

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY  
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II  
DEPUTY ATTORNEY GENERAL

**SECTION 5 VOTING SUBMISSION**

TO: Chief, Voting Section  
Civil Rights Division  
Room 7254 – NWB  
Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530

DATE: August 2, 2010

RE: Submissions Under Section 5 of the Voting Rights Act for:  
**Laws of 1981, Chapter 392**

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits **Laws of 1981, Chapter 392**, relative to the Color of Ballots used in Absentee Voting, for preclearance by the U.S. Department of Justice.

Changes to RSA 656:34, RSA 656:37 and RSA 669:27 made in 2010 are being simultaneously submitted for preclearance in submission 2010:317. We are submitting this change to “catch up” preclearance of earlier changes to allow preclearance of the 2010 changes.

Submission: In accordance with 28 CFR §51.27 and 51.28, the submission is as follows:

**(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting (new law).**

Laws of 1981, Chapter 392 amending:

1. (Sec 1) RSA 656:33, Absence, Religious Observance, and Disability Absentee Ballots;

2. (Sec 2) RSA 656:34, Official Overseas Citizens Federal Absentee Ballot;
3. (Sec 3) RSA 656:37, Constitutional Amendments;
4. (sec 4) RSA 669:27, Non-State Elections.

See Attached Exhibit 1981:392, #1.

**(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended or otherwise changed (prior law).**

1. (Sec 1) RSA 656:33, Absence, Religious Observance, and Disability Absentee Ballots as amended in 1979 . See Attached as Exhibit 1981:392, #2. This section was also amended in 1979 by Chapter 308, which is being submitted simultaneously for preclearance, see submission 1979:308.
2. (Sec 2) RSA 656:34, Official Overseas Citizens Federal Absentee Ballot as amended in 1979. See Attached as Exhibit 1981:392, #2.
3. (Sec 3) RSA 656:37, Constitutional Amendments as amended in 1979. See Attached as Exhibit 1981:392, #2.
4. (sec 4) RSA 669:27, Non-State Elections as amended in 1979. See Attached as Exhibit 1981:392, #3.

**(c) A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.**

All four statutes are changed to require that instead of printing the various types of absentee ballots on paper of a different color than election day ballots, the absentee ballots must be printed on the same color paper as election day ballots.

**(d) The name, title, address, and telephone number of the person making the submission.**

Orville B. Fitch II, Deputy Attorney General  
New Hampshire Attorney General's Office  
33 Capitol Street  
Concord, New Hampshire 03301

(603) 271-1238

Between 8/1/2010 and 8/31/2010 contact:

Richard Head, Associate Attorney General  
New Hampshire Attorney General's Office  
33 Capitol Street  
Concord, New Hampshire 03301  
(603) 271-1248

**(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.**

Attorney General Michael A. Delaney  
State of New Hampshire

**(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.**

Not applicable

**(g) Identification of person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).**

This change is an act of the New Hampshire General Court, New Hampshire's state legislature, with approval of the legislation by the Governor of the State of New Hampshire.

**(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.**

The New Hampshire Constitution Part Second, Article 2, grants supreme legislative power within the state to the House of Representatives and Senate, who with a right to negate each other are granted power to make law through Part Second, Article 5. The legislature, through a bicameral process passed each Chapter Law set forth above. Each bill was signed into law by the Governor or allowed to become law without signature, pursuant to New Hampshire Constitution Part Second, Article 44.

**(i) The date of adoption of the change affecting voting.**

June 21, 1981.

**(j) The date on which the change is to take effect.**

August 21, 1981.

**(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.**

This change to New Hampshire's voting laws has been enforced or administered.

As was exhaustively addressed in a 2004 letter to the federal Department of Justice, New Hampshire is engaged in an effort to catch up on preclearance submissions. This change is being submitted now to "catch up" the preclearance as there is a change in this act related to the subject of a 2010 change.

**(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.**

This change affects the entire State of New Hampshire.

**(m) A statement of the reasons for the change.**

The reason for this change is to make absentee ballots less distinguishable from election day ballots, thereby diminishing the risk that during counting anyone observing from the public viewing area can associate a particular vote with one or more voters known to be absentee voters.

**(n) A statement of the anticipated effect of the change on members of racial or language minority groups.**

There is no anticipated adverse effect on members of racial or language minority groups.

**(o) Identify any past or pending litigation concerning the change or related voting practice.**

There is no known past or pending litigation concerning these changes or related voting practices.

**(p1) A Statement that the prior practice has been precleared, with the date, or is not subject to the preclearance requirement and**

1. (Sec 1) RSA 656:33, Absence, Religious Observance, and Disability Absentee Ballots; and
2. (Sec 2) RSA 656:34, Official Overseas Citizens Federal Absentee Ballot; and
3. (Sec 3) RSA 656:37, Constitutional Amendments

were all amended by Laws of 1979, chapter 436 were precleared on 6/22/2004 by Department of Justice non-objection letter 2004-2563, 2581, 2582.

4. (sec 4) RSA 669:27, Non-State Elections as amended in 1979 was precleared on 6/22/2004 and 10/4/2004 by Department of Justice non-objection letters 2004-2563, 2581, 2582, 2585. Another change in 1979 is being submitted simultaneously for preclearance, see submission 1979:308.

**(p2) A statement that the procedure for the adoption of the change has been precleared, with the date, or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.**

New Hampshire's Constitution, in its current form, was adopted June 2, 1784, four years before the United States Constitution took effect upon its ratification by New Hampshire on June 21, 1788. No amendments to Part Second, article 2 or Part Second, article 44 have occurred since 1784, therefore the authority for adopting law changes predates New Hampshire's ten towns becoming subject to Preclearance on effective November 1, 1968.

**(q) For redistrictings and annexations.**

Not applicable.

**(r) Supplemental**

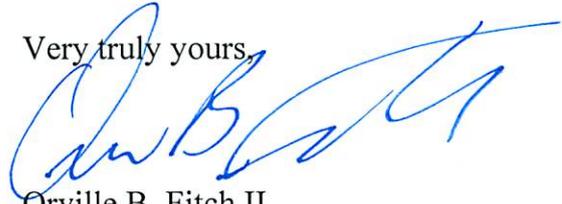
None.

**§51.28 (g) Public notice that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection and invites comments for the consideration of the Attorney General and statements regarding where such public notices appeared.**

Exhibit A is a copy of a press release issued July 19, 2010 announcing the 2010 round of Preclearance submissions, the availability of copies at the New Hampshire Attorney General's Website and Office, and inviting comments to the United States Attorney General.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II  
Deputy Attorney General  
bud.fitch@doj.nh.gov  
(603) 271-1238

Attachments

CC: Secretary of State William M. Gardner  
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EXHIBIT  
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1981:392

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392:2 Overseas Citizens Ball  
1979, 436:1 by striking out sai  
following:

**656:34 Official Overseas C**  
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quantity as he may deem neces  
tee ballots as nearly as practica  
used at said election. Said ba  
citizens federal election absent  
ilarly endorsed and printed on p  
and absence and disability ballc  
tee only for candidates seeking  
candidates.

**392:3 Constitutional Amen**  
as inserted by 1979, 436:1 by st  
thereof the following:

**656:37 Constitutional Am**  
related to a proposed constitut  
separate ballot as provided in R  
a separate absentee ballot of the  
questions by in-person voters,  
disability or armed services at  
words "absentee ballot."

**392:4 Non-State Elections.**  
1979, 410:1 by striking out said  
following:

I. Official absent voting ballo  
them, similar in form to the c  
similarly endorsed and printe  
official ballots;

**392:5 Effective Date.** This  
[Approved June 23, 1981.]  
[Effective Date August 22, 1981.]

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AN ACT DEFINI  
DISTRICT F

*Be it Enacted by the Senate and*  
*convened:*

**393:1 Powers and Duties.**  
by striking out said section an

corporation would have been liable if coverage had not been terminated.  
(2) The provisions of this section shall apply to group hospital and  
medical expense policies subject to RSA 415 and group hospital and medical  
service plan contracts issued pursuant to RSA 419, 420 and 420-A, and to  
health maintenance organization policies and plans issued pursuant to RSA  
420-B.

(3) Any employee benefit plan, fund or program which is communi-  
cated or its benefits described in writing to employees and which has been or is  
established by or on behalf of any individual, partnership, association, corpora-  
tion, trustee, legal representative, employer or employee organization or  
any other organized group for the purpose of providing for employees or their  
beneficiaries through such individual, partnership, association, corporation,  
trustee, legal representative, employer or employee organization or any other  
group, medical, surgical or hospital benefits, in cash or in the form of care,  
service and supplies or other benefits in the event of sickness, accident,  
disability or death shall be subject to the provisions of subparagraphs (g) (1)  
and (2). An employee welfare benefit plan shall not include:

- (i) that portion of any such plan with respect to which benefits are insured by an insurance company or a nonprofit hospital or medical service corporation, or both;
- (ii) any such plan covering less than 10 employees in this state;
- (iii) any such plan established and maintained as a pension or profit-sharing plan for the exclusive benefit of employees and their beneficiaries;
- (iv) any such plan established and maintained for the purpose of complying with any workers' compensation law;
- (v) any such plan administered by or for the federal government, the government of a state, a political subdivision of a state or an agency or instrumentality of any of the foregoing;
- (vi) any such plan with respect to payments by an employer continuing an employee's regular compensation or part of his regular compensation, during an illness or a disability; or
- (vii) any such plan which is primarily for the purpose of providing first-aid care and treatment at a dispensary of any employer for injury or sickness of employees.

**391:2 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 23, 1981.]  
[Effective Date August 22, 1981.]

**CHAPTER 392 (SB 126)**

AN ACT RELATIVE TO THE COLOR OF BALLOTS USED IN  
ABSENTEE VOTING.

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

**392:1 Absentee Ballots.** Amend RSA 656:33 (supp) as inserted by 1979, 436:1 as amended by striking out said section and inserting in place thereof the following:

**656:33 Official Absence, Religious Observance, and Disability Absentee Ballots.** Prior to any state election, the secretary of state shall prepare, in

ge had not been terminated.  
all apply to group hospital and  
and group hospital and medical  
SA 419, 420 and 420-A, and to  
d plans issued pursuant to RSA

or program which is communi-  
employees and which has been or is  
partnership, association, corpo-  
er or employee organization or  
providing for employees or their  
ership, association, corporation,  
ployee organization or any other  
s, in cash or in the form of care,  
he event of sickness, accident,  
visions of subparagraphs (g) (1)  
all not include:

h respect to which benefits are  
ofit hospital or medical service

10 employees in this state;  
aintained as a pension or profit-  
loyees and their beneficiaries;  
maintained for the purpose of  
aw;

for the federal government, the  
ion of a state or an agency or

ments by an employer continu-  
art of his regular compensation,

ly for the purpose of providing  
of any employer for injury or

ffect 60 days after its passage.

3 126)

IF BALLOTS USED IN  
VG.

representatives in General Court

:33 (supp) as inserted by 1979,  
and inserting in place thereof

vance, and Disability Absen-  
retary of state shall prepare, in

such quantity as he may deem necessary, absence, religious observance, and  
disability absentee ballots in the same form as nearly as practicable as the  
official ballot to be used at said election. Said absentee ballots shall have the  
words "absentee ballot" printed on them and shall be similarly endorsed and  
printed on paper of the same color as that used for official ballots.

**392:2 Overseas Citizens Ballot.** Amend RSA 656:34 (supp) as inserted by  
1979, 436:1 by striking out said section and inserting in place thereof the  
following:

**656:34 Official Overseas Citizens Federal Election Absentee Ballot.**  
Prior to any federal election, the secretary of state shall prepare, in such  
quantity as he may deem necessary, overseas citizens federal election absen-  
tee ballots as nearly as practicable in the same form as the official ballot to be  
used at said election. Said ballots shall have the words "official overseas  
citizens federal election absentee ballot" printed on them and shall be sim-  
ilarly endorsed and printed on paper of the same color as that used for official  
and absence and disability ballots. Such ballots shall provide for voting absen-  
tee only for candidates seeking election to federal offices and for no other  
candidates.

**392:3 Constitutional Amendment Questions.** Amend RSA 656:37 (supp)  
as inserted by 1979, 436:1 by striking out said section and inserting in place  
thereof the following:

**656:37 Constitutional Amendments.** Whenever a question to voters  
related to a proposed constitutional amendment is printed on a special and  
separate ballot as provided in RSA 663:3, the question shall also be printed on  
a separate absentee ballot of the same color as the ballot used for constitutional  
questions by in-person voters, and shall be included with each absence and  
disability or armed services absentee ballot and shall have printed on it the  
words "absentee ballot."

**392:4 Non-State Elections.** Amend RSA 669:27, I (supp) as inserted by  
1979, 410:1 by striking out said paragraph and inserting in place thereof the  
following:

I. Official absent voting ballots, with the words "absentee ballot" printed on  
them, similar in form to the official ballot to be used at said election, and  
similarly endorsed and printed on paper of the same color as that used for  
official ballots;

**392:5 Effective Date.** This act shall take effect 60 days after its passage.

[Approved June 23, 1981.]

[Effective Date August 22, 1981.]

**CHAPTER 393 (SB 149)**

**AN ACT DEFINING THE POWERS AND DUTIES OF  
DISTRICT FIRE MUTUAL AID SYSTEMS.**

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

**393:1 Powers and Duties.** Amend RSA 154:30-c as inserted by 1957, 277:1  
by striking out said section and inserting in place thereof the following:

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EXHIBIT  
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1991:392

ates for nomination to the same  
e alternated on the state primary  
appear thereon as nearly as may  
bottom, and in each intermediate  
Names of candidates for nomina-  
l be arranged in the alphabetical

ate primary election ballots of all  
r, but no ballots of any political  
ie or a closely similar color as the  
x of each ballot shall be printed in

all furnish to each town or ward  
ach political party as follows: for  
ty as he may determine from the  
the checklist as used at the last  
of said party; except that, when  
cklist, he shall furnish 25 ballots.

e first state primary election at  
omination, the secretary of state  
r of state primary election ballots  
roximate the figures provided in

tate shall furnish 10 sample state  
ty printed on white paper to each  
asonable number of such sample  
s upon the ballot as a candidate.  
le ballot of each political party in  
within one day of receiving such  
posted on the day of the primary

### y Election

re any presidential primary elec-  
primary election ballot for each  
f state to the city and town clerks.

primary election ballot shall be as  
ie state primary election ballot.

y election ballot of each political  
fice of president and one for the  
e headed "Candidate of the (insert  
President) of the United States".  
the words: "I hereby declare my  
resident (or Vice-President) of the  
words, there shall be printed the  
o the right. There shall always be  
ates' names to allow for writing

of RSA 656:24 - 656:28 relating to  
presidential primary ballots.

### Absentee Voters

**656:33 Official Absence and Disability Absentee Ballot.** Prior to any state election, the secretary of state shall prepare, in such quantity as he may deem necessary, absence and disability absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall be similarly endorsed but printed on paper differing in color from that used for official and sample ballots.

**656:34 Official Overseas Citizens Federal Election Absentee Ballot.** Prior to any federal election, the secretary of state shall prepare, in such quantity as he may deem necessary, overseas citizens federal election absentee ballots as nearly as practicable in the same form as the official ballot to be used at said election. Said ballots shall be similarly endorsed but printed on paper differing in color from that used for official, sample, or absence and disability ballots. Such ballots shall provide for voting absentee only for candidates seeking election to federal offices and for no other candidates.

**656:35 Armed Services Absentee Ballot.** Prior to any state election, the secretary of state shall prepare, in such quantity as he may deem necessary, armed services absentee ballots in the same form as the absence and disability absentee ballot to be used at said election.

**656:36 Questions on the Ballot.** Whenever a question to voters is printed on an official state election ballot, the secretary of state shall ensure that said question is also printed on the absence and disability absentee ballot and on the armed services absentee ballot, except as otherwise provided.

**656:37 Constitutional Amendments.** Whenever a question to voters related to a proposed constitutional amendment is printed on a special and separate ballot as provided in RSA 663:3, the question shall also be printed on a separate absentee ballot of a different color to be included with each absence and disability or armed services absentee ballot.

**656:38 Forwarding Absentee Ballots.** The secretary of state shall forward absentee ballots to the town and city clerks as provided in RSA 657:10.

### Voters in Unincorporated Places

**656:39 Preparation of Special Ballots.** The secretary of state shall prepare special state election ballots for inhabitants of unincorporated places as provided in RSA 668.

### Voting Machines

**656:40 Adoption.** The mayor and aldermen of any city or the selectmen of any town, subject to the approval of the ballot law commission, may authorize the use of one or more voting machines or devices for computerized casting and counting of ballots in such city or town on a trial basis for any regular or special election and pay the expense of such trial from any available funds. The use of such machines or devices so authorized shall be valid for all purposes. Any town, or the mayor and aldermen of any city, may vote to lease or purchase voting machines or devices for the elections held in said town or city. Any town, or the mayor and aldermen of any city, so acting shall notify the secretary of state of the action taken in regard to voting machines or devices; and, after said action, voting machines or devices shall be used in said town or city in accordance with said vote or authorization. Notwithstanding any vote of adoption of voting machines, the mayor and aldermen of any city or

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printed upon the ballot, without the  
ll be substantially as follows:

AMPSHIRE  
y request the printing of my name  
r the office of \_\_\_\_\_ at the  
\_\_\_\_, 19 \_\_\_\_\_. In support of said  
vits signed by legal voters in said

known to me, appeared and made  
scribed is true.

\_\_\_\_\_  
ice of the Peace or Notary Public.  
FIDAVIT

hereby join in the petition for the  
e non-partisan ballot as candidate  
t the annual meeting of said town  
fy that I am qualified to vote for a  
time, a signer of any other similar  
fice.

known to me, appeared and made  
cribed is true.

\_\_\_\_\_  
ice of the Peace or Notary Public.

wn may determine, by vote, the  
oe filed by a candidate, under the  
ve his name printed on the non-  
red number be less than 5; and, in  
d upon by a town, the number of

had duly filed according to law for  
rty nominee has been certified to  
artisan town election, no withdra-  
accepted by the town clerk subse-  
candidate dies or shall make oath  
or which he is filed because of age,  
bility acquired subsequent to his  
self as provided in this section, the  
at candidate on the ballot. If the  
move that name using pasters.

s. The town clerk shall prepare the  
ge the names of candidates upon  
y above the names of each block of  
fice for which they are candidates,  
ach office shall be printed in small

1979] CHAPTER 410

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but easily legible type the words "Vote for" followed by a spelled number  
designating the number of persons to be elected to such office. Directly to the  
right of the name of each candidate there shall be a square. Whenever there  
are 2 or more candidates for the same office the names shall be printed upon  
the ballot in the alphabetical order of their surnames. Following the names  
printed on the ballot under the title of each office, there shall be as many blank  
lines as there are persons to be elected to that office.

**669:24 Paper, Uniformity, Endorsement.** The ballots shall be printed on  
plain white paper, in weight not less than that of ordinary printing paper.  
There shall be no impression or mark to distinguish one ballot from another.  
The names of all candidates shall be printed in uniform type and the ballots  
shall be folded so that their width and length when folded shall be uniform. On  
the back, or at the top of the face, of each ballot shall be printed the words  
"Official Ballot for the Town of \_\_\_\_\_",  
the date of the election and a facsimile of the signature of the town clerk who  
prepared the ballot.

**669:25 Conduct.** In towns which have adopted an official ballot system, the  
town election shall be conducted in the same manner as a state general  
election as provided in RSA 658 and 659, except that all duties required to be  
performed by the secretary of state under those chapters shall be performed  
by the town clerk, and except that no copy of marked or unmarked checklists  
need be forwarded to the state library or federal district court as provided in  
RSA 659:102.

**669:26 Absentee Voting.** Every town which has adopted an official ballot  
system for town elections as provided in RSA 669:12 or 669:13, shall provide  
for absentee voting. Any registered voter who is absent from such a town on  
the day of a town election or who, by reason of physical disability, is unable to  
vote in person may vote at a town election in accordance with the provisions  
hereinafter set forth.

**669:27 Forms.** Prior to each such election, the clerk shall prepare in such  
quantities as he may deem necessary the following forms:

I. Official absent voting ballots similar in form to the official ballot to be  
used at said election, and similarly endorsed, but printed on paper differing in  
color from that used for official or sample ballots;

II. Blank forms of application for such ballots worded as follows:

To the clerk of \_\_\_\_\_, I, \_\_\_\_\_, am a duly qualified  
voter and entitled to vote in \_\_\_\_\_ (insert name of town, city,  
village district or school district).

Mail absentee voter's ballot to:  
(Signature) \_\_\_\_\_  
(Street and number) \_\_\_\_\_  
(Town, state and country) \_\_\_\_\_;

III. Envelopes of sufficient size to contain the ballots specified in paragraph  
I, on which shall be printed the following affidavit:

Absence. A person voting by absentee ballot because of absence from the  
place 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 town (city, village district, school district)  
of \_\_\_\_\_, New Hampshire, 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 Physical Disability.** A person voting by absentee ballot because of 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, 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, 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.

V. Mailing envelopes large enough to contain all of the above materials in which the town clerks shall mail or deliver them to absentee voters.

**669:28 Instructions; Information.** The secretary of state shall prepare for the use of the clerks such printed information and instructions, subject to the approval of the attorney general, as he shall deem appropriate to carry into effect the purposes hereof. The secretary of state shall furnish such material to the clerks of all towns, cities, village districts and school districts.

**669:29 Application of Statutes.** The procedure for absentee voting in town elections shall be the same as in state elections as provided in RSA 657:6, 11, 12, 14 through 18, and 22 through 24.

### Recounts

**669:30 Recounts; Application.** If any person for whom a vote was cast and recorded for any office at a town election shall, before the expiration of 15 days from the date of the election, apply in writing to the town clerk for a recount of the ballots cast for such office, the clerk shall appoint a time for the recount not earlier than 7 days nor later than 10 days after the receipt of said application.

**669:31 Notice; Fee.** The clerk shall order the applicant to give notice thereof by giving to each of the opposing candidates, or leaving at his place of abode, a copy of the application at least 5 days prior to the day appointed for the recount of ballots. No other notice shall be required. The applicant shall pay to the town clerk, for the use of the town, a fee of \$10.

**669:32 Board of Recount.** At the time and place so appointed and notified, the clerk shall publicly break the seal of and open the package in which the ballots of said election are kept; and, thereupon, said ballots shall be recounted by the clerk, the moderator and the selectmen of said town who shall constitute the board of recount.

**669:33 Preservation of Ballots after Recount.** Upon the conclusion of the recount, the clerk shall place the ballots and all envelopes or wrappers which had previously contained them in a new envelope showing the contents and the date when and the reason why it was opened; and said clerk shall retain said ballots until the expiration of 30 days from the date of the meeting unless some

action is pending which makes the same enjoined by action brought before

**669:34 Declaration of Results.** That a person was elected other than the person who has been elected, the board of recount shall, after 5 days from the date of the election, certify such declaration to the town clerk with a certificate; and the person so declared elected shall, if the result is changed upon appeal to the town clerk, be declared elected of such town.

**669:35 Appeal from Recount.** The board of recount with respect to the result of an election shall have jurisdiction to hear and determine any appeal from such court shall have jurisdiction over the matters presented.

**669:36 Tie Vote.** In case of a tie vote for an office, the town clerk in the presence of the voters shall, if necessary, elect to be present.

### Special Provisions

**669:37 Nomination by Caucus.** The board of recount shall, if necessary, elect to be present for an election under RSA 669:12, legal voters representing a political party shall be present at least 3 percent of the total number of voters in the office of governor.

**669:38 Party Regulations.** A political party shall be recognized by the board of recount concerning the manner of holding the caucus in each subdivision.

**669:39 When Held.** Any caucus for the election of town officers shall be held at least 10 days before the election of such officers are to be elected.

**669:40 Notice.** All town caucus notices shall be posted in any conspicuous places in the town and any published in the town, 10 days before the election. The notice shall specify the place, date and time at which the polls shall be open for the election.

**669:41 Checklists.** The checklist of the local executive committee shall specify the times when, and places where, the caucus shall be held, the purpose of receiving evidence and the names of the persons on the list shall be included in the notice.

**669:42 Filing.** A candidate for an office shall file a declaration of the office for which he is running with the party holding the caucus at least 10 days before the election. The candidate shall prepare the ballots to be used at said caucus.