the ballots forthwith to the secretary of state.]~~ **The secretary of state shall**  
 26 **arrange for storage of all containers received pursuant to RSA 659:98 at the secretary of**  
 27 **state's office in Concord or at such other location as deemed appropriate by the secretary of**  
 28 **state. Such storage arrangements shall provide for a secure room, equipped with motion**  
 29 **activated cameras, barred windows, and tightly controlled, restricted access.**

30 3 General Recount Provisions; Disposal of Ballots. Amend RSA 660:16, I to read as follows:



**HB 1457-FN - AS INTRODUCED**

**- Page 2 -**

1           I. Upon the conclusion of every recount, the secretary of state shall replace the unprotested  
2 ballots and absentee voter envelopes in a suitable container for storage. The secretary of state shall  
3 retain the ballots and the absentee envelopes [~~for at least 60 days~~] ***in accordance with RSA 659:99***  
4 following the recount. Upon an order of the ballot law commission, the secretary of state shall  
5 produce the ballots for the inspection of the commission. Following the commission's inspection, the  
6 secretary of state shall replace the ballots and envelopes, seal them, and certify the contents and the  
7 date when they were examined by the commission. The envelopes and ballots shall be subject to the  
8 order of the body to which such person claims to be elected or of the officers required by law to  
9 examine the records and to issue certificates of election to such office or of any court having  
10 jurisdiction over them.

11           4 Repeal. RSA 659:100, relative to destruction of ballots, is repealed.

12           5 Effective Date. This act shall take effect 60 days after its passage.

**HB 1457-FN- FISCAL NOTE  
 AS INTRODUCED**

AN ACT relative to chain of custody of ballot boxes after an election.

**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	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill requires that ballot boxes be sent to the secretary of state's office by local police, county sheriff, or state troopers for storage within 48 hours of an election and the election materials to be stored in a secured location. This bill also modifies the retention policy for such boxes.

The Department of States indicates part time staff will be required to catalog the boxes and move them to the secure location in a timely manner. In the short term, ballots and associated material could be stored in the state archives which already has secure and restricted access. The Department states the security cameras called for in the bill would have to be added. They also note that at least 2,500 boxes would be generated in each election year, and another 1,000 plus would be generated for a presidential primary. Storing all of the ballots permanently will greatly accelerate the time in which the storage at the Archives will reach capacity. At that point additional, secure storage space will be required.

It is assumed the fiscal impact would not occur until FY 2023.

**AGENCIES CONTACTED:**

Department of State