

SB 2 - AS AMENDED BY THE SENATE

01/06/2021 0005s

2021 SESSION

21-1005

11/05

SENATE BILL **2**

AN ACT allowing the preprocessing of absentee ballots for certain 2021 elections and allowing for the postponement of annual town meetings in calendar year 2021 where concerns exist during the COVID-19 health emergency.

SPONSORS: Sen. Gray, Dist 6; Sen. Carson, Dist 14; Sen. Sherman, Dist 24; Sen. Avard, Dist 12; Sen. D'Allesandro, Dist 20; Sen. Birdsell, Dist 19; Sen. Bradley, Dist 3; Sen. French, Dist 7; Sen. Morse, Dist 22; Sen. Reagan, Dist 17; Sen. Rosenwald, Dist 13; Sen. Ward, Dist 8; Sen. Gannon, Dist 23; Sen. Soucy, Dist 18; Rep. Cote, Hills. 31; Rep. Cushing, Rock. 21; Rep. Packard, Rock. 5; Rep. W. MacDonald, Rock. 5; Rep. Lang, Belk. 4

COMMITTEE: No Committee Assignment

ANALYSIS

This bill temporarily allows for the preprocessing of absentee ballots at elections held through July 1, 2021. The bill also allows for the postponement of annual town meetings in calendar year 2021 where concerns exist during the COVID-19 health emergency.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT allowing the preprocessing of absentee ballots for certain 2021 elections and allowing for the postponement of annual town meetings in calendar year 2021 where concerns exist during the COVID-19 health emergency.

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

1 1 Absentee Voting; Procedure by Clerk. Amend RSA 657:18 to read as follows:

2 657:18 Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official
3 absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, attach thereto the
4 application for an absentee ballot submitted by said voter and record the information pursuant to
5 RSA 657:15. All such envelopes shall be preserved unopened until election day **except as provided**
6 **by RSA 659:49-b.**

7 2 Preparation of Polling Place; Arrangement. RSA 658:9, VII is repealed and reenacted to read
8 as follows:

9 VII. The requirements of this section may be satisfied by alternative requirements issued by
10 the secretary of state in consultation with the attorney general and the commissioner of the
11 department of health and human services or designee.

12 3 Processing of Absentee Ballots. Amend RSA 659:49 to read as follows:

13 659:49 Processing Absentee Ballots.

14 I. Processing of previously received absentee ballots shall begin at 1:00 p.m. unless a
15 different time, that is no earlier than ~~[2 hours]~~ **one hour** after the opening of the polls, is posted and
16 announced in accordance with paragraph II. The processing of the absentee ballots shall not
17 unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time for
18 the processing of such ballots during normal polling hours. Absentee ballots which are received after
19 the start time for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall
20 be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be
21 counted prior to the closing of the polls.

22 II. Notwithstanding the provisions of paragraph I, ~~[upon the written challenges of 10 or~~
23 ~~more voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the~~
24 ~~processing of all absentee ballots until after the polls close and prior to the counting of all ballots~~
25 ~~east in the election.]~~ the moderator, or his or her designee, shall post the time at which the
26 processing of absentee ballots shall begin at the polling place and one other public location at least
27 24 hours before the polls open. In addition, when the polls open the moderator shall announce the
28 time at which the processing of absentee ballots shall begin.

29 4 Opening Absentee Ballot Outer Envelopes. Amend RSA 659:49-b to read as follows:

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1 659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee
2 may authorize the opening of absentee ballot outer envelopes on election day *or the Thursday,*
3 *Friday, Saturday, or Monday* prior to the time established for processing absentee ballots in RSA
4 659:49 *but after the corrected checklist has been posted*, provided that the opening of the outer
5 envelopes occurs in public with notice of the time and place. [~~The envelope containing the ballot~~
6 ~~shall not be removed from the outer envelope at such time, and the outer envelope containing the~~
7 ~~inner envelope shall be secured until it is processed pursuant to RSA 659:50.] *After the outer*
8 *envelope has been opened, the affidavit on the inner envelope shall be examined, the voter's*
9 *name shall be announced, an opportunity for a challenge of the ballot shall be given, and a*
10 *notation may be made on the checklist to help facilitate processing of the ballot on election*
11 *day. Notwithstanding RSA 659:51, if absentee ballots are partially processed before*
12 *election day a challenge may not be made after the notation has been made on the*
13 *checklist. The ballot shall remain secure in the unopened affidavit envelope until final*
14 *processing on election day.*~~

15 5 Partial Processing of Absentee Ballots Prior to an Election. RSA 659:55-a is repealed and
16 reenacted to read as follows:

17 659:55-a Partial Processing of Absentee Ballots Prior to an Election.

18 I. The moderator, or his or her designee, may begin the processing of absentee ballots prior
19 to the opening of the polls provided that the clerk shall post, in an appropriate public place and prior
20 to election day, notice of the time and place of the processing. If the moderator chooses to do so it
21 shall be posted in 2 appropriate public places, one of which shall be the public body's Internet
22 website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at
23 least 48 hours, excluding Sundays and legal holidays, prior to such meeting. A copy of the notice
24 shall be provided to the secretary of state. The partial processing of absentee ballots prior to an
25 election shall occur on the Thursday, Friday, Saturday, or Monday prior to the date of the election
26 after the posting of the checklist. The moderator shall be assisted by at least 3 other election officers
27 as defined under RSA 652:14. Members of the general public may observe this process. Under no
28 circumstances shall absentee ballots be counted prior to the opening of the polls.

29 II. Once notice of the processing has been posted, all absentee ballots received by the end of
30 the day preceding the posted time for the meeting shall be partially processed. Only one session for
31 the partial processing of absentee ballots may be scheduled prior to an election.

32 III. Except as otherwise provided, the moderator, or his or her designee, shall adhere to the
33 procedures detailed in RSA 659:49-b, RSA 659:50, RSA 659:51, RSA 659:52, RSA 659:53, RSA
34 659:54, RSA 659:54-a, RSA 666:4, and RSA 666:5.

35 6 Absentee Voting; Procedure by Clerk. RSA 657:18 is repealed and reenacted to read as
36 follows:

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1 657:18 Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official
2 absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, attach thereto the
3 application for an absentee ballot submitted by said voter and record the information pursuant to
4 RSA 657:15. All such envelopes shall be preserved unopened until election day.

5 7 Processing Absentee Ballots. RSA 659:49 is repealed and reenacted to read as follows:

6 659:49 Processing Absentee Ballots.

7 I. Processing of previously received absentee ballots shall begin at 1:00 p.m. unless a
8 different time, that is no earlier than 2 hours after the opening of the polls, is posted and announced
9 in accordance with paragraph II. The processing of the absentee ballots shall not unnecessarily
10 interfere with normal voting procedures, nor shall the polls be closed at any time for the processing
11 of such ballots during normal polling hours. Absentee ballots which are received after the start time
12 for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall be processed as
13 soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the
14 closing of the polls.

15 II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more
16 voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the
17 processing of all absentee ballots until after the polls close and prior to the counting of all ballots
18 cast in the election. The moderator, or his or her designee, shall post the time at which the
19 processing of absentee ballots shall begin at the polling place and one other public location at least
20 24 hours before the polls open. In addition, when the polls open the moderator shall announce the
21 time at which the processing of absentee ballots shall begin.

22 8 Opening Absentee Ballot Outer Envelopes. RSA 659:49-b is repealed and reenacted to read as
23 follows:

24 659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee
25 may authorize the opening of absentee ballot outer envelopes on election day prior to the time
26 established for processing absentee ballots in RSA 659:49, provided that the opening of the outer
27 envelopes occurs in public with notice of the time and place. The envelope containing the ballot shall
28 not be removed from the outer envelope at such time, and the outer envelope containing the inner
29 envelope shall be secured until it is processed pursuant to RSA 659:50.

30 9 Repeal. The following are repealed:

31 I. RSA 658:9, VII, relative to alternative requirements for preparation of the polling place.

32 II. RSA 659:55-a, relative to partial processing of absentee ballots prior to the election.

33 10 Annual Meetings; Postponement Allowed for 2021.

34 I. Notwithstanding any law to the contrary, for calendar year 2021, where concern exists for
35 conducting the annual meeting and election during the COVID-19 health emergency, the governing
36 body of a town, school district, or village district, in consultation with the moderator and the clerk,
37 may postpone the official ballot voting day to the second Tuesday of April, May, June, or July. The

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1 governing body may also postpone the business or deliberative session of the annual meeting to one
2 or more dates later in 2021. The governing body shall hold a public hearing before making any
3 decision to postpone pursuant to this paragraph. The prohibition in RSA 40:4, II(c) on delaying the
4 deliberative session more than 72 hours and the requirement in RSA 669:1-a that the election be
5 rescheduled to the Tuesday 2 weeks following the original date shall not apply.

6 II. The governing body shall provide notice to voters of the date or dates promptly after
7 making the decision to postpone. The governing body shall also re-post notice at least 14 days before
8 the date(s) of the rescheduled official ballot voting day and business or deliberative session. At a
9 minimum, notice shall be posted on the town, school, or village district website, if such exists, and in
10 2 public places. Any hearings, notices, or other actions required to be taken before the annual
11 meeting shall be deemed sufficient if taken the legally required number of days before the postponed
12 session.

13 III. In the event of a postponement, the requirement that the business meeting must
14 conclude before newly elected officers and officials can assume office under RSA 42:3 is hereby
15 waived. Municipal and local governmental bodies are permitted to swear in newly elected officers
16 and officials, and those individuals may assume office before the business meeting has concluded.
17 The governing body in both calendar year and fiscal year towns or districts may make expenditures
18 between January 1 and the date a budget is adopted which are reasonable in light of prior year's
19 appropriations and expenditures for the same purpose during the same time period. Such budget
20 shall be adopted no later than September 1, 2021, and any interim expenditure not authorized in the
21 adopted budget shall cease. This spending authority shall be read in harmony with emergency order
22 56 issued by the governor on June 25, 2020.

23 11 Effective Date.

24 I. Sections 6-9 of this act shall take effect August 1, 2021.

25 II. The remainder of this act shall take effect upon its passage.