LEGISLATIVE COMMITTEE MINUTES

SB250

Bill as Introduced

SB 250 - AS INTRODUCED

2023 SESSION

23-0965
05/08

SENATE BILL ***250***

AN ACT relative to remote participation in government meetings.

SPONSORS: Sen. Lang, Dist 2; Sen. Gray, Dist 6; Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. Pearl, Dist 17; Rep. B. Boyd, Hills. 12

COMMITTEE: Judiciary

ANALYSIS

This bill revises the criteria and procedures for holding remote public meetings under RSA 91-A.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0965
05/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to remote participation in government meetings.

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

1 Access to Governmental Records and Meetings; Remote Meetings; When Authorized. RSA 91-A:2, III is repealed and reenacted to read as follows:

III. The governing body of a political subdivision may vote to authorize members of public bodies in the political subdivision to participate remotely in meetings via electronic means for the benefit of the public and the governing body, subject to the provisions of this paragraph or more stringent conditions set locally. The authority granted under this paragraph may be revoked, renewed, or modified in the same manner as it is approved. Nothing in this paragraph shall apply to the general court.

(a) When authorized by its governing body, a public body may allow one or more members of the body to participate in a meeting remotely only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) A quorum or at least one third of the total membership of the public body, whichever is less, shall be present at the physical location of the meeting. Each member participating electronically or otherwise must be able to contemporaneously and throughout the meeting see and hear, and be seen and heard by, the other members of the public body attending the meeting. A member participating in a meeting by the means described in this paragraph is deemed to be present for all purposes, including for determination of a quorum and voting.

(c) All members shall be audible and/or visible to the public in attendance at the meeting's physical location. Each member participating remotely shall identify the persons present in the location from which the member is participating.

(d) No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(e) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting.

(f) In an emergency, when immediate action is imperative and the physical presence requirement is not reasonably practical within the period of time requiring action, the one third requirement shall not apply. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(g) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

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

SB 250 - AS AMENDED BY THE SENATE

03/16/2023 1040s

2023 SESSION

23-0965
05/08

SENATE BILL ***250***

AN ACT relative to remote participation in government meetings.

SPONSORS: Sen. Lang, Dist 2; Sen. Gray, Dist 6; Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. Pearl, Dist 17; Rep. B. Boyd, Hills. 12

COMMITTEE: Judiciary

ANALYSIS

This bill revises the criteria and procedures for holding remote public meetings under RSA 91-A.

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to remote participation in government meetings.

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

1 Access to Governmental Records and Meetings; Remote Meetings; When Authorized. Amend RSA 91-A:2, III to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical, ***as described in subparagraph (f).*** [~~Any~~] ***The*** reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an " emergency " means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify [~~the persons present in the location from which the member is participating~~] ***their location and any persons present at that location.*** No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

(f) In-person attendance at meetings is expected. Attendance of a member other than in person shall be not more than occasional and shall not be allowed for successive meetings by the chair without justification. Attendance in person is not reasonably practical when, in the opinion of the chair, the member is away from the location of the meeting for a legitimate reason, including but not limited to, work, medical reasons, weather conditions, or childcare. Except for a medical reason, a legitimate reason shall not include a member who is absent from the state or plans to be absent from the state for 28 or more consecutive days.

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

Amendments

Sen. Gray, Dist 6
February 28, 2023
2023-0713s
05/08

Amendment to SB 250

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

1 Access to Governmental Records and Meetings; Remote Meetings; When Authorized. Amend RSA 91-A:2, III to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical, ***as described in subparagraph (f).*** [~~Any~~] ***The*** reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency ***or as otherwise provided in paragraph IV***, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an " emergency " means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify [~~the persons present in the location from which the member is participating~~] ***their location and any persons preset at that location.*** No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

(f) In-person attendance at meetings is expected. Attendance of a member other than in person shall be not more than occasional and shall not be allowed for successive meetings by the chair without justification. Attendance in person is not reasonably practical when, in the opinion of the chair, the member is away from the location of the meeting for a legitimate reason, including but not limited to, work, medical reasons, weather conditions, or childcare. Except for a medical reason, a legitimate reason shall not include a member who is absent from the state or plans to be absent from the state for 28 or more consecutive days.

IV. The governing body of a political subdivision may by a 3/5 vote adopt a local bylaw, rule, or ordinance authorizing members of public bodies, as defined by RSA 91-A:1-a, VI(d), in the political subdivision to participate in meetings by electronic or other means of communication where less than a quorum but not less than one third of the total membership of the public body shall be present at the physical location of the meeting. The chair shall determine that the meeting is a benefit to the public and the public body, and the meeting shall be subject to the other provisions of paragraph III, this paragraph, and any more stringent conditions established in the local bylaw, rule, or ordinance. The authority granted under this paragraph may be revoked, renewed, or modified in the same manner as it is approved. The authority granted under this paragraph shall not restrict the ability of a public body to allow remote participation with less than a quorum physically present in an emergency.

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

Sen. Gray, Dist 6
March 16, 2023
2023-1040s
05/08

Floor Amendment to SB 250

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

1 Access to Governmental Records and Meetings; Remote Meetings; When Authorized. Amend RSA 91-A:2, III to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical, ***as described in subparagraph (f)***. [~~Any~~] ***The*** reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an " emergency " means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify [~~the persons present in the location from which the member is participating~~] ***their location and any persons present at that location.*** No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

(f) In-person attendance at meetings is expected. Attendance of a member other than in person shall be not more than occasional and shall not be allowed for successive meetings by the chair without justification. Attendance in person is not reasonably practical when, in the opinion of the chair, the member is away from the location of the meeting for a legitimate reason, including but not limited to, work, medical reasons, weather conditions, or childcare. Except for a medical reason, a legitimate reason shall not include a member who is absent from the state or plans to be absent from the state for 28 or more consecutive days.

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

Committee Minutes

SENATE CALENDAR NOTICE
Judiciary

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Daryl Abbas, Member
Sen Rebecca Whitley, Member
Sen Shannon Chandley, Member

Date: February 15, 2023

HEARINGS

Tuesday	02/21/2023
(Day)	(Date)

Judiciary	State House 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m.	**SB 245**	relative to the inspection of hotel guest records.
1:15 p.m.	**SB 246**	relative to disclosure of post-arrest photographs under the right to know law.
1:30 p.m.	**SB 250**	relative to remote participation in government meetings.
1:45 p.m.	**SB 253**	relative to parental access to a minor child's medical records.
2:00 p.m.	**SB 251**	establishing a committee to study the long-term impact of the New Hampshire adult parole system.
2:15 p.m.	**SB 247**	repealing limited liability for manufacturers, distributors, dealers, or importers of firearms or ammunition.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 245			
Sen. Ricciardi	Sen. Bradley	Sen. Gannon	Rep. Hunt
SB 246			
Sen. Murphy	Sen. Avard	Rep. D. McGuire	Rep. Spillane
Rep. Kofalt			
SB 250			
Sen. Lang	Sen. Gray	Sen. Watters	Sen. Perkins Kwoka
Sen. Whitley	Sen. Pearl	Rep. B. Boyd	
SB 253			
Sen. Innis	Sen. Avard	Sen. Murphy	Sen. Gray
Sen. Ward	Rep. Sellers	Rep. J. Harvey-Bolia	
SB 251			
Sen. Whitley	Sen. Avard	Sen. Perkins Kwoka	Sen. Watters
Sen. Soucy	Sen. D'Allesandro	Sen. Fenton	Sen. Chandley
Rep. Rhodes			
SB 247			
Sen. Altschiller	Sen. Watters	Sen. Fenton	Rep. Meuse
Rep. DiLorenzo	Rep. M. Paige		

Matthew Schelzi 271-3266

Sharon M. Carson
Chairman

Senate Judiciary Committee

Matthew Schelzi 271-3266

SB 250, relative to remote participation in government meetings.

Hearing Date: February 21, 2023

Time Opened: 1:43 p.m. **Time Closed**: 2:13 p.m.

Members of the Committee Present: Senators Carson, Gannon, Abbas, Whitley and Chandley

Members of the Committee Absent: None

Bill Analysis: This bill revises the criteria and procedures for holding remote public meetings under RSA 91-A.

Sponsors:

Sen. Lang	Sen. Gray	Sen. Watters
Sen. Perkins Kwoka	Sen. Whitley	Sen. Pearl
Rep. B. Boyd		

Who supports the bill: Senator Lang (District 2), Kate Horgan (NHAC), Natch Greyes (NHMA), Glee M. Corsetti-Hooper, Senator Gray (District 6), Katie Lajoie, Senator Watters (District 4), Senator Perkins Kwoka (District 21), and Susan Smith.

Who opposes the bill: Karen Rosenberg (DRC-NH), Laurie Ortolano (RTKNH), Anthony Pumilia, and David Saad.

Who is neutral on the bill: Douglas Osterhoudt (OPLC)

Summary of testimony presented in support:

Senator Lang introduced SB 250. He said the bill deals with remote participation in meetings. He offered an amendment that he said clears up some problems that the Municipal Association and Disability Rights Center raised. He said Section IV applies specifically to subdivisions of the State, and not State-level boards and agencies. He said it is becoming increasingly difficult in small towns to have people volunteer for boards and show up in person at meetings. He said SB 250 maintains RSA 91-A but allows for remote participation on boards. It would require one-third of members, less than a quorum, to be physically present and also require all remote members to have their audio and video on for contemporaneous conversations. He said SB 250 will resolve issues small towns are having. He said SB 250 allows boards to vote to revoke

the remote participation provision if it is being abused. It is an opt-in bill. He said the amendment clarifies it is for entities below the State-level.

Senator Carson said this is an issue that has come up multiple times. She said town government is the closest to the people, but asked how the public would participate if it's a remote meeting. She referenced Section IV of the amendment and said she doesn't see anything else in SB 250 related to public participation. She said public meetings usually have time set aside for public comments.

Sen. Lang said SB 250 wouldn't prohibit the public from participating remotely. He said regulations during the COVID-19 pandemic allowed remote participation through platforms like Zoom. He said remote participation by the public is allowed currently through teleconference and nothing in this bill would restrict public participation.

Sen. Carson asked if there should be language requiring that every community that chooses to allow remote meetings shall ensure the public has an opportunity to speak.

Sen. Lang said he would be fine with that language. He said the purposes of having a physical presence is that not all communities in New Hampshire have the technology required, so SB 250 wants to ensure those individuals are not disenfranchised.

Sen. Carson asked if there should be a limit on remote participation. She referenced a board member who may relocate to Florida for the winter months. She asked if that kind of absence should be addressed in SB 250.

Sen. Lang said if the remote participation is being abused and a majority of the board agrees they can revoke the privilege.

Sen. Carson asked if there should be a definition of abusing the privilege in the bill.

Sen. Lang said he wouldn't object to it, but believed that was getting granular and could lead to problems about being able to envision every possible situation that could occur. He said the local boards are better able to anticipate the needs of their communities.

Sen. Carson proposed a hypothetical where a town board is hearing a divisive issue and the board holds a remote meeting to avoid facing their constituents. She asked how it can be ensured that that doesn't happen.

Sen. Lang said, under current law, the participants of a meeting can be remote as long as a quorum is physically present. He said SB 250 is just shrinking the number of participants that need to be physically present and allowing the boards to take one vote to authorize remote participation, rather than needing to vote at each individual meeting.

Sen. Carson asked if this language would allow a board to exempt itself from ever meeting in public. She said she did not see anything in SB 250 to that effect.

Sen. Lang referenced (b) on Page 1 of SB 250. He said one-third of the total membership of a board has to be physically present for the meeting to occur. There is a requirement for people to be in a room that is open to the public.

Sen. Carson asked if he would be amenable to have this bill include State entities or counties.

Sen. Lang said counties are subdivisions of the State, so they would be covered by SB 250. He referenced the SB 330-FN (2022) Study Committee and the number of Office of Professional Licensure and Certification boards that cannot meet due to quorum problems. He said there are places in State government where he would be open to permitting remote participation, if there are appropriate guidelines.

Natch Greyes, NH Municipal Association, supports the bill and the amendment. He said there were drafting errors in SB 250 that would have erased existing provisions about emergency meetings, which was not the intent of SB 250, and the amendment Sen. Lang offered corrects those. He said SB 250 contains provisions that the governing body of the subdivision has to authorize the remote participation and they also have the ability to revoke that authorization. He said there could be situations where bad actors attempt to abuse the system. He said Section IV allows for enhanced participation for those participating remotely, as simply calling in to a meeting did not seem fair. He said they wanted to ensure they were able to be both seen and heard by people present at the meeting. He said this would require some additional work by the body. He said SB 250 did not add a definition about abuse and revocation because they wanted the language to be as broad as possible to allow for the governing body to respond to their specific situations that may arise. He said SB 250 doesn't address public participation or State boards. He said he would not object to additional requirements, but figuring out specifics for remote public participation in case of a technological snafu is difficult so they wanted the bill to be focused on the members of boards. He said there are some State-level boards that have special rules about remote participation that were not accounted for in SB 250 as introduced, so the amendment corrects that. He said there is a bill in the House that deals with State-level boards specifically.

Sen. Carson said she received an email with suggestions, including if a member of the public notifies the board of a problem with access, the issues have to be noted in the minutes and, if it is proven the public did not have access, then all actions taken during that portion of the meeting would need to be null and void.

Mr. Greyes said SB 250 does not address public access. He said if there is a broadcast of a meeting and there are problems with it, it is separate from what SB 250 is trying to do. He said SB 250 is a narrow carveout of the difference between one-third and one-half of a board being physically present.

Sen. Carson said the other suggestion was if the meeting can be recorded then it shall be recorded and the minutes shall note the meeting was recorded and that the recording is available to the public.

Mr. Greyes said he had no objection to that.

Sen. Carson asked why SB 250 does not address public access.

Mr. Greyes said there have been towns who have spent a lot of money to set up remote access to meetings beyond local cable-access television, and the technology frequently

does not work. He said they were worried about a situation where there's an important item on the agenda and there's a technological snafu that limits public participation. He said the meetings would always need a physical location, so there could never be an all-Zoom meeting, but some board members may participate remotely while still being able to see and hear their constituents.

Kate Horgan, NH Association of Counties, expressed support. She said SB 250 would allow counties to accomplish their work. She noted getting a quorum at the county-level can be challenging, especially for Hillsborough and Rockingham County Delegation Meetings. She said there have been County Commissioners who drive around and physically collect delegates so there would be a quorum to meet statutory deadlines. SB 250 seeks to serve the public better by enabling counties to do what they need to do in serving the public.

Glee Corsetti-Hooper, Board of Examiners of Naturopathic Doctors, is the public member of the board. She said her board has been unable to meet due to quorum issues because the members are doctors who practice across the state. She said she liked the idea of requiring some of the board members to be physically present. She said they haven't had any problems with public access because OPLC has the technology.

Summary of testimony presented in opposition:

Karen Rosenberg, Disability Rights Center, said she opposed SB 250 as introduced because there was a drafting error that would remove the ability of any entity other than a political subdivision to benefit from remote participation. She said that would affect councils and groups that the DRC participates in and make it harder for people with disabilities, or who care for someone with disabilities, to participate. She could not take a position on the amendment as she hadn't seen it, but she could not support SB 250 as introduced.

Laurie Ortolano, Right to Know NH, said she was unaware of Sen. Lang's proposed amendment. She said she does not support SB 250 as introduced. She said RTKNH always considers the equality of public access to meetings as well as remote participation. She said any change to RSA 91-A would be a big step. She said the amendment might alleviate some of her concerns but she had not seen it. She said a similar bill in the House was found Inexpedient to Legislate. She said it's important for the public to have equal access to meetings, and to be able to participate despite technological issues. She said any technological issues need to be worked out before remote meetings can occur. She said it is important that the public can see their elected representatives doing the work they elected them too. She said SB 250 would define what a quorum is, which is not typical because quorums are defined by the body itself, and it does not specify if a chair needs to be present or can operate the meeting remotely. She said if a chair is not visible it may make a meeting more confusing to the public. She said she thought that (b) was confusing because it includes the definition of

a quorum but does not say that members participating remotely do not count towards the number of those present. She said the definition of a quorum in (f) is also confusing. She said it is more normal to preface right-to-know requirements with "Except in an emergency..." rather than how it is done in SB 250. She said critical language about public access is missing in SB 250.

Neutral Information Presented: None.

mjs
Date Hearing Report completed: March 2, 2023

Speakers

Senate Judiciary Committee
SIGN-IN SHEET

Date: Tuesday February 21st, 2023 **Time:** 1:30 p.m.

SB 250 AN ACT relative to remote participation in government meetings.

Name/Representing *(please print neatly)*

	Support	Neutral	Oppose	Speaking?	Yes	No
Sen Lang	☒	☐	☐		☒	☐
Kate Hergan, NHAC	☒	☐	☐		☒	☐
Nicole Greyes NHMA	☒	☐	☐		☒	☐
Douglas Osterhoudt, OPLC	☐	☒	☐		☐	☐
Glee M Corsetti-Hooper	☒	☐	☐		☒	☐
Karen Rosenberg, DLC-NH	☐	☐	☒		☒	☐
Lewis Ott, ACLU RTKNH	☐	☐	☒		☒	☐
	☐	☐	☐		☐	☐
	☐	☐	☐		☐	☐
	☐	☐	☐		☐	☐
	☐	☐	☐		☐	☐
	☐	☐	☐		☐	☐
	☐	☐	☐		☐	☐

Senate Remote Testify

Judiciary Committee Testify List for Bill SB250 on 2023-02-21

Support: 5 Oppose: 2

Name	Title	Representing	Position
Gray, Senator James	An Elected Official	Myself	Support
Pumilia, Anthony	A Member of the Public	Myself	Oppose
Lajoie, Katie	A Member of the Public	Myself	Support
saad, david	A Member of the Public	Myself	Oppose
Watters, Senator David	An Elected Official	Myself	Support
Perkins Kwoka, Senator Rebecca	An Elected Official	Myself	Support
Smith, Susan	A Member of the Public	Myself	Support

Testimony

President
Wendy Piper
Grafton County Commissioner

Vice President
Cathy Stacey
Rockingham Register of Deeds

At Large Member
Toni Pappas
Hillsborough County Commissioner

At Large Member
Ross Cunningham
Merrimack County Administrator

Association of Counties

11 South Main Ste. 200
Concord, NH 03301

info@nhcouties.org

www.nhcounties.org

Immediate Past President
Chuck Weed
Cheshire County Commissioner

Treasurer
Charles Nickerson
Rockingham Finance Director

Bylaws Chair
Chris Coates
Cheshire County Administrator

February 20, 2023

The Honorable Sharon Carson
Chair
Senate Judiciary Committee
NH State House
Concord, NH 03301

Chair Carson and Members of the Senate Judiciary Committee,

The NH Association of Counties would like to express support for SB 250, relative to remote participation in government meetings,

This bill would allow political subdivisions to authorize members of that political subdivision to participate in meetings electronically. This authorization may be revoked by a vote of the legislative body, ensuring accountability to the public. In addition, this bill protects the rights of the public to have access to their governing bodies. There must be a physical location for the meeting to occur at, with access to the physical location available to the public. This is vital as the public needs to be able to watch and participate with their local governments.

Furthermore, at least one third of the public body must be physically present at the meeting or the meeting may not take place. Ensuring that one third of the public body is present safeguards the accountability by that public body. Counties saw the benefit of utilizing technology to enhance the ability of government to complete their work on behalf of the public, during the pandemic. This would also allow for those county delegations that have difficulty finding a physical quorum can continue to complete their work on behalf of the public. Counties often have statutory deadlines to meet, and it can take multiple meetings to accomplish their work if a quorum is not present. Electronic access would assist counties in completing the work on behalf of the public.

The Association would ask that you vote SB 250 ought to pass. If you have any questions, please contact Kate Horgan at KHorgan@dupontgorup.com.

Sincerely,



Wendy Piper
President
NH Association of Counties

Matthew Schelzi

From:	davidsaad2017@gmail.com
Sent:	Monday, February 20, 2023 10:02 AM
To:	Sharon Carson; William Gannon; Shannon Chandley; Becky Whitley; Daryl Abbas; Matthew Schelzi
Subject:	SB 250: Please correct shortcomings in SB 250, otherwise vote ITL

Caution! This message was sent from outside your organization.

My name is David Saad and I live in Rumney NH.

This bill diminishes the public's ability to observe their government in action as it does not insure that all members of the public body can be seen and heard by the public. Why does this bill require that each member be seen AND heard by other members of the public body but they only need to be seen OR heard by members of the public. The public must be able to observe members of the public body to the same extent that other members of the public body are allowed. Also, when remote participation is allowed all votes must be done by roll call vote as the current law requires. Additionally,

1. If, during the meeting, a member of the public notifies the public body that there are problems with access, those problems must be stated in the minutes, and if it is verified that problems with access existed, then all actions taken during that portion of the meeting shall be null and void.
2. If the mechanism of public access to the meeting is capable of recording the meeting at nominal cost, then the public body shall record the meeting as a public record. The minutes for the meeting shall indicate that the meeting was recorded and the recording is available to the public.

These changes are needed to address potential problems created by the use of various electronic technologies when conducting public meetings and to ensure the public's right to SEE AND HEAR contemporaneously to all public meetings is preserved.

Due to all these shortcomings in the bill, I ask you to correct these shortcomings or oppose it.

David Saad, Rumney NH

SB 250 Amendment

Replace all after the enacting clause.

1 New Paragraph; Access to Governmental Records and Meetings; Electronic Participation. **Amend RSA 91-A:2 by inserting after paragraph III the following new paragraph:**

IV. The governing body of a **political subdivision** may vote to authorize members of **public bodies, as defined by RSA 91-A:1-a, VI(d),** in the political subdivision to participate in meetings via electronic means **where less than a quorum is physically present** for the benefit of the public and the public body, subject to the provisions of this paragraph or more stringent conditions set locally. The authority granted under this paragraph may be revoked, renewed, or modified in the same manner as it is approved. **The authority granted under this paragraph shall not restrict the ability of a public body to allow remote participation with less than a quorum physically present in an emergency.**

(a) **If authorized under paragraph IV,** a public body may allow one or more members of the body to participate in a meeting remotely only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) ~~A quorum or~~ At least one third of the total membership of the public body~~, whichever is less,~~ shall be present at the physical location of the meeting. Each member participating electronically or otherwise must be able to contemporaneously and throughout the meeting see and hear, and be seen and heard by, the other members of the public body attending the meeting. A member participating in a meeting by the means described in this paragraph is deemed to be present for all purposes, including for determination of a quorum and voting. **All votes taken during such a meeting shall be by roll call vote.**

(c) All members shall be audible and/or visible to the public in attendance at the meeting's physical location. Each member participating remotely shall identify the persons present in the location from which the member is participating. **Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting.**

(d) No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

~~(e) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting.~~

~~(f) In an emergency, when immediate action is imperative and the physical presence requirement is not reasonably practical within the period of time requiring action, the one third requirement shall not apply. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.~~

(~~g~~f) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

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

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2023-2024 Session

Bill # SB 250

Hearing date: 2/21/23

Executive Session date: 3/7/23

Motion of: ITL **Vote:** 3-2

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	☐	☐	☑	☐
Sen. Gannon, V-Chair	☑	☐	☑	☐
Sen. Abbas	☐	☑	☑	☐
Sen. Whitley	☐	☐	☐	☑
Sen. Chandley	☐	☐	☐	☑

Motion of: _____ **Vote:** _____

Committee Member	Made by	Second	Yes	No
Sen. Carson , Chair	☐	☐	☐	☐
Sen. Gannon, V-Chair	☐	☐	☐	☐
Sen. Abbas	☐	☐	☐	☐
Sen. Whitley	☐	☐	☐	☐
Sen. Chandley	☐	☐	☐	☐

Motion of: _____ **Vote:** _____

Committee Member	Made by	Second	Yes	No
Sen. Carson , Chair	☐	☐	☐	☐
Sen. Gannon, V-Chair	☐	☐	☐	☐
Sen. Abbas	☐	☐	☐	☐
Sen. Whitley	☐	☐	☐	☐
Sen. Chandley	☐	☐	☐	☐

Reported out by: Sen. Abbas

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, March 8, 2023

THE COMMITTEE ON Judiciary

to which was referred **SB 250**

AN ACT relative to remote participation in government meetings.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 3-2

Senator Daryl Abbas
For the Committee

Matthew Schelzi 271-3266

JUDICIARY

SB 250, relative to remote participation in government meetings.
Inexpedient to Legislate, Vote 3-2.
Senator Daryl Abbas for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB250

Docket Abbreviations

Bill Title: relative to remote participation in government meetings.

Official Docket of **SB250.:**

Date	Body	Description
1/24/2023	S	**Introduced** 01/19/2023 and Referred to Judiciary; **SJ 5**
2/15/2023	S	**Hearing:** 02/21/2023, Room 100, SH, 01:30 pm; **SC 11**
3/8/2023	S	Committee Report: Inexpedient to Legislate, 03/16/2023; **SC 13**
3/16/2023	S	Inexpedient to Legislate, MF, VV; 03/16/2023; **SJ 10**
3/16/2023	S	Sen. Gray Moved Ought to Pass; 03/16/2023; **SJ 10**
3/16/2023	S	Sen. Gray Floor Amendment **#2023-1040s**, AA, VV; 03/16/2023; **SJ 10**
3/16/2023	S	**Ought to Pass with Amendment** 2023-1040s, MA, VV; OT3rdg; 03/16/2023; **SJ 10**
3/21/2023	H	Introduced (in recess of) 03/16/2023 and referred to Judiciary
3/29/2023	H	Public Hearing: 04/12/2023 02:30 pm LOB 206-208
4/11/2023	H	Executive Session: 05/03/2023 09:00 am LOB 206-208
5/10/2023	H	Committee Report: Inexpedient to Legislate 05/03/2023 **(Vote 20-0; CC)**
5/18/2023	H	Inexpedient to Legislate: MA VV 05/18/2023 **HJ 14** P. 8

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB250 **Senate Committee:** JUD

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee

X All Calendar Notices

X Hearing Sign-up sheet(s)

X Prepared testimony, presentations, & other submissions handed in at the public hearing

X Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

X - amendment # 0713s ___ - amendment #_____

___ - amendment #_____ ___ - amendment #_____

X Executive Session Sheet

X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

X - amendment # 1040s ___ - amendment #_____

___ - amendment #_____ ___ - amendment #_____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

X as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Matthew Lehrz 8-29-23

Committee Aide **Date**

Senate Clerk's Office AK