

HB 61 - AS INTRODUCED

2021 SESSION

21-0040

11/08

HOUSE BILL **61**

AN ACT relative to absentee voting and allowing for partial processing of absentee ballots prior to election day.

SPONSORS: Rep. Rung, Hills. 21; Rep. Telerski, Hills. 35; Rep. McWilliams, Merr. 27; Rep. Harb, Rock. 14; Rep. Major, Rock. 14; Rep. Cahill, Rock. 17; Rep. Hamer, Hills. 17; Rep. Jack, Hills. 36; Rep. McGhee, Hills. 27; Rep. Laflamme, Coos 3

COMMITTEE: Election Law

ANALYSIS

This bill allows no-excuse absentee voting and partial processing of absentee ballots prior to election day.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 absentee voting and allowing for partial processing of absentee ballots prior to election day.

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

1 1 Absentee Ballots. Amend RSA 656:33 to read as follows:

2 656:33 [~~Official Absence, Religious Observance, and Disability~~] Absentee Ballots. Prior to any
3 state election, the secretary of state shall prepare, in such quantity as the secretary of state may
4 deem necessary, [~~absence, religious observance, and disability~~] absentee ballots in the same form as
5 nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall
6 have the words "absentee ballot" printed on them and shall be similarly endorsed and printed on
7 paper of the same color as that used for official ballots.

8 2 Absentee Voting. Amend RSA 657:1 to read as follows:

9 657:1 [~~Absence, Religious Observance, and Disability~~] Absentee Voting.

10 [~~I.~~] Any person who [~~will be absent on the day of any state election from the city, town, or~~
11 ~~unincorporated place in which he or she is registered to vote or who cannot appear in public on any~~
12 ~~election day because of his or her observance of a religious commitment or who is unable to vote~~
13 ~~there in person by reason of physical disability~~] **is qualified to vote at any state election** may vote
14 at such [~~elections~~] **election** as provided in this chapter. [~~A person who is unable to appear at any~~
15 ~~time during polling hours at his or her polling place because of an employment obligation shall be~~
16 ~~considered absent for purposes of this chapter. For the purposes of this section, the term~~
17 ~~"employment" shall include the care of children and infirm adults, with or without compensation.~~

18 ~~II. When the National Weather Service has issued a winter storm warning, blizzard~~
19 ~~warning, or ice storm warning for election day applicable to the city, town, or unincorporated place:~~

20 ~~(a) A person who otherwise would have voted in person but has concerns for his or her~~
21 ~~safety traveling in the storm, shall be considered absent for purposes of this chapter and may vote~~
22 ~~absentee on the day immediately prior to the election.~~

23 ~~(b) A person who cares for children or infirm adults who reasonably anticipates that~~
24 ~~school, child care, or adult care will be canceled, who otherwise would have voted in person but will~~
25 ~~be deterred from voting by the need to care for children or infirm adults, shall be considered absent~~
26 ~~for purposes of this chapter and may vote absentee on the day immediately prior to the election.~~

27 ~~(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for~~
28 ~~absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive~~
29 ~~returned ballots on the day immediately prior to an election at a minimum from 3:00 p.m. to 5:00~~
30 ~~p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the~~

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1 ~~individual has taken the oath of office and has been trained in the requirements for using an~~
2 ~~absentee ballot and the procedures for issuing and receiving absentee ballots.~~

3 ~~_____ (d) In the event an election is postponed pursuant to RSA 669:1, the provisions of~~
4 ~~subparagraph (e) shall apply to the day before the date of the originally scheduled election and the~~
5 ~~day before the date of the postponed election.]~~

6 3 Absentee Voting. Amend RSA 657:4, I to read as follows:

7 I. Prior to any state election, the secretary of state shall prepare the appropriate application
8 forms for absentee ballots worded in substantially the following form. The secretary of state shall
9 insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the
10 application form. The secretary of state shall prepare the application forms in such quantity as he or
11 she deems necessary:

12 [~~Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance,~~
13 ~~and Disability]~~ **Absentee Ballot Application:**

14 I hereby declare that (check one):

15 I am a duly qualified voter who is currently registered to vote in this town/ward.

16 I am absent from the town/city where I am domiciled and will be until after the next election,
17 or I am unable to register in person due to a disability, and request that the forms necessary for
18 absentee voter registration be sent to me with the absentee ballot.

19 [~~I will be entitled to vote by absentee ballot because (check one):~~

20 ~~I plan to be absent on the day of the election from the city, town, or unincorporated place~~
21 ~~where I am domiciled.~~

22 ~~I am requesting a ballot for the presidential primary election and I may be absent on the day~~
23 ~~of the election from the city, town, or unincorporated place where I am domiciled, but the date of the~~
24 ~~election has not been announced. I understand that I may only make such a request 14 days after~~
25 ~~the filing period for candidates has closed, and that if I will not be absent on the date of the election I~~
26 ~~am not eligible to vote by absentee ballot.~~

27 ~~I cannot appear in public on election day because of observance of a religious commitment.~~

28 ~~I am unable to vote in person due to a disability.~~

29 ~~I cannot appear at any time during polling hours at my polling place because of an~~
30 ~~employment obligation. For the purposes of this application, the term "employment shall include the~~
31 ~~care of children and infirm adults, with or without compensation.~~

32 ~~For use only on the Monday immediately prior to the election: I cannot appear at my polling place on~~
33 ~~election day because the National Weather Service has issued a winter storm warning, blizzard~~
34 ~~warning, or ice storm warning for election day applicable to my city, town, or unincorporated place~~
35 ~~and either (check one):~~

36 ~~I am elderly or infirm or I have a physical disability, and would otherwise vote in person but I~~
37 ~~have concerns for my safety traveling in the storm.~~

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1 ~~_____ I anticipate that school, child care, or adult care will be canceled, and would otherwise vote in~~
2 ~~person but will need to care for children or infirm adults.]~~

3 Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by
4 absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

5 I am requesting an official absentee ballot for the following election (check one):

6 Presidential Primary to be held on _____

7 (MM/DD/YYYY)

8 (The date may appear as blank when the date is not known.)

9 State Primary to be held on _____

10 (MM/DD/YYYY)

11 General Election

12 For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

13 Republican Party

14 Democratic Party

15 (name of any party determined by the secretary of state to have achieved official status under
16 RSA 652:11)

17 and am requesting a ballot for that party's primary.

18 Please print:

19 Applicant's Name: _____

20 (Last) (First) (Middle) (Sr., Jr., II., III)

21 Applicant's Voting Domicile (home address):

22 _____

23 (Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

24 Mail the ballot to me at this address (if different than the home address):

25 _____

26 (Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

27 Applicant's Phone Number : _____

28 Applicant's Email Address : _____

29 Applicant's Signature: _____

30 Date Signed: _____

31 (MM/DD/YYYY)

32 I attest that I assisted the applicant in executing this form because he or she has a disability.

33 Signature _____

34 Print Name _____ **Address** _____

35 ~~[If your absentee ballot application or affidavit envelope has the printed name and signature of a~~
36 ~~person who assisted you with voting, your signature will not be compared to your signature on the~~

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1 ~~absentee ballot affidavit to verify your identity. Otherwise, if your signatures do not appear to be~~
2 ~~made by the same person, your absentee ballot may not be counted.]~~

3 The applicant must sign this form to receive an absentee ballot. Any person who witnesses and
4 assists a voter with a disability in executing this form shall print and sign his or her name in the
5 space provided on the application form. The moderator will not compare the voter's signature on the
6 application with the signature on the absentee ballot affidavit when a person assisting the voter has
7 signed the statement on the absentee ballot application or affidavit envelope that assistance was
8 provided.

9 4 Absentee Voting Materials. Amend the introductory paragraph of RSA 657:7 and RSA 657:7, I
10 and II to read as follows:

11 657:7 [~~Absence, Religious Observance, and Disability~~] **Absentee Voting.** Prior to any state
12 election, the secretary of state shall prepare the following forms in such quantity as he *or she* deems
13 necessary:

14 I. [~~Absence, religious observance, and disability~~] Absentee ballots as provided in RSA
15 656:33.

16 II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the
17 following:

18 [~~(a) Absence from City or Town.~~] A person voting by absentee ballot [~~because of absence~~
19 ~~from the city or town in which he or she is entitled to vote~~] shall fill out and sign the following
20 certificate:

21 I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or
22 town of _____, New Hampshire, in ward _____; [~~that I will be unable to appear at~~
23 ~~any time during polling hours at my polling place because I will be working on election day, or I am~~
24 ~~voting on the Monday immediately prior to the election, the National Weather Service has issued a~~
25 ~~winter storm warning, blizzard warning, or ice storm warning, and I am elderly or infirm, have a~~
26 ~~physical disability, or have to care for children or infirm adults, or I will be otherwise absent on~~
27 ~~election day from said city or town and will be unable to vote in person;~~] that I have carefully read
28 (or had read to me because I am blind) the instructions forwarded to me with the ballot herein
29 enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had
30 assistance in marking the ballot and sealing it in this envelope because I am blind). [~~For the~~
31 ~~purposes of this certification, the term "working" shall include the care of children and infirm adults,~~
32 ~~with or without compensation.]~~

33 (Signature) _____

34 In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false
35 information when registering to vote or voting is a class A misdemeanor with a maximum sentence
36 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to
37 vote or voting is subject to a civil penalty not to exceed \$5,000.

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1 ~~(b) Absence Because of Religious Observance or Physical Disability. A person voting by~~
2 ~~absentee ballot because of religious observance or physical disability shall fill out and sign the~~
3 ~~following certificate:~~

4 ~~I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or~~
5 ~~town of _____, New Hampshire, in ward _____; that I will be observing a religious~~
6 ~~commitment which prevents me from voting in person or that on account of physical disability I am~~
7 ~~unable to vote in person; that I have carefully read (or had read to me because I am blind) the~~
8 ~~instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot~~
9 ~~within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this~~
10 ~~envelope because I am blind).~~

11 ~~(Signature) _____~~

12 ~~The signature on this affidavit must appear to be executed by the same person who signed the~~
13 ~~absentee ballot application. A person assisting a disabled or blind voter shall make and sign a~~
14 ~~statement on this envelope in the space provided acknowledging the assistance. The moderator will~~
15 ~~not compare the voter's signature on this affidavit with the signature on the absentee ballot~~
16 ~~application when a person assisting the voter has signed the statement on the affidavit that~~
17 ~~assistance was provided.~~

18 ~~In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false~~
19 ~~information when registering to vote or voting is a class A misdemeanor with a maximum sentence~~
20 ~~of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to~~
21 ~~vote or voting is subject to a civil penalty not to exceed \$5,000.]~~

22 5 Absentee Voting. Amend the subdivision heading preceding RSA 657:12 to read as follows:

23 Procedure for ~~[Absence, Religious Observance, and Disability and Overseas]~~ **Absentee** Voting

24 6 Absentee Voting in Town Elections. Amend RSA 669:26 to read as follows:

25 669:26 Absentee Voting.

26 ~~[.] Every town which has adopted an official ballot system for town elections as provided in~~
27 ~~RSA 669:12 or 669:13 shall provide for absentee voting. [Any eligible voter who is absent from such~~
28 ~~a town on the day of a town election, or who cannot appear in public on election day because of his or~~
29 ~~her observance of a religious commitment, or who, by reason of physical disability, is unable to vote~~
30 ~~in person may vote at a town election in accordance with the provisions of this section and RSA~~
31 ~~669:27-669:29. A person who is unable to appear at any time during polling hours at his or her~~
32 ~~polling place because of an employment obligation shall be considered absent for purposes of this~~
33 ~~section and RSA 669:27-669:29. For the purposes of this section, the term "employment" shall~~
34 ~~include the care of children and infirm adults, with or without compensation.~~

35 ~~——— II. When the National Weather Service has issued a winter storm warning, blizzard~~
36 ~~warning, or ice storm warning for election day applicable to the town:~~

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1 ~~————— (a) A person who is elderly or infirm or who has a physical disability, who otherwise~~
2 ~~would have voted in person but has concerns for his or her safety traveling in the storm, shall be~~
3 ~~considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the~~
4 ~~Monday immediately prior to the election.~~

5 ~~————— (b) A person who cares for children or infirm adults who reasonably anticipates that~~
6 ~~school, child care, or adult care will be canceled, who otherwise would have voted in person but will~~
7 ~~be deterred from voting by the need to care for children or infirm adults, shall be considered absent~~
8 ~~for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday~~
9 ~~immediately prior to the election.~~

10 ~~————— (c) As required by RSA 652:20, the clerk's office shall be open to receive applications for~~
11 ~~absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive~~
12 ~~returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to~~
13 ~~5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the~~
14 ~~individual has taken the oath of office and has been trained in the requirements for using an~~
15 ~~absentee ballot and the procedures for issuing and receiving absentee ballots.]~~

16 7 Absentee Voting; Procedure by Clerk. Amend RSA 657:18 to read as follows:

17 657:18 Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official
18 absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, attach thereto the
19 application for an absentee ballot submitted by said voter and record the information pursuant to
20 RSA 657:15. All such envelopes shall be preserved unopened until election day ***except as provided***
21 ***by RSA 659:49-b.***

22 8 Processing of Absentee Ballots. Amend RSA 659:49 to read as follows:

23 659:49 Processing Absentee Ballots.

24 I. Processing of previously received absentee ballots shall begin at 1:00 p.m. unless a
25 different time, that is no earlier than [~~2 hours~~] ***one hour*** after the opening of the polls[~~7~~] is posted
26 and announced in accordance with paragraph II. The processing of the absentee ballots shall not
27 unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time for
28 the processing of such ballots during normal polling hours. Absentee ballots which are received after
29 the start time for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall
30 be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be
31 counted prior to the closing of the polls.

32 II. Notwithstanding the provisions of paragraph I, [~~upon the written challenges of 10 or~~
33 ~~more voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the~~
34 ~~processing of all absentee ballots until after the polls close and prior to the counting of all ballots~~
35 ~~east in the election.] the moderator, or his or her designee, shall post the time at which the
36 processing of absentee ballots shall begin at the polling place and one other public location at least~~

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1 24 hours before the polls open. In addition, when the polls open the moderator shall announce the
2 time at which the processing of absentee ballots shall begin.

3 9 Opening Absentee Ballot Outer Envelopes. Amend RSA 659:49-b to read as follows:

4 659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee
5 may authorize the opening of absentee ballot outer envelopes on election day *or the Thursday,*
6 *Friday, Saturday, or Monday* prior to the time established for processing absentee ballots in RSA
7 659:49, *but after the corrected checklist has been posted* provided that the opening of the outer
8 envelopes occurs in public with notice of the time and place. [~~The envelope containing the ballot shall~~
9 ~~not be removed from the outer envelope at such time, and The outer envelope containing the inner~~
10 ~~envelope shall be secured until it is processed pursuant to RSA 659:50.] *After the outer envelope*
11 *has been opened, the affidavit on the inner envelope shall be examined, the voter's name*
12 *shall be announced, an opportunity for a challenge of the ballot shall be given, and a*
13 *notation may be made on the checklist to help facilitate processing of the ballot on election*
14 *day. Notwithstanding RSA 659:51, if absentee ballots are partially processed before*
15 *election day a challenge may not be made after the notation has been made on the*
16 *checklist. The ballot shall remain secure in the unopened affidavit envelope until final*
17 *processing on election day.*~~

18 10 New Section; Election Procedure; Processing Absentee Ballots; Partial Processing of Absentee
19 Ballots Prior to an Election. Amend RSA 659 by inserting after section 55 the following new section:

20 659:55-a Partial Processing of Absentee Ballots Prior to an Election.

21 I. The moderator, or his or her designee, may begin the processing of absentee ballots prior
22 to the opening of the polls provided that the clerk shall post, in an appropriate public place and prior
23 to election day, notice of the time and place of the processing. If the moderator chooses to do so it
24 shall be posted in 2 appropriate public places, one of which shall be the public body's Internet
25 website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at
26 least 48 hours, excluding Sundays and legal holidays, prior to such meeting. A copy of the notice
27 shall be provided to the secretary of state. The partial processing of absentee ballots prior to an
28 election shall occur on the Thursday, Friday, Saturday, or Monday prior to the date of the election
29 after the posting of the checklist. The moderator shall be assisted by at least 3 other election officers
30 as defined under RSA 652:14. Members of the general public may observe this process. Under no
31 circumstances shall absentee ballots be counted prior to the opening of the polls.

32 II. Once notice of the processing has been posted, all absentee ballots received by the end of
33 the day preceding the posted time for the meeting shall be partially processed. Only one session for
34 the partial processing of absentee ballots may be scheduled prior to an election.

35 III. Except as otherwise provided, the moderator, or his or her designee, shall adhere to the
36 procedures detailed in RSA 659:49-b, RSA 659:50, RSA 659:51, RSA 659:52, RSA 659:53, RSA
37 659:54, RSA 659:54-a, RSA 666:4, and RSA 666:5.

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1 11 Effective Date. This act shall take effect 60 days after its passage.