1   VOTE BY MAIL AMENDMENTS

2   2015 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Rebecca Chavez-Houck**

5   Senate Sponsor: Peter C. Knudson

7   **LONG TITLE**

8   **General Description:**

9   This bill amends provisions relating to when an absentee ballot is considered valid.

10   **Highlighted Provisions:**

11   This bill:

12   ▸   provides that when an absentee ballot is submitted by mail, the ballot is timely if the

13   ballot is clearly postmarked, or otherwise clearly marked as received by the post

14   office, before election day.

15   **Money Appropriated in this Bill:**

16   None

17   **Other Special Clauses:**

18   None

19   **Utah Code Sections Affected:**

20   AMENDS:

21   20A-3-306, as last amended by Laws of Utah 2013, Chapters 198, 219, 320 and last

22   amended by Coordination Clause, Laws of Utah 2013, Chapter 198

23   20A-4-108, as enacted by Laws of Utah 2014, Chapter 231 and last amended by

24   Coordination Clause, Laws of Utah 2014, Chapter 231

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

27   Section 1. Section **20A-3-306** is amended to read:

28   **20A-3-306.   Voting ballot -- Returning ballot.**

29   (1) (a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the

30   absentee voter shall:

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

32   (ii) mark the votes on the absentee ballot;

33   (iii) place the voted absentee ballot in the envelope;

34   (iv) securely seal the envelope; and

35   (v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit

36   the envelope in the mail or deliver it in person to the election officer from whom the ballot was

37   obtained.

38   (b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the

39   office of the election officer, the absent voter shall:

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

41   (ii) mark the votes on the absent-voter ballot;

42   (iii) place the voted absent-voter ballot in the envelope;

43   (iv) securely seal the envelope; and

44   (v) give the ballot and envelope to the election officer.

45   (2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:

46   (a) in the case of an absentee ballot that is voted in person, the ballot is:

47   (i) applied for and cast in person at the office of the appropriate election officer no later

48   than the Thursday before election day; or

49   (ii) submitted on election day at a polling location in the political subdivision where

50   the absentee voter resides;

51   (b) in the case of an absentee ballot that is submitted by mail, the ballot is:

52   (i) clearly postmarked before election day, or otherwise clearly marked by the post

53   office as received by the post office before election day; and

54   (ii) received in the office of the election officer before noon on the day of the official

55   canvass following the election; or

56   (c) in the case of a military-overseas ballot, the ballot is submitted in accordance with

57   Section 20A-16-404.

58   (3) An absentee voter may submit a completed absentee ballot at a polling location in a

59   political subdivision holding the election, if the absentee voter resides in the political

60   subdivision.

61   (4) An absentee voter may submit an incomplete absentee ballot at a polling location

62   for the voting precinct where the voter resides, request that the ballot be declared spoiled, and

63   vote in person.

64   Section 2. Section **20A-4-108** is amended to read:

65   **20A-4-108.   Election Day Voter Registration Pilot Project.**

66   (1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an

67   election day voter registration pilot project, as described in this section.

68   (2) A county may participate in the pilot project if the county clerk submits to the

69   lieutenant governor a written application to participate in the pilot project that contains:

70   (a) the name of the county;

71   (b) a request that the county be permitted to participate in the pilot project;

72   (c) an estimate of the extent to which election day voter registration may increase voter

73   participation; and

74   (d) any other reasons that the county desires to participate in the project.

75   (3) A municipality may participate in the pilot project for a municipal election if the

76   municipal clerk submits to the lieutenant governor a written application to participate in the

77   pilot project that contains:

78   (a) the name of the municipality;

79   (b) a request that the municipality be permitted to participate in the pilot project;

80   (c) an estimate of the extent to which election day voter registration may increase voter

81   participation; and

82   (d) any other reasons that the municipality desires to participate in the project.

83   (4) Within 10 business days after the day on which the lieutenant governor receives an

84   application described in Subsection (2) or (3), the lieutenant governor shall approve the

85   application if:

86   (a) the application complies with the requirements described in Subsection (2) or (3),
87   as applicable; and
88   (b) the lieutenant governor determines, based on the information contained in the
89   application, that implementing the pilot project in the county or municipality:
90   (i) will yield valuable information to determine whether election day voter registration
91   should be implemented on a permanent, statewide basis; and
92   (ii) will not adversely affect the rights of voters or candidates.
93   (5) For a county or municipality that is approved by the lieutenant governor to
94   participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration form is
95   submitted to the county clerk on the date of the election or during the seven calendar days
96   before an election, the county clerk shall:
97   (a) if the person desires to vote in the pending election, inform the person that the
98   person must, on election day, register to vote by casting a provisional ballot in accordance with
99   Subsection (10); or
100   (b) if the person does not desire to vote in the pending election:
101   (i) accept a registration form from the person if, on the date of the election, the person
102   will be legally qualified and entitled to vote in a voting precinct in the county or municipality;
103   and
104   (ii) inform the person that the person will be registered to vote but may not vote in the
105   pending election because the person registered too late and chose not to register and vote as
106   described in Subsection (5)(a).
107   (6) For a county or municipality that is approved by the lieutenant governor to
108   participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the county clerk receives
109   a correctly completed by-mail voter registration form that is postmarked after the voter
110   registration deadline, and is not otherwise marked by the post office as received by the post
111   office before the voter registration deadline, the county clerk shall:
112   (a) unless the applicant registers on election day by casting a provisional ballot in
113   accordance with Subsection (10), register the applicant for the next election; and

114   (b) if possible, promptly phone, mail, or email a notice to the applicant before the

115   election, informing the applicant that:

116   (i) the applicant's registration will not be effective until after the election; and

117   (ii) the applicant may register to vote on election day by casting a provisional ballot in

118   accordance with Subsection (10).

119   (7) For a county or municipality that is approved by the lieutenant governor to

120   participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives

121   a correctly completed voter registration form that is dated after the voter registration deadline,

122   the county clerk shall:

123   (a) unless the applicant registers to vote on election day by casting a provisional ballot

124   in accordance with Subsection (10), register the applicant after the next election; and

125   (b) if possible, promptly phone, mail, or email a notice to the applicant before the

126   election, informing the applicant that:

127   (i) the applicant's registration will not be effective until after the election; and

128   (ii) the applicant may register to vote on election day by casting a provisional ballot in

129   accordance with Subsection (10).

130   (8) For a county or municipality that is approved by the lieutenant governor to

131   participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives

132   a correctly completed voter registration form that is dated after the voter registration deadline,

133   the county clerk shall:

134   (a) unless the applicant registers to vote on election day by casting a provisional ballot

135   in accordance with Subsection (10), register the applicant after the next election; and

136   (b) if possible, promptly phone, mail, or email a notice to the applicant before the

137   election, informing the applicant that:

138   (i) the applicant's registration will not be effective until after the election; and

139   (ii) the applicant may register to vote on election day by casting a provisional ballot in

140   accordance with Subsection (10).

141   (9) For a county or municipality that is approved by the lieutenant governor to

142   participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to

143   register under this section during the six calendar days before an election, the county clerk

144   shall:

145   (a) if the individual desires to vote in the pending election, inform the individual that

146   the individual must, on election day, register to vote by casting a provisional ballot in

147   accordance with Subsection (10); or

148   (b) if the individual does not desire to vote in the pending election:

149   (i) accept the application for registration if the individual, on the date of the election,

150   will be legally qualified and entitled to vote in a voting precinct in the state; and

151   (ii) inform the individual that the individual is registered to vote but may not vote in

152   the pending election because the individual registered too late and chose not to register and

153   vote as described in Subsection (9)(a).

154   (10) For a county or municipality that is approved by the lieutenant governor to

155   participate in the pilot project:

156   (a) the election officer shall take the action described in Subsection (10)(b) in relation

157   to a provisional ballot if the election officer determines that:

158   (i) the person who voted the ballot is not registered to vote, but is otherwise legally

159   entitled to vote the ballot;

160   (ii) the ballot that the person voted is identical to the ballot for the precinct in which

161   the person resides;

162   (iii) the information on the ballot is complete; and

163   (iv) the person provided valid voter identification and proof of residence to the poll

164   worker;

165   (b) if a provisional ballot and the person who voted the provisional ballot comply with

166   the requirements described in Subsection (10)(a), the election officer shall:

167   (i) consider the provisional ballot a voter registration form;

168   (ii) place the ballot with the absentee ballots, to be counted with those ballots at the

169   canvass; and

170   (iii) as soon as reasonably possible, register the person to vote; and

171   (c) except as provided in Subsection (11), the election officer shall retain a provisional

172   ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer

173   determines that the person who voted the ballot:

174   (i) (A) is not registered to vote in this state; and

175   (B) is not eligible for registration under Subsection (10); or

176   (ii) is not legally entitled to vote the ballot that the person voted.

177   (11) Subsection (10)(c) does not apply if a court orders the election officer to produce

178   or count the provisional ballot.

179   (12) For a county or municipality that is approved by the lieutenant governor to

180   participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer

181   determines that the person is not registered to vote in this state, that the information on the

182   provisional ballot envelope is complete, and that the provisional ballot and the person who

183   voted the provisional ballot do not comply with the requirements described in Subsection

184   (10)(a), the election officer shall:

185   (a) consider the provisional ballot envelope a voter registration form for the person's

186   county of residence; and

187   (b) (i) register the person if the voter's county of residence is within the county; or

188   (ii) forward the voter registration form to the election officer of the person's county of

189   residence, which election officer shall register the person.

190   (13) (a) The county clerk of a county that is approved to participate in the pilot project,

191   and the municipal clerk of a municipality that is approved to participate in the pilot project,

192   shall provide training for the poll workers of the county or municipality on administering the

193   pilot program.

194   (b) The lieutenant governor shall, for a county or municipality that is approved to

195   participate in the pilot project, provide information relating to the pilot project in accordance

196   with the provisions of Subsection 67-1a-2(2)(a)(iv).

197   (14) The lieutenant governor and each county and municipality that is approved by the

198   lieutenant governor to participate in the pilot project shall:

199   (a) report to the Government Operations Interim Committee, on or before October 31

200   of each year that the pilot project is in effect, regarding:

201   (i) the implementation of the pilot project;

202   (ii) the number of ballots cast by voters who registered on election day;

203   (iii) any difficulties resulting from the pilot project; and

204   (iv) whether, in the opinion of the lieutenant governor, the county, or the municipality,

205   the state would benefit from implementing election day voter registration permanently and on a

206   statewide basis; and

207   (b) on or before December 31, 2016, report to the Legislative Management Committee

208   regarding the matters described in Subsection (14)(a).

209   (15) During the 2016 interim, the Government Operations Interim Committee shall

210   study and make a recommendation to the Legislature regarding whether to implement statewide

211   election day voter registration on a permanent, statewide basis.