

Senator Margaret Dayton proposes the following substitute bill:

**DISPOSITION OF BALLOTS AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Election Code relating to a rejected absentee ballot.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to absentee ballot envelopes; and
- ▶ modifies the duties of an election officer in relation to notification of, and an opportunity to correct, a rejected absentee ballot.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-3-302**, as last amended by Laws of Utah 2015, Chapter 173

**20A-3-305**, as last amended by Laws of Utah 2016, Chapter 24

**20A-3-308**, as last amended by Laws of Utah 2012, Chapter 309

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*Be it enacted by the Legislature of the state of Utah:*



26 Section 1. Section 20A-3-302 is amended to read:

27 **20A-3-302. Conducting entire election by absentee ballot.**

28 (1) Notwithstanding Section 17B-1-306, an election officer may administer an election  
29 entirely by absentee ballot.

30 (2) If the election officer decides to administer an election entirely by absentee ballot,  
31 the election officer shall mail to each registered voter within that voting precinct:

32 (a) an absentee ballot;

33 (b) for an election administered by a county clerk, information regarding the location  
34 and hours of operation of any election day voting center at which the voter may vote;

35 (c) a courtesy reply mail envelope;

36 (d) instructions for returning the ballot that include an express notice about any  
37 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

38 (e) for an election administered by an election officer other than a county clerk, if the  
39 election officer does not operate a polling location or an election day voting center, a warning,  
40 on a separate page of colored paper in bold face print, indicating that if the voter fails to follow  
41 the instructions included with the absentee ballot, the voter will be unable to vote in that  
42 election because there will be no polling place in the voting precinct on the day of the election.

43 (3) A voter who votes by absentee ballot under this section is not required to apply for  
44 an absentee ballot as required by this part.

45 (4) An election officer who administers an election entirely by absentee ballot shall:

46 (a) (i) obtain, in person, the signatures of each voter within that voting precinct before  
47 the election; or

48 (ii) obtain the signature of each voter within the voting precinct from the county clerk;  
49 and

50 (b) maintain the signatures on file in the election officer's office.

51 (5) (a) Upon receiving the returned absentee ballots, the election officer shall compare  
52 the signature on each absentee ballot with the voter's signature that is maintained on file and  
53 verify that the signatures are the same.

54 (b) If the election officer questions the authenticity of the signature on the absentee  
55 ballot, the election officer shall immediately contact the voter to verify the signature.

56 (c) If the election ~~official~~ officer determines that the signature on the absentee ballot

57 does not match the voter's signature that is maintained on file, the election officer shall:

58 (i) unless the absentee ballot application deadline described in Section 20A-3-304 has  
59 passed, immediately send another absentee ballot and other voting materials as required by this  
60 section to the voter; and

61 (ii) [~~disqualify~~] reject the initial absentee ballot.

62 (6) An election officer shall:

63 (a) notify a voter if the election officer rejects the voter's absentee ballot and specify  
64 the reason for the rejection; and

65 (b) give the notice described in Subsection (6)(a) to a voter no later than:

66 (i) if the election officer rejects the absentee ballot before election day:

67 (A) one business day after the day on which the election officer rejects the ballot, if the  
68 election officer gives the notice by email or text message; or

69 (B) two business days after the day on which the election officer rejects the ballot, if  
70 the election officer gives the notice by postal mail or phone;

71 (ii) seven days after election day if the election officer rejects the absentee ballot on  
72 election day; or

73 (iii) seven days after the canvass if the election officer rejects the absentee ballot after  
74 election day and before the end of the canvass.

75 [~~(6)~~] (7) A county that administers an election entirely by absentee ballot:

76 (a) shall provide at least one election day voting center in accordance with Title 20A,  
77 Chapter 3, Part 7, Election Day Voting Center;

78 (b) shall ensure that an election day voting center operated by the county has at least  
79 one voting device that is accessible, in accordance with the Help America Vote Act of 2002,  
80 Pub. L. No. 107-252, for individuals with disabilities; and

81 (c) is not required to pay return postage for an absentee ballot.

82 Section 2. Section 20A-3-305 is amended to read:

83 **20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --**  
84 **Affidavit.**

85 (1) (a) Upon timely receipt of an absentee voter application properly filled out and  
86 signed less than 30 days before the election, the election officer shall either:

87 (i) give the applicant an official absentee ballot and envelope to vote in the office; or

88 (ii) mail an official absentee ballot, postage paid, to the absentee voter and enclose an  
89 envelope printed as required in Subsection (2).

90 (b) No later than 21 days before election day, the election officer shall mail an official  
91 absentee ballot, postage paid, to all absentee voters, other than to a uniformed-service voter or  
92 an overseas voter, who have submitted a properly filled out and signed absentee voter  
93 application before the day on which the ballots are mailed and enclose an envelope printed as  
94 required by Subsection (2).

95 (2) The election officer shall ensure that:

96 (a) the name, official title, and post office address of the election officer is printed on  
97 the front of the envelope; ~~and~~

98 (b) the return envelope includes a space where a voter may write an email address and  
99 phone number by which the election officer may contact the voter if the voter's ballot is  
100 rejected; and

101 ~~(b)~~ (c) a printed affidavit in substantially the following form is printed on the back of  
102 the envelope:

103 "County of \_\_\_\_\_ State of \_\_\_\_\_

104 I, \_\_\_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_\_\_ voting precinct  
105 in \_\_\_\_\_ County, Utah and that I am entitled to vote in that voting precinct at the next election.

106 I am not a convicted felon currently incarcerated for commission of a felony.

107 \_\_\_\_\_  
108 Signature of Absentee Voter"

109 (3) If the election officer determines that the absentee voter is required to show valid  
110 voter identification, the election officer shall:

111 (a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;

112 (b) instruct the voter to include a copy of the voter's valid voter identification with the  
113 return ballot;

114 (c) provide the voter clear instructions on how to vote a provisional ballot; and

115 (d) comply with the requirements of Subsection (2).

116 Section 3. Section 20A-3-308 is amended to read:

117 **20A-3-308. Absentee ballots in the custody of poll workers -- Disposition --**

118 **Notice.**

119 (1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots  
120 that are in their custody on election day at the polling places during the time the polls are open  
121 as provided in this Subsection (1).

122 (b) The poll workers shall:

123 (i) first, open the outer envelope only; and

124 (ii) compare the signature of the voter on the application with the signature on the  
125 affidavit.

126 (2) (a) The poll workers shall carefully open and remove the absentee voter envelope  
127 so as not to destroy the affidavit on the envelope if they find that:

128 (i) the affidavit is sufficient;

129 (ii) the signatures correspond; and

130 (iii) the applicant is registered to vote in that voting precinct and has not voted in that  
131 election.

132 (b) If, after opening the absentee voter envelope, the poll worker finds that a  
133 provisional ballot envelope is enclosed, the poll worker shall:

134 (i) record, in the official register, whether:

135 (A) the voter included valid voter identification; or

136 (B) a covered voter, as defined in Section [20A-16-102](#), did not provide valid voter  
137 identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;

138 (ii) if any type of identification was included, record the type of identification provided  
139 by the voter in the appropriate space in the official register;

140 (iii) record the provisional ballot number on the official register; and

141 (iv) place the provisional ballot envelope with the other provisional ballot envelopes to  
142 be transmitted to the county clerk.

143 (c) If the absentee ballot is not a provisional ballot, the poll workers shall:

144 (i) remove the absentee ballot from the envelope without unfolding it or permitting it to  
145 be opened or examined;

146 (ii) initial the stub in the same manner as for other ballots;

147 (iii) remove the stub from the ballot;

148 (iv) deposit the ballot in the ballot box; and

149 (v) mark the official register and pollbook to show that the voter has voted.

150 (3) If the poll workers determine that the affidavit is insufficient, or that the signatures  
151 do not correspond, or that the applicant is not a registered voter in the voting precinct, they  
152 shall:

153 (a) disallow the vote; and

154 (b) without opening the absentee voter envelope, mark across the face of the envelope:

155 (i) "Rejected as defective"; or

156 (ii) "Rejected as not a registered voter."

157 (4) The poll workers shall deposit the absentee voter envelope, when the absentee  
158 ballot is voted, and the absentee voter envelope with its contents unopened when the absent  
159 vote is rejected, in the ballot box containing the ballots.

160 (5) ~~(a)~~ An election officer shall:

161 (a) notify a voter if a poll worker rejects the voter's absentee ballot and specify the  
162 reason for the rejection~~[-]; and~~

163 (b) ~~[An election officer shall]~~ give the notice described in Subsection (5)(a) to a voter  
164 no later than ~~[seven days after]~~:

165 (i) if the poll worker rejects the absentee ballot before election day:

166 (A) one business day after the day on which the poll worker rejects the ballot, if the  
167 election officer gives the notice by email or text message; or

168 (B) two business days after the day on which the poll worker rejects the ballot, if the  
169 election officer gives the notice by postal mail or phone;

170 ~~[(i)]~~ (ii) seven days after election day if the [election officer receives the] poll worker  
171 rejects the absentee ballot [before or] on election day; [and] or

172 ~~[(ii)]~~ (iii) seven days after the canvass if the [election officer receives the] poll worker  
173 rejects the absentee ballot after election day and before the end of the canvass.

174 (6) The election officer shall retain and preserve the absentee voter envelopes in the  
175 manner provided by law for the retention and preservation of official ballots voted at that  
176 election.