

SB 218 - AS INTRODUCED

2025 SESSION

25-0930

08/11

SENATE BILL **218**

AN ACT relative to absentee ballot outer envelopes.

SPONSORS: Sen. Gray, Dist 6

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill removes the requirement that absentee ballots be placed in outer envelopes unless such ballots are mailed to town or city clerks. This bill also allows clerks to open outer envelopes to allow applicants time to cure defects.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to absentee ballot outer envelopes.

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

1 1 Absentee Ballots and Related Materials; Outer Envelopes. Amend RSA 657:7, II and III to
2 read as follows:

3 II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the
4 following:

5 YOUR COMPLETED ABSENTEE BALLOT MUST BE SEALED IN THIS ENVELOPE

6 I do hereby certify under the penalties for voting fraud set forth below that:

7 I am a voter in the city or town of _____, New Hampshire.

8 One of the following applies to me:

9 1) I will be absent on election day. Absence includes:

10 a) I will be out-of-town on election day.

11 b) I will be unable to vote in person because I will be working.

12 c) I will be unable to vote in person because I will be caring for children or infirm adults, with or
13 without compensation.

14 d) I am voting absentee on the Monday immediately before the election, the National Weather
15 Service has issued a winter storm warning, blizzard warning, or ice storm warning that applies to
16 my town/ward, and I have concerns for traveling in the storm.

17 2) I am unable to vote in person due to disability.

18 3) I am unable to vote in person due to observance of a religious commitment, which prevents me
19 from voting in person.

20 4) I am confined to a penal institution for a misdemeanor or while awaiting trial.

21 I have carefully read or had read to me the absentee voting instructions. I personally marked the
22 absentee ballot enclosed in this envelope or, due to a disability, I had assistance in marking the
23 absentee ballot.

24 Voter Signature _____

25 **Printed Name** _____

26 **Voter Address** _____

27 A person assisting a voter with a disability shall sign this statement on this envelope acknowledging
28 the assistance.

29 I attest that I assisted (print voter name) _____ because the voter is a person with a
30 disability. I marked the ballot and/or this form as instructed by the voter.

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1 In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false
2 information when registering to vote or voting is a class A misdemeanor with a maximum sentence
3 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to
4 vote or voting is subject to a civil penalty not to exceed \$5,000.

5 III. Return envelopes of size sufficient to contain the preceding envelope addressed to the
6 town and city clerks of the state in which absentee voters shall return their ballots, ***if such ballots***
7 ***are returned by mail***. On the envelopes shall be printed "Enclosed is the ballot of an absentee
8 voter" and, at the top thereof, 4 blank spaces with the words "Name, Voting Address, Ward, Town or
9 City" appropriately printed thereon. ***Absentee ballots returned to town or city clerks in person***
10 ***shall not be required to be placed in such outer envelopes***.

11 2 Absentee Voting; Refusal to Certify; Procedure. Amend RSA 657:16 to read as follows:

12 657:16 Refusal to Certify; Procedure. If he or she refuses to certify the application, the town or
13 city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk
14 shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted
15 unless the applicant submits the documents necessary to complete an absentee registration. The
16 applicant shall be advised in writing what documents, if any, have been received in proper form and
17 which the applicant must submit. ***If the applicant submits such documents via mail, he or she***
18 ***shall do so by enclosing them*** in the outer envelope that contains the absentee ballot envelope.
19 ***An applicant hand delivering such documents need not enclose them in the outer envelope***.
20 The town or city clerk shall mark the absentee ballot application, the absentee ballot affidavit, and
21 the outer envelope, ***if applicable***, with the words "Not Registered." Upon receipt of ~~an~~ ***a mailed***
22 outer envelope marked "Not Registered," the clerk shall open the outer envelope. If the applicant
23 returns the required documents with the absentee ballot by the date set for correcting the checklist
24 under RSA 654:27 and RSA 654:28, the town or city clerk shall forward the registration forms to the
25 supervisors of the checklist and, if the applicant is found to be qualified, the applicant shall be
26 registered and his or her absentee ballot shall be processed in the same manner as the absentee
27 ballot of a previously registered voter. All documents received after the deadline for correcting the
28 checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under
29 RSA 654:7-a. If the ballot is returned without the required documents in proper form, the ballot
30 shall be marked in the manner set forth by law for successfully challenged absentee ballots and
31 preserved in accordance with RSA 33-A:3-a. The clerk shall preserve the application of any
32 applicant who is not registered as a voter until the time set by law for the destruction of the ballots
33 after the election at which time the application shall be destroyed. Any justice of the superior court
34 has jurisdiction in equity upon such notice as he or she may order to require that the name of the
35 person making application for an absentee ballot be placed upon the checklist or registered as a
36 member of any party and be sent an absentee ballot.

37 3 Absentee Voting; Procedure by Voter. Amend RSA 657:17, I to read as follows:

1 I. After marking the ballot, the voter or the person assisting a blind voter or voter with a
2 disability who is unable to mark his or her ballot shall enclose and seal the same in an inner
3 envelope. The voter shall execute the affidavit on the envelope. A person assisting a blind voter or
4 voter with a disability who needs assistance executing the affidavit shall sign a statement on the
5 affidavit envelope acknowledging the assistance. **If the voter or the person assisting the blind voter
6 or voter with a disability who needs assistance is mailing the absentee ballot to the town or city
7 clerk, the voter or the person assisting the blind voter or voter with a disability shall enclose
8 and seal the [inner] envelope with the affidavit and return it to the town/city clerk. If the
9 envelope with the affidavit is mailed it shall be sealed in [an] the outer envelope provided.**
10 The voter or the person assisting a blind voter or voter with a disability shall then endorse on the
11 outer envelope the voter's name, address, and voting place. The absentee ballot shall be delivered to
12 the city or town clerk from whom it was received in one of the following ways:

13 (a) The voter or the voter's delivery agent may personally deliver the envelope, **in which
14 case the voter or the voter's delivery agent need not enclose the affidavit envelope in the
15 outer envelope;** or

16 (b) The voter or the person assisting the blind voter or voter with a disability may mail
17 the **ballot and affidavit envelope within the outer** envelope to the city or town clerk, with
18 postage affixed.

19 4 Absentee Voting; Procedure by Clerk. Amend RSA 657:18 to read as follows:

20 657:18 Procedure by Clerk. Upon receipt of an outer envelope **or an affidavit envelope**
21 purporting to contain an official absentee voting ballot, the clerk of the city or town shall, subject to
22 RSA 657:16, attach thereto the application for an absentee ballot **to the envelope** submitted by said
23 voter and record the information pursuant to RSA 657:15. **Errors identified during this process
24 shall be processed as directed by the secretary of state. [All such envelopes] The envelopes**
25 **shall be preserved unopened until [election day] processed in accordance with RSA 659:50.**

26 5 Processing Absentee Ballots. Amend RSA 659:50 to read as follows:

27 659:50 Announcement by Moderator.

28 I. **Moderators may preprocess absentee ballots on the Friday, Saturday, Sunday, or
29 Monday prior to election day at a date and time which has been properly noticed by the
30 town/city clerk or on election day at the polls after the polls open and prior to the time for
31 processing of absentee ballots. The preprocessing may include the opening of outer
32 envelopes, examining the affidavits for errors and highlighting the checklist to make
33 finding the names on the checklist quicker on election day. Errors identified during this
34 process shall be processed as directed by the secretary of state. No affidavit envelopes may
35 be opened during preprocessing.**

36 [F] II. The moderator shall begin processing absentee ballots by clearly announcing that he
37 or she is about to [open the envelopes] **process the absentee ballots** which were delivered to him or

1 her. The moderator shall then [~~remove the envelope containing the ballots of each absentee voter~~
2 ~~and~~], for those absentee ballots where the absentee voter has not been verified by the clerk as
3 provided in RSA 657:17-a, [~~shall~~] compare the signature on the affidavit with the signature on the
4 application for the ballot. If:

5 (a) The name of the voter is on the checklist; and

6 (b) The affidavit appears to be properly executed; and

7 (c) If the affidavit or application shows that the voter received assistance, the absentee
8 voter shall be processed as verified. Otherwise, the signatures on the affidavit shall be examined to
9 determine if it appears to be executed by the same person who signed the application.

10 [H] **III.** For the absentee ballots processed in accordance with paragraph I and those where
11 the clerk has previously verified the absentee voter in accordance with RSA 657:17-a, if the
12 signatures appear to be the signatures of a duly qualified voter who has not voted at the election;
13 then the moderator shall publicly announce the name of the absentee voter, except that with respect
14 to any voter who has been included in the address confidentiality program under RSA 7:43 or who
15 has been granted a protective order under RSA 173-B, the moderator shall identify such voters as
16 "confidential voter number 1" and "confidential voter number 2," and so forth. If these conditions are
17 not met, the moderator shall follow the procedure provided in RSA 659:53.

18 6 Repeal. RSA 659:49-b, relative to opening of absentee ballot outer envelopes, is repealed.

19 7 Effective Date. This act shall take effect 60 days after its passage.