

DISPOSITION OF BALLOTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to 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-3-305, as last amended by Laws of Utah 2012, Chapter 309

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

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

Section 1. Section **20A-3-305** is amended to read:

20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --

Affidavit.



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

- 30 (i) give the applicant an official absentee ballot and envelope to vote in the office; or
- 31 (ii) mail an official absentee ballot, postage paid, to the absentee voter and enclose an
32 envelope printed as required in Subsection (2).

33 (b) Twenty-eight days before election day, the election officer shall mail an official
34 absentee ballot, postage paid, to all absentee voters, other than to a uniformed-service voter or
35 an overseas voter, who have submitted a properly filled out and signed absentee voter
36 application before the day on which the ballots are mailed and enclose an envelope printed as
37 required by Subsection (2).

38 (2) The election officer shall ensure that:

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

41 (b) the envelope includes a space where a voter may write an email address and phone
42 number where the election officer may contact the voter if the voter's ballot is rejected; and

43 ~~[(b)]~~ (c) a printed affidavit in substantially the following form is printed on the back of
44 the envelope:

45 "County of ____ State of ____

46 I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct
47 in ____ County, Utah and that I am entitled to vote in that voting precinct at the next election.

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

49 _____
50 Signature of Absentee Voter"

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

- 53 (a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;
- 54 (b) instruct the voter to include a copy of the voter's valid voter identification with the
55 return ballot;
- 56 (c) provide the voter clear instructions on how to vote a provisional ballot; and
- 57 (d) comply with the requirements of Subsection (2).

58 Section 2. Section 20A-3-308 is amended to read:

59 **20A-3-308. Absentee ballots in the custody of poll workers -- Disposition --**
60 **Notice.**

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

64 (b) The poll workers shall:

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

66 (ii) compare the signature of the voter on the application with the signature on the
67 affidavit.

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

70 (i) the affidavit is sufficient;

71 (ii) the signatures correspond; and

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

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

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

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

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

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

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

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

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

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

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

89 (iii) remove the stub from the ballot;

90 (iv) deposit the ballot in the ballot box; and
91 (v) mark the official register and pollbook to show that the voter has voted.
92 (3) If the poll workers determine that the affidavit is insufficient, or that the signatures
93 do not correspond, or that the applicant is not a registered voter in the voting precinct, they
94 shall:
95 (a) disallow the vote; and
96 (b) without opening the absentee voter envelope, mark across the face of the envelope:
97 (i) "Rejected as defective"; or
98 (ii) "Rejected as not a registered voter."
99 (4) The poll workers shall deposit the absentee voter envelope, when the absentee
100 ballot is voted, and the absentee voter envelope with its contents unopened when the absent
101 vote is rejected, in the ballot box containing the ballots.
102 (5) ~~(a)~~ An election officer shall:
103 (a) notify a voter if a poll worker rejects the voter's absentee ballot and specify the
104 reason for the rejection[-];
105 ~~(b) [An election officer shall]~~ give the notice described in Subsection (5)(a) to a voter
106 no later than ~~[seven days after]~~:
107 (i) if the poll worker rejects the absentee ballot before election day:
108 (A) one business day after the day on which the poll worker rejects the ballot, if the
109 election officer gives the notice by email or text; or
110 (B) two business days after the day on which the poll worker rejects the ballot, if the
111 election officer gives the notice by postal mail or phone;
112 ~~[(i)]~~ (ii) seven days after election day if the election officer receives or rejects the
113 absentee ballot [before or] on election day; [and] or
114 ~~[(ii)]~~ (iii) seven days after the canvass if the election officer receives the absentee ballot
115 after election day and before the end of the canvass[-]; and
116 (c) before the polls close, permit a voter whose absentee ballot is rejected to correct the
117 voter's absentee ballot.
118 (6) The election officer shall retain and preserve the absentee voter envelopes in the
119 manner provided by law for the retention and preservation of official ballots voted at that
120 election.

Legislative Review Note
Office of Legislative Research and General Counsel