

HB 516-FN - AS INTRODUCED

2021 SESSION

21-0249

11/05

HOUSE BILL                    ***516-FN***

AN ACT                    allowing voters to vote by absentee ballot.

SPONSORS:            Rep. Rogers, Merr. 28; Rep. K. Murray, Rock. 24; Rep. Read, Rock. 17; Rep. Schultz, Merr. 18; Rep. Leishman, Hills. 24; Rep. Klein-Knight, Hills. 11; Sen. Soucy, Dist 18; Sen. Watters, Dist 4

COMMITTEE:          Election Law

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ANALYSIS

This bill allows voters to vote by absentee ballot.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~in brackets and struckthrough~~.  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT allowing voters to vote by absentee ballot.

*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 as provided in this chapter. [~~A person who is unable to appear at any time during~~  
15 ~~polling hours at his or her polling place because of an employment obligation shall be considered~~  
16 ~~absent for purposes of this chapter. For the purposes of this section, the term "employment" shall~~  
17 ~~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 warning, or~~  
19 ~~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 safety~~  
21 ~~traveling in the storm, shall be considered absent for purposes of this chapter and may vote absentee~~  
22 ~~on the day immediately prior to the election.~~

23 ~~—— (b) A person who cares for children or infirm adults who reasonably anticipates that school,~~  
24 ~~child care, or adult care will be canceled, who otherwise would have voted in person but will be~~  
25 ~~deterred from voting by the need to care for children or infirm adults, shall be considered absent for~~  
26 ~~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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~~individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.~~

~~\_\_\_\_\_ (d) In the event an election is postponed pursuant to RSA 669:1, the provisions of subparagraph (c) shall apply to the day before the date of the originally scheduled election and the day before the date of the postponed election.]~~

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

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

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

I hereby declare that (check one):

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

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_ Presidential Primary to be held on \_\_\_\_\_

(MM/DD/YYYY)

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

\_\_\_\_\_ State Primary to be held on \_\_\_\_\_

(MM/DD/YYYY)

\_\_\_\_\_ General Election

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

\_\_\_\_\_ Republican Party

\_\_\_\_\_ Democratic Party

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

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

Please print:

Applicant's Name: \_\_\_\_\_

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

Applicant's Voting Domicile (home address):

\_\_\_\_\_

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

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

\_\_\_\_\_

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

Applicant's Phone Number : \_\_\_\_\_

Applicant's Email Address : \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

(MM/DD/YYYY)

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

Signature \_\_\_\_\_ Print Name \_\_\_\_\_ **Address** \_\_\_\_\_

~~[If your absentee ballot application or affidavit envelope has the printed name and signature of a person who assisted you with voting, your signature will not be compared to your signature on the absentee ballot affidavit to verify your identity. Otherwise, if your signatures do not appear to be made by the same person, your absentee ballot may not be counted.]~~

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The applicant must sign this form to receive an absentee ballot ***unless he or she is unable to do so because of a disability, in which case he or she may be assisted by another, who shall print and sign his or her name and address on the application form.*** Any person who witnesses and assists a voter with a disability in executing this form shall print and sign his or her name in the space provided on the application form. The moderator will not compare the voter's signature on the application with the signature on the absentee ballot affidavit when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided.

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

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

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

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

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

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

(Signature) \_\_\_\_\_

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to 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           ~~[I.] 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           ~~H.—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 Effective Date. This act shall take effect 60 days after its passage.

**HB 516-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT allowing voters to vote by absentee ballot.

**FISCAL IMPACT:**    ☒ State            ☒ County            ☒ Local            ☐ None

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

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill permits "no excuse" absentee voting. The Department of State indicates it would incur some expense to provide additional voting materials such as envelopes to municipalities as needed, but municipalities would incur the larger associated cost of expanded use and processing of absentee ballots.

The Department reports it reimbursed municipalities \$2.6 million in aggregate CARES Act funds for the increased use of absentee ballots in the state primary and general elections in 2020. That election uniquely allowed for individuals concerned about Covid-19 to use the disability excuse to obtain an absentee ballot. The Department reports that 30 percent of voters in both the primary and general elections in 2020 used an absentee ballot. This is at least 20 percent higher than the percentage of absentee ballots typically cast in prior elections (between 5 and 10 percent).

For this bill, the Department assumes an election voter turnout range of between 500,000 and 800,000 voters and estimates an additional 20 percent of those voters would request an absentee



ballot, representing between 100,000 and 160,000 additional absentee ballots. Assuming a total of 250,000 additional absentee voters for both a primary and general election cycle and a per ballot cost of \$0.50 for the absentee ballot envelopes used by municipalities, the Department would incur a cost of \$125,000 for the absentee voter envelopes and supplies used by municipalities.

The Department of Justice states the Elections Unit may experience an increased workload related to assisting the Secretary of State's Office with the training of election officials and associated indeterminable expenditures related to this bill. The office may need to create new training material and update prior guidance documents. The office may need to assist local official with developing protocols to address an increase in local absentee ballot requests and handle increased questions from election official and voters.

The New Hampshire Municipal Association indicates the Secretary of State prepares ballots for state elections and municipalities prepare ballots for municipal elections and are responsible for the mailing of ballots for both state and local elections. The Association anticipates significantly more absentee ballots and envelopes would be needed as a result of this bill with a corresponding increase in expenses for the preparation of municipal ballots, additional envelopes and significant postage costs incurred for the mailing of all ballots. This increased cost may be offset to a small degree by the reduction in preparation of ballots used at the polling place. Additional staff time needed for absentee ballot processing by the clerk prior to election day and by the moderator on election day may also increase costs. Reduced staff time needed at the polls on election day will not fully offset this increased labor cost. The Association is unable to predict the number of individuals who will opt to vote by absentee ballot and what the per-voter cost of processing these ballots may be, so the impact on municipal expenditures is indeterminable. There should be no impact on municipal revenues.

These sections eliminate provisions subject to penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many fewer charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class A Misdemeanor	\$78	\$78
Class B Misdemeanor	\$55	\$55
Appeals	Varies	Varies

It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the costs within its existing budget. If the Department needs to prosecute significantly fewer cases or handle fewer appeals, then costs may decrease by an indeterminable amount.

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

**AGENCIES CONTACTED:**

Departments of State and Justice, Judicial Branch, Judicial Council, New Hampshire Association of Counties, and New Hampshire Municipal Association