LEGISLATIVE COMMITTEE MINUTES

SB365

Bill as Introduced

SB 365 - AS INTRODUCED

2022 SESSION

22-3085 11/10

SENATE BILL

365

AN ACT

relative to absentee ballot outer envelopes.

SPONSORS:

Sen. Gray, Dist 6; Sen. Ward, Dist 8; Sen. Birdsell, Dist 19; Sen. Soucy, Dist 18

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT

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relative to absentee ballot outer envelopes.

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

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

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, if such ballots are returned by mail. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, 4 blank spaces with the words "Name, Voting Address, Ward, Town or City" appropriately printed thereon. Absentee ballots returned to town or city clerks in person shall not be required to be placed in such outer envelopes.

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

657:16 Refusal to Certify; Procedure. If he or she refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit. If the applicant submits such documents via mail, he or she shall do so by enclosing them in the outer envelope that contains the absentee ballot envelope. An applicant hand delivering such documents need not enclose them in the outer envelope. The town or city clerk shall mark the absentee ballot application, the absentee ballot affidavit, and the outer envelope, if applicable, with the words "Not Registered." Upon receipt of [an] a mailed outer envelope marked "Not Registered," the clerk shall open the outer envelope. If the applicant returns the required documents with the absentee ballot by the date set for correcting the checklist under RSA 654:27 and RSA 654:28, the town or city clerk shall forward the registration forms to the supervisors of the checklist and, if the applicant is found to be qualified, the applicant shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. All documents received after the deadline for correcting the checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under RSA 654:7-a. If the ballot is returned without the required documents in proper form, the ballot shall be marked in the manner set forth by law for successfully challenged absentee ballots and preserved in accordance with RSA 33-A:3-a. The clerk shall preserve the application of any applicant who is not registered as a voter until the time set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court

SB 365 - AS INTRODUCED - Page 2 -

has jurisdiction in equity upon such notice as he or she may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

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

- I. After marking the ballot, the voter or the person assisting a blind voter or voter with a disability who is unable to mark his or her ballot shall enclose and seal the same in an inner envelope. The voter shall execute the affidavit on the envelope. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit shall sign a statement on the affidavit envelope acknowledging the assistance. If the voter or the person assisting the blind voter or voter with a disability who needs assistance is mailing the absentee ballot to the town or city clerk, the voter or the person assisting the blind voter or voter with a disability shall enclose and seal the inner envelope with the affidavit in an outer envelope. The voter or the person assisting a blind voter or voter with a disability shall then endorse on the outer envelope the voter's name, address, and voting place. The absentee ballot shall be delivered to the city or town clerk from whom it was received in one of the following ways:
- (a) The voter or the voter's delivery agent may personally deliver the envelope, in which case the voter or the voter's delivery agent need not enclose the affidavit envelope in the outer envelope; or
- (b) The voter or the person assisting the blind voter or voter with a disability may mail the ballot and affidavit envelope within the outer envelope to the city or town clerk, with postage affixed.
 - 4 Absentee Voting; Procedure by Clerk. Amend RSA 657:18 to read as follows:
- 657:18 Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, open the outer envelope and attach thereto the application for an absentee ballot submitted by said voter and record the information pursuant to RSA 657:15. [All such-envelopes] The affidavit envelopes shall be preserved unopened until election day.
 - 5 Processing Absentee Ballots. Amend the introduction to RSA 659:50, I to read as follows:
- I. The moderator shall begin processing absentee ballots by clearly announcing that he or she is about to [epen-the envelopes] process the absentee ballots which were delivered to him or her. The moderator shall then [remove the envelope containing the ballots of each absentee voter and], for those absentee ballots where the absentee voter has not been verified by the clerk as provided in RSA 657:17-a, [shall] compare the signature on the affidavit with the signature on the application for the ballot. If:
 - 6 Repeal. RSA 659:49-b, relative to opening of absentee ballot outer envelopes, is repealed.
 - 7 Effective Date. This act shall take effect 60 days after its passage.

SB 365 - AS AMENDED BY THE SENATE

03/24/2022 1097s

2022 SESSION

22-3085 11/10

SENATE BILL

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22-3085 11/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

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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	A person assisting a voter with a disability shall sign this statement on this envelope acknowledging
26	the assistance.
27	I attest that I assisted (print voter name) because the voter is a person with a
28	disability. I marked the ballot and/or this form as instructed by the voter.
29	In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false
30	information when registering to vote or voting is a class A misdemeanor with a maximum sentence

SB 365 - AS AMENDED BY THE SENATE - Page 2 -

of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

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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, if such ballots are returned by mail. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, 4 blank spaces with the words "Name, Voting Address, Ward, Town or City" appropriately printed thereon. Absentee ballots returned to town or city clerks in person shall not be required to be placed in such outer envelopes.

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SB 365 - AS AMENDED BY THE SENATE - Page 3 -

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- envelope. The voter shall execute the affidavit on the envelope. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit shall sign a statement on the affidavit envelope acknowledging the assistance. If the voter or the person assisting the blind voter or voter with a disability who needs assistance is mailing the absentee ballot to the town or city clerk, the voter or the person assisting the blind voter or voter with a disability shall enclose and seal the inner envelope with the affidavit in an outer envelope. The voter or the person assisting a blind voter or voter with a disability shall then endorse on the outer envelope the voter's name, address, and voting place. The absentee ballot shall be delivered to the city or town clerk from whom it was received in one of the following ways:
- (a) The voter or the voter's delivery agent may personally deliver the envelope, in which case the voter or the voter's delivery agent need not enclose the affidavit envelope in the outer envelope; or
- (b) The voter or the person assisting the blind voter or voter with a disability may mail the ballot and affidavit envelope within the outer envelope to the city or town clerk, with postage affixed.
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Amendments

Amendment to SB 365

1	Amend the bill by replacing section 1 with the following:
2	
3	1 Absentee Ballots and Related Materials; Outer Envelopes. Amend RSA 657:7, II and III to
4	read as follows:
5	II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the
6	following:
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13	b) I will be unable to vote in person because I will be working.
14	c) I will be unable to vote in person because I will be caring for children or infirm adults, with or
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16	d) I am voting absentee on the Monday immediately before the election, the National Weather
17	Service has issued a winter storm warning, blizzard warning, or ice storm warning that applies to
18	my town/ward, and I have concerns for traveling in the storm.
19	2) I am unable to vote in person due to disability.
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22	4) I am confined to a penal institution for a misdemeanor or while awaiting trial.
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Amendment to SB 365 - Page 2 -

of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

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, if such ballots are returned by mail. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, 4 blank spaces with the words "Name, Voting Address, Ward, Town or City" appropriately printed thereon. Absentee ballots returned to town or city clerks in person shall not be required to be placed in such outer envelopes.



Election Law and Municipal Affairs March 14, 2022 2022-1097s 10/04

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Amendment to SB 365 - Page 2 -

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shall not be required to be placed in such outer envelopes.

Committee Minutes

SENATE CALENDAR NOTICE Election Law and Municipal Affairs

Sen James Gray, Chair Sen Regina Birdsell, Vice Chair Sen Ruth Ward, Member Sen Donna Soucy, Member Sen Rebecca Perkins Kwoka, Member

Date: February 8, 2022

HEARINGS

		Н	EARINGS			
	Mo	onday	02/14/2022			
Election La	aw and Mu	nicipal Affairs	State House	100	1:00 p.m.	
(Name of C	Committee)		(Place)		(Time)	
1:00 p.m. SB 248 relative to political contributions made by limited liability contributions. 1:15 p.m. SB 348 relative to political expenditures and contributions. 1:30 p.m. SB 365 relative to absentee ballot outer envelopes.						
C.		EXECUTIVE :	SESSION MAY FOLLOW	r	•	
Sponsors: SB 248 Sen. Sherman Sen. Soucy SB 348 Sen. Gray SB 365		Sen. Rosenwald Sen. Kahn Sen. Ward	Sen. Watters Rep. M. Smith Sen. Birdsell	Sen. Wh	nitley	
Sen. Gray		Sen. Ward	Sen. Birdsell	Sen. Son	ucy	

Tricia Melillo 271-3077

<u>James P. Gray</u> Chairman

Senate Election Law and Municipal Affairs Committee Tricia Melillo 271-3077

SB 365, relative to absentee ballot outer envelopes.

Hearing Date:

February 14, 2022

Members of the Committee Present: Senators Gray, Birdsell, Ward, Soucy and Perkins Kwoka

Members of the Committee Absent: None

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

Sponsors:

Sen. Gray

Sen. Ward

Sen. Birdsell

Sen. Soucy

Who supports the bill: 61 people signed up in support of the bill. The full sign in sheet is available upon request.

Who opposes the bill: 1 person signed up in opposition of the bill. The full sign in sheet is available upon request.

Summary of testimony presented in support:

Senator James Gray

- In the last election the moderators were allowed to pre-process the outer envelope of absentee ballots.
- It assisted them in being able to look at the affidavits and be sure they were filled out correctly.
- This allowed them the time needed to contact people who had completed them incorrectly in order to make corrections.
- He believes that is important to do and that the outer envelope does not serve a useful purpose.
- Currently, there is a court order that prevents election officials from comparing signatures on the application and the affidavit.
- The court order stated that they needed a way to allow people to cure their ballot.
- If there was something irregular about the signatures, there needed to be a method for the voter to attempt to correct it.
- The court also stated that there needed to be training by the Secretary of State on the signature verifications.
- This is a method that will allow the clerks to be able to look at the signatures and contact the voters if there is a problem.
- This will help officials resolve any issues with the ballots.
- As long as the ballot stays in the affidavit envelope there is no reason for the outer envelope.

Olivia Zink - Open Democracy Action

- She oftentimes assists with absentee ballots on election day.
- This is an important piece of legislation because it gives the clerks the opportunity to cure ballots if there are any issues with them.
- It only allows the inner envelope to be viewed and does not give the clerks permission to look at the actual ballot.

- Her only concern is having a way to match the correct person with the ballot.
- It is really important that there are ways to make sure the checklist is marked correctly.
- The outer envelope is sometime referred to for clarification.
- Some clerks print right from the online system which has the barcode so when the envelope comes back they can scan the barcode and confirm receipt.
- A lot of voters check on their ballots to be sure it was received.
- She asked them to consider putting the barcode on the application or somewhere else for the clerks to access it.
- Senator Gray asked if putting the voter ID number on the affidavit would solve that problem.
 - o Ms. Zink replied that she is not sure there is enough room.

Tom Prasol - Demers & Prasol

- He is here on behalf of the City and Town Clerks Association.
- They have a concern that the outer envelope will not be there because there are identifying features on it
- They use those to sort and make sure they have the correct voter on election day.
- Joan Dargie has submitted written comments regarding this to the committee.

Summary of testimony presented in opposition: None

TJM

Date Hearing Report completed: February 18, 2022

Speakers

Senate Election Law and Municipal Affairs Committee SIGN-IN SHEET

Date: February 14, 2022 Time: 1:30 p.m.

SB 365

AN ACT relative to absentee ballot outer envelopes.

PRIME: Sen. Gray

	Name/Representing (please print neatly)					
/	Name/Representing (please print neatly) Sen. Gray SD+6 OINIQ ZINK Open Democracy ACTION Tom Prasol NH CITY AND TOWN CLEARS ASSN Rigin a Birdsell	Support	Oppose	Speaking?	Ves	No □
	Olivia ZINK Open Democracy Action	Support	Oppose	Speaking?	Yes X	No
	TOM PRASOL NH CITY AND TOWN CLERKS ASSN	\square	Oppose	Speaking?	Yes	No □
	Rigina Birdsell	Support	Oppose \Box	Speaking?	Yes	N ₀
		Support	Oppose	Speaking?	Yes	No \
	,	Support	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No
	,	Support	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No □
		Support	Oppose	Speaking?	Yes	No
	·	Support	Oppose	Speaking?	Yes	No □
		Support	Oppose	Speaking?	Yes	No
		Support \Box	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No
	·	Support	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No
		Support	Oppose	Speaking?	Yes	No

Testimony

Tricia Melillo

From:

Joan Dargie <joan.dargie@milford.nh.gov>

Sent:

Monday, February 14, 2022 1:29 PM

To:

James Gray; Regina Birdsell; Ruth Ward; Donna Soucy; Rebecca Perkins Kwoka; Tricia

Melillo

Subject:

SB365 Support w/amendment

Senator Gray,

The City and Town Clerks are in support of this bill with one amendment to Section 3. I a) in which case the voter or the voter's delivery agent need not enclose the affidavit envelope in the outer envelope; (We would like them to still fill out and enclose the affidavit in the outer envelope, the outer envelope contains the address of the voter which is sometimes needed to determine who the voter is.

Otherwise we support the rest of this bill.

Joan Dargie Town Clerk 1 Union Square Milford, NH 03055 603-249-0650 Dear Chairman Gray and Members of the Senate Election Law and Municipal Affairs Committee,

I am writing in support of SB 365 relative to absentee ballot outer envelopes. This bill eliminates the need for outer envelopes when an absentee ballot is returned to the town or city clerk in person, but still requires the outer envelope when mailing an absentee ballot. Eliminating the outer ballot envelope makes processing more efficient.

In cases where the clerk does not certify absentee voter registrations due to missing documents, this bill also allows that when such documents are hand delivered they need not be enclosed in the outer envelope. Needed documents that are delivered by mail must be enclosed in the outer envelope. As with absentee ballots, this streamlines the process.

Each improvement, no matter how small, that can be made to make processes simpler for the voters and the city and town clerks deserves support. I ask that you vote Ought to Pass on SB 365,

Respectfully,

Linda Olson Bundy

Antrim

Voting Sheets

Senate Election Law & Municipal Affairs Committee

EXECUTIVE SESSION RECORD 2022 Session

1/	2.0		Bill 5B	365	
Hearing date: $\frac{2/14/22}{1}$					
Executive Session date:	3/14/2	<u> 2</u>			
Motion of:	OTP		Vote	:	
Sen. Gray, Chair Sen. Birdsell, Vice Chair	Present X X X X X X X X		Second	Yes No	
Motion of: //	0775	WOLS	Vote	<u>: 5-0</u>	
Committee Member Sen. Gray, Chair Sen. Birdsell, Vice Chair Sen. Ward Sen. Soucy Sen. Perkins-Kwoka	Y X X	Made by	Second	Yes No	
Motion of:	TP/A	- 	Vote	:_ 5-0	
Committee Member Sen. Gray, Chair Sen. Birdsell, Vice Chair Sen. Ward Sen. Soucy Sen. Perkins-Kwoka	Present X X X X X X X X	Made by	Second	Yes No	
Reported out by: SOM .	Grae	1			
Notes:	(

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE FOR THE CONSENT CALENDAR

Monday, March 14, 2022

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred SB 365

AN ACT

relative to absentee ballot outer envelopes.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1097s

Senator James Gray For the Committee

This bill removes the requirement that absentee ballots which are already in an affidavit envelopes be placed in an outer envelope unless the ballots are mailed to town or city clerks. Ballots which are delivered to the clerks in outer envelopes shall be opened. This process will allow the ballot affidavits to be reviewed for errors prior to Election Day.

Tricia Melillo 271-3077

General Court of New Hampshire - Bill Status System

Docket of SB365

Docket Abbreviations

Bill Title: relative to absentee ballot outer envelopes.

Official Docket of **\$B365.**:

Date	Body	Description
12/17/2021	S	To Be Introduced 01/05/2022 and Referred to Election Law and Municipal Affairs; SJ 1
2/8/2022	S	Hearing: 02/14/2022, Room 100, SH, 01:30 pm; SC 7
3/16/2022	S	Committee Report: Ought to Pass with Amendment #2022-1097s, 03/24/2022; Vote 5-0; CC; SC 12
3/24/2022	S	Committee Amendment #2022-1097s, AA, VV; 03/24/2022; SJ 6
3/24/2022	S	Ought to Pass with Amendment 2022-1097s, MA, VV; OT3rdg; 03/24/2022; SJ 6
3/28/2022	Н	Introduced 03/28/2022 and referred to Election Law
3/30/2022	Н	Public Hearing: 04/06/2022 10:30 am LOB 306-308
4/4/2022	Н	Executive Session: 04/13/2022 10:00 am LOB 306-308
4/14/2022	Н	Majority Committee Report: Inexpedient to Legislate (Vote 11-9; RC) HC 15 P. 14
4/14/2022	н	Minority Committee Report: Ought to Pass
4/21/2022	Н	Inexpedient to Legislate: MA DV 184-146 04/21/2022 HJ 10

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Other Referrals

Senate Inventory Checklist for Archives

Bill Number: 58 365 Senate Committee: ELMA
Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside
X Final docket found on Bill Status
Bill Hearing Documents: (Legislative Aides)
X Bill version as it came to the committee
All Calendar Notices
Hearing Sign-up sheet(s)
Prepared testimony, presentations, & other submissions handed in at the public hearing
✓ Hearing Report
N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office
Committee Action Documents: (Legislative Aides)
All amendments considered in committee (including those not adopted):
X- amendment # 10775 amendment #
X Executive Session Sheet
Committee Report
Floor Action Documents: (Clerk's Office)
All floor amendments considered by the body during session (only if they are offered to the senate):
- amendment # amendment #
- amendment # amendment #
Post Floor Action: (if applicable) (Clerk's Office)
Committee of Conference Report (if signed off by all members. Include any new language propose
by the committee of conference):
Enrolled Bill Amendment(s)
Governor's Veto Message
All available versions of the bill; (Clerk's Office)
as amended by the senate as amended by the house
final version
Completed Committee Report File Delivered to the Senate Clerk's Office By:
Trucia Mello 6/21/22 Committee Aide

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