

LEGISLATIVE COMMITTEE MINUTES

SB79

Bill as Introduced

SB 79-FN - AS INTRODUCED

2021 SESSION

21-1008
11/10

SENATE BILL

79-FN

AN ACT

relative to the authority of the moderator to verify the device count.

SPONSORS:

Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Sen. D'Allesandro, Dist 20;
Rep. Wuelper, Straf. 3; Rep. Porter, Hills. 1

COMMITTEE:

Election Law and Municipal Affairs

ANALYSIS

This bill authorizes a moderator to conduct a verification count of machine-counted ballots.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the authority of the moderator to verify the device count.

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

1 1 New Section; Duty of Moderator to Verify the Device Count. Amend RSA 659 by inserting
2 after section 60 the following new section:

3 659:60-a Authority of Moderator to Verify the Device Count.

4 I. Pursuant to RSA 659:60 and RSA 659:73, it is the duty of the moderator to ensure that
5 votes are accurately counted, not only by hand but also by machine, and to submit the moderator's
6 worksheet to the town or ward clerk within 48 hours of the closing of the polls certifying the
7 accuracy of the count. To fulfill this duty, the moderator may at his or her discretion conduct a
8 verification count of ballots processed in one or more federal or statewide races or constitutional
9 questions by one or more electronic ballot counting devices used in his or her jurisdiction. The
10 verification count shall be conducted publicly in accordance with RSA 659:63 and following the
11 procedures in RSA 659:64 through 659:67 and RSA 659:69.

12 II. After the polls are closed, but before the results are announced in accordance with RSA
13 659:70 and in a time frame consistent with RSA 659:75, if the moderator chooses to conduct a
14 verification count, the moderator shall publicly and randomly select at least one electronic ballot
15 counting device in use for at least 90 percent of the time on election day and in at least one contested
16 federal or statewide election or constitutional question for inclusion in the verification count. If
17 there is only one ballot counting device in use in the district over which the moderator has
18 jurisdiction, that device shall be used. If no device was in use at least 90 percent of the time at the
19 polling place, then combined devices totaling at least 90 percent usage shall be included in the
20 verification count. All ballots tallied by the electronic ballot counting device that is randomly
21 selected for the verification count shall be segregated in a box or boxes provided by the secretary of
22 state.

23 III. The moderator, with his or her assistants and with the aid of the selectmen and clerk, in
24 open meeting, shall visually inspect each ballot counted by the electronic ballot counting device and
25 count the number of votes cast for each candidate for the selected federal or statewide office or
26 constitutional question. The moderator shall then compare the verification vote count with the vote
27 count generated by the electronic ballot counting device.

28 IV. If the moderator finds discrepancies between the electronic ballot count device count and
29 the verification count, the moderator shall announce the results of both the verification count and
30 the electronic ballot counting device count and shall direct the clerk to use the verification count
31 when completing the election return. The clerk shall inform the candidates for the office involved of

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1 the discrepancies identified, and the candidates shall have the opportunity to request a recount
2 under RSA 660. The moderator shall report discrepancies greater than one percent to the secretary
3 of state.

4 V. After the completion of the verification counts, the ballots shall be sealed and transported
5 to the clerk for storage in accordance with RSA 659:95.

6 VI. The secretary of state shall develop a procedure for investigating discrepancies, oversee
7 the investigation of discrepancies reported under paragraph IV, and, if necessary to address the
8 reason for the discrepancy, review the contents of the memory cards used during the vote count for
9 the office or constitutional question. The secretary of state shall determine if changes in the ballot
10 design, the voting instructions, or the electronic ballot counting device programming are needed to
11 remedy the identified discrepancies, and shall publicly report and publish on the department of
12 state's website the results of the investigation and provide a copy of the report to the standing
13 committees of the house and senate with jurisdiction over election law and to the attorney general
14 for consideration of possible legal action. Investigations and reports conducted pursuant to this
15 paragraph shall be completed within 90 days of the election.

16 VI. No person who is disqualified under RSA 658:24 or RSA 659:58 from the handling of
17 marked ballots and the counting of votes shall be eligible to participate in the verification count.

18 2 Effective Date. This act shall take effect 60 days after its passage.

**SB 79-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the authority of the moderator to verify the device count.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Interminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill authorizes a town or ward moderator to conduct a verification count of ballots in those towns using ballot counting devices.

The Department of State indicates this language is inconsistent with the process for conducting recounts pursuant to RSA 660. The Department would be required to investigate and report on voting discrepancies in excess of one percent found by moderators in this process. There are no uniform standards for performing the verification count and the Department cannot predict how many such counts will result in investigations and reports that will need to be performed by the Department. The Department states their expenditures will increase by an indeterminable amount.

The New Hampshire Municipal Association states that if a moderator chooses to conduct such a verification count, there may be expenses incurred for any hourly wages payable to those performing such work. Since this process is voluntary and at the moderator's discretion, any municipal expenditure is also discretionary. There is no impact on municipal revenues.

It is assumed this bill will be effective July 1, 2021.

AGENCIES CONTACTED:

Department of State and New Hampshire Municipal Association

Committee Minutes

SENATE CALENDAR NOTICE

Election Law and Municipal Affairs

Sen James Gray, Chair
Sen Regina Birdsell, Vice Chair
Sen Ruth Ward, Member
Sen Donna Soucy, Member
Sen Rebecca Perkins Kwoka, Member

Date: January 20, 2021

HEARINGS

Monday	01/25/2021	
(Day)	(Date)	
Election Law and Municipal Affairs	REMOTE	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m. SB 79-FN	relative to the authority of the moderator to verify the device count.	
9:15 a.m. SB 54	relative to the procedure used to complete and submit applications for absentee ballots and absentee ballots.	
9:45 a.m. SB 47	modifying the absentee voter registration process, absentee ballot application, and absentee ballot voting process.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/92828968381>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: 16465588656, 92828968381# or 13017158592, 92828968381#
4. Webinar ID: 928 2896 8381
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 79-FN

Sen. Sherman
Rep. Porter

SB 54

Sen. Giuda
Rep. M. Pearson

SB 47

Sen. Soucy
Sen. Whitley
Sen. Rosenwald

Sen. Perkins Kwoka

Sen. Daniels
Rep. Weyler

Sen. D'Allesandro
Sen. Prentiss
Sen. Sherman

Sen. D'Allesandro

Rep. Pearl

Sen. Watters
Sen. Cavanaugh
Rep. Rogers

Rep. Wuelper

Rep. W. MacDonald

Sen. Perkins Kwoka
Sen. Kahn
Rep. Cote

Tricia Melillo 271-3077

James P. Gray
Chairman

Senate Election Law and Municipal Affairs Committee
Tricia Melillo 271-3077

SB 79-FN, relative to the authority of the moderator to verify the device count.

Hearing Date: January 25, 2021

Members of the Committee Present: Senators Gray, Birdsell, Ward, Soucy and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill authorizes a moderator to conduct a verification count of machine-counted ballots.

Sponsors:

Sen. Sherman
Rep. Wuelper

Sen. Perkins Kwoka
Rep. Porter

Sen. D'Allesandro

Who supports the bill: Senator Tom Sherman, Senator Rebecca Perkins Kwoka, Mary Till, Deborah Sumner, Jennifer Stitt, Ken Barnes, Liz Tentarelli, Nicole Fordey, Jan Schmidt, Peter Bixby, James Verschueren, Elizabeth Duck, Jazmin Miranda, Jeannie Cunningham, Craig Lazinsky, Charles Zoeller, June Larkins, Joan Crimlisk, Jeanne Sable, Pamela Kirby, Sally Davis, Judith Corbit, Ellen Belanger, Barbara Glassman, Corinne Dodge, Michelle Sanborn, Marjorie Porter, Phil Hatcher, Carol Knieriem, Kate Coon, Shideko Terai, Olivia Zink, Ann Garland, Beth Hunter, Nancy Watson, Bob Perry, Lori Lerner, Linda Massimilla, John Tuthill, Carol Wyndham, Melanie Levesque, Lynn Garfield, Lorraine Hansen, Joseph Bagshaw, Kurt Wuelper

Who opposes the bill: Daniel Healey, Paul Punturieri, Alvin See, David Scanlan, Deputy Secretary of State

Summary of testimony presented in support:

Senator Tom Sherman

- He brought this bill forward at the request of Mary Till, the town Moderator from Derry.
- The issue of being able to verify Electronic Voting Machines in real time has never been more important in terms of enhancing our confidence in election results.
- Moderators are asked to certify the votes from their jurisdiction without the means to verify the count.
- Currently, they have to put a disclaimer on the certification that states they followed the rules, and this is what the ballot counting machine says.
- This bill will allow the Moderator, without cause, to make sure that the machine is giving a valid result.
- The constitution requires them to certify the vote.
- This will enable the Moderator to be confident it what he/she is certifying because they will have a real time, on site verifiable system.
- This is important because voters depend on the Moderator for the accuracy of the vote and they cannot attest to that accuracy fully without being able to check the machines they are using.
- This bill is the most appropriate way to solve that problem.

Mary Till – Town Moderator, Derry

- This bill goes to the very heart of our democracy, the right for the public voice to be heard, verified, and abided by.
- Concerns about accurate machine vote counting are not unwarranted as the Committee will see in the links she has given in her written testimony.
- Part 2, Article 32 of the NH Constitution can be paraphrased as; for NH Elections the Moderator is charged with ... sorting and counting said votes and making a public declaration thereof and the town or city clerk shall make ... a fair attested copy thereof.
- Various state laws reinforce this constitutional requirement as described in her written testimony.
- “In Open Meeting” she believes, all can agree means in public before an audience of anyone who chooses to witness.
- Watching a machine spit out a tape cannot be construed as a public count or an accurate count.
- By order of the Secretary of State, since 2016, Moderators are not allowed to routinely conduct a verification count of the machine results after the election.
- The SoS believes recounts will serve this purpose, but only two of the hundreds of recounts the state has done only two involved federal races.
- SB 79 restores to local Moderators the authority to publicly verify the machine results, targeting the high level races.
- This bill also supports the language in the NH Constitution.
- It requires the count be done on site by local officials or volunteers after the polls close and before the results are certified.
- Local voters witness the process which avoids chain of custody issues.
- Using an overhead projector, it is possible to count 3000 ballots per hour.
- There is an issue with holding the officials publicly accountable.
- A voter gets to cast a vote for Moderator every two years but never does the voter get to cast a vote for Secretary of State.
- Moderators should be given the authority to do what they were routinely allowed to do before 2016, which is assuring that the votes are accurately counted before certifying the results.
- SB 79 does not require the Moderator to conduct a verification count.
- The cost would be minimal compared to the cost for the Secretary of State to investigate discrepancies.
- Because the cost is for ensuring the integrity of the vote, available HAVA funds cannot be used.
- The Senator we elect in 2022 could control the US Senate, NH does matter.

Senator Melanie Levesque

- The concept of verification counts in post-election audits is a sound one.
- Voting results should be checked and verified even if it is done in a random manner.
- According to NCSL there are 47 states that recognize post-election audits as best practice and use a variety of methods.
- NH is looking at using a high speed machines to audit some locations however the idea of a machine checking a machine is concerning.
- SB79 would give moderators the leeway to conduct verifications. It limits the scope to one machine, one competitive race.
- Her mentor Betty Hall from Brookline was a strong advocate for voting rights, paper ballots and audits.
- Before her retirement she worked with their moderator Peter Webb to conduct a verification audit. The audit was conducted without incident and was considered an acceptable practice.
- At a time when there is so much concern about voter fraud, post-election audits and verification counts are effective ways to verify results and give integrity to the process.
- She urged the Committee to vote OTP on SB79 and undertake the best practices of allowing moderators to conduct audits of elections.

Deborah Sumner

- She has been involved with voting rights since 2008.
- In the NH Constitution, Part 2, Article 32, it states “the moderator’s duty to “sort and count” votes in “open meeting” in the presence of the town clerk, selectmen and “all others who may take an interest in the election and be able and willing to detect and expose any error, and obtain a correction of it immediately, when it can be most easily corrected.
- Members of the public should be part of the process.
- Up until 2016, the Attorney General’s interpretation of the law was that the moderator had the option to oversee hand count checks for races most vulnerable to tampering.
- There was a common sense procedure to do this that many towns followed.
- In 2010, the Jaffrey Moderator was planning to do this, but the Secretary of State did not want him to.
- When asked what they plan to do to make sure there is no fraud in the future, the Jaffrey Select Board stated that was not their job to protect voting rights, votes, or elections because the Secretary of State did not want them to.
- In 2016, the Attorney General’s interpretation changed from Moderators are given significant authority to do this, to Moderators have no statutory authority to do this.
- More than 30 citizens asked for an independent investigation of how the Derry situation was handled.
- She believes there were three violations of law involving the Secretary of State and the Attorney General’s office did not enforce them.
- She believes that the SoS seems to be above the law and Mary Till is a scapegoat showing the system’s failure to protect voting rights, votes, and elections.
- A Moderator told her in 2011 that he does not need to know what the constitution says about elections because the SoS tells them what they need to do.
- This bill will help voters to have trust in their town’s certified results.
- The Lyndeborough Moderator stated, “The most important job in a democracy is to carefully count your neighbors ballots,” and that is what she wants for all NH cities and towns.

Jennifer Stitt

- She is a forty year resident of Windham and has worked in cyber security for 10 years.
- Due to the work that she does, and what she has seen, she is a concerned voter.
- She grew up in a household where the sanctity of the voting process was held in the highest regard.
- Her dad, Wally Fries was the Moderator in the town of Danville for over twenty years.
- He was committed to assuring Granite Staters that their vote would be handled and counted accurately.
- He worked for Raytheon, and in weaponry, in cyber security, and in modern aviation, there are “physical failsafes”.
- These are policies and procedures practiced consistently so employees know what to do when a computer cannot think for them.
- Working in tandem with every artificial intelligent system, hopefully, is a human being that needs to think and act in such a way to ensure the integrity of that critical system.
- This bill will help ensure the accuracy, integrity, and verification of true election results.
- Harry Hursti, an expert on the security of voting machines has stated “Hopefully policy makers will create better policy around the usage of these machines, because they are vulnerable.”
- It is very important to secure the machines to assure accurate results.
- SB 79 will assure accurate elections results, with local control given to the Moderator.
- Uniting around this bill is easy, it is a nonpartisan issue, it gives local control to each town and city, it will uphold the sanctity of every citizen’s vote and it spends no taxpayer money.

Ken Barnes

- He is concerned about the accuracy of the machines after going online and watching videos of Harry Hursti easily hacking into voting machines and changing votes.
- It is chilling for him to know that in just a few minutes, his vote could be changed by a hacker.
- It makes him wonder if his part in democracy is working.
- Everyone has heard how hackers can break into the pentagon, it is reasonable to think that our voting machines are even more vulnerable.
- Allowing the moderator to check the counts will deter hackers.

Senator Bob Giuda

- There was a six percent disparity between the counts at a recent Windham election.
- A request for an investigation into that was denied.
- To ignore an error of that magnitude is huge in a smaller town.
- He would encourage the committee to consider an amendment that requires the Secretary of State and Attorney General to investigate disparities of a certain size.
- He has had more calls on this than any other issue since being an elected official.

Mary Till

- Dan Healey mentioned that the public can request a recount and that is not true.
- She agrees that the re-count does not have to be done that night but needs to be done before a winner is certified.
- It is not always clear that there is a problem. To only do a verification when the Moderator has reason to believe something is wrong would not be best practice.
- There could be a standard procedure created for all municipalities to use if SB79 is passed.

Summary of testimony presented in opposition:

Daniel Healey – Town Clerk, Derry

- He is opposed to the bill as written.
- After an election anyone from the public can request a recount if they do not trust that the count is accurate from the machines.
- They have had 3 recounts, and nothing was found that would have changed the results.
- His suggestion would be to audit the machines after the election.
- It can be done one month or three months later.
- They have to store the ballots for 22 months and at any time they can verify the count.
- There is a cost associated with this. They would have to hire more people to complete this process.
- When towns set up their budget they do not know if the Moderator is going to do a recount.
- The other issue he sees with this bill is time. In 2016, they finished the count at 2 in the morning and this last election at 11 pm.
- It will be much later if the moderator does a recount the same night.

David Scanlan – Deputy Secretary of State

- This bill is not new to the legislative process, it has been here for several years.
- Right along they have had a fundamental disagreement about the interpretation of the Constitution with those that have made accusations against their office.
- They have never given the authority to Moderators to simply to a recount because they want to.
- They recognize that the Moderator has to certify the count and if they have a reason to believe something has occurred and the count is in doubt, they can absolutely do a recount.

Speakers

Senate Remote Testify

Election Law and Municipal Affairs Committee Testify List for Bill SB79 on 2021-

Name	Email Address	Phone	Title	Representing	Position	Testifying
Till, Mary	mit145@comcast.net	603.203.1961	A Member of the Public	Myself	Support	Yes
Sumner, Deborah	dsunner@myfairpoint.net	5328010	A Member of the Public	Voters	Support	Yes
Stitt, Jennifer	jennifer.stitt@comcast.net	603.785.6618	A Member of the Public	Myself	Support	Yes
Barnes, Ken	kbarnes@kenbarneslaw.com	603.496.9605	A Member of the Public	Myself	Support	Yes
Perkins Kwoka, Senator Rebecca	rebecca.perkinskwoka@leg.state.nh.us	603.271.2104	An Elected Official	Myself (SD 21)	Support	No
Tentarelli, Liz	LWV@kenliz.net	603.763.9296	A Member of the Public	Myself	Support	No
Fordey, Nicole	nikkif610@gmail.com	516.318.2296	A Member of the Public	Myself	Support	No
Schmidt, Jan	tesha4@gmail.com	603.880.6060	An Elected Official	Ward 1 Nashua	Support	No
Bixby, Peter	peter.bixby@leg.state.nh.us	603.749.5659	An Elected Official	Myself	Support	No
Verschueren, James	jd.verschueren@gmail.com	603.978.0398	A Member of the Public	Myself	Support	No
Duck, Elizabeth	clizabcthduck@comcast.net	603.365.5441	A Member of the Public	Myself	Support	No
Miranda, Jazmin	jazmiranda2@gmail.com	603.674.5299	A Member of the Public	Myself	Support	No
Cunningham, Jeannie	nhjeannie@comcast.net	603.437.0737	A Member of the Public	Myself	Support	No
Lazinsky, Craig	craiglazinsky@comcast.net	603.434.1186	A Member of the Public	Myself	Support	No
Zoeller, Charles	caz3328@comcast.net	603.437.1824	A Member of the Public	Myself	Support	No
Larkins, June	larkins.june@gmail.com	603.315.6238	A Member of the Public	Myself	Support	No
Crimlisk, Joan	joan_cri99@comcast.net	603.553.1559	An Elected Official	Myself	Support	No
Sable, Jeanne	jeannesable@gmail.com	603.585.3448	A Member of the Public	Myself	Support	No
Sherman, Senator Tom	jennifer.horgan@leg.state.nh.us	2717875	An Elected Official	SD 24	Support	Yes
Kirby, Pamela	pkirby1@comcast.net	603.434.7963	A Member of the Public	Myself	Support	No
Davis, Sally	sally.davis36@gmail.com	603.726.3775	A Member of the Public	Myself	Support	No
Corbit, Judith	jcorbit@comcast.net	603.497.3963	A Member of the Public	Myself	Support	No
Belanger, Ellen	ellenleebelanger@aol.com	603.623.0405	A Member of the Public	Myself	Support	No
Glassman, Barbara	barbara.glassman@gmail.com	215.378.5356	A Member of the Public	Myself	Support	No
Dodge, Corinne	corinnedodge@hotmail.com	603.432.5759	A Member of the Public	Myself	Support	No
Sanborn, Michelle	nhcrn.michelle@gmail.com	603.387.7996	A Member of the Public	Myself and NH Community Rights Network (NHCRN)	Support	No
Porter, Marjorie	maporter995@gmail.com	603.464.0225	An Elected Official	Hillsborough District 1	Support	No
Hatcher, Phil	phil.hatcher@gmail.com	603.988.8034	A Member of the Public	Myself	Support	No
knieriem, carol	cjknier@gmail.com	603.623.1083	A Member of the Public	Myself	Support	No
Coon, Kate	kate2coon@gmail.com	339.793.0686	A Member of the Public	Myself	Support	No
HEALEY, DANIEL	DANIELHEALEY@DERRYNH.ORG	603.432.6105	An Elected Official	DERRY TOWN CLERK	Oppose	Yes
Kate, Coon	kate2coon@gmail.com	339.793.0686	A Member of the Public	Myself	Support	No
Terai, Shideko	mary.n.boyle@gmail.com	603.252.7898	A Member of the Public	Myself	Support	No
Zink, Olivia	olivia@opendemocracy.me	603.661.8621	A Lobbyist	Open Democracy Action	Support	No
Garland, Ann	annhgarland@gmail.com	603.678.8143	A Member of the Public	Myself	Support	No
Hunter, beth	beth.hunter2@comcast.net	603.505.0702	A Member of the Public	Myself	Support	No
Watson, Nancy	bigairhunt@aol.com	603.651.0279	A Member of the Public	Myself	Support	No
PUNTIURIERI, PAUL	ppunturicri@yahoo.com	603.455.3023	An Elected Official	Myself	Oppose	No
Perry, Bob	perry4nh@gmail.com	603.269.4651	A Member of the Public	Myself	Support	No
See, Alvin	absee@4Liberty.net	7380656	A Member of the Public	Myself	Oppose	No
Lerner, Lori	llerner01@comcast.net	781.389.1561	A Member of the Public	Myself	Support	No
Massimilla, Linda	balloontraveler@yahoo.com	603.545.2101	An Elected Official	Myself	Support	No
Tuthill, John	jtuthill@sover.net	603.863.6366	A Member of the Public	Myself	Support	No
Wyndham, carol	carolwyndham@yahoo.com	603.924.3037	A Member of the Public	Myself	Support	No
Levesque, Melanie	mlevesque1@charter.net	603.930.9951	A Member of the Public	Myself	Support	Yes
GARFIELD, LYNN	lynnngarfield17@gmail.com	603.252.0817	A Member of the Public	Myself	Support	No
Hansen, Lorraine	lhansennh@gmail.com	603.742.9402	A Member of the Public	Myself	Support	No

1/25/2021

Senate Remote Testify

Bagshaw, Joseph	bagshaw.joseph@gmail.com	603.447.2697	A Member of the Public	Myself	Support	No
Wuelper, Kurt	kurt.wuelper@leg.state.nh.us	603.970.0783	An Elected Official	Stafford 3	Support	No

Testimony

Tricia Melillo

From: Barbara Glassman <barbara.glassman@gmail.com>
Sent: Sunday, January 24, 2021 10:38 AM
To: Tricia Melillo
Subject: In support of SB 79, An act relative to the authority of the moderator to verify the device count.
Attachments: LWVUS_Report_ElectionAudits.pdf

January 24, 2021

To the Honorable Members of the Senate Election Law and Municipal Affairs Committee:

I write in support of SB 79, An act relative to the authority of the moderator to verify the device count.

There has never been a time when public confidence in our elections and our government is lower than it is now across a wide swath of the citizenry. Greater transparency is an essential step toward winning back trust and healing divisions. Over the years this committee has heard overwhelming evidence in favor of a verification count at the polls on election night. It's time to take this small step toward restoring belief in the integrity of our elections.

Doubt cannot simply be discounted as baseless conspiracy theory. Secretary Gardner brought three renowned election security experts to testify before the Kobach commission at its meeting in Manchester in 2017 (starting at 2:30 in the afternoon session: https://youtu.be/XkPJbbKPJ_w?t=7381). Andrew Appel of Princeton, Ron Rivest of MIT, and Harri Hursti were unanimous: it is impossible to be certain that machine counts are accurate without a significant level of verification by hand count. They recommend manual risk-limiting audits.

As you know, these concerns are not new. The SoS's Electronic Ballot Counting Device Advisory Committee recommended routine random audits in 2009, as did the national League of Women Voters (pdf attached).

This bill's time has come. Please recommend its passage.

Thank you very much for your attention.

Sincerely,

Barbara Glassman
50 Barrington Ave., Unit 504
Nashua, NH 03062
barbara.glassman@gmail.com
215-378-5356, 603-888-4049

Tricia Melillo

From: Corinne Dodge <corinnedodge@hotmail.com>
Sent: Sunday, January 24, 2021 11:55 AM
To: tricia.melillo@leg.state.nh.us.
Subject: SB 79

Election Law Committee members

I am a voter from Derry, NH and would like to give written testimony in support of SB 79 which allows moderators to conduct a verification count of machine-counted ballots. I served as a poll worker a number of years ago to help my town moderator do such a verification count after an election. As I participated and worked on a hand-count of votes, I saw how precise, consistent, and transparent the established protocol of verification was followed every step of the way.

With the numerous allegations of voter fraud recently seen in the 2020 election, along with legitimate concerns for the consistent accuracy of older voter-counter technical systems, it would seem to be almost negligent NOT to verify the vote counts automatically after each election. For this reason I strongly urge you to strongly support SB 79. This bill is not only nonpartisan, but the process of verifying machine-counted ballots strongly supports the will of the voters.

Thank you for your time. Please support SB 79.

Corinne Dodge , Derry, NH

Tricia Melillo

From: Alvin <absee@4liberty.net>
Sent: Sunday, January 24, 2021 9:33 PM
To: Tricia Melillo
Subject: [CAUTION: SUSPECT SENDER] SB-79 Election Law

From: Alvin See
Loudon, NH 03307
603-738-0656
absee@4Liberty.net

Regarding SB-79

I am opposed to this bill but I do like the intent of the bill to have the Moderator, at his option, do a device count verification.

I would prefer to have more recounts done in the normal recount process as supervised by the Secretary of State. This process should include random recounts even if not requested by candidates, especially for federal or statewide races or constitutional questions as identified in the bill on page 1, lines 8, 16 & 24. These extra recounts need to be done before the votes are certified. This may differ from other bills regarding auditing ballot counts.

Thank you,
Alvin See

Sent from Mail for Windows 10

From: Alvin See
Sent: Sunday, January 24, 2021 9:33 PM
To: Tricia Melillo
Subject: [CAUTION: SUSPECT SENDER] SB-79 Election Law

Tricia Melillo

From: Charlie <ceicher3339@myfairpoint.net>
Sent: Monday, January 25, 2021 8:41 AM
To: Kevin Avard
Cc: Tricia Melillo; John Hunt; Jim Q3; Lori Raupiola; Lauralei Knight; Bob Hamilton; Roberta Oeser; Karl Pruter
Subject: SB 79-FN

Hello Kevin,

I am writing in regard SB 79-FN. From an integrity of election this bill makes no sense.

- 1) Prior to any election our Accuvote machine is tested by the Town Clerk. 50 test ballots are randomly marked for all offices. It includes marking overvotes and undervotes for offices as well as marking the individual candidates. The test ballots are then hand counted to ensure that the machine count is accurate. The Accuvote machine is sealed with tamper proof seals. It is kept locked up and secured by Town Clerk until the election.
- 2) Two election officials transport the Accuvote machine to the polling place. The Moderator inspects the seals. The Town Clerk powers up the machine and prints a "zero report". The machine is then ready for use. During state and federal elections an Asst. Attorney General inspects the seals, the log which documents all of the above and the test ballots. When polls close, the Moderator and Town Clerk run a vote total tape from the machine and the Moderator announces the result.
- 3) After the election the Town Clerk takes custody of the Accuvote machine and with another election official transports the machine back to the Clerk's office where it is kept sealed and secure. At no time is the Accuvote machine ever connected to anything except a power cable. Hacking is impossible while the machine is in our possession!
- 4) This bill makes "verification" an option, but is really a backdoor to a "verification" requirement. It puts the onus on the Moderator to justify a decision not to "verify". The only way to justify the decision not to "verify" is to actually "verify" to show that "verification" is unnecessary. It's a Catch 22! The Moderator will have to "verify", adding significant work and delaying announcement of results.

Please do not support this bill. It is unnecessary and places significant extra burden on an already extremely burdensome process.

Thank you for your continued good work.

Sincerely,
Charlie Eicher
Moderator
Town of Rindge

Tricia Melillo

From: Deborah Sumner <dsumner@myfairpoint.net>
Sent: Monday, January 25, 2021 10:03 AM
To: James Gray; Rebecca Perkins Kwoka; Regina Birdsell; Ruth Ward; Donna Soucy; Tricia Melillo
Cc: Tom Sherman; melanie Levesque; Bob Giuda; daniel Healey
Subject: Fwd: Request for Investigation, high overvoted ballot rate in Derry/absentee ballots statewide /SB 79 testimony this AM
Attachments: Gen Elec Overvotes - Derry.xlsx

Dear ELC Committee,

Re: SB 79. I didn't know how to raise my hand until it was too late. Following up on Sen. Guida's point re: no AG investigation of Windham recount discrepancy.

This is another request to investigate a high number of "over voted ballots" in Derry that seemed to significantly affect absentee ballots. The AG has taken no action on.

Just FYI.

Thank you.

Deborah Sumner

Begin forwarded message:

From: Deborah Sumner <dsumner@myfairpoint.net>
Subject: Request for Investigation, high overvoted ballot rate in Derry/absentee ballots statewide
Date: December 3, 2020 at 9:48:17 AM EST
To: Gordon.MacDonald@doj.nh.gov
Cc: "Edwards, Anne" <Anne.Edwards@doj.nh.gov>, Jane.Young@doj.nh.gov, "ChongYen, Nicholas" <Nicholas.ChongYen@doj.nh.gov>, [barbara Glassman <barbara.glassman@gmail.com>](mailto:barbara.glassman@gmail.com), [Gerhard Bedding <gerhard129@mail.com>](mailto:Gerhard.Bedding@gerhard129@mail.com)

December 2, 2020 (sent by regular mail, emailed Dec. 3)

Gordon J. MacDonald, Attorney General
NH Department of Justice
33 Capitol St.
Concord, NH 03301

Re: Request for Investigation, high overvoted ballot rate in Derry/absentee ballots statewide

Dear Mr. MacDonald,

1) We ask you to use your authority under RSA 656:42 IV to investigate an alarmingly high overvoted ballot rate in Derry for the November 2020 election. Derry reported a total of 6,428 absentee ballots of 18,100 ballots cast. Some would be overseas ballots and others tallied by hand.

Enclosed is information from the eight computers used. Computer one tabulated ONLY absentee ballots (572 over voted ballots, 14.2%); other absentee ballots were counted by other computers, with a 4.7% overvoted ballot rate when totals are combined (848 ballots). Computer 5 also showed a high overvoted ballot rate, 5.8%.

You should be able to confirm the numbers with the town clerk.

In November 2018, Derry mostly tallied its absentee ballots on one computer, with an estimated 5% overvoted ballot rate for that computer.

2) Are absentee ballots statewide showing a significantly higher voter disenfranchisement rate than election-day ballots?

3) If so, why? What are your recommendations for decreasing these numbers?

As we told you in September 2017, folds in absentee ballots may be misread as overvotes, there are many instances of computers misreading valid votes as overvotes and there are fraud possibilities. One can be targeted to absentee ballots where the voter's party affiliation is known.

Since then, we have been doing some checks of overvoted ballots in various towns, but prior to this discovery, the highest was 2.5% in Jaffrey in the Nov. 2012 election.

NH doesn't require reporting of overvotes and neither law nor the SoS requires local officials to print that information for the general election. (Only 2 of Nashua's 9 wards had the requested overvote information available, 143 overvoted ballots of 10,702, 1.3%). It is impossible to know why or how many NH voters are being disenfranchised compared with other states or if certain races are impacted more.

Both Vermont and Massachusetts program their computers to notify election-day voters of a computer-read overvote or completely blank ballot so they can choose to request a replacement ballot and have their votes counted. NH doesn't.

VT reports overvotes for each contest and each locality, as you can see here.

<https://sos.vermont.gov/media/heqnbco5/generalofficialresults.pdf>

Overvote rate for President on election night was 278 of 370,968 ballots cast, .075%.

MA has recently completed its 3% post-election audit and found a total of 7 overvotes for all races counted on election night (100,349 ballots/over vote rate of .007%). Additional overvotes found in the audit (68 total for ALL races) were mostly attributed to 73 ballots not counted on election night.

<https://www.sec.state.ma.us/ele/elepostelection/postelectionidx.htm>

<https://www.sec.state.ma.us/ele/elepostelection/2020-Audit-Report-Narrative.pdf>

In NH, we are finding overvoted ballot rates almost always exceed 1%. Ballots may contain more than one error, thus disenfranchising voters for more than a single contest.

All three states had more absentee ballots this past election, but we see significant overvote voter disenfranchisement only in NH.

We ask that any review of Derry ballots be a transparent, public process and that your findings include recommendations to policy makers, election officials and or the Ballot Law Commission, which makes rules for the use of computers in NH. RSA 659:64 requires that NH enfranchises as many voters as possible. *Appeal of McDonough*, 149 N.H.105, 112 (2003).

Thank you. Please let us know if you have any questions.

Sincerely,

Deborah Sumner Barbara Glassman
Gerhard Bedding
474A Great Rd. 50 Barrington Ave.
25 Ivy Drive #43
Jaffrey, NH 03452 Unit 504
Keene, NH 03431
803-532-8010 Nashua, NH 03062-4224 gerhard129@gmail.com
barbara.glassman@gmail.com

Copies: Derry Town Moderator, Ballot Law Commission, ACLU-NH, DOJ attorneys-Anne Edwards, Jane Young, Nicholas Chong Yen

Testimony in Support of SB 79, Jan. 25, 2021

To Honorable Members of the Senate Election and Municipal Affairs Committee,

I am Deborah Sumner, a former teacher, reporter and editor and have been involved with voting rights since 2008. I submit testimony in support of voters in the case "Voters v. State of NH."

Basis of Argument:

NH CONST. pt. 1, art. 8 (transparency/ public accountability), art. 11 (equal right for voters to have votes counted as cast, candidates to be elected), pt. 2, art. 32: moderator duty to "sort and count" votes in "open meeting" in the presence of the town clerk, selectmen and "all others who may take an interest in the election, **and be able and willing to detect and expose any error, and obtain a correction of it immediately, when it can be most easily corrected.**" *Opinion of the Justices*, 53 N.H. 640, 1873

Hand count Verification of Computer Count:

Current law, recommendation from 2009 state advisory committee (moderator option to oversee hand count checks for races most vulnerable to tampering), AG interpretation of law until Sept. 2016 all said moderators could do this.

See examples below from Brookline, 2010, and Danville Moderator Wally Fries' "common sense" procedure that other towns followed.

Short version of Jaffrey story: moderator was planning to do this in Nov. 2010, the SoS didn't want him to. Long version is copied at the end.

Summary: I asked "**What does the Jaffrey Select Board plan to do to make sure there is no fraud in future elections?**" Their answer: not their job to protect voting rights, votes or elections because the Secretary of State didn't want them to.

In September 2016, SoS and AG interpretation of law inexplicably changed from "**Moderators are given significant authority to determine what procedures at their polling place are necessary to ensure an accurate count**" to moderators "**have no statutory authority**" to do so. Derry moderator Mary Till could "take it to court" or the legislature, which she is doing for the fourth time.

Since it will probably come up in the state's argument, you should know that more than 30 citizens asked for an independent investigation of how the Derry situation was handled. We found that facts and the law didn't matter in the alleged "finding of the Attorney General."

Ask Assistant AG Chong Yen about three violations of law involving the Secretary of State reported to that office and why those laws haven't been enforced. My finding: the Secretary of State is "above the law" and Mary Till is a scapegoat showing the system's failure to protect our voting rights, votes and elections. Her model of integrity, beaten down over and over again and still standing up for voters has earned our admiration, respect and trust. The legislature should follow her lead IF you want us and those outside NH to trust reported results.

The Problem: As a moderator and attorney told me in 2011, “I don’t need to know what the laws say. I do what the Secretary of State tells me to do.”

Since 2010 I have learned our constitution and laws that protect voting rights don’t matter. Our votes and voters don’t matter.

Remedy: Following spirit and intent of election laws consistent with NH CONST. Election transparency=trust in elections=trust in government.

It is the community’s duty to ensure our election results are as accurate as possible on election night. SB 79 restores the recognized authority moderators had before Oct. 2016 and allows those who want voters and candidates to trust their town/ward’s reported results to fulfill their constitutional duty.

Please vote for us voters and support this bill.

“The most important job in a democracy is to carefully count your neighbors’ ballots,” says Walter Holland, Lyndeborough moderator. That’s what I want for all NH towns and cities.

I rest my case.

Respectfully,
Deborah Sumner
474A Great Rd.
Jaffrey, NH 03452
603-532-8010

Parallel Hand Counts—Example of New Hampshire Common Sense

Former Danville moderator Wally Fries always oversaw hand counting of 1-3 contests/ballot questions on election night to ensure an accurate computer count.

Why:

1. had worked with computers for years and knew there could be breakdowns and their reliability needed to be checked. As a member of several state advisory groups he also knew the pre-election ballot testing wasn’t enough. The hand count check made it more likely any error would be detected and accurate results would be reported to Concord (as NH Constitution and state law require).

2. knew there had been reported instances of tampering and wanted to discourage any possibility of that happening in his town’s elections.

3. wanted the public to have confidence in his town’s election results.

How:

1. Selective sampling—he chose contests based on a) expected closeness b) vulnerability to tampering c) importance. (For example, he would hand count just the competitive races in Presidential Primaries. and reconcile the “other” piles with total

ballots cast and number of voters.) UNH statistician confirmed the validity of this kind of sampling.

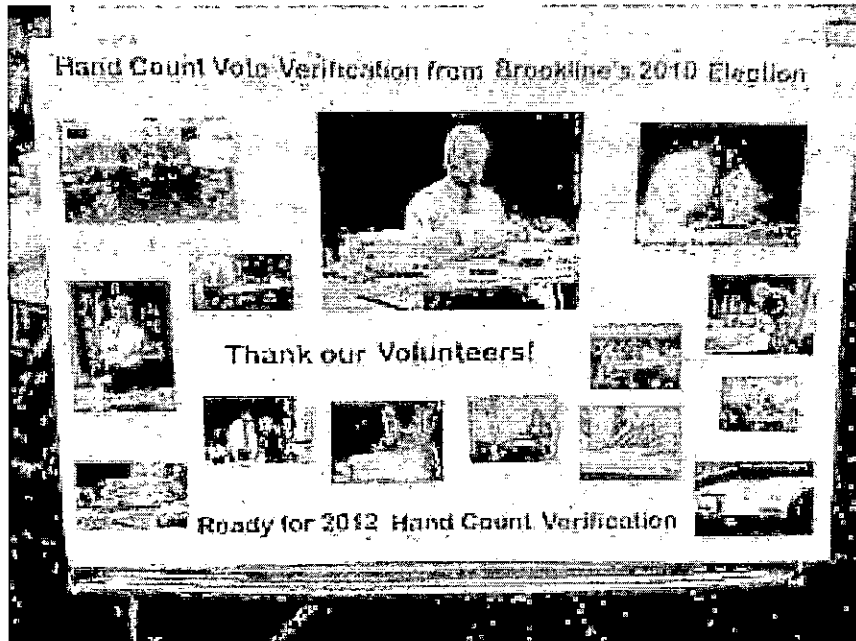
2. Double count hand count using "sort and stack method." (Election officials sort into piles, first counter cross stacks 25 ballots at a time, second counter verifies count or team determines voter intent, reconciles discrepancy). Public could observe.

3. Verified hand count checked with computer total. Reconcile any differences.

If Wally believed three races might be close, he'd check all three. Recounts cost money, he reasoned and at least candidates would know that one jurisdiction had an accurate count.

Cost: No additional cost for town or state

Brookline Verification Count, November 2010



2010-2013 Chronology of Events Re: Possible Election Fraud in Nov. 2010 Election

April 16, 2013 (Updated May 4, 2013 and October 5, 2015 for discussion with Select Board on Oct. 26, 2015)

2010

April 5— Three Jaffrey citizens (members of town Democratic Committee) met with town moderator and town clerk, with request for November parallel hand count of key race. Moderator agreed, if it was okay with town Republican committee.

Before September 14—chair of Jaffrey Republican committee gave go-ahead for parallel hand count. Moderator confirmed he would do it.

Prior to Oct. 25 – Secretary of State’s Office contacted Jaffrey Town Clerk and told her this was a “recount” and illegal. Moderator checked with the Attorney General’s office, verified it was legal and planned to go ahead.

Oct. 27– Peterborough moderator responds to me (**sent 2:46 pm**) with copies to the Peterborough Town Clerk, administrator and Jaffrey and Rindge moderators. After talking with Bill Gardner, he decided not to do a parallel hand count as requested by more than 100 Peterborough citizens.

Deputy Secretary of State David Scanlan (**sent 3:27**) communicates with town clerks in Jaffrey, Rindge, Peterborough and Swanzey with copies to Bud Fitch and Matthew Mavrogeorge at DOJ. At this time, ONLY the Jaffrey moderator was planning to conduct a hand count check. (See Exhibit A, below)

Oct. 29— About 4:30 p.m., Jaffrey moderator calls to say he's rethinking his decision.

Nov. 1– I forward this info to Jaffrey, Peterborough, and Rindge Town Clerks and Moderators

Here's some information in response to David Scanlan's memo of Oct. 27 (Ex.A).

Wally Fries was a member of the electronic voting advisory group, who conducted parallel hand counts for each election.

I'm willing to speak with any moderator or town clerk that wants to give me a call. There is no good reason for the resistance to parallel hand counts either legally or procedurally (including time and cost because it takes very little time to count a single race even with a couple of thousand plus ballots on the table). Neither Scanlan or Gardner has ever expressed any opposition to the parallel count procedure. I have always stressed the importance of public confidence in the process and suspect most moderators would share that sentiment upon careful reflection. On Monday I will be in a meeting until late in the day but leave me a message at ----- and I will return the call. The SoS and DS words of guidance may, as a result of the cautious tone of there phrasing, be misinterpreted by those moderators offering resistance. The resistance can come about for other reasons as well, viz., afraid of the work associated with something unfamiliar or as a reaction to the strident tone or not knowing how to say no to accepting someone as a counter whose independence they hold in question, etc.

Wally

Nov. 2 - Assistant Attorney General Matthew Mavrogeorge responds by email to my request to confirm “election night hand counts are legal for any polling place, including those that have vote counting machines.”

He wrote, “Moderators are given significant authority to determine what procedures at their polling place are necessary to ensure an accurate count.”

Nov. 6– Communication with Jaffrey Select Board (Ex. B), saying, that since the Oct. 27 communication from David Scanlan (Ex. A) was page 2 and the email address for the Town Clerk was wrong, “I’m guessing David Scanlan sent a bcc to someone who gave it to Maria. You might want to check on who that someone was.”

Nov. 15 – Requested election information from the Jaffrey Town Clerk, including the moderator’s worksheet. She told me that was required for the primary election, not the general election. Copies of the information she gave me didn’t include the number of people checked in on the checklist (and ballot inventory information, among other items), as required by law (RSA 659:73).

Nov. 19 – Learned that moderators in Brookline and Hollis had done a parallel hand count of the Executive Council race (they selected the race) on request from a citizen, who was also a candidate for office. This individual reported full support from the Secretary of State in making the request and documenting the process. The Brookline moderator had done this previously at her request.

Nov. 30 – Shared the following information with Jaffrey moderator, from 2006 Princeton report which identified the two major attacks problematic with Diebold technology, vote stealing and denial of service. Same info was shared with Select Board in May, 2011.

“To avoid detection a vote-stealing attack must transfer votes from one candidate to another, leaving the total number of votes unchanged so that poll workers do not notice any discrepancy in the number of votes reported. Attacks that only add votes would be detected when poll workers compared the total vote count to the number of voters who checked in at the front desk,” the report says.

Dec. 17— email to Attorney General Michael Delaney (followed up sending by certified mail) and copies to legislative leaders, my representatives and some citizens, requesting investigation of three possible violations of law regarding Nov. 2, 2010 election, including RSA 659:73. Two were in other towns. (No investigation was conducted.)

2011

May 31 – after talking with attorneys at both the USDOJ (voting rights division) and EAC to see if they could help (both said elections are state concern and if laws aren’t being followed, I should hire a lawyer), contacted the Ballot Law Commission to report AG’s failure to investigate what appeared to be clear violation of two election laws, maybe three. No response.

Nov. 10 – Contacted Attorney General Michael Delaney to ask if reporting requirements of RSA 659:73 and rules outlined in RSA 656:42 would be followed and enforced for the Jan. 2012 Presidential Primary. No response.

Nov. 18— Met with Jaffrey and Rindge moderators, Jeanne LaBrie, Frank Sterling and Susan Emerson. Rep. Emerson later met with Bill Gardner and David Scanlan. Reporting requirements have been followed in past elections.

2012

May 14 – Contacted Secretary of State William Gardner requesting his support to review ballots from the Nov. 2010 election in Jaffrey because of the irregularities and inappropriate interference and misinformation from David Scanlan.

May 17– Denial of request was signed by an assistant SOS. The State has never confirmed that William Gardner has seen or responded to the request.

August 20 – Filed Right to Know Petition in Cheshire Superior Court to review ballots for the Nov. 2010 election in Jaffrey.

August 22– Left copy of petition with Jaffrey Select Board with request it be shared with Town Clerk and Moderator.

August 27– Called Town Clerk to make sure ballots were still available. She checked the vault, said they weren't there but were probably in storage away from Town Hall and she would check by the end of the week.

August 30 – Left a copy of RSA 91 A:9 with Select Board and Town Clerk, which states it's illegal to destroy public records involved in a legal action.

Sept. 2 – Sent email to Jaffrey Select Board members, with copy to Town Clerk, saying I would bring a copy of the email and court's order on Sept. 4 and "Please confirm that the ballots are still available." No response.

Sept. 4 – Town Clerk told me they weren't available, probably since spring when she had cleaned out the storage unit. Couldn't tell me exactly when she had destroyed them.

Sept. 6 – Asked in Court filing, to whom did Mr. Scanlan send a copy of the Oct. 27 communication and "After May 14, did Mr. Scanlan or anyone else in the Secretary of State's Office communicate to the Jaffrey Town Clerk and suggest she destroy the ballots from the Nov. 2010 election? And "Did Mr. Scanlan know, prior to the Petition being filed on Aug. 20, that the Jaffrey ballots for the Nov. 2, 2010 election had already been destroyed?"

Oct. 3 – Asked for Attorney General investigation of destruction of ballots prior to 22 months retention required by federal law, including questions asked above.

2013

Feb. 21, 2013 – Received third anonymous message. This one said, "Please stop harassing Jaffrey officials....We think you are nuts!" Ex. C

Feb. 28, 2013 – The AG investigation didn't ask the above questions. The Town Clerk told the investigator she knew the Nov. 2010 ballots were in the vault when she cleaned it out between April and June 2012, but believed they were for state elections that needed to be retained for 60 days. After she had disposed of them, she "learned from the Secretary of State's Office that the November 2010 election was a federal election" and needed to be retained until Sept. 2, 2012.

Summary: Hand count checks of the computer are legal, constitutional, recommended by experts as a "best practice" and a deterrent to fraud. In November 2010, the

Secretary of State inappropriately interfered in what should have been a local decision. He, and it appears someone else (who sent the Town Clerk the Oct. 27 communication from David Scanlan (Ex. A), didn't want the Jaffrey moderator to hand count one of the federal races chosen at random. The SOS had no objection to two other moderators conducting a hand count of an Executive Council race.

Did the SOS (and this unknown individual) have reason to believe the hand and computer count for one or both federal races would be substantially different in Jaffrey?

Who sent the Oct. 27, 2010 (Ex. A) communication to the Town Clerk?

Conclusion: The Jaffrey Select Board has a legal and ethical responsibility to prevent fraud in all aspects of government, including our elections. Did fraud occur in November 2010? We can't know.

Could it have occurred? Yes. It also could have occurred in **ANY** past election because there is nothing in place, no internal controls, to prevent it.

What does the Jaffrey Select Board plan to do to make sure there is no fraud in future elections?

Update May 4, 2013

March 15—Legal Memorandum re: Town Meeting Warrant Art. 30 sent to Moderator and Town Manager from Town Counsel (given as advice to Town Meeting on March 16).

Says: NH Bal. R. 606.5 "does not provide any legal discretion to the Town Moderator to conduct an optional hand-count of the vote."

March 17 – Letter to Select Board, copy to moderator and town counsel, asking what law the attorney was citing and whether he received advice from either the Attorney General or Secretary of State's Office, also that I was willing to work with them in presenting a warrant article for 2014. No response. (See March 15 entry above for Ballot Commission rule he was citing.)

March 18—Letter to Ballot Law Commission Chair and Attorney General, asking the BLC clarify the law re: moderators conducting hand counts as check and balance on computer count and the AG to "inform the Jaffrey Select Board that this article should be presented again in March 2014 ...,with the correct legal interpretation presented." Copy to state reps.

March 28—Response from Assistant AG Stephen LaBonte saying, "...this office is unable to assist with your request."

March 29—Left message for Town Counsel, asking him if he received advice from the SoS or AG and what law he was citing as basis of his recommendation that the meeting vote against Article 30 because it "violated state regulations." No response.

April 1—Letter to Select Board, copy to moderator re: no response to March 17 question and public records request.

April 17—Met with Town Manager, left him with above chronology (prior to May 4 update and questions 1 and 3 (See April 17 communication above). He assured me the Select Board would receive the information and decide whether to respond. He gave me some of the public records requested (see note in Update: April 17: above.) The following were not available:

1. Copy of Oct. 27, 2010 communication between Town Clerk and Secretary of State.
2. Communications between April and June 2012 between the Town, its employees and Secretary of State re: Nov. 2010 election ballots.
3. Copy of Select Board Meeting Minutes when Town Meeting 2013 Article 30 was discussed. (Note: was not discussed in public session.)
4. Copy of any written communications with the Attorney General or Secretary of State's Office re: Article 30 for the Jaffrey Town Meeting (or, other than the memorandum of law supplied, any other written communication between the town and town counsel on this question).

April 21—Follow up email with Ballot Law Committee chair, with copies to state representatives and former Danville Moderator Wally Fries.

I wrote: "Before the Nov. 2010 election, the Attorney General twice confirmed that hand count checks of the computer count are allowed under state law. The town moderator received that information by phone and I received it by email from Assistant Attorney General Matthew Mavrogeorge, who wrote Nov. 1, 2010: **"Moderators are given significant authority to determine what procedures at their polling places are necessary to ensure an accurate count."**

Phone conversation with Wally Fries, who believes he established the legal precedent of hand count checks as a "trust but verify" internal control many years ago. He believes many moderators have done and are doing this now.

April 22—BLC chair responds, saying, "appeals from interpretations of law rendered by the Attorney General are not in our jurisdiction" and that I should check with the Attorney General.

As of Oct. 5, 2015, there has been no response from the Jaffrey Select Board to the following request and question (posed at the end of the April 16, 2013 chronology):

1. That the Jaffrey Select Board publicly correct misinformation given to March 16, 2013 Town Meeting re: Article 30

What does the Jaffrey Select Board plan to do to make sure there is no fraud in future elections?

Ex. A

Note: Copied from original; Swanzey email address incorrect and would have bounced, Jaffrey's was sent to the town clerk @townofjffrey.com (sic) and also would have bounced.

October 27, 2010, 3:27 pm

To: Town Clerks in Peterborough, Rindge, Jaffrey and Swanzey
Copies: bud.fitch@doj.nh.gov, Mavrogeorge, Matthew
Subject: Requests to have moderators hand count ballots

Dear Town Clerk:

Within the last few days, we have been fielding inquiries from local election officials about citizens and interest groups requesting the moderator conduct a hand count of ballots after they have been counted by an electronic ballot counting device. Our thoughts on this matter follows. Please share with other election officials in your town.

There is no provision in state law that provides a mechanism requiring moderators to conduct a hand count of any contest on ballots that have already been counted by an electronic ballot counting device. If a moderator suspects a problem with the security or functioning of an electronic ballot counting device, the moderator is authorized to take the device out of service (RSA 656:42). Similarly, the moderator at his or her discretion may count any race on the ballot by hand if, for a specific reason, they feel a need to verify the result of the electronic ballot counting device.

Pressure from special interest groups for a moderator to conduct an election in a certain way is inappropriate. The decision of whether or not to use an electronic ballot counting device is made at town meeting by a majority vote of the voters present, and that is the appropriate forum to have that discussion. The moderator is in many ways an election judge, an impartial arbiter at the polling place, who is elected on the basis of being able to run an election fairly and impartially. Moderators should not be placed in the potential position of being a lightning rod for the agenda of a special interest group.

In the specific instance where special interest groups are maneuvering to pressure moderators into conducting hand counts, caution should be used. Some of the pressure comes with offers from the special interest groups to count the ballots themselves. Letting members of these groups count ballots could result in serious chain of custody issues, and loss of the integrity of the election itself.

10/28/2010

Sincerely,
David Scanlan
Deputy Secretary of State

2020 General Election Results - Derry, NH

Tape #	Total Votes	Blanks	Overvotes	Undervotes	Write-Ins	% Overvote	% Under Votes
Only Absentees - 1	4028	0	572	1119	33	14.2%	27.8%
2	2697	1	46	780	29	1.7%	28.9%
3	2855	1	62	885	32	2.2%	31.0%
4	2106	0	22	699	26	1.0%	33.2%
5	1754	1	101	538	21	5.8%	30.7%
6	1976	0	21	609	22	1.1%	30.8%
7	1965	0	21	609	22	1.1%	31.0%
Maskless - 8	509	0	3	156	11	0.6%	30.6%
Total	17890	3	848	5395	196	4.7%	30.2%

Jennifer (Fries) Stitt
Windham, NH
In support of SB 79

Who am I?

I'm a 40 year resident of NH. I live in Windham, NH. And I support this bill.

I've worked in cybersecurity as a resource manager for about 20 years now, and I've attended Blackhat, DEFCON, and other security conferences almost every year. Hacked security systems, broken banking networks, power grids shut down, fraudulent elections, illegal power grabs, and of course the all-encompassing world of social engineering, this has been the world I've worked within.

I am just a concerned voter, even more concerned than most because I've spent countless days in what's called Election Hacking Village.

The voting process, and Wally Fries

But set all that aside, I'm concerned about voting. I grew up in a household where the sanctity of the voting process was held in the highest regard. At the dinner table many nights, I'd hear about efforts to attain a better way to assure Granite Staters that their vote would be handled and counted accurately.

How did I hear about this bill? Because my father, Wally Fries, who passed a few years ago, was Moderator of Danville for roughly 20 years. I wish he were here today because he could so eloquently and simply

state the basicness of all this and why it's important. Talking about elections and voting was commonplace in my family.

Wally also worked for Raytheon, a large defense contractor, where all kinds of critical instrumentation is created and used mostly in defense of our great nation. In weaponry, in cybersecurity, and in modern aviation, we have what's called "physical failsafes". For example, on an airplane, pilots have in every cockpit a magnetic compass in case the computers fail. In order to land they need to chart where they are going to precisely, so they have paper maps, tables and charts to follow. They bring those big black aviator briefcases with them for a reason. There are policies and procedures they practice consistently so they know what to do when a computer cannot think for them.

Working in tandem with every artificial intelligent system, hopefully, is a human being that needs to think and act in such a way to ensure the integrity of that critical system. Again, that is what we are here for today. To install a policy, this bill, that will help ensure the accuracy, integrity and verification of true election results.

Counting Ballots, and making sure the count is correct

Ballot counting machines have software in them. And as I learned many years ago, it is impossible to write *perfect* code.

Two and a half minutes...that's how long it took for a 16-year-old at the election hacking village to hack a ballot machine two years ago that was used just 4 years ago in several locations around our country. Machine firmware errors, software bugs and flaws, human procedural errors, and social engineering, all combine to create a balloting and election system that is hackable, capable of being rigged, or even

simply malfunction due to unforeseen circumstances. Computers can fail without malicious intent.

You have certainly by now learned a bit about election hacking and how to secure our elections, and you may have heard of Harri Hurst, a worldwide subject matter expert on the subject. He stated clearly and emphatically defending that software coders can only code the software and provide clear guidance on how the machines need to be used. But even with all their good efforts as software engineers he says, "Hopefully policy makers will create better policy around the usage of these machines, because these machines are vulnerable."

We're here today to discuss creating better policy that will ensure the accuracy, integrity and verification of true election results.

Plain and simple, this bill gives discretionary decision to moderators. Local control is at the center of our election, and without this bill, moderators have little control.

Why I think all of you should support this bill, and how it works to everyone's advantage

Uniting around this is easy.

- This is a nonpartisan issue.
- You are giving local control to each town and city.
- You will uphold the sanctity of every citizen's vote.
- And you will have spent no taxpayer money.

By passing this bill, you will be implementing, like Harri Hursti suggested, "better policy around the usage of these machines, because these machines are vulnerable."

Thank you to the committee for your time on this matter. I hope you will support this bill moving forward.

If you have any questions for me, I'm very willing to speak to any of you.

Sincerely,

Jennifer (Fries) Stitt
10 Addison Road
Windham, NH 03087
603.785.6618

Parallel Hand Counts—Example of New Hampshire Common Sense

Former Danville moderator **Wally Fries** always oversaw hand counting of 1-3 contests/ballot questions on election night to ensure an accurate computer count.

Why:

1. had worked with computers for years and knew there could be breakdowns and their reliability needed to be checked. As a member of several state advisory groups he also knew the pre-election ballot testing wasn't enough. The hand count check made it more likely any error would be detected and accurate results would be reported to Concord (as NH Constitution and state law require).

2. knew there had been reported instances of tampering and wanted to discourage any possibility of that happening in his town's elections.

3. wanted the public to have confidence in his town's election results.

How:

1. Selective sampling—he chose contests based on a) expected closeness b) vulnerability to tampering c) importance. (For example, he would hand count just the competitive races in Presidential Primaries, and reconcile the "other" piles with total ballots cast and number of voters.) UNH statistician confirmed the validity of this kind of sampling.

2. Double count hand count using "sort and stack method." (Election officials sort into piles, first counter cross stacks 25 ballots at a time, second counter verifies count or team determines voter intent, reconciles discrepancy). Public could observe.

3. Verified hand count checked with computer total. Reconcile any differences.

If Wally believed three races might be close, he'd check all three. Recounts cost money, he reasoned and at least candidates would know that one jurisdiction had an accurate count.

Cost: No additional cost for town or state

Here is a link to expert testimony regarding the vulnerability of electronic ballot counting devices. *Link to Expert Testimony.*

In case the link does not work for you, here is the URL

<https://www.dropbox.com/sh/98unbbpq0fvwamw/AABkMT9ZhLK68XC5i5ECY5nWa?dl=0>

I am also including a link to answers to commonly asked questions regarding this bill.

Link to Q&A Actual URL

<https://www.dropbox.com/sh/vnvn48ntdi6s9q9/AACplhOkg1aMFLwKHnZqd9Gga?dl=0>

I appreciate your serious consideration of this bill which will allow Moderators to fulfill their duty under the NH Constitution to conduct an arguably public vote count. I hope you will reach out to me with any remaining questions you may have.

Sincerely,

Mary Till
603 2031961

Testimony before the Senate. LSR 1008

My name is Mary Till. I previously served on the House Election Law Committee and as Town Moderator in my home town of Derry. I support SB 79 which goes to the very heart of our democracy, the right for the public voice to be heard and abided by.

I will not take your time describing how any electronic device can be hacked whether or not it is attached to the internet. I assume you all already know that and for those who still have doubts, here is a link to sworn testimony from experts in cyber security. Cyber security expert testimony. (<https://www.dropbox.com/sh/98unbbpq0fvwamw/AABkMT9ZhLK68XC5i5ECY5nWa?dl=0>)

Rather I want to focus on your sworn duty to uphold the Constitution of NH. In particular I refer you to Part II Article 32, which I have attached to my testimony and which can be paraphrased as follows: *The meetings for the choice of (elected officials) shall be ... governed by a moderator, who shall ... in open meeting receive the votes ... and shall, in said meeting in the presence of said selectmen and of the town or city clerk, ... sort and count the said votes and make a public declaration thereof and the town or city clerk shall make ... a fair attested copy thereof.*

Our NH state laws reinforce this constitutional requirement. RSA 649:63 requires a public count; RSA 658:32 requires the moderator to certify under oath that the reported vote is accurate; and RSA 659:77 defines the penalty to be administered if any moderator intentionally neglects to report an accurate count.

That is what the NH Constitution and NH laws require of the moderator. So let me drill down a bit deeper into the implications of these words.

“In open meeting”. I think we can agree that means in public before an audience of anyone who chooses to witness. But how can watching a machine spit out a tape be in any way construed as a public count. How can any witness walk away assured that the votes have been

accurately counted. It's like having an electronic device (let's refer to it as ED) publicly count ballots prepared and counted by the town clerk prior to an election to prove he is able to accurately count the votes. Then on election day, after all the votes have been counted, ED grabs up all those ballots, goes into another room where witnesses are not allowed and returns some time later and announces the winners. Do you truly believe that meets the definition of counting votes in open meeting?

Which bring us to the question of how best to certify the accuracy of the vote count. The SoS will tell you that recounts conducted in public by his office in Concord serve as proof that the machines are working properly. Putting aside the fact that of the hundreds of recounts conducted by the SoS since we began using voting machine, only two recounts have been for federal or state wide offices.

SB 79 requires the verification count to be conducted locally by local elected officials, much like that envisioned in the NH Constitution. What are the advantages of this process.

First there is the issue of custody. When I was first elected Town Moderator in Derry, Derry election officials routinely held votes at several sites for reasons of voter convenience and available sites large enough to accommodate the vote. The machine tapes were tabulated on site and then the ballots were sealed and transported by a member of each party to the Town Hall where the hand count of votes rejected by the machine or those containing write-ins were publicly counted. On my first election I was sited by the SoS for not completing the count of votes at the satellite locations. His reasoning was chain of custody. So let's look at chain of custody.

Unlike recounts where the ballots are transported by two state employees (not necessarily of different parties or even from the district involved) to Concord where they are then hand counted, SB 79 requires that the verification count be done on site, by officials or volunteers from relevant parties, immediately after the polls close and before the results are certified. By using overhead projector technology, it is possible for the entire audience to view each ballot

and assure themselves of the accuracy of the count. Using this technology it has been shown that when counting one randomly selected race, it is possible to count 3000 ballots per hour. With a handful of additional volunteers and a audience of observers using an overhead projector, the verification count could be conducted alongside the other reconciliation and hand counting procedures. It can be done. Other states are doing it. All it takes is the will to do so.

Then there is the question of holding the officials who count and verify the results publicly accountable. You can run into your town moderator or town clerk at the grocery store or restaurant. They could be your neighbor or in a club you belong to. And most importantly, you get to cast a vote for or against them every two years for a moderator and every three years for a town or city clerk. But never does a voter get to cast a vote for Secretary of State. The individual voter has no way to hold these election officials accountable for their actions.

In the final analysis all SB 79 is requesting is that moderators be given the authority to do what they were routinely allowed to do, and many did, before September, 2016, and that is convince themselves and their voters that the ballots have been accurately counted before certifying the results.

Briefly I want to address the indeterminate cost of this legislation. In the first instance SB79 does not require the moderator to conduct a verification count, although I believe it to be a best practice and already implicit in the NH Constitution. Putting that aside, using an overhead projector, the number of extra volunteers—and the associated costs—towns would need would be minimal because the entire audience would be witnesses.

As for the cost for the Secretary of State to investigate discrepancies, we should be happy to know that the causes of discrepancies that have been ignored for years, will be finally addressed and will decrease over time. Because these costs are directly associated with ensuring the integrity of the vote, it seems that available HAVA funds are an appropriate source for funding.

We all saw what happened last year in Arizona, Pennsylvania, Wisconsin, Michigan, and Georgia. The Senator we elect in 2022 could determine the control of the U S Senate. NH does matter. We must be ready to assure voters that in our state, the results are accurate.

Thank you for your attention. Please contact me with any questions you may have.

Mary Till
Derry, NH
603 203 1961

Complete Document

Can Be Viewed

In Bill Folder



Report on Election Auditing

by the

Election Audits Task Force

of the

League of Women Voters of the United States

January 2009

Members of the Election Audits Task Force

Judy Duffy, Task Force co-chair; LWVUS second vice president
Norman Turrill, Task Force co-chair; LWVUS Board member; retired software engineer
Ed Gracely, LWV of New Jersey; statistician, Drexel University College of Medicine
Mark Halvorson, LWV of Minnesota; director, Citizens for Election Integrity Minnesota
Barbara Hankins, LWV of Montgomery County, Maryland; former auditor, Texas State
Auditor's Office
Kurt Miller, LWV of Shaker Heights, Ohio
Lu Pierson, President, LWV of Maryland; Maryland Attorney General's Task Force on
Election Irregularities
Barbara Simons, LWV of Los Altos/Mountain View, California; former president,
Association for Computing Machinery

The committee received staff support from Lloyd Leonard, senior director of Advocacy

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Report on Election Auditing

contains video presentations from speakers and panels at that conference, a searchable database of state-based audit laws and numerous resources about post-election auditing.
<http://www.electionaudits.org>

Verified Voting: Users can find a guide to state audit provisions and legislation. Research papers and news articles of interest to the audit community are also regularly posted at the site.
<http://www.verifiedvoting.org>

2008 USENIX/ACCURATE Electronic Voting Technology Workshop: Some interesting papers related to auditing and auditability.
<http://www.usenix.org/events/evt08/tech/>

Humboldt County Election Transparency Project: The basic idea behind the first-of-its-kind transparency project is fairly simple: Every ballot cast in an election is passed through an optical scanner after being officially counted and the images are then placed online and available for download. This effort uncovered two counting errors in the November 2008 county election tallies, one involving nearly 200 ballots caused by a software glitch and another involving 57 twice-counted ballots.
<http://www.humtp.com/index.html>

F. Other Resources

Developing an Audit Trail. This is one of the U.S. Election Assistance Commission's Best Practices guides; it includes sample checklists and details of documentation required to develop an audit trail.
http://www.eac.gov/election/quick-start-management-guides/election/quick-start-management-guides/docs/developing-an-audit-trail/attachment_download/file

The Election Center. Election Preparation Checklists. Detailed checklists for various aspects of election management, including Ballot Security, Polling Place Operations, Voting Systems and Recount Procedures.
<http://www.electioncenter.org/checklists.html>

Collaborative Public Audit of the November 2006 General Election in Cuyahoga County, Ohio.
http://urban.csuohio.edu/cei/public_monitor/cuyahoga_2006_audit_rpt.pdf



New Hampshire Community Rights Network

102 Lakeview Hts., Alexandria, NH 03222
info@nhcommunityrights.org

January 24, 2021

RE: SB 79, relative to the authority of the moderator to verify the device count.

Dear Mr. Chair and Senate Election Law Committee Members:

The NH Community Rights Network was founded to educate and empower communities and elected officials about the right to local self-governance in order to secure and protect the inherent and unalienable rights of all inhabitants of New Hampshire to economic, social and environmental equality and justice.

The Verification Bill, SB 79, is a commonsense piece of legislation when approximately 90% of New Hampshire municipalities use electronic ballot-counting devices that are pre-tested only and are programmed with privately owned proprietary software. There is currently no specific clarity on moderators' authority and method to verify that the devices are accurately counting the votes cast on *election days*, yet they are held responsible for verifying an accurate vote count.

Moreover, moderators are democratically elected at the local level by voters entrusting them with overseeing the election process, which includes an accurate vote count. Moderators take an oath pursuant to Part II, Article 84 of the NH Constitution and are bound by Part II, Article 32 to govern the election process, to openly oversee the counting of votes on election night, and to make a public declaration of an accurate vote count. SB 79 empowers moderators to fulfill their constitutional duty by clearly empowering their authority with a method for openly and accurately verifying votes counted by electronic ballot counting devices on election day.

Reiterated in state law, moderators are charged with overseeing the counting the votes (659:60), providing an accurate count of the votes cast (659:77) and counting the votes in public (RSA 659:63). With electronic ballot counting devices, it is not possible to have votes counted out in the open, where other people can observe, because all that takes place within a programmed memory card that spits out a receipt at the end of voting. To date, moderators have been expected to simply read the receipt and blindly accept that the machines are counting accurately during that election day. SB 79 clarifies the moderator's authority and provides a method, within the law, to comply with the duties placed upon them by the law and our state constitution.

With increasing unease and distrust among voters across the nation over the security of our election process and the accuracy of vote counts, it is important to increase voter confidence in the election process by elevating election integrity and by avoiding the distraction of unfounded accusations of large-scale voter fraud. Therefore, state election officials should support the choice to codify moderators' authority to call for election night verification count of ballot counting devices to provide greater assurance to the accuracy of vote counts on election day. Indeed, once a vote is taken, accuracy matters most, and it is just common sense to "Trust the vote but verify the count".

The process itself can have only positive effects regardless of the verification process results. If a moderator chooses to verify an electronic ballot counting device and finds no discrepancy, the process will be preventative in nature, reducing requests for a race recount.

The NH Community Rights Network assists communities in elevating their right to protect themselves and the places they live, for the sake of social equality and justice, through the right to local community self-governance, which certainly includes the right to vote and the accurate verification of the vote count. As it constitutionally seeks to maintain election integrity, the Verification Bill, SB 79, is consistent with our mission, and we hold that it be recommended OTP by the committee.

Respectfully,

Michelle

Michelle Sanborn

NHCRN President

www.nhcommunityrights.org

nhcrn.michelle@gmail.com

(603) 387-7996

Sally Davis
50 Sugar Run
Thornton NH 03285
January 24, 2021

RE: SB79

To the members of the Senate Election Law and Municipal Affairs
Committee:

Thornton has had three Moderators in the 21 years I have lived here and we changed from hand count only to our present system of filling out ballots and putting them into the scanner after the first one of the three retired. I missed the old system using our original ballot box but knew how much easier scanning was, especially after helping count an unusually long one for our Town Meeting. I did however express enough anxiety that the scanner was working correctly, that our moderator volunteered, after a pretty close election for a Selectman was replaced, that although it did not require a hand recount and no one requested one, he felt it was important that everyone be assured of the correctness of the process and did a hand count.

I believe there has been so much questioning of the accuracy of elections, it would be reassuring to citizens and town officials both to enable hand counts as proposed in SB79 to occur. What my moderator did on his own took initiative and courage. The losing Selectman had validation of the results and the new one who replaced him had the confidence of the town too, had they asked.

SB79 is a way to be preemptive and prepared for questions re the legitimacy of elections in New Hampshire.

Thank you for the opportunity to explain my support of SB79. I urge you to vote it Ought to pass.

Sally Davis

Testimony on SB79
Hon. Melanie Levesque
January 25, 2021

Good morning Mr. Chair and members of the Election Law Committee. My name is Melanie Levesque former State Senator and Chair of election law. I reside in Brookline NH. I am here this morning to speak in support of SB79 a bill that allows moderators to conduct verification counts against voting machines.

The concept of verification counts, and post-election audits is a sound one. Our voting results should be checked and verified even if it is done in a random manner.

According to National Conference of State Legislators NCSL there are 47 states that recognize post-election audits as best practice and use a variety of methods. NH is looking at using a highspeed machines to audit some locations however the idea of a machine checking a machine is concerning.

SB79 would give moderators the leeway to conduct verifications. It limits the scope to one machine, one competitive race.

Election law and concerns about voting machines was one of the reasons I became interested in politics. My mentor Betty Hall from Brookline was a strong advocate for voting rights, paper ballots and audits. She recently retired from the legislature and has since passed away but before her retirement she worked with our moderator Peter Webb to conduct a verification audit. The audit was conducted without incident and was considered an acceptable practice.

In a time when there is so much concern about voter fraud, of which we have a little to none according to the SOS, post-election audits and verification counts are effective ways to verify results and give integrity to the process.

Mr. Chair members of the election law committee I urge you will vote out to pass SB79 and undertake the best practices of allowing moderators to conduct audits of our elections.

Hon. Melanie Levesque
Brookline, NH

Voting Sheets

**Senate Election Law
& Municipal Affairs Committee
EXECUTIVE SESSION RECORD
2021 Session**

Bill # SB 79-FN

Hearing date: 1-25-2021

Executive Session date: 2-1-21

Motion of: Re-Refer Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Birdsell

Notes: _____

**Senate Election Law
& Municipal Affairs Committee
EXECUTIVE SESSION RECORD
2021 Session**

Bill ~~HB~~ SB 79

Hearing date: 1-25-21

Executive Session date: 10-25-21

Motion of: IS Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	X	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	X	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Soucy

Notes: Consent Blurb

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Monday, February 1, 2021

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred **SB 79-FN**

AN ACT

relative to the authority of the moderator to verify
the device count.

Having considered the same, the committee recommends that the Bill

BE RE-REFERRED TO COMMITTEE

BY A VOTE OF: 5-0

Senator Regina Birdsell
For the Committee

This bill would authorize a moderator, regardless of reported inaccuracies, to conduct a verification count of machine-counted ballots on the day of the Election. Currently, there is another bill regarding audits of the ballot counting machines working its way through the legislative process. Given that the two bills are similar in their intent, to verify that the count is accurate, and that the latter bill will provide greater clarity of any discrepancies, the Committee decided to Re-Refer SB 79-FN.

Tricia Melillo 271-3077

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Monday, October 25, 2021

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred **SB 79-FN**

AN ACT

relative to the authority of the moderator to verify
the device count.

Having considered the same, the committee recommends that the Bill

BE REFERRED TO INTERIM STUDY

BY A VOTE OF: 5-0

Senator Donna Soucy
For the Committee

This bill would authorize a moderator, regardless of reported inaccuracies, to conduct a verification count of machine-counted ballots on the day of the Election. Currently, the Post-Election Audit Study Committee is considering legislation that will verify the count using high speed scanners. The Study Committee has gathered information and is working with the Secretary of State's office to insure the integrity of the ballot count. Given the effort that has been invested to create a process that works for all, the Election Law and Municipal Affairs Committee moves this bill to Interim Study.

Tricia Melillo 271-3077

Docket of SB79

Docket Abbreviations

Bill Title: relative to the authority of the moderator to verify the device count.

Official Docket of **SB79**..:

Date	Body	Description
1/20/2021	S	Introduced 01/06/2021 and Referred to Election Law and Municipal Affairs; SJ 3
1/21/2021	S	Remote Hearing: 01/25/2021, 09:00 am; Links to join the hearing can be found in the Senate Calendar; SC 8
2/3/2021	S	Committee Report: Rereferred to Committee, 02/11/2021; Vote 5-0; CC; SC 10
2/11/2021	S	Rereferred to Committee, RC 23Y-1N, MA ; 02/11/2021; SJ 4
12/16/2021	S	Committee Report: Referred to Interim Study, 01/05/2022; Vote 5-0; CC; SC 49
1/5/2022	S	Refer to Interim Study, MA, VV; 01/05/2022; SJ 1

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 79

Senate Committee: EIMA

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

NA Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office _____