

**ABSENTEE BALLOT AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Douglas C. Aagard**

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**LONG TITLE**

**General Description:**

This bill eliminates barriers to people voting by absentee ballot.

**Highlighted Provisions:**

This bill:

▶ allows anyone to vote an absentee ballot either by mail or at the election officer's office;

▶ **ESTABLISHES REQUIREMENTS FOR MAKING ABSENTEE BALLOT INFORMATION AVAILABLE TO THE PUBLIC;**

▶ expands the ability of the county legislative body to administer an election in a voting precinct entirely by absentee ballot; and

▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-3-301**, as last amended by Chapter 10, Laws of Utah 1996

**20A-3-302**, as last amended by Chapter 183, Laws of Utah 1997

**20A-3-304**, as last amended by Chapter 167, Laws of Utah 2002

**20A-3-305**, as last amended by Chapter 37, Laws of Utah 2003

▶ **ENACTS:**

**20A-3-304.1, Utah Code Annotated 1953**

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



28 Section 1. Section **20A-3-301** is amended to read:

29 **20A-3-301. Voting by absentee ballot.**

30 (1) Any person who is registered to vote may vote by absentee ballot~~[, if, on the day of~~  
31 ~~election, the person is an absent elector as defined in Section 20A-3-304].~~

32 (2) ~~[Any] A~~ registered voter ~~[who unexpectedly returns to his voting precinct before or~~  
33 ~~on election day]~~ may not vote in person if ~~[his]~~ the voter voted by absentee ballot ~~[has not~~  
34 ~~already been deposited in the ballot box].~~

35 Section 2. Section **20A-3-302** is amended to read:

36 **20A-3-302. Absentee voting -- No polling place for remote districts.**

37 (1) Whenever, on the 60th day before an election, there are ~~[300]~~ 500 or less persons  
38 registered to vote in a voting precinct, the county legislative body of the county in which the  
39 voting precinct is located may elect to administer an election entirely by absentee ballot.

40 (2) If the county legislative body of the county in which the voting precinct is located  
41 decides to administer an election entirely by absentee ballot, the county clerk shall mail to each  
42 registered voter within that voting precinct:

43 (a) an absentee ballot;

44 (b) a statement that there will be no polling place for the election;

45 (c) instructions for returning the ballot that include an express notice about any  
46 relevant deadlines that the voter must meet in order for his vote to be counted; and

47 (d) a warning, on a separate page of colored paper in bold face print, indicating that if  
48 the voter fails to follow the instructions included with the absentee ballot, he will be unable to  
49 vote in that election because there will be no polling place in the voting precinct on the day of  
50 the election.

51 (3) Any voter who votes by absentee ballot under this subsection is not required to  
52 apply for an absentee ballot as required by this part.

53 (4) (a) The county clerk of a county that administers an election entirely by absentee  
54 ballot shall:

55 (i) obtain, in person, the signatures of each voter within that voting precinct before the  
56 election; and

57 (ii) maintain the signatures on file in the county clerk's office.

58 (b) (i) Upon receiving the returned absentee ballots, the county clerk shall compare the

59 signature on each absentee ballot with the voter's signature that is maintained on file and verify  
60 that the signatures are the same.

61 (ii) If the county clerk questions the authenticity of the signature on the absentee ballot,  
62 the clerk shall immediately contact the voter to verify the signature.

63 (iii) If the voter does not confirm his signature on the absentee ballot, the county clerk  
64 shall:

65 (A) immediately send another absentee ballot and other voting materials as required by  
66 this subsection to the voter; and

67 (B) disqualify the initial absentee ballot.

68 Section 3. Section **20A-3-304** is amended to read:

69 **20A-3-304. Application for absentee ballot -- Time for filing and voting.**

70 [~~(1) As used in this section, "absent elector" means a person who:~~]

71 [~~(a) is physically, emotionally, or mentally impaired;~~]

72 [~~(b) will be serving as an election judge or who has election duties in another voting~~  
73 ~~precinct;~~]

74 [~~(c) is detained or incarcerated in a jail or prison as a penalty for committing a~~  
75 ~~misdemeanor;~~]

76 [~~(d) has a legal disability;~~]

77 [~~(e) is prevented from voting in a particular location because of religious tenets or other~~  
78 ~~strongly held personal values;~~]

79 [~~(f) is called for jury duty in state or federal court; or~~]

80 [~~(g) otherwise expects to be absent from the voting precinct during the hours the polls~~  
81 ~~are open on election day.~~]

82 [~~(2) A~~] (1) Any registered voter who [~~is or will be an absent elector~~] wishes to vote an  
83 absentee ballot may either:

84 (a) file an absentee ballot application with the appropriate election officer for an  
85 official absentee ballot[-] as provided in this section; or

86 (b) vote in person at the office of the appropriate election officer as provided in Section  
87 20A-3-306.

88 [~~(3)~~] (2) (a) Except as provided in Subsection [~~(3)~~] (2)(b), each election officer shall  
89 prepare blank applications for absentee ballot applications in substantially the following form:

90 "I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah [~~to~~  
91 ~~my best knowledge and belief am entitled to vote by absentee ballot at the next election.~~

92 \_\_\_\_\_] apply for an official absentee ballot to be voted by me at the election.

93 Date \_\_\_\_\_ (month\day\year) Signed \_\_\_\_\_

94 \_\_\_\_\_  
95 Voter"

96 (b) Each election officer shall prepare blank applications for absentee ballot  
97 applications for regular primary elections and for the Western States Presidential Primary in  
98 substantially the following form:

99 "I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah [~~to~~  
100 ~~my best knowledge and belief am entitled to vote by absentee ballot at the next election.~~

101 \_\_\_\_\_] apply for an official absentee ballot for the \_\_\_\_\_ political party to be  
102 voted by me at the primary election.

103 I understand that I must be affiliated with or authorized to vote the political party's  
104 ballot that I request.

105 Dated \_\_\_\_\_ (month\day\year) \_\_\_\_\_ Signed \_\_\_\_\_

106 \_\_\_\_\_  
107 Voter"

108 (c) If requested by the applicant, the election officer shall:

109 (i) mail or fax the application blank to the absentee voter; or

110 (ii) deliver the application blank to any voter who personally applies for it at the office  
111 of the election officer.

112 [~~(4)~~] (3) (a) (i) Except as provided in Subsections [~~(4)~~] (3)(a)(ii) and (iii), the voters  
113 shall file the application for an absentee ballot with the appropriate election officer no later  
114 than the Friday before election day.

115 (ii) Overseas applicants shall file their applications with the appropriate election officer  
116 no later than 20 days before the day of election.

117 (iii) Voters applying for an absentee ballot for the Western States Presidential Primary  
118 shall file the application for an absentee ballot with the appropriate election officer not later  
119 than the Tuesday before election day.

120 (b) Persons voting an absentee ballot at the office of the election officer shall apply for  
and cast their ballot no later than the day before the election.

[~~(5)~~] (4) (a) A county clerk may establish a permanent absentee voter list.

- 121 (b) The clerk shall place on the list the name of any person who:  
 122 (i) requests permanent absentee voter status; and  
 123 (ii) meets the requirements of this section.  
 124 (c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on  
 125 the absentee voter list.  
 126 (ii) The questionnaire shall allow the absentee person to verify the voter's residence  
 127 [~~and inability to vote at the voting precinct on election day~~].  
 128 (iii) The clerk may remove the names of any voter from the absentee voter registration  
 129 list if:  
 130 (A) the voter is no longer listed in the official register; or  
 131 (B) the voter fails to verify the voter's residence and absentee status.  
 132 (d) The clerk shall provide a copy of the permanent absentee voter list to election  
 133 officers for use in elections.

133a **h Section 4. Section 20A-3-304.1 is enacted to read:**

133b **20A-3-304.1. County clerk to provide absentee ballot information and status.**

133c **(1) AS USED IN THIS SECTION:**

133d **(a) "ABSENTEE BALLOT RECORD" MEANS THE INFORMATION ABOUT THE EXISTENCE AND**  
 133e **STATUS OF ABSENTEE BALLOT REQUESTS REQUIRED BY THIS SECTION.**

133f **(b) "QUALIFIED ABSENTEE BALLOT APPLICATION" MEANS AN ABSENTEE BALLOT**  
 133g **APPLICATION FILED UNDER SECTION 20A-3-304 FROM A VOTER WHO THE COUNTY CLERK**  
 133h **DETERMINES IS ELIGIBLE TO RECEIVE AN ABSENTEE BALLOT.**

133i **(2) (a) EACH COUNTY CLERK SHALL MAINTAIN AN ABSENTEE BALLOT RECORD IN THE**  
 133j **COUNTY CLERK'S OFFICE.**

133k **(b) THE ABSENTEE BALLOT RECORD IS A PUBLIC RECORD UNDER TITLE 63, CHAPTER 2,**  
 133l **GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT.**

133m **(3) THE COUNTY CLERK SHALL ENSURE THAT THE ABSENTEE BALLOT RECORD**  
 133n **CONTAINS, FOR EACH VOTING PRECINCT:**

133o **(a) THE NAME AND ADDRESS OF EACH PERSON WHO HAS FILED A QUALIFIED ABSENTEE**  
 133p **BALLOT APPLICATION;**

133q **(b) THE DATE THAT THE APPLICATION WAS RECEIVED;**

133r **(c) THE CURRENT STATUS OF EACH QUALIFIED ABSENTEE BALLOT APPLICATION**  
 133s **INCLUDING SPECIFICALLY:**

133t **(i) h [WHETHER OR NOT] THE DATE THAT h THE ABSENTEE BALLOT h [HAS BEEN] WAS h**  
 133t1 **MAILED TO THE VOTER; AND**

133u **(ii) h [WHETHER OR NOT] THE DATE THAT h THE VOTED ABSENTEE BALLOT h [HAS-**  
 133u1 **BEEN] WAS h RECEIVED BY THE**  
 133v **COUNTY CLERK.**

133w **(4) (a) NOTWITHSTANDING THE TIME LIMITS FOR RESPONSE TO A REQUEST FOR**  
 133x **RECORDS UNDER SECTION 63-2-204 OR THE TIME LIMITS FOR A REQUEST FOR RECORDS**  
 133y **ESTABLISHED IN ANY COUNTY ORDINANCE, THE COUNTY CLERK SHALL ENSURE THAT THE h**

133z h INFORMATION REQUIRED BY THIS SECTION IS RECORDED AND MADE AVAILABLE h TO THE  
 133aa PUBLIC h NO LATER  
 133aa THAN h [TWENTY-FOUR HOURS] ONE BUSINESS DAY h AFTER ITS RECEIPT h IN THE CLERK'S  
 133ab OFFICE h .  
 133ab (b) NOTWITHSTANDING THE FEE REQUIREMENTS OF SECTION 63-2-203 OR THE FEE  
 133ac REQUIREMENTS ESTABLISHED IN ANY COUNTY ORDINANCE, THE CLERK SHALL MAKE COPIES OF  
 133ad THE ABSENTEE BALLOT RECORD AVAILABLE TO THE PUBLIC FOR THE ACTUAL COST OF  
 133ae PRODUCTION OR COPYING. h

134 Section h [4.] 5. h Section 20A-3-305 is amended to read:

135 **20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --**  
 136 **Affidavit.**

137 (1) Upon timely receipt of an absentee voter application properly filled out and signed,  
 138 or as soon after receipt of the application as the official absentee ballots for the voting precinct  
 139 in which the applicant resides have been printed, the election officer shall either:

140 (a) give the applicant an official absentee ballot and envelope to vote in the office; or  
 141 (b) mail an official absentee ballot, postage paid, to the absentee voter and enclose an  
 142 envelope printed as required in Subsection (2).

143 (2) The election officer shall ensure that:

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

146 (b) a printed affidavit in substantially the following form is printed on the back of the  
 147 envelope:

148 "County of \_\_\_\_ State of \_\_\_\_

149 I, \_\_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_\_ voting precinct  
 150 in \_\_\_\_ County, Utah[;] and that I am entitled to vote in that voting precinct at the next  
 151 election[; ~~and I am entitled by law to vote an absentee ballot~~]. I am not a convicted felon

152 currently incarcerated for commission of a felony.

153

154

\_\_\_\_\_  
Signature of Absentee Voter"

155 (3) If the election officer determines that the absentee voter is required to show proof

156 of identity or proof of residence as indicated in the official register, the election officer shall:

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

158 (b) instruct the voter to include a valid form of proof of identity and proof of residence  
159 with the return ballot;

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

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

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**Legislative Review Note**  
**as of 10-15-03 11:40 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
**as of 12-09-03 8:52 AM**

The Government Operations Interim Committee recommended this bill.