Amendment to HB 1266

Amend the title of the bill by replacing it with the following:

AN ACT making temporary modifications to the absentee voter registration, absentee ballot application, and absentee voting processes in response to the novel coronavirus (Covid-19) disease.

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

1 Absentee Registration and Voting; Covid-19.

   I. Notwithstanding any law to the contrary, any person who is domiciled in any town or city in this state and is qualified to vote therein at the next subsequent election to be held in said town or city except for the fact that his or her name does not appear on the checklist to be used at the election, and who is temporarily absent therefrom or who by reason of concern for the novel coronavirus (Covid-19) disease is unable to attend a meeting of the supervisors of the checklist, may cause his or her name to be added to such checklist by applying to the city or town clerk or the secretary of state for a voter registration form provided for in RSA 654:7 and an appropriate absentee registration affidavit provided for in RSA 654:17.

   II. Notwithstanding any law to the contrary, any person who cannot appear in public on an election day or who is unable to vote in person in the city, town, or unincorporated place in which he or she is registered because of concerns relating to the novel coronavirus (Covid-19) may vote at such an election as provided in RSA 657 and this act.

   III. Notwithstanding any law of the contrary, any voter, after appearing at the polling place location prior to the closing of the polls to vote in person, who declares to the moderator under oath that said voter is unable to access a polling place due to concerns about the novel coronavirus (Covid-19) disease shall, upon the voter’s request, have the required documents delivered to the voter outside the guardrail by the town or ward clerk or one of his or her assistants. The absentee ballot delivered by the town or ward clerk shall be processed using the same procedures as any other absentee ballot except the cutoff time listed in RSA 657:22 shall not apply.

2 Absentee Voting; Application; Forms. To increase accessibility, usage, and confidence of absentee ballots and to minimize errors that overburden clerks’ offices, the absentee ballot application form described in RSA 657:4 is hereby suspended through December 31, 2020, provided that such form may be used in the event of a winter storm the day before the election. The secretary of state shall instead prepare new application forms for absentee ballots worded in substantially the
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following form to be used prior to any election occurring prior to December 31, 2020. 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:

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 am unable to vote in person due to concern for the novel corona virus (COVID-19).

____ 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.

_____ 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(s):

(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 ____________________

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.

The applicant must sign this form to receive an absentee ballot. 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.

3 Absentee Registration Affidavit; Covid-19. The absentee registration affidavit form described
in RSA 654:17 is hereby suspended through December 31, 2020. The secretary of state shall instead
prepare new affidavits worded in substantially the following form to be used prior to any election
occurring prior to December 31, 2020:

Affidavit (Absence from town)

I, ________________ do hereby swear or affirm, under the penalties for voting fraud set forth
below, the following:

1) That my legal domicile is in the town of ________________, New Hampshire, I will be of the age
of 18 years or over on election day and am entitled to vote in the election to be held in said town on
______________, ________ (date), except for the fact that my name does not appear on the checklist
to be used in said town at such election;

2) That I do not intend to be present within said town at such time prior to said election as shall
enable me personally to appear before the supervisors of the checklist of said town in their regular
sessions for the correction of the checklist for said election;

3) That I am temporarily residing in _________ (city and state or city, province, and country);

4) That I hereby enclose one of the following as proof of identity and domicile:

   (a) A copy of a current and valid New Hampshire driver’s license or an armed services
identification or other photo identification issued by the United States government that shows my
name and address; or

   (b) A copy of a current and valid photo identification and a copy of a current utility bill, bank
statement, government check, paycheck, other government document that shows my name and
address, or a letter from the administrator of a nursing home or similar facility affirming that I am a
resident of that facility that was provided to me at my request pursuant to the administrator’s duty
to provide such a letter upon my request;

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required
by section 4) above, this application may not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town to be
used at said election.

__________________________________________
Signature of Applicant

__________________________
Date

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
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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.

Affidavit (Physical Disability or Concern for Covid-19)

I, ______________________ do hereby swear or affirm, under the penalties for voting fraud set forth
below, the following:

1) That my legal domicile is in the town of ________________, New Hampshire, I will be of the age
of 18 years or over on election day, and am entitled to vote in the election to be held in said town on
______________, ___ (date), except for the fact that my name does not appear on the checklist to be
used in said town at such election;

2) That I am unable by reason of physical disability or concern for the novel coronavirus (Covid-19)
disease personally to appear before the supervisors of the checklist of said town in their regular
sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile or shall send a
photograph or photocopy of that proof to my clerk from the following email
address:___________________________:

(a) A copy of a current and valid New Hampshire driver’s license or an armed services
identification or other photo identification issued by the United States government that shows my
name and address; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank
statement, government check, paycheck, other government document that shows my name and
address, or a letter from the administrator of a nursing home or similar facility affirming that I am a
resident of that facility that was provided to me at my request pursuant to the administrator’s duty
to provide such a letter upon my request;

4) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required
by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be
used at said election.

________________________________
Signature of Applicant

________________________________
Date

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.

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

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

II. Notwithstanding the provisions of paragraph I, [upon the written challenges of 10 or more voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast in the election,] the moderator, or his or her designee, shall post the time at which the processing of absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open the moderator shall announce the time at which the processing of absentee ballots shall begin.

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

659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator’s designee may authorize the opening of absentee ballot outer envelopes on election day or the Thursday, Friday, Saturday, or Monday prior to the election prior to the time established for processing absentee ballots in RSA 659:49, but after the corrected checklist has been posted provided that the opening of the outer envelopes occurs in public with notice of the time and place. The envelope containing the ballot shall not be removed from the outer envelope at such time, [and except to determine that the affidavit on the inner envelope is complete, and notations shall be made on the checklist to facilitate processing. The outer envelope containing the inner envelope shall then be secured until it is processed pursuant to RSA 659:50.

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

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

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

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

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

7 Processing Absentee Ballots. RSA 659:49 is repealed and reenacted to read as follows:

659:49 Processing Absentee Ballots.

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

II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more
voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the
processing of all absentee ballots until after the polls close and prior to the counting of all ballots
cast in the election. The moderator, or his or her designee, shall post the time at which the
processing of absentee ballots shall begin at the polling place and one other public location at least
24 hours before the polls open. In addition, when the polls open the moderator shall announce the
time at which the processing of absentee ballots shall begin.

8 Opening Absentee Ballot Outer Envelopes. RSA 659:49-b is repealed and reenacted to read as
follows:

659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee
may authorize the opening of absentee ballot outer envelopes on election day prior to the time
established for processing absentee ballots in RSA 659:49, provided that the opening of the outer
envelopes occurs in public with notice of the time and place. The envelope containing the ballot shall
not be removed from the outer envelope at such time, and the outer envelope containing the inner
envelope shall be secured until it is processed pursuant to RSA 659:50.

9 Repeal. Sections 1-3 and section 6 of this act, relative to temporary modifications to the
absentee voter registration, absentee ballot application, and absentee voting processes in response to
the novel coronavirus (Covid-19) disease, are repealed.

10 Effective Date.
I. Sections 7-9 of this act shall take effect January 1, 2021.

II. The remainder of this act shall take effect upon its passage.
AMENDED ANALYSIS

This bill makes temporary changes to the absentee voter registration, absentee ballot application, and absentee voting processes in response to the novel coronavirus (Covid-19) disease.