



PROTECTING THE VOTE FOR ALL AMERICANS

March 3, 2021

Via Email

Hon. Barbara Griffin  
Chairman, Committee on Election Law  
Members of the Election Law Committee  
New Hampshire House of Representatives  
[HouseElectionLawCommittee@leg.state.nh.us](mailto:HouseElectionLawCommittee@leg.state.nh.us)

Dear Chairman Griffin and Members of the Committee:

I write on behalf of Fair Elections Center in support of HB 516 and HB 144, and in opposition to HB 292, which are currently scheduled for hearing before the Committee on Thursday, March 4, 2021. These bills would make the following changes:

- HB 516 would modernize elections and voting in New Hampshire by allowing any voter to vote absentee.
- HB 144, while it would not open the absentee process up to every New Hampshire voter, would make common sense changes including to accommodate individuals with disabilities and others who are unable to vote in person, allowing voters who need it the option to vote safely and securely at home.
- HB 292 would make changes to the absentee ballot process that are likely to lead to unnecessary barriers being placed on voters.

We respectfully request that this letter be entered into the record as written testimony.

Page 1 of 4

Fair Elections Center is a national, nonpartisan voting rights and election reform 501(c)(3) non-profit organization based in Washington, D.C. Its mission is to use litigation, education, and advocacy to remove barriers to registration and voting, particularly those disenfranchising underrepresented and marginalized communities, and to improve election administration. The Center and its predecessor, Fair Elections Legal Network, have been helping Granite Staters exercise their right to vote since 2010.

## HB 516

HB 516 would modernize elections and voting in New Hampshire by allowing any voter to vote absentee.

Under current statute, New Hampshire voters may vote by absentee ballot only for specific reasons. The reasons currently include; being absent from the voter's city or town, a religious observance, disability or illness, and employment commitments (including caregiving) during the entire time the polls are open.<sup>1</sup> While absentee ballots may also be available when a weather emergency impacts an election, such an option is not guaranteed in any given situation.<sup>2</sup>

In New Hampshire in 2020, ballot modernization in light of the COVID-19 pandemic provided eligible voters safe and secure access to be able to vote. By encouraging voters to vote from home, states including New Hampshire helped mitigate risks associated with the current pandemic while also modernizing and maintaining the security of their election process.

The 2020 General Election showed both nationally and in New Hampshire that making it easier to cast a ballot benefits voters of all political persuasions and is not a fundamentally partisan issue. At least 34 states—including New Hampshire—eased voting restrictions for the General Election due to COVID-19.<sup>3</sup> Two-thirds of the voting-eligible population subsequently voted in the election,<sup>4</sup> the highest turnout since 1900,<sup>5</sup> with New Hampshire seeing a record turnout of over 75 percent.<sup>6</sup> President Trump won

---

<sup>1</sup> See, e.g., RSA 657:4, RSA 669:26.

<sup>2</sup> See, e.g., RSA 654:16 and RSA 654:17.

<sup>3</sup> Sarah Swann, *These 34 states are making voting easier, if only for this fall*, THE FULCRUM (Sep. 24, 2020), <https://thefulcrum.us/voting/how-to-vote>.

<sup>4</sup> *2020 November General Election Turnout Rates*, U.S. ELECTIONS PROJECT, <http://www.electproject.org/2020g> (last updated Dec. 7, 2020).

<sup>5</sup> *National General Election VEP Turnout Rates, 1789-Present*, U.S. ELECTIONS PROJECT, <http://www.electproject.org/national-1789-present> (last visited Jan. 15, 2021).

<sup>6</sup> U.S. Elections Project, *supra* note 4.

more votes than any other sitting president in U.S. history, while President Biden won more votes than any other presidential candidate.<sup>7</sup> Both chambers of the New Hampshire legislature changed party hands<sup>8</sup> and the Republican caucus picked up 16 seats in the 117th United States Congress.<sup>9</sup> In sum, as one commentator put it, the 2020 General Election dispelled the myth that higher turnout favors one major political party over the other.<sup>10</sup>

Making the option to vote absentee without a specific excuse permanent for all voters allows our elections to be flexible and responsive to exigencies and emergencies without compromising security. No American should have to choose between their right to vote or their health and the health of their families, during a pandemic or otherwise.

Of course, modernizing absentee voting would not *require* all eligible voters to vote a mail ballot; it means only that they would have the option to do so. And expanding these options has significant logistical benefits: as more voters use absentee ballots, fewer voters need cast their vote at the polls—alleviating some of the pressure on election administrators in high-volume elections on Election Day. A more robust vote-by-mail system will make our elections more resilient, more secure, and more accessible.

Particularly in light of the January 6 attack on the U.S. Capitol, we must fortify our democratic institutions through policies that help all eligible voters participate in the electorate. HB 516 would bring New Hampshire closer to that goal.

## HB 144

HB 144 would not open the absentee process up to every New Hampshire voter. But it would make common sense changes, including to accommodate individuals with disabilities and others who are unable to vote in person, allowing voters who need it the option to vote safely and securely at home. Ensuring that voters with disabilities and

---

<sup>7</sup> See “Compare National Data by Year (Table),” *Presidential General Election Results Comparison – National*, DAVE LEIP’S ATLAS OF PRESIDENTIAL ELECTIONS, <https://uselectionatlas.org/RESULTS/> (last visited Jan. 15, 2021).

<sup>8</sup> Tim Storey and Wendy Underhill, *2020 Legislative Election Results: It’s Status Quo in the States*, NAT’L CONF. OF ST. LEGIS. (Nov. 5, 2020), <https://www.ncsl.org/blog/2020/11/05/2020-legislative-election-results-its-status-quo-in-the-states.aspx>.

<sup>9</sup> *Party Breakdown, 117th Congress House Lineup*, U.S. HOUSE OF REPRESENTATIVES PRESS GALLERY, <https://pressgallery.house.gov/member-data/party-breakdown> (last visited Jan. 15, 2020); Jennifer E. Manning, CONG. RES. SERV., R45583, MEMBERSHIP OF THE 116TH CONGRESS: A PROFILE 1 (2020).

<sup>10</sup> David Weigel, *The Trailer: Democrats won the White House and lost a myth about turnout*, WASHINGTON POST (Nov. 8, 2020), <https://www.washingtonpost.com/politics/2020/11/08/trailer-democrats-won-white-house-lost-myth-about-turnout/>.

those who otherwise cannot vote in person can still have their voices heard is essential to a fair democratic process. We are all equal when we vote: excluding vulnerable and marginalized voters has no place in a democracy. For this and many of the reasons discussed above, we support HB 144.

## **HB 292**

HB 292 would make changes to the absentee ballot process that are likely to lead to unnecessary barriers being placed on voters. Specifically, for those voting in person absentee, it would create an option to show a voter ID or have the absentee ballot notarized. Although as written the bill makes these procedures voluntary, there is a significant risk of clerks applying the provision unevenly. Additionally, because signature matching is not required under current New Hampshire law, it would create a false choice and unnecessary barrier for any voter incorrectly asked to show ID or provide notarization. Inherent in adding a voluntary ID requirement is the likely confusion of voters believing that ID is *required*, leading to disenfranchisement of those without ID. Especially with diffuse election administration, the provision is also likely to lead to clerks believing that ID is required, which may well result in unfairly turning voters away.

Thank you for allowing Fair Elections Center to share its expertise on these matters and to express its opinion on these bills. Should you have any questions, I can be reached at [mkantercohen@fairelectionscenter.org](mailto:mkantercohen@fairelectionscenter.org) or (202) 331-0114.

Sincerely,

**Michelle E. Kanter Cohen**  
**Senior Counsel**  
**Fair Elections Center**  
1825 K St. NW, Ste. 450  
Washington, D.C. 20006