

**ELECTION BALLOT AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Curtis S. Bramble

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions in Title 20A, Election Code, related to election ballots.

**Highlighted Provisions:**

This bill:

- ▶ provides a definition;
- ▶ requires an election officer to include a business reply mail envelope with an absentee ballot in certain circumstances;
- ▶ changes the date on which an election officer mails an absentee ballot;
- ▶ requires the election officer to notify a voter if the voter's absentee ballot is rejected and the reason the absentee ballot was rejected;
- ▶ requires the election officer to report all absentee ballots that were rejected;
- ▶ requires an elections officer to ensure that an absentee or provisional ballot is not accessible until the ballot is counted; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

⚡→ [None] This bill provides a coordination clause. ←⚡

**Utah Code Sections Affected:**

AMENDS:



- 28           **20A-1-102**, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335
- 29           **20A-3-302**, as last amended by Laws of Utah 2005, Chapter 71
- 30           **20A-3-302.5**, as enacted by Laws of Utah 2009, Chapter 24
- 31           **20A-3-305**, as last amended by Laws of Utah 2010, Chapter 197
- 32           **20A-3-306**, as last amended by Laws of Utah 2009, Chapter 191
- 33           **20A-3-307**, as last amended by Laws of Utah 2010, Chapter 324
- 34           **20A-3-308**, as last amended by Laws of Utah 2011, Chapter 327
- 35           **20A-4-304**, as last amended by Laws of Utah 2008, Chapter 82

**§→ Utah Code Sections Affected by Coordination Clause:**

**20A-1-102, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335 ←§**

---

---

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

Section 1. Section **20A-1-102** is amended to read:

**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters

59 on the ballot for their approval or rejection including:

60 (a) an opinion question specifically authorized by the Legislature;

61 (b) a constitutional amendment;

62 (c) an initiative;

63 (d) a referendum;

64 (e) a bond proposition;

65 (f) a judicial retention question; or

66 (g) any other ballot question specifically authorized by the Legislature.

67 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and  
68 20A-4-306 to canvass election returns.

69 (8) "Bond election" means an election held for the purpose of approving or rejecting  
70 the proposed issuance of bonds by a government entity.

71 (9) "Book voter registration form" means voter registration forms contained in a bound  
72 book that are used by election officers and registration agents to register persons to vote.

73 (10) "Business reply mail envelope" means an envelope that may be mailed free of  
74 charge by the sender.

75 [~~(10)~~] (11) "By-mail voter registration form" means a voter registration form designed  
76 to be completed by the voter and mailed to the election officer.

77 [~~(11)~~] (12) "Canvass" means the review of election returns and the official declaration  
78 of election results by the board of canvassers.

79 [~~(12)~~] (13) "Canvassing judge" means a poll worker designated to assist in counting  
80 ballots at the canvass.

81 [~~(13)~~] (14) "Contracting election officer" means an election officer who enters into a  
82 contract or interlocal agreement with a provider election officer.

83 [~~(14)~~] (15) "Convention" means the political party convention at which party officers  
84 and delegates are selected.

85 [~~(15)~~] (16) "Counting center" means one or more locations selected by the election  
86 officer in charge of the election for the automatic counting of ballots.

87 [~~(16)~~] (17) "Counting judge" means a poll worker designated to count the ballots  
88 during election day.

89 [~~(17)~~] (18) "Counting poll watcher" means a person selected as provided in Section

90 20A-3-201 to witness the counting of ballots.

91 [~~(18)~~] (19) "Counting room" means a suitable and convenient private place or room,  
92 immediately adjoining the place where the election is being held, for use by the poll workers  
93 and counting judges to count ballots during election day.

94 [~~(19)~~] (20) "County officers" means those county officers that are required by law to be  
95 elected.

96 [~~(20)~~] (21) "Date of the election" or "election day" or "day of the election":

97 (a) means the day that is specified in the calendar year as the day that the election  
98 occurs; and

99 (b) does not include:

100 (i) deadlines established for absentee voting; or

101 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early  
102 Voting.

103 [~~(21)~~] (22) "Elected official" means:

104 (a) a person elected to an office under Section 20A-1-303;

105 (b) a person who is considered to be elected to a municipal office in accordance with  
106 Subsection 20A-1-206(1)(c)(ii); or

107 (c) a person who is considered to be elected to a local district office in accordance with  
108 Subsection 20A-1-206(3)(c)(ii).

109 [~~(22)~~] (23) "Election" means a regular general election, a municipal general election, a  
110 statewide special election, a local special election, a regular primary election, a municipal  
111 primary election, and a local district election.

112 [~~(23)~~] (24) "Election Assistance Commission" means the commission established by  
113 Public Law 107-252, the Help America Vote Act of 2002.

114 [~~(24)~~] (25) "Election cycle" means the period beginning on the first day persons are  
115 eligible to file declarations of candidacy and ending when the canvass is completed.

116 [~~(25)~~] (26) "Election judge" means a poll worker that is assigned to:

117 (a) preside over other poll workers at a polling place;

118 (b) act as the presiding election judge; or

119 (c) serve as a canvassing judge, counting judge, or receiving judge.

120 [~~(26)~~] (27) "Election officer" means:

- 121 (a) the lieutenant governor, for all statewide ballots and elections;
- 122 (b) the county clerk for:
  - 123 (i) a county ballot and election; and
  - 124 (ii) a ballot and election as a provider election officer as provided in Section
  - 125 20A-5-400.1 or 20A-5-400.5;
- 126 (c) the municipal clerk for:
  - 127 (i) a municipal ballot and election; and
  - 128 (ii) a ballot and election as a provider election officer as provided in Section
  - 129 20A-5-400.1 or 20A-5-400.5;
- 130 (d) the local district clerk or chief executive officer for:
  - 131 (i) a local district ballot and election; and
  - 132 (ii) a ballot and election as a provider election officer as provided in Section
  - 133 20A-5-400.1 or 20A-5-400.5; or
- 134 (e) the business administrator or superintendent of a school district for:
  - 135 (i) a school district ballot and election; and
  - 136 (ii) a ballot and election as a provider election officer as provided in Section
  - 137 20A-5-400.1 or 20A-5-400.5.
- 138 [~~27~~] (28) "Election official" means:
  - 139 (a) for an election other than a bond election, the count of votes cast in the election and
  - 140 the election returns requested by the board of canvassers; or
  - 141 (b) any election officer, election judge, or poll worker.
- 142 [~~28~~] (29) "Election results" means:
  - 143 (a) for an election other than a bond election, the count of votes cast in the election and
  - 144 the election returns requested by the board of canvassers; or
  - 145 (b) for bond elections, the count of those votes cast for and against the bond
  - 146 proposition plus any or all of the election returns that the board of canvassers may request.
- 147 [~~29~~] (30) "Election returns" includes the pollbook, all affidavits of registration, the
- 148 military and overseas absentee voter registration and voting certificates, one of the tally sheets,
- 149 any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
- 150 spoiled ballots, the ballot disposition form, and the total votes cast form.
- 151 [~~30~~] (31) "Electronic ballot" means a ballot that is recorded using a direct electronic

152 voting device or other voting device that records and stores ballot information by electronic  
153 means.

154 ~~[(31)]~~ (32) "Electronic signature" means an electronic sound, symbol, or process  
155 attached to or logically associated with a record and executed or adopted by a person with the  
156 intent to sign the record.

157 ~~[(32)]~~ (33) (a) "Electronic voting device" means a voting device that uses electronic  
158 ballots.

159 (b) "Electronic voting device" includes a direct recording electronic voting device.

160 ~~[(33)]~~ (34) "Inactive voter" means a registered voter who has:

161 (a) been sent the notice required by Section 20A-2-306; and

162 (b) failed to respond to that notice.

163 ~~[(34)]~~ (35) "Inspecting poll watcher" means a person selected as provided in this title to  
164 witness the receipt and safe deposit of voted and counted ballots.

165 ~~[(35)]~~ (36) "Judicial office" means the office filled by any judicial officer.

166 ~~[(36)]~~ (37) "Judicial officer" means any justice or judge of a court of record or any  
167 county court judge.

168 ~~[(37)]~~ (38) "Local district" means a local government entity under Title 17B, Limited  
169 Purpose Local Government Entities - Local Districts, and includes a special service district  
170 under Title 17D, Chapter 1, Special Service District Act.

171 ~~[(38)]~~ (39) "Local district officers" means those local district officers that are required  
172 by law to be elected.

173 ~~[(39)]~~ (40) "Local election" means a regular municipal election, a local special  
174 election, a local district election, and a bond election.

175 ~~[(40)]~~ (41) "Local political subdivision" means a county, a municipality, a local  
176 district, or a local school district.

177 ~~[(41)]~~ (42) "Local special election" means a special election called by the governing  
178 body of a local political subdivision in which all registered voters of the local political  
179 subdivision may vote.

180 ~~[(42)]~~ (43) "Municipal executive" means:

181 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

182 or

183 (b) the mayor in the council-manager form of government defined in Subsection  
184 10-3b-103(6).

185 [~~(43)~~] (44) "Municipal general election" means the election held in municipalities and  
186 local districts on the first Tuesday after the first Monday in November of each odd-numbered  
187 year for the purposes established in Section 20A-1-202.

188 [~~(44)~~] (45) "Municipal legislative body" means the council of the city or town in any  
189 form of municipal government.

190 [~~(45)~~] (46) "Municipal office" means an elective office in a municipality.

191 [~~(46)~~] (47) "Municipal officers" means those municipal officers that are required by  
192 law to be elected.

193 [~~(47)~~] (48) "Municipal primary election" means an election held to nominate  
194 candidates for municipal office.

195 [~~(48)~~] (49) "Official ballot" means the ballots distributed by the election officer to the  
196 poll workers to be given to voters to record their votes.

197 [~~(49)~~] (50) "Official endorsement" means:

198 (a) the information on the ballot that identifies:

199 (i) the ballot as an official ballot;

200 (ii) the date of the election; and

201 (iii) the facsimile signature of the election officer; and

202 (b) the information on the ballot stub that identifies:

203 (i) the poll worker's initials; and

204 (ii) the ballot number.

205 [~~(50)~~] (51) "Official register" means the official record furnished to election officials  
206 by the election officer that contains the information required by Section 20A-5-401.

207 [~~(51)~~] (52) "Paper ballot" means a paper that contains:

208 (a) the names of offices and candidates and statements of ballot propositions to be  
209 voted on; and

210 (b) spaces for the voter to record the voter's vote for each office and for or against each  
211 ballot proposition.

212 [~~(52)~~] (53) "Political party" means an organization of registered voters that has  
213 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party

214 Formation and Procedures.

215 [~~(53)~~] (54) (a) "Poll worker" means a person assigned by an election official to assist  
216 with an election, voting, or counting votes.

217 (b) "Poll worker" includes election judges.

218 (c) "Poll worker" does not include a watcher.

219 [~~(54)~~] (55) "Pollbook" means a record of the names of voters in the order that they  
220 appear to cast votes.

221 [~~(55)~~] (56) "Polling place" means the building where voting is conducted.

222 [~~(56)~~] (57) "Position" means a square, circle, rectangle, or other geometric shape on a  
223 ballot in which the voter marks the voter's choice.

224 [~~(57)~~] (58) "Provider election officer" means an election officer who enters into a  
225 contract or interlocal agreement with a contracting election officer to conduct an election for  
226 the contracting election officer's local political subdivision in accordance with Section  
227 20A-5-400.1.

228 [~~(58)~~] (59) "Provisional ballot" means a ballot voted provisionally by a person:

229 (a) whose name is not listed on the official register at the polling place;

230 (b) whose legal right to vote is challenged as provided in this title; or

231 (c) whose identity was not sufficiently established by a poll worker.

232 [~~(59)~~] (60) "Provisional ballot envelope" means an envelope printed in the form  
233 required by Section 20A-6-105 that is used to identify provisional ballots and to provide  
234 information to verify a person's legal right to vote.

235 [~~(60)~~] (61) "Primary convention" means the political party conventions at which  
236 nominees for the regular primary election are selected.

237 [~~(61)~~] (62) "Protective counter" means a separate counter, which cannot be reset, that:

238 (a) is built into a voting machine; and

239 (b) records the total number of movements of the operating lever.

240 [~~(62)~~] (63) "Qualify" or "qualified" means to take the oath of office and begin  
241 performing the duties of the position for which the person was elected.

242 [~~(63)~~] (64) "Receiving judge" means the poll worker that checks the voter's name in the  
243 official register, provides the voter with a ballot, and removes the ballot stub from the ballot  
244 after the voter has voted.

245           ~~[(64)]~~ (65) "Registration form" means a book voter registration form and a by-mail  
246 voter registration form.

247           ~~[(65)]~~ (66) "Regular ballot" means a ballot that is not a provisional ballot.

248           ~~[(66)]~~ (67) "Regular general election" means the election held throughout the state on  
249 the first Tuesday after the first Monday in November of each even-numbered year for the  
250 purposes established in Section 20A-1-201.

251           ~~[(67)]~~ (68) "Regular primary election" means the election on the fourth Tuesday of  
252 June of each even-numbered year, to nominate candidates of political parties and nonpolitical  
253 groups to advance to the regular general election.

254           ~~[(68)]~~ (69) "Resident" means a person who resides within a specific voting precinct in  
255 Utah.

256           ~~[(69)]~~ (70) "Sample ballot" means a mock ballot similar in form to the official ballot  
257 printed and distributed as provided in Section 20A-5-405.

258           ~~[(70)]~~ (71) "Scratch vote" means to mark or punch the straight party ticket and then  
259 mark or punch the ballot for one or more candidates who are members of different political  
260 parties.

261           ~~[(71)]~~ (72) "Secrecy envelope" means the envelope given to a voter along with the  
262 ballot into which the voter places the ballot after the voter has voted it in order to preserve the  
263 secrecy of the voter's vote.

264           ~~[(72)]~~ (73) "Special election" means an election held as authorized by Section  
265 20A-1-204.

266           ~~[(73)]~~ (74) "Spoiled ballot" means each ballot that:

267           (a) is spoiled by the voter;

268           (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

269           (c) lacks the official endorsement.

270           ~~[(74)]~~ (75) "Statewide special election" means a special election called by the governor  
271 or the Legislature in which all registered voters in Utah may vote.

272           ~~[(75)]~~ (76) "Stub" means the detachable part of each ballot.

273           ~~[(76)]~~ (77) "Substitute ballots" means replacement ballots provided by an election  
274 officer to the poll workers when the official ballots are lost or stolen.

275           ~~[(77)]~~ (78) "Ticket" means each list of candidates for each political party or for each

276 group of petitioners.

277 [~~(78)~~] (79) "Transfer case" means the sealed box used to transport voted ballots to the  
278 counting center.

279 [~~(79)~~] (80) "Vacancy" means the absence of a person to serve in any position created  
280 by statute, whether that absence occurs because of death, disability, disqualification,  
281 resignation, or other cause.

282 [~~(80)~~] (81) "Valid voter identification" means:

283 (a) a form of identification that bears the name and photograph of the voter which may  
284 include:

285 (i) a currently valid Utah driver license;

286 (ii) a currently valid identification card that is issued by:

287 (A) the state; or

288 (B) a branch, department, or agency of the United States;

289 (iii) a currently valid Utah permit to carry a concealed weapon;

290 (iv) a currently valid United States passport; or

291 (v) a currently valid United States military identification card;

292 (b) one of the following identification cards, whether or not the card includes a  
293 photograph of the voter:

294 (i) a valid tribal identification card;

295 (ii) a Bureau of Indian Affairs card; or

296 (iii) a tribal treaty card; or

297 (c) two forms of identification not listed under Subsection [~~(80)~~] (81)(a) or (b) but that  
298 bear the name of the voter and provide evidence that the voter resides in the voting precinct,  
299 which may include:

300 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the  
301 election;

302 (ii) a bank or other financial account statement, or a legible copy thereof;

303 (iii) a certified birth certificate;

304 (iv) a valid Social Security card;

305 (v) a check issued by the state or the federal government or a legible copy thereof;

306 (vi) a paycheck from the voter's employer, or a legible copy thereof;

- 307 (vii) a currently valid Utah hunting or fishing license;
- 308 (viii) certified naturalization documentation;
- 309 (ix) a currently valid license issued by an authorized agency of the United States;
- 310 (x) a certified copy of court records showing the voter's adoption or name change;
- 311 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 312 (xii) a currently valid identification card issued by:
  - 313 (A) a local government within the state;
  - 314 (B) an employer for an employee; or
  - 315 (C) a college, university, technical school, or professional school located within the
  - 316 state; or

317 (xiii) a current Utah vehicle registration.

318 [~~81~~] (82) "Valid write-in candidate" means a candidate who has qualified as a  
319 write-in candidate by following the procedures and requirements of this title.

320 [~~82~~] (83) "Voter" means a person who:

- 321 (a) meets the requirements for voting in an election;
- 322 (b) meets the requirements of election registration;
- 323 (c) is registered to vote; and
- 324 (d) is listed in the official register book.

325 [~~83~~] (84) "Voter registration deadline" means the registration deadline provided in  
326 Section 20A-2-102.5.

327 [~~84~~] (85) "Voting area" means the area within six feet of the voting booths, voting  
328 machines, and ballot box.

329 [~~85~~] (86) "Voting booth" means:

- 330 (a) the space or compartment within a polling place that is provided for the preparation  
331 of ballots, including the voting machine enclosure or curtain; or
- 332 (b) a voting device that is free standing.

333 [~~86~~] (87) "Voting device" means:

- 334 (a) an apparatus in which ballot sheets are used in connection with a punch device for  
335 piercing the ballots by the voter;
- 336 (b) a device for marking the ballots with ink or another substance;
- 337 (c) an electronic voting device or other device used to make selections and cast a ballot

338 electronically, or any component thereof;

339 (d) an automated voting system under Section 20A-5-302; or

340 (e) any other method for recording votes on ballots so that the ballot may be tabulated  
341 by means of automatic tabulating equipment.

342 [~~(87)~~] (88) "Voting machine" means a machine designed for the sole purpose of  
343 recording and tabulating votes cast by voters at an election.

344 [~~(88)~~] (89) "Voting poll watcher" means a person appointed as provided in this title to  
345 witness the distribution of ballots and the voting process.

346 [~~(89)~~] (90) "Voting precinct" means the smallest voting unit established as provided by  
347 law within which qualified voters vote at one polling place.

348 [~~(90)~~] (91) "Watcher" means a voting poll watcher, a counting poll watcher, an  
349 inspecting poll watcher, and a testing watcher.

350 [~~(91)~~] (92) "Western States Presidential Primary" means the election established in  
351 Chapter 9, Part 8.

352 [~~(92)~~] (93) "Write-in ballot" means a ballot containing any write-in votes.

353 [~~(93)~~] (94) "Write-in vote" means a vote cast for a person whose name is not printed on  
354 the ballot according to the procedures established in this title.

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

356 **20A-3-302. Absentee voting -- No polling place for remote districts.**

357 (1) Whenever, on the 60th day before an election, there are 500 or fewer persons  
358 registered to vote in a voting precinct, the county legislative body of the county in which the  
359 voting precinct is located may elect to administer an election entirely by absentee ballot.

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

363 (a) an absentee ballot;

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

365 (c) a business reply mail envelope;

366 [~~(c)~~] (d) instructions for returning the ballot that include an express notice about any  
367 relevant deadlines that the voter must meet in order for his vote to be counted; and

368 [~~(d)~~] (e) a warning, on a separate page of colored paper in bold face print, indicating

369 that if the voter fails to follow the instructions included with the absentee ballot, he will be  
370 unable to vote in that election because there will be no polling place in the voting precinct on  
371 the day of the election.

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

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

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

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

379 (b) (i) Upon receiving the returned absentee ballots, the county clerk shall compare the  
380 signature on each absentee ballot with the voter's signature that is maintained on file and verify  
381 that the signatures are the same.

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

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

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

388 (B) disqualify the initial absentee ballot.

389 Section 3. Section **20A-3-302.5** is amended to read:

390 **20A-3-302.5. Absentee voting -- No polling place in elections for certain districts.**

391 (1) As used in this section, "district" means a:

392 (a) local district, as defined in Section 17B-1-102; or

393 (b) special service district, as defined in Section 17D-1-102.

394 (2) Notwithstanding Sections 17B-1-306 and 17D-1-303, at least 60 days before the  
395 day of an election, a district may elect to administer an election entirely by absentee ballot.

396 (3) If a district decides to administer an election entirely by absentee ballot, the district  
397 shall mail to each registered voter within the district:

398 (a) an absentee ballot;

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

400 (c) a business reply mail envelope;

401 ~~[(e)]~~ (d) instructions for returning the ballot that include an express notice about any  
402 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

403 ~~[(d)]~~ (e) a warning, on a separate page of colored paper in bold face print, indicating  
404 that if the voter fails to follow the instructions included with the absentee ballot, the voter will  
405 be unable to vote in that election because there will be no polling place on the day of the  
406 election.

407 (4) Any voter who votes by absentee ballot under this section is not required to apply  
408 for an absentee ballot as required by this part.

409 (5) (a) A district that administers an election entirely by absentee ballot shall:

410 (i) (A) obtain, in person, the signatures of each voter within the district before the  
411 election; and

412 (B) maintain the signatures on file in the district's office; or

413 (ii) obtain the signatures of each voter within the district from the county clerk.

414 (b) (i) Upon receiving the returned absentee ballots, the district shall compare the  
415 signature on each absentee ballot with the voter's signature that is maintained on file and verify  
416 that the signatures are the same.

417 (ii) If the district questions the authenticity of the signature on the absentee ballot, the  
418 district shall immediately contact the voter to verify the signature.

419 (iii) If the voter does not confirm the voter's signature on the absentee ballot, the  
420 district shall:

421 (A) immediately send another absentee ballot and other voting materials as required by  
422 this section to the voter; and

423 (B) disqualify the initial absentee ballot.

424 Section 4. Section **20A-3-305** is amended to read:

425 **20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --**

426 **Affidavit.**

427 (1) (a) Upon timely receipt of an absentee voter application properly filled out and  
428 signed~~[, or as soon after receipt of the application as the official absentee ballots for the voting~~  
429 ~~precinct in which the applicant resides have been printed]~~ less than 30 days before the election,  
430 the election officer shall either:

431            [~~(a)~~] (i) give the applicant an official absentee ballot and envelope to vote in the office;  
432 or

433            [~~(b)~~] (ii) mail an official absentee ballot, postage paid, to the absentee voter and  
434 enclose an envelope printed as required in Subsection (2).

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

440            (2) The election officer shall ensure that:

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

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

445 "County of \_\_\_\_\_ State of \_\_\_\_\_

446            I, \_\_\_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_\_\_ voting precinct  
447 in \_\_\_\_\_ County, Utah and that I am entitled to vote in that voting precinct at the next election.  
448 I am not a convicted felon currently incarcerated for commission of a felony.

449 \_\_\_\_\_  
450 Signature of Absentee Voter"

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

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

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

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

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

458 Section 5. Section **20A-3-306** is amended to read:

459 **20A-3-306. Voting ballot -- Returning ballot.**

460            (1) (a) To vote a mail-in absentee ballot, the absentee voter shall:

461            (i) complete and sign the affidavit on the envelope;

462 (ii) mark [his] the votes on the absentee ballot;  
 463 (iii) place the voted absentee ballot in the envelope;  
 464 (iv) securely seal the envelope; and  
 465 (v) attach postage, unless voting in accordance with Section 20A-3-302 or  
 466 20A-3-302.5, and deposit the envelope in the mail or deliver it in person to the election officer  
 467 from whom the ballot was obtained.

468 (b) To vote an absentee ballot in person at the office of the election officer, the absent  
 469 voter shall:

470 (i) complete and sign the affidavit on the envelope;  
 471 (ii) mark [his] the votes on the absent-voter ballot;  
 472 (iii) place the voted absent-voter ballot in the envelope;  
 473 (iv) securely seal the envelope; and  
 474 (v) give the ballot and envelope to the election officer.

475 (2) An absentee ballot is not valid unless:

476 (a) in the case of an absentee ballot that is voted in person, it is applied for and cast in  
 477 person at the office of the appropriate election officer no later than the Friday before election  
 478 day; or

479 (b) in the case of [~~an absentee ballot that is returned by mail or transmitted~~  
 480 ~~electronically under Section 20A-3-408.5; it is:] a military-overseas ballot, submitted in  
 481 accordance with Section 20A-16-404.~~

482 [~~(i) clearly postmarked or electronically transmitted before election day; and]~~  
 483 [~~(ii) received in the office of the election officer before noon on the day of the official~~  
 484 ~~canvass following the election.]~~

485 Section 6. Section **20A-3-307** is amended to read:

486 **20A-3-307. Processing of absentee ballot.**

487 (1) Except as provided in Subsection (2), upon receipt of an envelope containing an  
 488 absentee ballot, the election officer shall:

489 (a) enclose the unopened envelope containing the absentee ballot and the written  
 490 application of the absentee voter in a larger envelope;

491 (b) seal that envelope and endorse it with:

492 (i) the name or number of the proper voting precinct;

493 (ii) the name and official title of the election officer; and  
494 (iii) the words "This envelope contains an absentee ballot and may only be opened on  
495 election day at the polls while the polls are open."; and

496 (c) safely keep the envelope [~~in his~~] locked in a secure place in the election officer's  
497 office until it is delivered by [~~him~~] the election officer to the proper election judges.

498 (2) If the election officer receives envelopes containing absentee ballots too late to  
499 transmit them to the election judges on election day, the election officer shall retain those  
500 absentee ballots in a safe and secure place until they can be processed as provided in Section  
501 20A-3-309.

502 (3) (a) Except as provided in Subsection (3)(c), when reasonably possible, the election  
503 officer shall deliver or mail valid absentee ballots to the appropriate voting precinct election  
504 judges so that they may be processed at the voting precinct on election day.

505 (b) If the election officer is unable to determine the voting precinct to which an  
506 absentee ballot should be sent, or if a valid absentee ballot is received too late for delivery on  
507 election day to election judges, the election officer shall retain the absentee ballot in a safe  
508 place until it can be processed as required by Section 20A-3-309.

509 (c) When the absentee ballots will be centrally counted, the election officer shall  
510 deliver those absentee ballots to the counting center on election day for counting.

511 Section 7. Section **20A-3-308** is amended to read:

512 **20A-3-308. Absentee ballots in the custody of poll workers -- Disposition.**

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

516 (b) The poll workers shall:

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

518 (ii) compare the signature of the voter on the application with the signature on the  
519 affidavit.

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

522 (i) the affidavit is sufficient;

523 (ii) the signatures correspond; and

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

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

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

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

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

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

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

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

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

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

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

541 (iii) remove the stub from the ballot;

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

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

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

547 (a) disallow the vote; and

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

549 (i) "Rejected as defective"; or

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

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

554 (5) (a) An election officer shall notify a voter if a poll worker rejects the voter's ballot

555 and specify the reason for the rejection.

556 (b) An election officer shall give the notice described in Subsection (5)(a) to a voter no  
557 later than seven days after:

558 (i) election day if the election officer receives the ballot before or on election day; and

559 (ii) the canvass if the election officer receives the ballot after election day and before  
560 the end of the canvass.

561 [~~5~~] (6) The election officer shall retain and preserve the absentee voter envelopes in  
562 the manner provided by law for the retention and preservation of official ballots voted at that  
563 election.

564 Section 8. Section **20A-4-304** is amended to read:

565 **20A-4-304. Declaration of results -- Canvassers' report.**

566 (1) Each board of canvassers shall:

567 (a) declare "elected" or "nominated" those persons who:

568 (i) had the highest number of votes; and

569 (ii) sought election or nomination to an office completely within the board's  
570 jurisdiction;

571 (b) declare:

572 (i) "approved" those ballot propositions that:

573 (A) had more "yes" votes than "no" votes; and

574 (B) were submitted only to the voters within the board's jurisdiction;

575 (ii) "rejected" those ballot propositions that:

576 (A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes"  
577 votes; and

578 (B) were submitted only to the voters within the board's jurisdiction;

579 (c) certify the vote totals for persons and for and against ballot propositions that were  
580 submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to  
581 the lieutenant governor; and

582 (d) if applicable, certify the results of each local district election to the local district  
583 clerk.

584 (2) (a) As soon as the result is declared, the election officer shall prepare a report of the  
585 result, which shall contain:

- 586 (i) the total number of votes cast in the board's jurisdiction;
- 587 (ii) the names of each candidate whose name appeared on the ballot;
- 588 (iii) the title of each ballot proposition that appeared on the ballot;
- 589 (iv) each office that appeared on the ballot;
- 590 (v) from each voting precinct:
- 591 (A) the number of votes for each candidate; and
- 592 (B) the number of votes for and against each ballot proposition;
- 593 (vi) the total number of votes given in the board's jurisdiction to each candidate, and
- 594 for and against each ballot proposition; [~~and~~]
- 595 (vii) the number of ballots that were rejected; and
- 596 [~~(vii)~~] (viii) a statement certifying that the information contained in the report is
- 597 accurate.
- 598 (b) The election officer and the board of canvassers shall:
- 599 (i) review the report to ensure that it is correct; and
- 600 (ii) sign the report.
- 601 (c) The election officer shall:
- 602 (i) record or file the certified report in a book kept for that purpose;
- 603 (ii) prepare and transmit a certificate of nomination or election under the officer's seal
- 604 to each nominated or elected candidate;
- 605 (iii) publish a copy of the certified report:
- 606 (A) in one or more conspicuous places within the jurisdiction;
- 607 (B) in a conspicuous place on the county's website; and
- 608 (C) in a newspaper with general circulation in the board's jurisdiction; and
- 609 (iv) file a copy of the certified report with the lieutenant governor.
- 610 (3) When there has been a regular general or a statewide special election for statewide
- 611 officers, for officers that appear on the ballot in more than one county, or for a statewide or two
- 612 or more county ballot proposition, each board of canvassers shall:
- 613 (a) prepare a separate report detailing the number of votes for each candidate and the
- 614 number of votes for and against each ballot proposition; and
- 615 (b) transmit it by registered mail to the lieutenant governor.
- 616 (4) In each county election, municipal election, school election, local district election,

617 and local special election, the election officer shall transmit the reports to the lieutenant  
618 governor within 14 days after the date of the election.

619 (5) In regular primary elections and in the Western States Presidential Primary, the  
620 board shall transmit to the lieutenant governor:

621 (a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant  
622 governor:

623 (i) not later than the second Tuesday after the primary election for the regular primary  
624 election; and

625 (ii) not later than the Tuesday following the election for the Western States Presidential  
626 Primary; and

627 (b) a complete tabulation showing voting totals for all primary races, precinct by  
628 precinct, to be mailed to the lieutenant governor on or before the third Friday following the  
629 primary election.

629a **§→ Section 9. Coordinating H.B. 339 with H.B. 20, H.B. 331, H.B. 499, H.B. 502, S.B.**

629b **16, and S.B. 283 -- Superseding technical amendments.**

629c **If this H.B. 339 and H.B. 20, Election Law Amendments, H.B. 331, School Board**  
629d **Election Provisions, H.B. 499, Ballot Amendments, H.B. 502, Incorporation Amendments, S.B.**

629e **16, Ballot Proposition Amendments, and S.B. 283, Municipal Election Modifications all pass**

629f **and become law or any combination of the bills pass and become law, the Legislature intends**

629g **that the Office of Legislative Research and General Counsel fix an obvious technical error so**

629h **that Subsection 20A-1-102(27) reads:**

629i **"(27) "Election official" means any election officer, election judge, or poll worker." ←§**

Legislative Review Note

as of 2-17-12 10:14 AM

Office of Legislative Research and General Counsel