Bill as Introduced

SB 94 – AS INTRODUCED

1999 SESSION

99-0851
03/01

SENATE BILL ***94***

AN ACT relative to absentee voter affidavits.

SPONSORS: Sen. Trombly, Dist 7; Rep. Buckley, Hills 44

COMMITTEE: Public Affairs

ANALYSIS

This bill eliminates the affidavits that are required to be submitted with absentee voter ballots and establishes affidavits to be included with absentee voter applications.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

99-0851
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT relative to absentee voter affidavits.

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

1 Elections; Absentee Voting; Application; Forms; Affidavit Added. Amend RSA 657:4 to read as follows:

657:4 Forms. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded as follows in such quantity as he deems necessary:

I. For the state primary election: Absence (Excluding Absence Due to Residence Outside the Continental United States), Religious Observance, and Disability:

To the city or town clerk of .....

I, ... , hereby apply for an official absentee ballot for the ..... party at the state primary election. I am a duly qualified voter, am registered as a member of the ..... party, (or I am now applying for a ..... ballot), and am entitled to vote in ward ....., city or town of ..... . Mail absentee ballot to ..... .

.....

Signature

.....

Street and Number

.....

City or Town, State and Country

(a) Absence from City or Town. A person voting by absentee ballot because of absence from the city or town in which the person is entitled to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ..... , New Hampshire, in ward ..... ; and that I will be absent on election day from said city or town and will be unable to vote in person.

(Signature) .....

(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 of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward ..... ; and 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.

(Signature) .....

II. For the state general election: Absence (Excluding Absence Due to Residence Outside the Continental United States), Religious Observance, and Disability:

To the city or town clerk of .....

I, ... , hereby apply for an official absentee ballot. I am a duly qualified voter and entitled to vote in ward ..... , city or town of ..... .

Mail absentee ballot to ..... .

.....

Signature

.....

Street and Number

.....

City or Town, State and Country

(a) Absence from City or Town. A person voting by absentee ballot because of absence from the city or town in which the person is entitled to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ..... , New Hampshire, in ward ..... ; and that I will be absent on election day from said city or town and will be unable to vote in person.

(Signature) .....

(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 of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward ..... ; and 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.

(Signature) .....

III. For the state primary and state general election:

(a) Absence Due to Residence Outside the Continental United States:

To the city or town clerk of .....

I, ... , hereby apply for an official absentee ballot. I am a duly qualified voter and entitled to vote in ward ..... , city or town of ..... .

Mail absentee ballot to ..... .

.....

Signature

.....

Street and Number

.....

City or Town, State and Country

(b) Overseas Voting:

To the city or town clerk of .....

I, ... , hereby apply for an official overseas citizens federal election absentee ballot. I am a duly qualified overseas voter and entitled to vote in federal elections held in the city or town of ..... . Mail overseas citizens federal election absentee ballot to ....

.....

Signature

.....

Street and Number

.....

City or Town, Province, Country

(1) For Voters Who Are Registered.

Overseas Citizen. A person desiring to vote by overseas citizens federal election absentee ballot who is a registered voter in the town or city in which the person desires to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified overseas citizen voter registered as such in the city or town of ..... , New Hampshire.

(Signature) .....

(2) For Voters Not Registered. A person desiring to vote by overseas citizens federal election absentee ballot who is not registered as such in the town or city in which the person desires to vote shall fill out and sign the following certificate:

I do hereby certify under penalty of perjury that I am a qualified federal overseas voter, that I am at least 18 years of age and a citizen of the United States; and that my last domicile within the United States was in New Hampshire at the following address:

street and number .....

city or town .....

I am not registered to vote in any state and am not voting in any other manner in this election.

.....

Signature of Voter

(c) Armed Services Voting:

To the town or city clerk of .....

I, ... , hereby apply for an official armed services absentee ballot. I am:

a. A member of the armed forces of the United States. ( )

Service Organization .....

b. A member of the merchant marine of the United States. ( )

c. A civilian employee of the United States government serving outside the United States. ( )

d. A member of a religious group or welfare agency assisting members of the armed forces. ( )

Organization .....

e. A spouse or dependent of a person listed in a, b, c, or d above. ( )

My complete service address is:

.....

.....

.....

.....

My (non-military) domicile in New Hampshire immediately prior to such service was: street and number ..... city or town ....

.....

Signature of Applicant

(1) For Voters Who Are Registered. A person voting by armed services absentee ballot who is a registered voter in the town or city in which the person desires to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ..... , New Hampshire, in ward .....; and that I will be absent on election day from said city or town and will be unable to vote in person.

(Signature).....

(2) For Voters Not Registered. A person voting by armed services absentee ballot who is not registered in the town or city in which the person desires to vote shall fill out and sign the following certificate:

I do hereby certify under penalty of perjury that I am a qualified armed services voter under the laws of the state of New Hampshire, that I am at least 18 years of age and a citizen of the United States; and that, immediately prior to my service, my domicile was in New Hampshire at the following address: street and number ....., city or town ..... I am not registered to vote in any state and am not voting in any other manner in this election.

.....

Signature of Voter

2 Elections; Absentee Voting; Absentee Ballots and Related Materials; Absence, Religious Observance, and Disability; Envelopes; Affidavit Removed. Amend RSA 657:7, II to read as follows:

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 is entitled to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward ..... ; that I will be 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) 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)~~

~~(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 of perjury that I am a duly qualified 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) .....~~].

3 Elections; Absentee Voting; Absentee Ballots and Related Materials; Overseas Voting; Envelopes; Affidavit Removed. Amend RSA 657:8, II to read as follows:

II. [~~Affidavit~~] Envelopes of sufficient size to contain the ballots [~~on which shall be printed the following:~~

~~(a) For Voters Who Are Registered.~~

~~Overseas Citizen. A person desiring to vote by overseas citizens federal election absentee ballot who is a registered voter in the town or city in which he desires to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties of perjury that I am a duly qualified overseas citizen voter registered as such in the city or town of ....., New Hampshire; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the overseas~~

~~citizens federal election 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) .....~~

~~(b) For Voters Not Registered. A person desiring to vote by overseas citizens federal election absentee ballot who is not registered as such in the town or city in which he desires to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under penalty of perjury that I am a qualified federal overseas voter, that I am at least 18 years of age and a citizen of the United States; and that my last domicile within the United States was in New Hampshire at the following address:~~

~~street and number .....~~

~~city or town .....~~

~~I am not registered to vote in any state and am not voting in any other manner in this election.~~

~~.....~~

~~Signature of Voter~~].

4 Elections; Absentee Voting; Absentee Ballots and Related Materials; Armed Services Voting; Envelopes; Affidavits Removed. Amend RSA 657:9, II to read as follows:

II. [~~Affidavit~~] Envelopes of sufficient size to contain the ballots [~~on which shall be printed the following:~~

~~(a) For Voters Who Are Registered. A person voting by armed services absentee ballot who is a registered voter in the town or city in which he desires to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ..... , New Hampshire, in ward .....; that I will be 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) 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).....~~

~~(b) For Voters Not Registered. A person voting by armed services absentee ballot who is not registered in the town or city in which he desires to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under penalty of perjury that I am a qualified armed services voter under the laws of the state of New Hampshire, that I am at least 18 years of age and a citizen of the United States; and that, immediately prior to my service, my domicile was in New Hampshire at the~~

~~following address: street and number ....., city or town ..... I am not registered to vote in any state and am not voting in any other manner in this election.~~

~~.....~~

~~Signature of Voter~~].

5 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:17 to read as follows:

657:17 Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter shall enclose and seal the same in the [~~affidavit~~] envelope. [~~The voter shall execute the affidavit on it.~~] The voter or the person assisting the blind voter shall enclose and seal said envelope in the return envelope. The voter shall then endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope, affixing postage, or personally deliver it to the city or town clerk from whom it was sent.

6 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Citizen Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:20 to read as follows:

657:20 Procedure by Voter. After marking [~~his~~] ***the*** ballot, an armed services voter or a federal overseas citizen voter shall seal the same in the [~~affidavit~~] envelope. [~~If he is a registered voter, he shall execute the appropriate affidavit and return the ballot as hereinafter provided. If the voter is not registered in the town in which he desires to vote, he shall execute the appropriate affidavit.~~] If the armed services voter or federal overseas citizen voter, because of blindness or other physical disability, is unable to mark [~~his~~] ***the*** ballot, an official empowered to administer oaths may assist [~~him~~] ***the voter*** to mark [~~his~~] ***the*** ballot as directed by the voter. The official shall then certify on the outside thereof that it was marked with [~~his~~] ***the official's*** assistance and shall thereafter give no information regarding the same. [~~Having executed the affidavit,~~] The voter shall enclose and seal said envelope in the return envelope. [~~He~~] ***The voter*** shall then endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope or personally deliver it to the city or town clerk from whom it was sent.

7 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Voting; Registration of Voters; Affidavit Removed. Amend RSA 657:21 to read as follows:

657:21 [~~Registration of Voters~~] ***Receipt of Envelope***. Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall [~~open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his name shall be added to the checklist. The supervisors of the checklist shall then return the affidavit envelopes unopened to the city or town clerk who shall see~~

~~that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or overseas citizen federal election absentee ballot submitted by said voter to the corresponding envelopes and~~] retain [~~them~~] ***it*** until election day.

8 Elections; Election Procedure; Processing Absentee Ballots; Affidavit and Signature Examinations Removed. Amend RSA 659:50-54 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he ***or she*** is about to open the envelopes which were delivered to him ***or her***. The moderator shall then remove the [~~affidavit~~] envelope containing the ballots of each absentee voter [~~and shall compare the signature on the affidavit envelope with the signature on the application for the ballot~~]. If[~~:~~

~~I.~~] the name of the voter is on the checklist[~~;~~] and

[~~II. The affidavit on the envelope appears to be properly executed; and~~

~~III. The signature on the affidavit appears to be executed by the same person who signed the application; and~~

~~IV. The signatures appear~~] ***the signature appears*** to be the [~~signatures~~] ***signature*** of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the [~~affidavit~~] envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, [~~he~~] ***the moderator*** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well grounded, [~~he~~] ***the moderator*** shall open the [~~affidavit~~] envelope [~~so the affidavit thereon is not destroyed~~] and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [~~He~~] ***The moderator*** shall then proceed to deposit the ballot as provided in RSA 659:52.

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 [~~affidavit~~] envelope containing the ballot [~~so the affidavit on the envelope is not destroyed~~]. [~~He~~] ***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~~] shall preserve the [~~affidavit~~] envelope 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.

659:53 Forms Not in Order. If the moderator finds that the absentee voter is not entitled to vote, [~~he~~] ***the moderator*** shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter", "voted in person", [~~"affidavit improperly executed",~~] "not signed by proper person", or whatever the reason is. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

659:54 Immaterial Defects. No absentee ballot shall be rejected by the moderator for any immaterial addition, omission, or irregularity in the preparation or execution of any writing [~~or affidavit~~] required herein.

9 Elections; Election Procedure; Preservation of Ballots and other Election Materials; Preservation of Absentee Voting Materials; Affidavit Removed. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials. The [~~affidavit~~] envelopes and application forms processed by the moderator as provided in RSA 659:50 shall be preserved in the same manner as provided in RSA 659:95-100 for the preservation of official state election ballots.

10 Elections; Town Elections; By Official Ballot; Forms; Affidavit. Amend RSA 669:27, III-IV to read as follows:

III. [~~Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed~~] The following affidavit ***to be included with the application***:

Absence. A person voting by absentee ballot because of absence from the place in which [~~he~~] ***or she*** is entitled to vote shall fill out and sign the following certificate:

I do hereby certify, under the penalties of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** that I will be absent on election day from said town (city, village district, school district) and will be unable to vote in person[~~; that I have carefully read the instructions forwarded to me with the ballot herein enclosed and that I personally marked the within ballot and enclosed and sealed it in this envelope~~].

(Signature).....

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 of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** 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 the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the within ballot and sealed it in this envelope~~].

(Signature) .....

IV. Return envelopes of size sufficient to contain the [~~affidavit envelopes~~] ***ballot***, addressed to the clerk upon which shall be printed, "Enclosed is the ballot of an absentee voter", and at the top thereof blank spaces for the name, address, and voting place of the sender, with the words "name," and "address" appropriately printed thereon.

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

Amendments

Sen. Trombly, Dist.7
April 19, 1999
1999-0932s
03/01

Draft Amendment to SB 94

Amend the bill by replacing section 2 with the following:

2 Elections; Absentee Voting; Absentee Ballots and Related Materials; Absence, Religious Observance, and Disability; Envelopes; Affidavit Removed. Amend RSA 657:7, II-III to read as follows:

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 is entitled to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward ..... ; that I will be 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) 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)~~

~~(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 of perjury that I am a duly qualified 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) .....~~].

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, [4] ***5***

blank spaces with the words "Name, Voting Address, Ward, Town or City, ***Signature***" appropriately printed thereon.

Amend the bill by replacing all after section 4 with the following:

5 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:17 to read as follows:

657:17 Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter shall enclose and seal the same in the [~~affidavit~~] envelope. [~~The voter shall execute the affidavit on it.~~] The voter or the person assisting the blind voter shall enclose and seal said envelope in the return envelope. The voter shall then sign the envelope and endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope, affixing postage, or personally deliver it to the city or town clerk from whom it was sent.

6 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Clerk; Examination for Signature. Amend RSA 657:18 to read as follows:

657:18 Procedure by Clerk. Upon receipt of a return envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall ***examine the return envelope and may notify the voter if the return envelope is not signed. The clerk shall*** attach [~~thereto~~] the application for an absentee ballot submitted by said voter ***to the return envelope.*** All such envelopes shall be preserved unopened until election day.

7 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Citizen Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:20 to read as follows:

657:20 Procedure by Voter. After marking [~~his~~] ***the*** ballot, an armed services voter or a federal overseas citizen voter shall seal the same in the [~~affidavit~~] envelope. [~~If he is a registered voter, he shall execute the appropriate affidavit and return the ballot as hereinafter provided. If the voter is not registered in the town in which he desires to vote, he shall execute the appropriate affidavit.~~] If the armed services voter or federal overseas citizen voter, because of blindness or other physical disability, is unable to mark [~~his~~] ***the*** ballot, an official empowered to administer oaths may assist [~~him~~] ***the voter*** to mark [~~his~~] ***the*** ballot as directed by the voter. The official shall then certify on the outside thereof that it was marked with [~~his~~] ***the official's*** assistance and shall thereafter give no information regarding the same. [~~Having executed the affidavit,~~] The voter shall enclose and seal said envelope in the return envelope. [~~He~~] ***The voter*** shall then ***sign the envelope and*** endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope or personally deliver it to the city or town clerk from whom it was sent.

8 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Voting; Registration of Voters; Affidavit Removed. Amend RSA 657:21 to read as follows:

657:21 [~~Registration of Voters~~] ***Receipt of Envelope***. Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall [~~open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his name shall be added to the checklist. The supervisors of the checklist shall then return the affidavit envelopes unopened to the city or town clerk who shall see that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or overseas citizen federal election absentee ballot submitted by said voter to the 2 corresponding envelopes and~~] ***examine the return envelope and may notify the voter if the return envelope is not signed. The clerk shall*** retain [~~them~~] ***the return envelopes*** until election day.

9 Elections; Election Procedure; Processing Absentee Ballots; Affidavit and Signature Examinations Removed. Amend RSA 659:50-54 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he ***or she*** is about to open the envelopes which were delivered to him ***or her***. The moderator shall then remove the [~~affidavit~~] envelope containing the ballots of each absentee voter [~~and shall compare the signature on the affidavit envelope with the signature on the application for the ballot~~]. If[~~:~~

~~I.~~] the name of the voter is on the checklist[~~;~~] and

[~~II. The affidavit on the envelope appears to be properly executed; and~~

~~III. The signature on the affidavit appears to be executed by the same person who signed the application; and~~

~~IV. The signatures appear~~] ***the signature appears*** to be the [~~signatures~~] ***signature*** of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the [~~affidavit~~] envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, [~~he~~] ***the moderator*** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well

grounded, [~~he~~] ***the moderator*** shall open the [~~affidavit~~] envelope [~~so the affidavit thereon is not destroyed~~] and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [~~He~~] ***The moderator*** shall then proceed to deposit the ballot as provided in RSA 659:52.

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 [~~affidavit~~] envelope containing the ballot [~~so the affidavit on the envelope is not destroyed~~]. [~~He~~] ***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~~] shall preserve the [~~affidavit~~] envelope 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.

659:53 Forms Not in Order. If the moderator finds that the absentee voter is not entitled to vote, [~~he~~] ***the moderator*** shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter", "voted in person", [~~"affidavit improperly executed";~~] "not signed by proper person", or whatever the reason is. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

659:54 Immaterial Defects. No absentee ballot shall be rejected by the moderator for any immaterial addition, omission, or irregularity in the preparation or execution of any writing [~~or affidavit~~] required herein.

10 Elections; Election Procedure; Preservation of Ballots and other Election Materials; Preservation of Absentee Voting Materials; Affidavit Removed. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials. The [~~affidavit~~] envelopes and application forms processed by the moderator as provided in RSA 659:50 shall be preserved in the same manner as provided in RSA 659:95-100 for the preservation of official state election ballots.

11 Elections; Town Elections; By Official Ballot; Forms; Affidavit. Amend RSA 669:27, III-IV to read as follows:

III. [~~Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed~~] The following affidavit ***to be included with the application***:

Absence. A person voting by absentee ballot because of absence from the place in which [~~he~~] ***or she*** is entitled to vote shall fill out and sign the following certificate:

I do hereby certify, under the penalties of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** that I will be absent on election day from said town (city, village district, school district) and will be unable to vote in

person[~~; that I have carefully read the instructions forwarded to me with the ballot herein enclosed and that I personally marked the within ballot and enclosed and sealed it in this envelope~~].

(Signature).....

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 of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** 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 the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the within ballot and sealed it in this envelope~~].

(Signature) .....

IV. Return envelopes of size sufficient to contain the [~~affidavit envelopes~~] ***ballot***, addressed to the clerk upon which shall be printed, "Enclosed is the ballot of an absentee voter", and at the top thereof blank spaces for the name, address, and voting place of the sender, with the words "name," and "address" appropriately printed thereon.

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

Public Affairs
April 23, 1999
1999-0969s
03/01

Amendment to SB 94

Amend the bill by replacing section 2 with the following:

2 Elections; Absentee Voting; Absentee Ballots and Related Materials; Absence, Religious Observance, and Disability; Envelopes; Affidavit Removed. Amend RSA 657:7, II-III to read as follows:

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 is entitled to vote shall fill out and sign the following certificate:~~
~~I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward ..... ; that I will be 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) 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)~~

~~(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 of perjury that I am a duly qualified 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) .....~~].

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, [4] ***5***

blank spaces with the words "Name, Voting Address, Ward, Town or City, ***Signature***" appropriately printed thereon.

Amend the bill by replacing all after section 4 with the following:

5 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:17 to read as follows:

657:17 Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter shall enclose and seal the same in the [~~affidavit~~] envelope. [~~The voter shall execute the affidavit on it.~~] The voter or the person assisting the blind voter shall enclose and seal said envelope in the return envelope. The voter shall then sign the envelope and endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope, affixing postage, or personally deliver it to the city or town clerk from whom it was sent.

6 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Clerk; Examination for Signature. Amend RSA 657:18 to read as follows:

657:18 Procedure by Clerk. Upon receipt of a return envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall ***examine the return envelope and may notify the voter if the return envelope is not signed. The clerk shall*** attach [~~thereto~~] the application for an absentee ballot submitted by said voter ***to the return envelope***. All such envelopes shall be preserved unopened until election day.

7 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Citizen Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:20 to read as follows:

657:20 Procedure by Voter. After marking [~~his~~] ***the*** ballot, an armed services voter or a federal overseas citizen voter shall seal the same in the [~~affidavit~~] envelope. [~~If he is a registered voter, he shall execute the appropriate affidavit and return the ballot as hereinafter provided. If the voter is not registered in the town in which he desires to vote, he shall execute the appropriate affidavit.~~] If the armed services voter or federal overseas citizen voter, because of blindness or other physical disability, is unable to mark [~~his~~] ***the*** ballot, an official empowered to administer oaths may assist [~~him~~] ***the voter*** to mark [~~his~~] ***the*** ballot as directed by the voter. The official shall then certify on the outside thereof that it was marked with [~~his~~] ***the official's*** assistance and shall thereafter give no information regarding the same. [~~Having executed the affidavit,~~] The voter shall enclose and seal said envelope in the return envelope. [~~He~~] ***The voter*** shall then ***sign the envelope and*** endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope or personally deliver it to the city or town clerk from whom it was sent.

8 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Voting; Registration of Voters; Affidavit Removed. Amend RSA 657:21 to read as follows:

657:21 [~~Registration of Voters~~] ***Receipt of Envelope.*** Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall [~~open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his name shall be added to the checklist. The supervisors of the checklist shall then return the affidavit envelopes unopened to the city or town clerk who shall see that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or overseas citizen federal election absentee ballot submitted by said voter to the 2 corresponding envelopes and~~] ***examine the return envelope and may notify the voter if the return envelope is not signed. The clerk shall*** retain [~~them~~] ***the return envelopes*** until election day.

9 Elections; Election Procedure; Processing Absentee Ballots; Affidavit and Signature Examinations Removed. Amend RSA 659:50-54 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he ***or she*** is about to open the envelopes which were delivered to him ***or her***. The moderator shall then remove the [~~affidavit~~] envelope containing the ballots of each absentee voter [~~and shall compare the signature on the affidavit envelope with the signature on the application for the ballot~~]. If[~~:~~

~~I.~~] the name of the voter is on the checklist[~~;~~] and

[~~II. The affidavit on the envelope appears to be properly executed; and~~

~~III. The signature on the affidavit appears to be executed by the same person who signed the application; and~~

~~IV. The signatures appear~~] ***the signature appears*** to be the [~~signatures~~] ***signature*** of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the [~~affidavit~~] envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, [~~he~~] ***the moderator*** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well

grounded, [~~he~~] ***the moderator*** shall open the [~~affidavit~~] envelope [~~so the affidavit thereon is not destroyed~~] and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [~~He~~] ***The moderator*** shall then proceed to deposit the ballot as provided in RSA 659:52.

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 [~~affidavit~~] envelope containing the ballot [~~so the affidavit on the envelope is not destroyed~~]. [~~He~~] ***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~~] shall preserve the [~~affidavit~~] envelope 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.

659:53 Forms Not in Order. If the moderator finds that the absentee voter is not entitled to vote, [~~he~~] ***the moderator*** shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter", "voted in person", [~~"affidavit improperly executed",~~] "not signed by proper person", or whatever the reason is. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

659:54 Immaterial Defects. No absentee ballot shall be rejected by the moderator for any immaterial addition, omission, or irregularity in the preparation or execution of any writing [~~or affidavit~~] required herein.

10 Elections; Election Procedure; Preservation of Ballots and other Election Materials; Preservation of Absentee Voting Materials; Affidavit Removed. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials. The [~~affidavit~~] envelopes and application forms processed by the moderator as provided in RSA 659:50 shall be preserved in the same manner as provided in RSA 659:95-100 for the preservation of official state election ballots.

11 Elections; Town Elections; By Official Ballot; Forms; Affidavit. Amend RSA 669:27, III-IV to read as follows:

III. [~~Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed~~] The following affidavit ***to be included with the application***:

Absence. A person voting by absentee ballot because of absence from the place in which [~~he~~] ***or she*** is entitled to vote shall fill out and sign the following certificate:

I do hereby certify, under the penalties of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** that I will be absent on election day from said town (city, village district, school district) and will be unable to vote in

person[~~; that I have carefully read the instructions forwarded to me with the ballot herein enclosed and that I personally marked the within ballot and enclosed and sealed it in this envelope~~].

(Signature).....

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 of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** 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 the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the within ballot and sealed it in this envelope~~].

(Signature) .....

IV. Return envelopes of size sufficient to contain the [~~affidavit envelopes~~] ***ballot***, addressed to the clerk upon which shall be printed, "Enclosed is the ballot of an absentee voter", and at the top thereof blank spaces for the name, address, and voting place of the sender, with the words "name," and "address" appropriately printed thereon.

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

Sen. Trombly, Dist. 7
May 17, 1999
1999-1266s
03/09

Floor Amendment to SB 94

Amend RSA 657:7, III as inserted by section 2 of the bill by replacing it with the following:

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, [4] ***5*** blank spaces with the words "Name, Voting Address, Ward, Town or City, ***I do hereby certify under penalties of perjury that I personally marked the ballot within and sealed it in the envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind)"*** appropriately printed thereon.

Amend the bill by replacing section 9 with the following:

9 Elections; Election Procedure; Processing Absentee Ballots; Affidavit and Signature Examinations Removed. Amend RSA 659:53 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he ***or she*** is about to open the envelopes which were delivered to him ***or her***. The moderator shall then remove the [~~affidavit~~] envelope containing the ballots of each absentee voter and shall compare the signature on the [~~affidavit~~] envelope with the signature on the ***affidavit portion of the*** application for the ballot. If:

I. The name of the voter is on the checklist; and

II. The affidavit on the [~~envelope~~] ***application*** appears to be properly executed; and

III. The signature on the affidavit appears to be executed by the same person who signed the application; and

IV. The signatures appear to be the signatures of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the [~~affidavit~~] envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The

moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, [~~he~~] ***the moderator*** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well grounded, [~~he~~] ***the moderator*** shall open the [~~affidavit~~] envelope [~~so the affidavit thereon is not destroyed~~] and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [~~He~~] ***The moderator*** shall then proceed to deposit the ballot as provided in RSA 659:52.

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 [~~affidavit~~] envelope containing the ballot [~~so the affidavit on the envelope is not destroyed~~]. [~~He~~] ***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~~] shall preserve the [~~affidavit~~] envelope 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.

659:53 Forms Not in Order. If the moderator finds that the absentee voter is not entitled to vote, [~~he~~] ***the moderator*** shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter", "voted in person", "affidavit improperly executed", "not signed by proper person", or whatever the reason is. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

Amend RSA 669:27, IV as inserted by section 11 of the bill by replacing it with the following:

IV. Return envelopes of size sufficient to contain the [~~affidavit envelopes~~] ***ballot***, addressed to the clerk upon which shall be printed, "Enclosed is the ballot of an absentee voter", and at the top thereof blank spaces for the name, address, [~~and~~] voting place***, and signature*** of the sender, with the words "name," [~~and~~] "address," ***and "I do hereby certify under penalties of perjury that I personally marked the ballot within and sealed it in the envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind)"*** appropriately printed thereon.

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 13:

12 Elections; Absentee Voting; Application; Procedure by Applicant; Incomplete Statement. Amend RSA 657:6 to read as follows:

657:6 Procedure by Applicant. An application form for an absentee ballot shall be mailed or delivered to any person who applies therefor to the secretary of state or to any town or city clerk. It shall be filled out by the applicant and sent to the clerk of the town or city in which he desires to vote. Alternatively, a person may apply for an official absentee ballot by sending to said clerk a written statement containing the information required by the appropriate paragraph of RSA 657:4, or by the federal post card application. ***If the written statement does not include the affidavit required by RSA 657:4, but contains all other information required by RSA 657:4, the statement shall be considered a properly executed application, and the clerk shall include with the ballot sent pursuant to RSA 657:15 an application form with the following instructions: "The affidavit on this form must be completed and signed according to law and returned with your ballot."***

Committee Minutes

Date: March 3, 1999
Time: 2:25 p.m.
Room: LOB 104

The Senate Committee on Public Affairs held a hearing on the following:

Senate Bill 94 relative to absentee voter affidavits.

Members of Committee present:

Senator Trombly
Senator Krueger
Senator McCarley
Senator Roberge
Senator Wheeler

Senator Katherine Wheeler, opened the hearing by calling on the prime sponsor of the bill Senator Rick Trombly as the first speaker.

Senator Rick A. Trombly, D. 7: Thank you very much, Madame Chair, members of the committee. This bill tries to address the problem, which is significant in that if not addressed it could lead to the continued disenfranchisement of voters. Currently if you want an absentee ballot, you fill out a form, send it to the clerk, they sent you back the absentee ballot and you have to sign the affidavit on the outside of the envelope and another form on the inside. Enforcement of this signing of the affidavit varies from town to town, from moderator to moderator. And as Senator Krueger knows and is very well aware of this law, it is very confusing as to whether some moderators allow unsigned affidavit to go through or whether the form on the inside is not signed.

The big difference with this bill however, is that when people apply for the ballot, which is really the first thing that they do, the affidavit relative to their unavailability to vote, or be at the polls on that day, will be contained on the application for the absentee ballot. So when the clerk gets it, if there is a defect with the affidavit, rather than finding out about it on election day the clerk would be able to review the affidavit at the time they ask for the ballot and say, you didn't sign your affidavit, they can then correct that, they will be able to vote and the moderator will not discount their vote unbeknownst to the voter on election day.

So the process now is an application goes to the clerk, the ballot is sent out automatically to the voter, at home or in the clerks office, fills out hopefully the forms correctly. Only on election day does the voter become disenfranchised if the moderator notices there is a defect in the signing of the affidavit. The consequences of the defect is that the vote is thrown out on election day. What this process sets up is the possibility that the clerk will get the request for ballot that will contain the affidavit, so if the person is in the clerks office they can say you didn't fill out the affidavit, you didn't sign it, you did not put the proper information on it, and then it can be corrected there, so the vote will not be counted out. I looked at this problem, and it is an issue in many races, house races and senate races, and the idea is to allow people to vote. And this I think is a neat handy way of seeing that that can happen. Thank you.

Senator Katherine W. Wheeler, D. 21: Thank you Senator Trombly. Senator Krueger.

Senator Patricia Krueger, D. 16: Could you tell me how this will work with the little old lady in the nursing home and what are the safeguards with this particular element.

Senator Rick A. Trombly, D. 7: It requires no more signing of forms, it just changes when the form is signed. It still keeps the affidavit in place. So whatever would happen in a nursing would happen in a nursing home. It's just that form would be such, that the affidavit would be signed at the time they applied for the ballot rather than when they received the ballot from the clerk.

Senator Patricia Krueger, D. 16: There would be none of the signing of the outside of the envelope, do this, do that, put the other envelope inside.

Senator Rick A. Trombly, D. 7: Right, it would all be in the application, the affidavit is on the application. So the application would be attached to the ballot and the only thing on the inside would be the ballot.

Senator Patricia Krueger, D. 16: Do you see any more opportunities for fraud with a system like this or less.

Senator Rick A. Trombly, D. 7: No more, no less simply because you're going to be requiring the same form be produced, so if there were fraud, it would be just shifting it to an earlier date.

Senator Patricia Krueger, D. 16: And how does the Secretary of States office feel about this change?

Senator Rick A. Trombly, D. 7: They should love it because it's a wonderful bill, but there is someone from that office here today to testify.

Senator Caroline McCarley, D. 6: Senator Trombly, I'm courious, a follow up on Senator Krueger's question. This clearly doesn't address the issue of the inside signature and whether the signature is on the ballot, because there is no way to do that.

Senator Rick A. Trombly, D. 7: It will be shifted to the front end of the application process.

Senator Caroline McCarley, D. 6: But as you know, sometimes what you have is a problem where somebody has signed the affidavit and they didn't sign their ballot, so this can't address the second half.

Senator Rick A. Trombly, D. 7: This will, because it will be at the application process. It moves the affidavit that is usually on the inside of the form to the application.

Senator Caroline McCarley, D. 6: I understand that, I have understood there have been circumstance where someone has signed the affidavit and then not signed their ballot, which is caught by the moderator at this point because the two are together. So now your going to have those two signatures separate, you hate to do this, but we had a circumstance in this very last election, where the signatures were challenged, the catching of the signature challenge could only have been done if the signatures are together.

Senator Rick A. Trombly, D. 7: The law requires, and I will stand corrected on this, the signing of the affidavit, that's the key, and if wrong I'm sure I'll hear about it. The key is the signing of the affidavit, I'm not that certain whether or not, not having the return address filled out on the envelope would disqualify the ballot, I would say no, but what this prevents Senator McCarley is someone going through the process of doing it

Senator Caroline McCarley, D. 6: I truly understand what the bill prevents.

Senator Rick A. Trombly, D. 7: Yes I see what you're' saying, I hear what you saying, yes it would not address that situation, it's the fraud issue and it doesn't address the potential fraud issue, if fraud is going to be committed its going to be committed.

Senator Katherine W. Wheeler, D. 21: I presume that these affidavits would be kept on file.

Senator Rick A. Trombly, D. 7: They are attached to the ballot, and on election day you get the envelope with the ballot and the application attached to it.

Senator Katherine W. Wheeler, D. 21: So you would have those two signatures together.

Senator Rick A. Trombly, D. 7: Yes.

Senator Katherine W. Wheeler, D. 21: Any further questions for Senator Trombly? Hearing none I'll call on the co-sponsor Representative Buckley.

Representative Raymond Buckley, Hills. D. 44: Thank you Madame Chair, members of the committee. For the record I'm Representative Raymond Buckley, Hills. D. 44, which is Manchester's Ward 8. I was pleased to co-sponsor this bill, SB 94 with Senator Trombly. It came about after a rather lengthy discussion about some of the issues we saw regarding some of the recounts that we went through this year and some of the issues, that as local moderators we witnessed as well. I trust that the committee, if there is anything that we can do to the bill to tweak it and make it better, that you will do it and sent it over the House Election Law Committee a perfect bill. Thank you.

Senator Katherine W. Wheeler, D. 21: Thank you Representative Buckley. Are there any questions? Seeing none, thank you for your testimony. I will now call Ellen Dube.

Ellen Dube: Good Afternoon, for the record my name is Ellen Dube and I am here representing the Secretary of State's Office. At least we agree there is a problem. And there is no doubt that people are disenfranchised because they don't sign or the signatures don't match. But there is also the possibility, as we know in our office because we answer the phones all the time, people do vote for other people sometimes. A lot of times it's not because they want to commit fraud, it's because the husband is away on a trip, the affidavit comes, the wife signs it, she signs hers, and sends them both off. It does happen, I can tell you about a case that I just had, a son signed for himself and his father, while his father was in a nursing home, and then he was infuriated because the moderator would not count the ballots because he didn't know which one was actually the sons ballot and which was the fathers ballot, because he had signed both of them and he wanted me to tell them that they should have counted his because obviously his was the

one that should count because the father was old and disabled and they should have known that. So there are situations where people do sign for other people and think it's fine, when it's really not.

The problem we see with this particular bill is the possible disenfranchisement on the other end. Right now if you want to apply for an absentee ballot you do not need to use the form, which is supplied by us or the clerk. You can write them a letter as long as you have the information in your letter or in a note you. You can apply for an absentee ballot without the official form as long as you have your name, signature, mailing address, the place where your voting. If that is in there, you don't need the official form. So are particular concern would be how do we make sure that people who are use to doing this over the years, how do we make sure there not disenfranchised because there not sending in the affidavit. We need to make sure there is enough turn around time if you choose to do this, that if they send the handwritten application the clerk sends the affidavit and doesn't send out the absentee ballot till the affidavit gets back. Especially in the Senate Bill 2 towns, which have a very very short turn around time for the ballot because they are so long, they might be ten (10) double sided pages. Those ballots are taking a long time to print and their not given the normal amount of time for absentee ballots to be sent out and get back. If you are going to do this you need to think whether your going to send the absentee ballot with the affidavit, which is a possibility. If you want to send them both together, you get the application from the person, send them both out, the ballot and the application, and hope that they don't seal up the application with the ballot, which could happen. The biggest problem is that people don't read the instructions. That's the biggest problem when people are filling out the envelopes wrong, and it could also be a problem with them filling out the affidavits wrong.

Our other concern is to make sure that the process is right at the other end, that the application is attached. I think one of Bill's concerns was making sure that the envelope with the name, so when they go to open them up at the polling place the envelope with the name and the ballot. We need to make sure the process is explicit. I can talk to the sponsors about this to make sure I know that the process is making sense so that the clerks and people who are filling out the ballot know what they are doing. I did bring you some envelops in case you never voted absentee, and you can talk to Debie about these because she is one of the worlds greatest experts on absentee ballot envelops. I brought some military ones, the red ones, they are just the inside envelope. The others have the outside envelope that the clerk puts everything in, the inside envelope, which is the security envelope, the envelope on the inside of that is the one that contains the ballot, the affidavit's on the envelope. That is the thing that people are making a

mistake on. I did hear the question about the names on the back. We tell people it they don't fill out the back of the affidavit envelope with there name and address, they should not disenfranchise that person, but that doesn't mean the moderators' don't do it. As long as the signature is there and they know that person is the actual voter, they should count that vote. The problem is, sometimes they write there name and no one in the polling place can read their name, and that is one reason why people loose their vote, because they don't fill out the printed name on the front. Bob Ambrose's idea to me this morning was maybe we should work more with the affidavit itself and instead of having the name and address on the back, just keep everything on one side, don't put the name an address, you already have the name and address on the application which is attached to the affidavit, with the ballot inside. So if you already have the name and voting address, if you can put the signature on one side and just underneath write you must print your name, so when they print their name you can compare the signature which still maintains the security effect and you can read their name, so you know that they are the ones who actually match up with that application. I think that was one of the problems with some of the people, you couldn't read their name and sometimes when the signature are different from the application, there is a good reason for it, because somebody else signed it. Not because they wanted to commit fraud, but because they always sign their husbands name, they didn't think there was anything wrong with it, they just did it and the moderators don't allow that. I did bring some other thing I will leave about absentee registration, different types of absentee registration we have. I'd be happy to answer any questions.

Senator Katherine W. Wheeler, D. 21: Senator Trombly.

Senator Rick A. Trombly, D. 7: I think we put and incredible amount of formal substance on absentee ballots in this state and I understand we want to guard against fraud. The important thing however, is not, if a son signs an affidavit for the father, provided the father cast the ballot, that is the important thing. It's the voter and who cast the ballot, its not who signed the form. You'd agree with me on that?

Ellen Dube: Yes.

Senator Rick A. Trombly, D. 7: When I was in college I use to send hand written notes to the town clerk, and she always did the same thing for me every year, she sent me the application on the form that was prescribed by the state, I filled them both out. My concern, and I thing the Secretary of States Office, at the clerks convention say, look here, it is folks, this is the new form for voter applications, if somebody sends a hand written one in, make sure you include that. The real intent and the real problem here is

this. That is somebody goes through the effort of requesting an absentee ballot in most cases that person is going to be the one who votes. The important thing is that any disenfranchisement of that voter currently takes place on election day, and we need to provide a process where if we are going to require this affidavit that we need every safeguard that will allow that voter to vote and what this does, it gets it to the clerk so the clerk can look at it ahead of time and then notify the voter of any potential problems. I don't think it is relevant at all.... (changed tape) ...having a ballot with any name on it would be accessible to anyone. That the ballot envelope should be blank and it is really complicated. I will work with you, but currently there is too much to sign and there is absolutely no safeguard for the voter under the current statutes short of using your right to vote. And if you have sent that in, you must want to vote. I will work with you but, some of the education process will have to come from the Secretary of States Office at the clerks' convention if the committee deems fit to pass this bill.

Ellen Dube: We speak to them all the time, they have small regional meetings in the spring and we always talk to them.

Senator Katherine W. Wheeler, D. 21: Any further question for Ms. Dube? Seeing none, is there anyone else who wishes to testify for or against SB 94?

Ellen Dube: I just have two more comments to make. The Committee does need to think whether they need a signature on the final product. That if you only want to do away with the affidavit, what I'm understanding is that there will not be a signature anywhere on the final ballot that comes to you. So you need to think if that all right, if that is a prevention against fraud, knowing that sometimes people do cast ballots for other people. If there is no signature on the final product is that enough security for that vote? The right to vote pretty much over rides everything else, but you do need to consider that.

The other think is, if you do pass this bill, can you keep an eye on the effective date, because we do not supply these envelopes to the towns and cities for their town elections. We print them up and supply them for state elections only. So a lot of towns and cities have big stacks of these in their store rooms already printed, ready to go for the next election. We need to make sure, I'm not sure how much it will cost the individual towns and cities, but either we need to supply them or we need to wait until they use up what they have. We can't make them reprint and do something different than what they are already doing, unless there is some mechanism for funding involved. You might want to wait two elections, two town elections so they can use up their supply. It is something we can check on if you do pass the bill before it goes to the house, as to how many supplies these people do have.

Senator Katherine W. Wheeler, D. 21: Senator Krueger.

Senator Patricia Krueger, D. 16: There was a lot of drama attached to both this issue and straight ticket, and I don't want to get caught up in that there are problems on both sides as Senator Trombly said, but my question to you is, has it been a rampant problem, are we overreacting with saying that the form is so difficult that it has proven difficult in every election, and every recount that your office has overseen.

Ellen Dube: I would say that the recounts that I have been involved in since 1992, this is the first time that people have made an issue of it, that I know of, but that doesn't mean it hasn't been a problem before. There is no doubt, I'm sure, that a lot of people have been disenfranchised because they haven't filled the final product correctly. You need to build the fraud issue and the mistake issue against their right to vote.

Senator Patricia Krueger, D. 16: Do you think that with this new bill that the same people who still wouldn't follow instructions, still might not follow them.

Ellen Dube: That's a possibility.

Senator Katherine W. Wheeler, D. 21: Any further questions? Is there anybody else wishing to testify for or against SB 94, hearing none I will close the hearing on SB 94 and suggest that Senator Trombly and the Secretary of States Office get together and try to find a good solution of what is obviously a serious problem. Thank you.

Hearing closed at 2:55 p.m.

Respectfully submitted,
Debra Cantara, secretary

Public Affairs Committee

SB 94 Hearing Report

TO: Members of the Senate

FROM: Susan Duncan
Legislative Assistant

RE: Hearing report on **SB 94** – ***An Act relative to absentee voter affidavits***

HEARING DATE: March 3, 1999

Sponsor: Senator Trombly, Prime
Representative Buckley, Co-sponsor

What the bill does: This bill eliminates the affidavits that are required to be submitted with absentee voter ballots and establishes affidavits to be included with absentee voter applications.

Who supports the bill: Senator Trombly
Representative Buckley

Who opposes the bill: Ellen Dube testified on behalf of the Secretary of State

Testimony received in support of the legislation:

- In recent elections, some ballots were disqualified because both sides of the affidavit envelope had not been totally filled in

- Sometimes people do remember to sign their name on the affidavit but it is not legible
- Perhaps one solution to the problem would be to keep all the information on one side of the envelope, rather than printing on both sides
- That the important thing is who actually casts the ballot, not who signs the form
- Some people just don't read the instructions
- When the process is too complicated with too much to read and too many forms to sign, it increases the likelihood of spoiled ballots

Testimony received in opposition to the legislation:

- Town Clerks need to make sure that the forms are filled out correctly
- Every safeguard is needed in order to prevent voter fraud
- The most recent election is the first time an issue has really been made of this
- The committee would need to pay attention to the effective date of this legislation, if accepted, because many cities and towns have these envelopes already printed up for next elections

Funding: **No fiscal note is attached to this legislation.**

Future Action: Senator Trombly will try to work something out with the Secretary of State.

sfd
March 5, 1999
[file: SB 94 report]

Speakers

SENATE PUBLIC AFFAIRS COMMITTEE

Date 3/3/99 Time 2:00 PM Public Hearing on SB94

Appearing in FAVOR: *(Please print)* ***Please check box at left to speak.***

Speaking?	Name	Address	Representing
☒	Ellen Dubo	(Info)	Sec. of State
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Appearing in OPPOSITION: *(Please Print)* ***Please check box at left to speak.***

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Testimony

STATE OF NEW HAMPSHIRE
STATE ABSENTEE BALLOT

Absence from City or Town. A person voting by absentee ballot because of absence from the city or town in which he is entitled to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of....., New Hampshire, in ward .....; that I will be 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) 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) .....

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 of perjury that I am a duly qualified 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) .....

Form A

OFFICIAL STATE ABSENTEE BALLOT
State of New Hampshire

Name of Voter (Print) . . . . . .

Voting Residence (City or Town) (Print) . . . . . Ward . . . . .

Street and Number (Print) . . . . . .

NAME .....

VOTING ADDRESS ..... WARD .....

TOWN/CITY ..... STATE ..... ZIP CODE .....

FORM B

ENCLOSED IS THE BALLOT OF AN ABSENTEE VOTER.

TO: TOWN OR CITY CLERK OF .....

.....

.....

NAME .....

VOTING ADDRESS ..... WARD .....

TOWN/CITY ..... STATE ..... ZIP CODE .....

FORM B

Signature _____

ENCLOSED IS THE BALLOT OF AN ABSENTEE VOTER.

TO: TOWN OR CITY CLERK OF .....

.....

.....

STATE OF NEW HAMPSHIRE

TOWN OR CITY CLERK OF

OFFICIAL ABSENTEE VOTER'S BALLOT
FORM C

STATE OF NEW HAMPSHIRE
ARMED SERVICES ABSENTEE BALLOT

For Voters Not Registered. A person voting by armed services absentee ballot who is not registered in the town or city in which he desires to vote shall fill out and sign the following certificate:

I do hereby certify under the penalty of perjury that I am a qualified armed services voter under the laws of the State of New Hampshire, that I am at least 18 years of age and a citizen of the United States; and that, immediately prior to my service, my domicile was in New Hampshire at the following address:

street and number .....

city or town .....

I am not registered to vote in any state and am not voting in any other manner in this election.

(Signature of Voter) .....

(Name of Voter) .....
(print)

STATE OF NEW HAMPSHIRE
ARMED SERVICES ABSENTEE BALLOT

For Voters Who are Registered. A person voting by armed services absentee ballot who is a registered voter in the town or city in which he desires to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward .....; that I will be 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) 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) .....

FORM D

ELECTION ADMINISTRATION REPORTS • *The Newsletter for Election Officials*

Editor: Richard G. Smolka

Volume 28, Number 4, February 16, 1998

Washington Focus: The House of Representatives February 12 defeated the Voter Eligibility Verification Act, (H.R. 1428). The chief sponsor of the proposal, Stephen Horn, (R-Cal.) offered an amended version of the bill that would have enabled local election officials to seek to verify citizenship of registered voters through records maintained by the Immigration and Naturalization Service and the Social Security Administration. The pilot version defeated would have provided that election officials in five states-- California, New York, Texas, Illinois and Florida – on a voluntary basis, could have requested citizenship information from INS or the SSA. The bill also had a sunset date of September 30, 2001. The measure came to the floor under suspension of the rules, requiring a two-thirds vote to pass. The vote of 210 in favor to 200 opposed was cast with a few exceptions mainly along party lines. The Republican leadership may advance the measure later in the session under regular rules of the House where a simply majority vote is sufficient for passage.

DADE COUNTY, GRAND JURY FINDS ABSENTEE BALLOT FRAUD IMPORTANT IN MIAMI VOTE

A Dade County, Fla. Grand Jury reported February 2 that absentee ballot fraud clearly played an important part in the recent City of Miami mayoral elections. The mayoral election results have been challenged and arguments in court began February 9.

The grand jury reported the absentee vote fraud efforts were directed particularly at those elderly voters with little understanding of the absentee ballot process.

The grand jury faulting the absentee ballot process, reported it "has so many flaws that no one solution exists that will immediately restore credibility to the process. It found unscrupulous individuals can use the absentee ballot process in a number of illegal and immoral ways."

Among such means used in the 1997 City of Miami elections, the grand jury reported certain persons:

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* Requested ballots for multiple individuals in the guise of helping the voter. Then, knowing when they were mailed, stealing them from the mailboxes and returning them without the voter's knowledge.

* Used past favors rendered as the quid pro quo for coercing votes for particular candidates in particular elections.

* Opened the absentee ballot envelopes, indicated their choices on the ballot, and then gave it to the voter to complete.

The grand jury found the absentee ballot fraud so insidious that it called for restrictions with the intent of providing absentee ballots primarily as a method of voting necessity, and not only as a method of voter convenience.

It recommended that the requirements of ballot return envelopes be changed to provide the evidence needed to investigate and ultimately prosecute vote fraud.

It opposed current Florida law that permits supervisors of elections to respond to telephone requests for absentee ballots and commended Dade County for recently enacting legislation eliminating such requests.

Recognizing that signature comparison will probably continue to be the primary method to identify vote fraud, it suggested all county election department and municipal employees involved in signature comparison take a standardized form blindness test to determine whether they can correctly distinguish the differences needed to make accurate comparisons between signatures.

Citing technology coming into the market in the banking industry, the grand jury asked for feasibility studies of various methods of identification -such as possible use of inkless fingerprinting material on the outside of absentee ballot envelopes.

The grand jury asked for random voting audits after each election to investigate multiple absentee ballots witnessed by the same person, multiple absentee ballots cast from the same address, and indications of any alteration on the envelope or ballot.

The grand jury called for increasing the penalties for vote fraud. It said, "**no illegal acts associated with insuring the integrity of our electoral process should be deemed to be within the same classification as 'spitting on the sidewalk,' or 'sleeping in public.'**"

It called upon the Miami delegation to Congress to "lead the State in an effort to amend the NVRA to require at the time of registration, proof of age, citizenship, and residence before permitting an individual to register and vote."

Finally, the grand jury asked for Cash Awards to crimestoppers. The awards, it suggested, "should be sufficient to make it more profitable to report voter fraud than it would be to commit it."

In the first election Mayor Joe Carollo led with 49.6 percent of the vote but fell short of an absolute majority. He then was upset by challenger Xavier Suarez in the runoff. Three people have been arrested thus far, and a major investigation by the State's Attorney is continuing.

In contesting the results, Carollo charged that absentee vote fraud denied him a majority vote in the first election. Carollo is asking that the results of the first election be overturned and that he be declared the winner based on a majority vote. The court could agree. Alternatively, it could order a new election or sustain the outcome based on the results of the second election. The case went to trial February 9 in Miami.

SUMMARY BY COUNTIES/BALLOTS CAST

	Republican			Democratic			Libertarian		
	Reg.	Abs.	Total	Reg.	Abs.	Total	Reg.	Abs.	Total
Belknap	9,179	615	9,794	6,061	331	6,392	102	3	105
Carroll	8,208	855	9,063	3,842	330	4,172	144	3	147
Cheshire	9,980	505	10,485	10,333	398	10,731	116	2	118
Coos	4,348	270	4,618	5,207	218	5,425	28	1	29
Grafton	11,455	759	12,214	9,167	573	9,740	93	3	96
Hillsborough	48,682	2,368	51,050	52,627	2,230	54,857	1,118	25	1,143
Merrimack	20,873	1,232	22,105	18,336	676	19,012	394	4	398
Rockingham	38,012	2,110	40,122	35,297	1,314	36,611	1,142	9	1,151
Strafford	11,873	837	12,710	16,581	908	17,489	313	1	314
Sullivan	5,458	351	5,809	5,654	250	5,904	43	0	43
Totals	168,068	9,902	177,970	163,105	7,228	170,333	3,493	51	3,544

SUMMARY BY COUNTIES/NAMES ON CHECKLIST*

	Republican	Democratic	Libertarian	Undeclared	Totals
Belknap	13,301	7,640	78	5,617	26,636
Carroll	13,060	4,731	94	6,479	24,364
Cheshire	13,933	12,945	109	7,842	34,829
Coos	6,786	7,261	28	3,981	18,056
Grafton	17,199	11,114	87	11,226	39,626
Hillsborough	68,608	66,776	965	30,217	166,566
Merrimack	28,094	19,293	277	15,151	62,815
Rockingham	53,887	43,151	808	31,506	129,352
Strafford	17,013	20,694	275	11,364	49,346
Sullivan	7,765	7,026	18	4,583	19,392
Totals	239,646	200,631	2,739	127,966	570,982

* As of April 14, 1992

1992

SUMMARY BY COUNTIES/BALLOTS CAST

	Republican			Democratic			Libertarian		
	Reg.	Abs.	Total	Reg.	Abs.	Total	Reg.	Abs.	Total
Belknap	10,360	734	11,094	3,463	209	3,672	64	2	66
Carroll	8,676	950	9,626	2,077	142	2,219	69	0	69
Cheshire	10,780	558	11,338	6,490	172	6,662	69	2	71
Coos	4,721	290	5,011	2,970	144	3,114	14	1	15
Grafton	13,504	846	14,350	5,424	303	5,727	82	7	89
Hillsborough	59,257	2,817	62,074	28,276	1,257	29,533	520	16	536
Merrimack	25,635	1,323	26,958	10,736	388	11,124	170	2	172
Rockingham	46,209	2,216	48,425	18,170	680	18,850	453	7	460
Strafford	13,671	809	14,480	8,470	371	8,841	131	4	135
Sullivan	6,434	421	6,855	3,191	111	3,302	29	0	29
Totals	199,247	10,964	210,211	89,267	3,777	93,044	1,601	41	1,642

SUMMARY BY COUNTIES/NAMES ON CHECKLIST

	Rep.	Dem.	Lib.	Und.	Total	Code A	Code B	Code C
Belknap	15,689	7,941	119	8,972	32,721	1,076	3,185	1,474
Carroll	14,236	5,221	137	8,714	28,308	603	2,518	1,998
Cheshire	15,718	13,450	116	12,057	41,341	1,674	3,610	2,630
Coos	7,222	7,059	38	5,535	19,854	456	1,358	752
Grafton	19,825	12,309	134	14,696	46,964	1,893	4,110	2,775
Hillsborough	82,657	66,523	1,033	50,908	201,121	8,433	16,532	10,115
Merrimack	33,996	21,616	341	18,743	74,696	3,870	8,954	6,184
Rockingham	66,279	47,191	992	49,121	163,583	5,296	16,630	9,989
Strafford	20,408	20,473	296	15,884	57,061	2,719	5,229	2,923
Sullivan	9,470	7,485	51	5,790	22,796	635	2,045	1,257
Totals	285,500	209,268	3,257	190,420	688,445	26,655	64,171	40,097

Code A: Number of persons who registered to vote at the polling place on Presidential Primary Election Day.
Code B: Number of undeclared voters voting on Presidential Primary Election Day.
Code C: Number of undeclared voters voting on Presidential Primary Election Day who returned to undeclared status before leaving the polling place.

1996 Pres. Primary

SUMMARY BY COUNTIES/BALLOTS CAST

	Republican			Democratic			Libertarian		
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1996 Pres. Primary

SB94

Send to Bill

Gardner

Blessing

Number to committee

COUNTY SUMMARY/BALLOTS CAST

Sept. 10, 1996	Republican			Democratic			Libertarian		
	Regular	Absentee	Total	Regular	Absentee	Total	Regular	Absentee	Total
Belknap	5,850	217	6,067	2,300	84	2,384	36	1	37
Carroll	5,545	264	5,809	1,486	71	1,557	26	1	27
Cheshire	4,376	137	4,513	3,532	113	3,645	45	1	46
Coos	2,766	126	2,892	2,142	77	2,219	20	1	21
Grafton	7,485	316	7,801	4,088	249	4,337	63	2	65
Hillsborough	29,492	1,144	30,636	19,426	893	20,319	292	9	301
Merrimack	14,106	465	14,571	9,163	270	9,433	93	1	94
Rockingham	21,247	788	22,035	11,005	410	11,415	216	1	217
Strafford	7,215	291	7,506	7,443	336	7,779	59	1	60
Sullivan	3,522	91	3,613	2,377	67	2,444	25	0	25
Totals	101,604	3,839	105,443	62,962	2,570	65,532	875	18	893

COUNTY SUMMARY/NAMES ON CHECKLIST

	Republican	Democratic	Libertarian	Undeclared	Total
Belknap	15,669	7,946	119	9,130	32,864
Carroll	14,274	5,213	133	9,730	29,350
Cheshire	15,236	13,337	129	13,085	41,787
Coos	7,136	6,604	34	5,527	19,301
Grafton	20,162	12,364	148	15,911	48,585
Hillsborough	82,398	67,621	1,028	55,112	206,159
Merrimack	33,256	22,079	305	21,219	76,859
Rockingham	65,564	47,734	917	53,997	168,212
Strafford	20,468	21,010	296	17,547	59,321
Sullivan	9,160	7,413	57	6,793	23,423
Totals	283,323	211,321	3,166	208,051	705,861

1996

COUNTY SUMMARY

	Ballots Cast			Names on Checklist				
	Regular	Absentee	Total	Rep.	Dem.	Und.	New ** Reg.	Total
Belknap	21,856	2,241	24,097	15,181	7,684	10,159	1,693	34,717
Carroll	18,637	2,515	21,152	13,973	5,077	11,155	1,388	31,593
Cheshire	29,791	1,973	31,764	14,683	12,824	14,714	2,657	44,878
Coos	13,058	1,329	14,387	6,906	6,636	6,219	696	20,457
Grafton	32,075	3,184	35,259	19,276	12,014	17,196	3,442	51,928
Hillsborough	139,328	10,379	149,707	82,188	67,032	59,937	12,085	221,242
Merrimack	55,948	3,945	59,893	31,358	21,521	24,556	5,420	82,855
Rockingham	107,564	7,933	115,497	63,592	45,483	60,079	7,965	177,119
Strafford	41,691	3,089	44,780	20,081	20,801	19,248	5,126	65,256
Sullivan	15,788	1,374	17,162	8,891	7,201	7,571	1,070	24,733
Totals	475,736	37,962	513,698	276,129	206,273	230,834	41,542	754,778

ELECTION ADMINISTRATION REPORTS • *The Newsletter for Election Officials*

Editor: Richard G. Smolka

RECEIVED
MAR 20 1998
NEW HAMPSHIRE
SECRETARY OF STATE

Volume 28, Number 6, March 16, 1998

Washington Focus. *Phyllis Taylor will retire as Director of the Federal Voting Assistance Program in the Department of Defense effective March 28, 1998. Taylor who is taking early retirement, has served in the federal government for 31 years. She served in the Federal Voting Assistance Program 18 years, the most recent six years as director. Taylor received from two Secretaries of Defense the Medal of Meritorious Civilian Service, the highest award that can be given to a civilian employee. Taylor is well known to State and local election officials for working enthusiastically to ensure voting rights and opportunities for members of the armed services and civilians overseas. After March 28 she may be reached by email at* ***tjtr@erols.com*** *. . . . The U.S. Postal Service expects its manual for state and local election officials to be sent to all election offices by about April 17. The manual, giving details on the best ways to get lowest rates for all election mailings, will be accompanied by a video showing exactly how to use it, and art work for the newly-designed official election logo. That logo may be used to speed delivery of all election mailings including return mailings from voters to election offices.*

APPELLATE COURT CITING ABSENTEE BALLOT FRAUD REVERSES WINNER OF MIAMI MAYORAL ELECTION

A Florida Court of Appeals three-judge panel last week unanimously threw out all 5,082 absentee ballots and declared Joe Carollo the winner of the November 4, 1997 mayoral election. Xavier Suarez, the winner of a November 13 run-off over Carollo by a 53-47 percent vote, had been holding office since that time.

The decision affirmed a District Court ruling that the result was flawed due to absentee vote fraud, but reversed Judge Thomas L. Wilson's March 3 order that a new election be held within 60 days. (*In Re: The Matter of the protest of election returns and absentee ballots in the Nov. 4, 1997 election for the City of Miami, Dade County, Fla.* No. 98-507, 3rd Dist. Court of Appeal, decided March 12, 1998).

The appellate court said if it did not throw out the absentee ballots, it would be sending a message that *"the worst that would happen in the face of voter fraud would be another election."*

The court quoted previous decisions finding that the ability to vote by absentee ballot "is a privilege created by the State." It observed that the purity of the ballot "is more difficult to preserve when voting absent than when voting in person." Florida judicial precedents favored excluding absentee ballots if substantial fraud was shown. There was no precedent for ordering a new election. The new election, the court argued, would disfranchise all 40,000 persons who voted at the polls. The court concluded that Carollo "met his burden of demonstrating absentee ballot fraud to such a degree that the integrity of the election was adversely affected."

The evidence showed: 133 confirmed false voter addresses, 14 stolen ballots, and 140 ballots that were falsely witnessed. Further, more than 480 ballots had been procured or witnessed by "ballot brokers" who invoked their privilege against self-incrimination at the trial."

Wilson's decision, quoted with approval by the appellate court, said "Commission District 3 was the center of a **massive, well conceived, and well orchestrated absentee voter fraud scheme. . . . most importantly, this scheme to defraud, literally and figuratively, stole the ballot from the hands of every honest voter in the City of Miami."**

Wilson said "witness after witness testified, without contradiction that they either *1) did not vote, 2) did not sign the ballots in question, 3) did not live in the district in which their ballot was cast, 4) did not live in the City of Miami, 5) did not know the person who 'witnessed' their signature or said someone other than the named witness actually 'witnessed' their vote, 6) did not live at the address that was given on the absentee ballot, 7) did not request an absentee ballot, 8) did not qualify as 'unable to vote.'"*

Ultimately, sixty persons appeared in court to testify during a two and one-have week non-jury trial. The court also had available deposition testimony of 21 witnesses, 195 exhibits, and the assertions of 27 witnesses of their 5th Amendment right to remain silent. The court noted that it did not have to draw an adverse inference from the 5th Amendment pleadings to reach its decision.

In addition, an expert testified that in examining a very small sampling of absentee ballots before they were confiscated by the Florida Department of Law Enforcement (DLE), several ballots had been doctored. Someone had physically attempted to alter the ballots from votes for Mr. Carollo to votes for Mr. Suarez. The court found no evidence that Suarez knew of or participated in the absentee ballot fraud.

Carollo appealed the decision, asking the court to install him as the winner based on votes cast at the polls November 4. Suarez admitted that some fraud occurred, but claimed it was not enough to set aside his victory.

In the November 4 election, with 46,118 votes cast, Mayor Joe Carollo fell 155 votes short of an absolute majority necessary to win the election in a five-candidate race. Challenger Xavier Suarez, a former mayor, received two-thirds of a very unusually high number of absentee ballots. Twelve per cent of all ballots were absentee.

Suarez won the runoff November 13 with 53 percent of the vote and took office. The circuit court decision left Miami without a mayor for nine days until the appellate court declared Carollo the winner. After the appellate court decision Carollo was reinstated as mayor.

In November, the Florida DLE made two arrests charging absentee vote fraud including vote buying and casting votes in the name of a dead person. Further investigations involving the 5,000 absentee ballots from that election are in progress. In February a Miami Grand Jury reported massive absentee vote fraud. It recommended changes in state and federal law and procedures. (See *Election Administration Reports,* Feb. 16, 1998).

State of New Hampshire

APPLICATION FOR OFFICIAL STATE PRIMARY ELECTION ABSENTEE BALLOT

To the city or town clerk of _____. I, _____,
(Print Name)

hereby apply for an official absentee ballot for the _____ party at the state primary election. I am a duly qualified voter, am registered as a member of the _____ party, (or I am now applying for a _____ ballot), and am entitled to vote in ward _____, city or town of _____

Mail absentee ballot to:

(Signature) _____

(Street and number) _____

(City or town, state and country) _____

(Zip code) _____

Public Affairs

April 23, 1999

1999-0969s

03/01

Amendment to SB 94

Amend the bill by replacing section 2 with the following:

2 Elections; Absentee Voting; Absentee Ballots and Related Materials; Absence, Religious Observance, and Disability; Envelopes; Affidavit Removed. Amend RSA 657:7, II-III to read as follows:

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 is entitled to vote shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties of perjury that I am a duly qualified voter in the city or town of ....., New Hampshire, in ward ..... ; that I will be 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) 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)~~

~~(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 of perjury that I am a duly qualified 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) .....~~].

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, [~~4~~] ***5*** blank spaces with the words "Name, Voting Address, Ward, Town or City, ***Signature***" appropriately printed thereon.

Amend the bill by replacing all after section 4 with the following:

5 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:17 to read as follows:

657:17 Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter shall enclose and seal the same in the [~~affidavit~~] envelope. [~~The voter shall execute the affidavit on it.~~] The voter or the person assisting the blind voter shall enclose and seal said envelope in the return envelope. The voter shall then sign the envelope and endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope, affixing postage, or personally deliver it to the city or town clerk from whom it was sent.

6 Elections; Absentee Voting; Procedure for Absence, Religious Observance, and Disability and Overseas Voting; Procedure by Clerk; Examination for Signature. Amend RSA 657:18 to read as follows:

657:18 Procedure by Clerk. Upon receipt of a return envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall ***examine the return envelope and may notify the voter if the return envelope is not signed. The clerk shall*** attach [~~thereto~~] the application for an absentee ballot submitted by said voter ***to the return envelope***. All such envelopes shall be preserved unopened until election day.

7 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Citizen Voting; Procedure by Voter; Affidavit Removed. Amend RSA 657:20 to read as follows:

657:20 Procedure by Voter. After marking [~~his~~] ***the*** ballot, an armed services voter or a federal overseas citizen voter shall seal the same in the [~~affidavit~~] envelope. [~~If he is a registered voter, he shall execute the appropriate affidavit and return the ballot as hereinafter provided. If the voter is not registered in the town in which he desires to vote, he shall execute the appropriate affidavit.~~] If the armed services voter or federal overseas citizen voter, because of blindness or other physical disability, is unable to mark [~~his~~] ***the*** ballot, an official empowered to administer oaths may assist [~~him~~] ***the voter*** to mark [~~his~~] ***the*** ballot as directed by the voter. The official shall then certify on the outside thereof that it was marked with [~~his~~] ***the official's*** assistance and shall thereafter give no information regarding the same. [~~Having executed the affidavit,~~] The voter shall enclose and seal said envelope in the return envelope. [~~He~~] ***The voter*** shall then ***sign the envelope and*** endorse thereon his ***or her*** name, address, and voting place and shall mail the envelope or personally deliver it to the city or town clerk from whom it was sent.

8 Elections; Absentee Voting; Procedure for Armed Services and Federal Overseas Voting; Registration of Voters; Affidavit Removed. Amend RSA 657:21 to read as follows:

657:21 [~~Registration of Voters~~] ***Receipt of Envelope***. Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall [~~open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his name shall be added to the checklist. The supervisors of the checklist shall then return the affidavit envelopes unopened to the city or town clerk who shall see that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or overseas citizen federal election absentee ballot submitted by said voter to the 2 corresponding envelopes and~~] ***examine the return envelope and may notify the voter if the return envelope is not signed. The clerk shall*** retain [~~them~~] ***the return envelopes*** until election day.

9 Elections; Election Procedure; Processing Absentee Ballots; Affidavit and Signature Examinations Removed. Amend RSA 659:50-54 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he ***or she*** is about to open the envelopes which were delivered to him ***or her***. The moderator shall then remove the [~~affidavit~~] envelope containing the ballots of each absentee voter [~~and shall compare the signature on the affidavit envelope with the signature on the application for the ballot~~]. If[~~:~~

~~I.~~] the name of the voter is on the checklist[~~;~~] and

[~~II. The affidavit on the envelope appears to be properly executed; and~~

~~III. The signature on the affidavit appears to be executed by the same person who signed the application; and~~

~~IV. The signatures appear~~] ***the signature appears*** to be the [~~signatures~~] ***signature*** of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the [~~affidavit~~] envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, [~~he~~] ***the moderator*** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well grounded, [~~he~~] ***the moderator*** shall open the [~~affidavit~~] envelope [~~so the affidavit thereon is not destroyed~~] and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [~~He~~] ***The moderator*** shall then proceed to deposit the ballot as provided in RSA 659:52.

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 [~~affidavit~~] envelope containing the ballot [~~so the affidavit on the envelope is not destroyed~~]. [~~He~~] ***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~~] shall preserve the [~~affidavit~~] envelope 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.

659:53 Forms Not in Order. If the moderator finds that the absentee voter is not entitled to vote, [~~he~~] ***the moderator*** shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter", "voted in person", [~~"affidavit improperly executed",~~] "not signed by proper person", or whatever the reason is. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

659:54 Immaterial Defects. No absentee ballot shall be rejected by the moderator for any immaterial addition, omission, or irregularity in the preparation or execution of any writing [~~or affidavit~~] required herein.

10 Elections; Election Procedure; Preservation of Ballots and other Election Materials; Preservation of Absentee Voting Materials; Affidavit Removed. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials. The [~~affidavit~~] envelopes and application forms processed by the moderator as provided in RSA 659:50 shall be preserved in the same manner as provided in RSA 659:95-100 for the preservation of official state election ballots.

11 Elections; Town Elections; By Official Ballot; Forms; Affidavit. Amend RSA 669:27, III-IV to read as follows:

III. [~~Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed~~] The following affidavit ***to be included with the application***:

Absence. A person voting by absentee ballot because of absence from the place in which [~~he~~] ***or she*** is entitled to vote shall fill out and sign the following certificate:

I do hereby certify, under the penalties of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** that I will be absent on election day from said town (city, village district, school district) and will be unable to vote in person[~~; that I have carefully read the instructions forwarded to me with the ballot herein enclosed and that I personally marked the within ballot and enclosed and sealed it in this envelope~~].

(Signature).....

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 of perjury, that I am a duly qualified voter in the town (city, village district, school district) of ....., New Hampshire, ***and*** 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 the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the within ballot and sealed it in this envelope~~].

(Signature) .....

IV. Return envelopes of size sufficient to contain the [~~affidavit envelopes~~] ***ballot***, addressed to the clerk upon which shall be printed, "Enclosed is the ballot of an absentee voter", and at the top thereof blank spaces for the name, address, and voting place of the sender, with the words "name," and "address" appropriately printed thereon.

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

Public Affairs

April 22, 1999

1999-0958s

08/09

Amendment to SB 188-LOCAL

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

AN ACT allowing school districts operating under the official ballot form of meeting to have more than one special meeting per year through court petition on an appropriation question or issue.

Committee Report

Date: March 3, 1999 Time: 2:25 p.m.

The Senate Committee on Public Affairs held its hearing in Room LOB 104, Concord, New Hampshire.

BILL NO.: Senate Bill 94 TITLE: relative to absentee voter affidavits.

Members of the Committee present:

Senator Trombly
Senator Krueger
Senator McCarley
Senator Roberge
Senator Wheeler

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☐ Ought to Pass
- ☒ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Public Affairs

to which was referred Senate Bill 94

AN ACT relative to absentee voter affidavits.

VOTE: 6 - 0

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Rick A. Trombly
For the Committee