

E Poll Books Background &

Draft Principles for Potential Solution Enabling a Pilot

April 1, 2016 Draft

I. Background & Analysis

Other States

Some states have taken over two years to establish a plan, adopt standards, and pass laws relating to E poll books, e.g. Connecticut, Alabama.

Colorado, Indiana, and Minnesota took time to develop extensive requirements and/or law changes.

11 states have adopted law changes to enable E Poll Books.

7 states have established E poll books certification requirements.

Laws that appear to need changing to enable a pilot

RSA 659:13 – Marks on checklist, ballot clerk procedure, reporting requirements for CVAs and Out-of-state, changes of address. Comprehensive modification enabling marks in computer software instead of marks on physical hard copy of checklist.

Possible new law:

- a) Must prevent collecting private data from driver's licenses and storing it on non-state proprietary system.
- b) Synchronization of data on iPads in single polling place (or equivalent) during Election Day
- c) Require at least two iPads (or equivalent) in each polling place to ensure redundancy of Election Day soft copy data storage reflecting who picked up a ballot, absentee voters, party ballot, CVA, out-of-state drivers' license, and address changes.

Laws that deserve attention and bear on pilot

State Law:

RSA 654:45: - Security obligation of Secretary of State. Addressing concerns about potential disruption of election in the event that town or city (and state) is left without record of who picked up a ballot and whether individuals voted two times. E poll books vendor must develop protocols using public-private encryption key for any import of data to ElectionNet, FIPS 140-2 encryption for all wireless communications between iPads (or equivalent) arranged in peer-to-peer network, to prevent

attack/disruption of election. Import of data to ElectionNet would be at the State’s option and not required in law.

RSA 654:31-a – Release of confidential data. Not applicable to SOS-envisioned solution. (See below.) However, the SOS will examine any drafts of proposed legislation that may entail SVRS exports of date-of-birth data.

RSA 659:102 – Preservation of checklist (including registered voters who did not vote) must be continued, on similar media that can be photographed/microfilmed for long-term storage, so that investigations of persons who may have voted twice can continue efficiently. Required to be printed from E poll books system.

In general , the NH Department of State applies competitive bid requirements for HAVA vendor contracts, particularly those over \$35,000. This entails, for any significant project, planning, establishing specifications, issuing competitive bids, and entering into contracts with Attorney General approval.

RSA 31:59 & RSA 31:59-A – Town/City rules for purchasing. For example, Manchester’s Procurement Code, pursuant to above laws, appears below:

Procurement Code

The [Procurement Code](#) shall promote fair and equitable treatment to all suppliers or prospective suppliers of goods and services, promote effective competition among prospective suppliers of goods and services, make as uniform as possible the procedures among various departments and agencies of the City by the standardization of the procurement process, to prevent abuses and favoritism, and promote the economical, effective, and efficient use of the City's total resources.

RSA 659:13, 654:25 and 654:31: To offset lack of physical checklist to mark during Election Day and to still maintain auditable and recoverable records, the town or city must keep all printed “tokens” containing name, voter ID #, party, etc. of those that have used token to pick up ballots.

Require one iPad (or equivalent) per voter line.

Federal Law

HAVA Section 101(b)– “A State shall use the funds provided under a payment made this section (Title I) to carry out one or more of the following activities: ...

(B) Improving administration of elections for state office”

HAVA Section 301(a)(3) “Accessibility of individuals with disabilities – The voting system shall –

(A) Be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provide the same opportunity for access and participation (including privacy and independence) as for other voters;”

HAVA Section 301(a)(1)(C) "The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot":

Federal audit standards for HAVA funds: State cannot reimburse towns for vendor work not consistent with the HAVA Office's competitive bidding requirements.

Cities and Towns Scanning Status for the 2016 Presidential Primary

Manchester, Concord, Somersworth and Rochester have not completed scanning (recording election history as required by law) the 2016 Presidential Primary. Manchester has entered newly registered voters from that Primary. All towns except Dixville have finished scanning the 2016 Presidential Primary. The effective deadline for this scanning work is May 1, 2016, recording history so that the Secretary of State can send out follow-up letters to those signing challenged voter affidavits by May 8, 2016, per RSA 659:13.

There were 5,563 voter records scanned in Manchester, as of April 1, 2016. Manchester has scanned 16% of 35,744 total ballots cast. (17,256 Republican ballots + 18,488 Democratic ballots) cast in the city during the 2016 Presidential Primary.

Towns with low Election Day Volume:

In the event HAVA money is ever spent on E poll books, we must consider how to be fair to small towns who may not choose to use E poll books but will see money spent on other towns and cities anyway.

II. Draft Principles for Secretary of State Solution Enabling a E Poll Books Pilot

1. Allow city or town to use an E poll books vendor in one ward or polling location. Limit = total of 1-3 polling places in state. City or Town may select vendor.
2. Allow city or town to use their checklist data that they already have access to, in standard CSV format currently available to them using ElectioNet.
3. Do not permit use of data from ElectioNet, such as date-of-birth information, that is not compatible with RSA 654:31-a.
4. After election, state is not obligated to import data from external E poll books vendor. The Secretary of State may, on the basis of clearance from PCC and SOS CIO, if it requires minimal staff effort and risk on part of SOS in this election year, elect to import data from the pilot town or city/E poll books vendor.
5. Physical voter registration forms will continue to be filled out and signed by new applicants for voter registration. The supervisors of the checklist in the pilot town or city may elect to use E poll books iPad(s) (or equivalent) to obtain data (such as name and date of birth) from drivers licenses as an automated aid to determine spelling of names on hand-written voter registration forms, and to enable subsequent processing in ballot clerk lines, once the individual has been

approved by the supervisors as a newly registered voter. However, the Secretary of State will not import voter registration data from E poll books vendor during pilot.

6. Require compliance with RSA 659:102 in format consistent with Division of Records and Archives' need to microfilm marked checklist 8 ½ X 11 inch pages. Marked checklist must reflect the requirements of RSA 659:13 and appear in the general format of existing checklists printed from ElectioNet.
7. Require that standard checklist with bar codes be printed out and made available at the start of Election Day from ElectioNet as back-up in each pilot ward or town polling place.
8. Require careful management and retention of "tokens" printed at each ballot clerk station (voter line) to enable restoration of physical marked checklist in the event system ceases to function during Election Day. Town or city must provide adequate trained staff and commit to full restoration of accurate physical marked checklist in the event of an E poll books failure at any time during Election Day.
9. Require full software compliance with RSA 659:13, so that a record may be kept of:
 - a. Whether a voter picked up a ballot
 - b. If a primary, what party was on the token printed by the iPad/printer station and provided to the voter to pick up a ballot.
 - c. Whether the voter voted using an absentee ballot
 - d. Whether the voter signed a challenged voter affidavit.
 - e. Whether the voter provided an out-of-state drivers' license, and, if so, what state issued the drivers' license.
 - f. If the voter provided a change of address within the town or city ward, record the content of that address change in computerized (soft) copy.
10. Render it illegal for vendor to store voters' names and dates-of-birth information; if possible, require transparent demonstration of non-storage of private data.
11. Require at least two iPads (or equivalent) in each polling place to ensure redundancy of Election Day soft copy data storage reflecting who picked up a ballot, absentee voters, party ballot, CVA, out-of-state drivers' license, and address changes.
12. Require that iPads (or equivalent) in each polling place fully update and synchronize data between iPads (or equivalent)/ voter lines, so that no voter can vote twice.