

**HB 1672-FN - VERSION ADOPTED BY BOTH BODIES**

06/16/2020 1373s

2020 SESSION

20-2558

11/03

**HOUSE BILL 1672-FN**

AN ACT relative to absentee voting.

SPONSORS: Rep. Rogers, Merr. 28; Rep. K. Murray, Rock. 24

COMMITTEE: Election Law

**AMENDED ANALYSIS**

This bill:

I. Authorizes online voter registration.

II. Allows voters to vote by absentee ballot, and permits municipalities to process, but not count, absentee ballots prior to election day.

III. Repeals the authorization of the secretary of state to enter into an agreement to share voter information and data through the Interstate Voter Registration Crosscheck Program.

IV. Requires the secretary of state to enter into an agreement with the Electronic Registration Information Center to share voter information or data from the statewide centralized voter registration database.

V. Directs the secretary of state to fund certain provisions of this bill with grants received pursuant to the 2018 Help American Vote Act election security award and section 101 of the Help American Vote Act of 2002 and directs the governor to supplement such funding with CARES Act sums as necessary.

Explanation: Matter added to current law appears in ***bold italics***.Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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**STATE OF NEW HAMPSHIRE***In the Year of Our Lord Two Thousand Twenty*

AN ACT relative to absentee voting.

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

1 Short Title. This act shall be known as the Coronavirus Election Protection Act of 2020.

2 Purpose. In order to protect our elections and to ensure that no voter chooses between his or her health and constitutional right to vote, this act is the general court's response to COVID-19. It is in the public interest to advance public health, to protect free and fair elections, and to assist local election officials in the administration of our elections.

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

656:33 Official [~~Absence, Religious Observance, and Disability~~] Absentee Ballots. Prior to any state election, the secretary of state shall prepare, in such quantity as the secretary of state may deem necessary, [~~absence, religious observance, and disability~~] absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall have the

words "absentee ballot" printed on them and shall be similarly endorsed and printed on paper of the same color as that used for official ballots.

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

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

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

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

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

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

~~(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the day immediately prior to an election at a minimum from 3:00 p.m. to 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.~~

~~(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.]~~

5 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.]~~

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.

6 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.

~~[(b) Absence Because of Religious Observance or Physical Disability. A person voting by absentee ballot because of religious observance or physical disability 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 observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person; that I have carefully read (or had read to me because I am blind) 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).~~

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

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

~~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.]~~

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

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

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

669:26 Absentee Voting.

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

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

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

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

~~(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to 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.]~~

9 Election Procedure; Processing Absentee Ballots; Death of a Voter. Amend RSA 659:48 to read as follows:

659:48 Death of a Voter. If the officers charged with the duty of processing absentee ballots are cognizant of the fact that the voter has died prior to the *time that absentee ballots are to begin being processed in accordance with RSA 659:55-a, or prior to the* opening of the polls, they shall not open the envelope containing the absentee ballot.

10 Election Procedure; Processing Absentee Ballots. Amend RSA 659:49 to read as follows:

659:49 Processing Absentee Ballots.

I. Processing of previously received absentee ballots *other than those partially processed in accordance with RSA 659:55-a* 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, *other than those partially processed in accordance with RSA 659:55-a*, 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.

11 Election Procedure; Processing Absentee Ballots; Opening Envelope, Depositing Ballot. Amend RSA 659:52 to read as follows:

659:52 Opening Envelope; Depositing Ballot. If the absentee ballot is not challenged, the moderator shall, after announcing the name of the voter, open the envelope containing the ballot so the affidavit is not destroyed. The moderator shall then take the ballot out of the envelope without unfolding the ballot or without permitting the ballot to be examined, and he or she shall preserve the affidavit with the ballots cast at the election as provided in RSA 659:101. The moderator shall then have a checkmark placed beside the name of the absentee voter on the checklist and write therewith the letters "A.V." in red ink and shall ~~then deposit the ballot in the ballot box.~~ *then, as appropriate:*

*I. For absentee ballots processed on election day, deposit the ballot in the ballot box.*

*II. On a day that absentee ballots are processed in accordance with RSA 659:55-a, without unfolding the ballot or without permitting the ballot to be examined, place it in a container provided by the secretary of state as required by RSA 659:97. The moderator or his or her designee shall then seal such container with the sealer provided by the secretary of state. The moderator or his or her designee shall then enter in the appropriate blank space on such sealer on each container the number of absentee ballots in such container and shall endorse in the appropriate place on such sealer a certificate in the following form: "Enclosed are processed absentee ballots for the state election in the town of \_\_\_\_\_ (or in ward \_\_\_\_ in the city of \_\_\_\_\_) to be held on \_\_\_\_\_, 20\_\_\_\_, Box \_\_\_\_\_ of \_\_\_\_\_, to be delivered to the polling place in accordance with RSA 659:47, and which shall be deposited in the ballot box after the polls have opened on election day," provided that absentee ballot affidavits, application forms, and any absentee ballots subject to RSA 659:53 shall be placed in a separate container provided by the secretary of state as required by RSA 659:97, and the moderator or his or her designee shall seal such container with the sealer provided by the secretary of state as required by RSA 659:97.*

12 New Sections; 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 sections:

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 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 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. A copy of the notice shall be provided to the secretary of state. 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. Representatives of each of the 2 political parties which received the largest number of votes cast for governor at the last previous general election shall assist during this process but neither party shall exceed the other party's representation by more than one participant. Any number of election officials who are registered as undeclared voters may be appointed by the moderator to assist in 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.

659:55-b Preparation of Site for Processing Absentee Ballots Prior to an Election.

I. To the extent practicable, partial processing of absentee ballots shall occur at the polling location. If it is not practicable to partially process absentee ballots at the polling location(s), the clerk shall provide notice, in accordance with RSA 659:55-a, I, that the partial processing of absentee ballots will occur at town hall, city hall, or some other location within the municipality. A guardrail shall be constructed and placed so that only the checklists, absentee ballot materials, election officials, and proper supplies and conveniences are inside such rail. No person other than the election officers shall be permitted within the guardrail except by the authority of the election officers and, then, only for the purpose of keeping order and enforcing the law.

II. Challengers appointed by a party committee or the attorney general shall be assigned by the moderator or other election officer presiding over the processing of absentee ballots prior to an election to such position as will enable the challenger to see and hear each voter's name as it is announced pursuant to RSA 666:4 and RSA 666:5.

III. Any other person shall have a right, as safety, welfare, and rights of voters permit, to observe the partial processing of absentee ballots as provided herein, provided however, that observers may not be positioned within 4 feet of the voter checklist table.

13 Election Procedure; Preservation of Ballots and Other Election Materials; Preservation of Absentee Voting Materials and Election Day Affidavits. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials and Election Day Affidavits. The absentee ballot affidavits and application forms processed by the moderator as provided in RSA 659:50 **or RSA 659:55-a**, the absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53, and the qualified voter affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official shall be preserved in accordance with RSA 33-A:3-a. Qualified voter and voter registration affidavits shall be retained for the period set forth in RSA 33-A:3-a, and other materials may be destroyed after the election is settled and all appeals have expired or one year after the election, whichever is longer.

14 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph X the following new paragraph:

XI. Once a voter checklist has been marked pursuant to RSA 659:55-a, such checklist shall not be available for public inspection at any time prior to the close of the polls on election day without a court order.

15 New Section; Online Voter Registration. Amend RSA 654 by inserting after section 7-c the following new section:

654:7-d Online Voter Registration.

I. Beginning January 1, 2021, a person may register to vote by submitting an online voter registration application in accordance with this section.

II. The secretary of state shall establish a secure Internet website to permit an applicant to:

- (a) Submit an online voter registration form.
- (b) Submit information necessary to establish an applicant's qualifications to vote, pursuant to RSA 654:12.
- (c) Swear to the oath required by RSA 654:7.

III. The secretary of state shall establish appropriate technological security measures, including use of a unique identifier for each applicant, to prevent unauthorized persons from altering a voter's registration information.

IV.(a) No person without an identification issued by the New Hampshire department of safety, division of motor vehicles shall be able to register through the online voter registration system.

(b) The department of safety, division of motor vehicles shall provide the online voter registration application system all information necessary to effectuate the provisions of this section.

(c) The online voter registration application form shall require a valid electronic mail address for the voter in order to complete the online voter registration application.

(d) The online voter registration application system shall include a disclaimer to the applicant of possible criminal liability pursuant to paragraph XI.

V.(a) The online voter registration application system shall compare the New Hampshire driver's license number or New Hampshire nondriver's picture identification number submitted pursuant to this section with information maintained by the department of safety,

division of motor vehicles, to confirm that the name and date of birth on the application are consistent with the records of the department of safety, division of motor vehicles.

(b) If the applicant's name and date of birth are consistent with the records of the department of safety, division of motor vehicles, the online voter registration application system shall transmit, using the statewide centralized voter registration database maintained pursuant to RSA 654:45, the applicant's submission, including the digital signature of the applicant, to the appropriate supervisors of the checklist to add the applicant's name to the checklist. The applicant's digital signature shall satisfy the signature requirement of RSA 654:7, IV. The applicant shall be required to submit an original signature to the supervisors of the checklist prior to voting in the first election after registering online. An online registrant shall not be eligible to receive an absentee ballot until his or her original signature is on file with the supervisors of the checklist.

(c) If the applicant's name, citizenship, legal and/or physical mailing addresses, and date of birth cannot be verified by the records of the department of safety, division of motor vehicles, or the applicant indicated that he or she has not been issued a New Hampshire driver's license or New Hampshire nondriver's picture identification card, the online voter registration application system shall notify the applicant by electronic mail that his or her online voter registration was ineffective and inform the applicant of alternative methods of registration.

VI. Upon submission of a completed online voter registration application, the website shall generate an electronic confirmation that the supervisors of the checklist have received the application and shall provide instructions regarding the ability of an applicant to check the status of the application. Once the supervisors of the checklist have added the applicant to the checklist, the applicant shall be notified by electronic mail, including information about where the applicant is registered to vote.

VII. Except as otherwise provided in this section, the supervisor of elections shall process the application pursuant to RSA 654:13.

VIII. If a person submits an application pursuant to the provisions of this section after the 10th day before an election, the applicant shall not be added to the checklist until the day after the election. The supervisors of the checklist may contact such applicant, either by telephone or mail, in order to inform the applicant of the effect of the late-received application and the ability of the person to register in person on election day.

IX. The online voter registration system shall conform to nationally accepted standards for accessibility for individuals with disabilities such as section 508 of the Rehabilitation Act of 1973, section 255 of the Communications Act, and the Web Content Accessibility Guidelines of the World Wide Web Consortium to ensure equal access to voters with disabilities.

X. With the exception of the requirement that no person without an identification issued by the New Hampshire department of safety, division of motor vehicles shall be able to register, no legal distinction shall be made between online registration under this section and registration in person, by mail, or other methods provided by general law.

XI. A person using the online voter registration application system to register to vote using any name other than his or her own shall be considered to have violated RSA 659:34.

16 Centralized Voter Registration Database. Amend RSA 654:45, I to read as follows:

I. The secretary of state is authorized to plan, develop, equip, establish, site, and maintain a statewide centralized voter registration database and communications system, hereinafter referred to as the voter database, connecting users throughout the state. The voter database shall include the current information on the voter registration forms, *including those submitted pursuant to RSA 654:7-d*, the accepted absentee ballot applications, the voter checklists, and voter actions as recorded on the marked checklist maintained by each city, ward, and town in the state.

17 Centralized Voter Registration Database; Electronic Registration Information Center. Amend RSA 654:45, VIII(a) and (c) to read as follows:

(a) The secretary of state ~~may~~ **shall** enter into an agreement ***with the Electronic Registration Information Center*** to share voter information or data from the statewide centralized voter registration database ***along with voter information or data from the department of motor vehicles, other state agencies, the secretary of state, and political subdivisions as necessary*** for the purpose of comparing duplicate voter information with other states or groups of states. ***Such agreement shall be effective no later than June 30, 2020, and the secretary of state shall ensure that New Hampshire remains in good standing with the Electronic Registration Information Center.*** The secretary of state shall only provide information that is necessary for matching duplicate voter information with other states and shall take precautions to make sure that information in the database is secure in a manner consistent with RSA 654:45, VI. The secretary of state may solicit input from the department of safety and the department of information technology and shall ensure that any information or data shared between the agencies ***is protected by security processes and protocols, and that any information or data*** that is of a confidential nature remains confidential.

(b) The secretary of state shall investigate any duplicate matches of voters resulting from any comparisons of the statewide centralized voter registration database ***and other voter information or data*** with other states. If the investigation results in the inability to confirm

the eligibility of a person or persons who voted, or there is reason to believe a person or persons voted who were not eligible, the secretary of state shall forward the results to the attorney general for further investigation or prosecution.

(c) *Upon the effective date of subparagraph (a), the secretary of state shall cease any activity or data transfer with the Kansas-based Interstate Voter Registration Crosscheck Program.*

(d) Upon completion of any investigation authorized under RSA 654:45, VIII(b), the attorney general and the secretary of state shall forward a report summarizing the results of the investigation to the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law.

(e) *The secretary of state shall ensure that all information in the statewide database remains secure.*

(f) *The secretary of state shall solicit input from the department of information technology and any other relevant departments to ensure that any information or data collected and shared pursuant to this paragraph is protected by up-to-date security processes and protocols and that any such information or data that is of a confidential nature remains confidential.*

18 New Paragraph; Administration of Motor Vehicle Laws; Records and Certification. Amend RSA 260:14 by inserting after paragraph III-d the following new paragraph:

III-e. Voter information and data contained in motor vehicle records shall be provided to the secretary of state pursuant to RSA 654:45, VIII. This information and data may be further transferred or otherwise made available to programs or organizations pursuant to RSA 654:45, VII(a).

19 Absentee Ballot Request Forms; 2020 Primary and General Election. Notwithstanding any other law to the contrary, the secretary of state shall ensure that all registered voters in New Hampshire are mailed an absentee ballot request form no later than 30 days prior to both the 2020 primary election and the 2020 general election.

20 Repeal. 2016, 175:2, relative to the Interstate Voter Registration Crosscheck Program, is repealed.

21 Funding of Implementation. The department of state shall fund the implementation of sections 15 and 17 of this act with grants received pursuant to the 2018 Help America Vote Act Election Security Award and section 101 of the Help America Vote Act of 2002, Public Law 107-252.

22 Additional Appropriation; CARES Act Funding. The governor shall draw a warrant from the treasury for CARES Act sums necessary to immediately implement the provisions of this act, to the extent not already covered by Help America Vote Act moneys.

23 Effective Date. This act shall take effect upon its passage.

LBAO  
20-2558  
Revised 6/29/20  
Amended 6/24/20

### HB 1672-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENT 2020-1373s)

AN ACT relative to absentee voting.

**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>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - HAVA and CARES Act Funds			

#### COUNTY:

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

#### LOCAL:



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

## METHODOLOGY:

### Sections 1-14

These sections of the bill as amended permits "no excuse" absentee voting. The Department of State indicates that changes to forms and envelopes related to absentee voting and additional training of local officials would be required. These changes could be absorbed in the existing Department budget. Expenditures could increase by a significant but indeterminable amount at the local level for additional staff time needed to process absentee ballots and for additional unknown postage costs.

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	\$77	\$79
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.

### Sections 15-16

These sections of the bill as amended establishes an online voter registration system. The Secretary of State shall establish a secure Internet website and appropriate technological security measures. The Department of Safety shall provide the online voter registration application system all information necessary to compare New Hampshire driver license and nondriver picture identification information to confirm the identity of applicants. The online voter registration application system shall transmit, using the statewide centralized voter registration database maintained pursuant to RSA 654:45 the applicant's submission, including digital signature, to the appropriate supervisors of the checklist to add the applicant's name to the checklist. The

Department of State has previously indicated the costs to develop and maintain secure software and Internet connections and training of local officials is indeterminable.

The Department of Safety indicates it would require a real-time interface between the online voter registration application system and the Department of Motor Vehicles VISION system. Coordination with the Department of Information Technology would be needed to establish the connectivity between the systems. The Department estimates a one-time expenditure of approximately \$40,000 for development, testing and implementation of this connection.

### **Sections 17-18, 20**

These sections as amended remove the authority of the Secretary of State to participate in the Kansas-based Interstate Voter Registration Crosscheck Program as granted by Chapter 175:2, Laws of 2016. The Secretary of State shall enter into an agreement with the Electronic Information Center to share voter information or data from the statewide centralized voter database, along with voter information or data from the Department of Motor Vehicles, other state agencies, the Secretary of State and political subdivisions as necessary for the purpose of comparing duplicate voter information with other states. Such agreement shall be effective no later than June 30, 2020. Funding for this program participation shall be provided by grants received pursuant to the 2018 Help America Vote Act (HAVA) Election Security Award and section 101 of the HAVA Act of 2002, Public Law 107-252.

The Secretary of State shall ensure the security of information in the statewide voter database and shall solicit input from the Department of Information Technology and any other relevant department to ensure that information or data collected and shared is protected and that confidential data remains confidential. The Department of Safety is required to provide motor vehicle records as necessary and such data may be further transferred or otherwise made available to programs or organizations as specified.

The Department of State indicates the initiation fee for participation in the Electronic Registration Information Center (ERIC) is estimated at approximately \$25,000 with annual renewal costs of approximately \$20,000. Voters identified through ERIC would be sent a letter with information on how to register to vote. Assuming 25,000 potential new voters with a mailing cost of \$1.00, including postage, this would require an additional \$25,000 expenditure. Obtaining motor vehicle data would require one-time software upgrades and ongoing maintenance with an indeterminable cost. The Election Fund would be used to provide funding at an indeterminable level, and the depletion of federal money in this fund for this purpose may necessitate that the general fund cover any future shortfall.

The Department of State is required to solicit input from the Department of Information Technology (DOIT). DOIT cannot determine the number of employees or the number of hours that would be needed to provide the requested input, so the fiscal impact on the department is indeterminable.

The Department of Safety previously indicated there is no fiscal impact to the department because it currently shares data with the Secretary of State's Office. The bill as amended includes updates to the driver privacy act, RSA 260:14,III-e, to allow data sharing between the division of motor vehicles and the Secretary of State's Office and further data transfers pursuant to RSA 654:45, VII(a).

### **Section 19**

Requires the Secretary of State to ensure all registered voters in New Hampshire are mailed an absentee ballot request form for the 2020 primary and 2020 general election. No fiscal information for this requirement is available at this time.

### **Section 21-22**

Requires the Department of State to utilize HAVA and CARES Act funding to implement the provisions of the act.

### **AGENCIES CONTACTED:**

Departments of State, Safety, Corrections, Justice, and Information Technology, Judicial Council, Judicial Branch and New Hampshire Association of Counties