

HB 611-FN - FINAL VERSION

27Jun2019... 2678-EBA

2019 SESSION

19-0310

11/05

HOUSE BILL            ***611-FN***

AN ACT                allowing voters to vote by absentee ballot.

SPONSORS:            Rep. Rogers, Merr. 28; Rep. W. Pearson, Ches. 16

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Nineteen*

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 is [~~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~~] **qualified to vote at any state election** may vote at  
14 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  
19 warning, or ice storm warning for election day applicable to the city, town, or unincorporated place:

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

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

28 (c) ~~As required by RSA 652:20, the clerk's office shall be open to receive applications for~~  
29 ~~absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive~~  
30 ~~returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to~~  
31 ~~5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the~~

~~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.]~~

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.~~

~~☐ 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.]~~

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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.]~~

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

17  
18 VETOED September 6, 2019  
19  
20  
21  
22

**HB 611-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 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<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>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**LOCAL:**

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

**METHODOLOGY:**

This bill would enable voters to vote by absentee ballot at a state or local election without any requirement that the voter be absent from the municipality or unable to vote in person for another reason.

The Department of State is unable to estimate the increase in absentee voting attributable to this bill. However, the Department of State assumes that for every 100,000 additional absentee ballots cast, at a cost of \$0.25 per ballot, the extra cost would be \$25,000 per election. The Department indicates municipalities would realize the bulk of increased postage and handling costs and the labor involved with processing such ballots. Extensive training of local election officials will be required. Complaints of improper voting may also increase, leading to additional investigatory costs. The total cost of implementation is indeterminable.

The New Hampshire Municipal Association states the Secretary of State prepares absentee ballots for state elections and municipal clerks prepare absentee ballots for municipal elections.



Preparation of additional absentee ballots incurs additional costs, which may be offset by reduced expenses for ballot preparation at the polling place. Municipal clerks are responsible for mailing all absentee ballots for both state and local elections, so the additional envelopes and postage costs may be significant but are unknown. Absentee ballots are processed by the clerk before election day and by the moderator on election day, and additional labor will be required, which may involve increased costs. There may be a reduction in the number of election officials needed at the polling place but that is not projected to offset the increased labor needed for the processing of absentee ballots. There is no way to predict the number of additional absentee voters or associated costs, therefore the effect on municipal expenditures cannot be estimated. There should be no impact on municipal revenues.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many 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 2020	FY 2021
Class B Misdemeanor	\$53	\$54
Class A Misdemeanor	\$76	\$77
Simple Criminal Case	\$296	\$301
Routine Criminal Felony Case	\$481	\$486
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2020 and FY 2021 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 – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
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%).		

Department of Corrections		
FY 2018 Average Cost of Incarcerating an Individual	\$40,615	\$40,615
FY 2018 Annual Marginal Cost of a General Population Inmate	\$4,620	\$4,620
FY 2018 Average Cost of Supervising an Individual on Parole/Probation	\$571	\$571
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 cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

**AGENCIES CONTACTED:**

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