

House File 2165 - Introduced

HOUSE FILE 2165

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ANDREWS

A BILL FOR

1 An Act relating to the casting of ballots by absent voters.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 9E.6, subsection 2, paragraph b, Code
2 2026, is amended to read as follows:

3 b. The program participant shall complete the ballot and
4 return it to the state commissioner of elections, who shall
5 review the ballot in the manner provided by sections 53.18
6 and 53.19 if the return envelope is received in the state
7 commissioner's office ~~before the polls close by 5:00 p.m. on the~~
8 ~~day before election day or is clearly postmarked by an officially~~
9 ~~authorized postal service or bears a postal service barcode~~
10 ~~traceable to a date of entry into the federal mail system not~~
11 ~~later than the day before the election, as provided in section~~
12 ~~53.17A.~~ If the materials comply with the requirements of section
13 53.18, the materials shall be certified by the state commissioner
14 of elections as the ballot of a program participant, and shall
15 be forwarded to the appropriate county commissioner of elections
16 for tabulation by the special voters precinct election board
17 appointed pursuant to section 53.23.

18 Sec. 2. NEW SECTION. **53.1B Definitions.**

19 For purposes of this subchapter, unless the context otherwise
20 requires:

21 1. "*Affidavit envelope*" means an envelope that includes
22 a serial number and bears on the back an affidavit for a
23 registered voter to mark the registered voter's signature and
24 voter verification number in a form prescribed by the state
25 commissioner.

26 2. "*Delivery envelope*" means an envelope that bears on its
27 face the name and address of the registered voter requesting an
28 absentee ballot, the words "county commissioner of elections",
29 and the same serial number that appears on the affidavit envelope
30 and return envelope, but does not bear on its face the address of
31 the commissioner's office.

32 3. "*Return envelope*" means an envelope that is addressed
33 to the commissioner's office and includes the address of the
34 commissioner's office in the space for a return address, bears
35 appropriate return postage or a postal permit guaranteeing that

1 the commissioner will pay the return postage, and includes
 2 the same serial number as the affidavit envelope and delivery
 3 envelope.

4 4. "Secrecy envelope" means an envelope, folder, or sleeve
 5 that hides all votes on a ballot when folded.

6 Sec. 3. Section 53.8, subsection 1, paragraphs a and b, Code
 7 2026, are amended to read as follows:

8 a. Upon receipt of an application for an absentee ballot and
 9 immediately after the absentee ballots are printed, but not more
 10 than twenty days before the election, the commissioner shall mail
 11 an absentee ballot to the applicant within twenty-four hours,
 12 except as otherwise provided in subsection 3. The absentee
 13 ballot shall be sent to the registered voter by one of the
 14 following methods: enclosed in an unsealed affidavit envelope.
 15 The absentee ballot and affidavit envelope shall be enclosed
 16 in or with an unsealed return envelope. The absentee ballot,
 17 affidavit envelope, and return envelope shall be enclosed in the
 18 delivery envelope. If the ballot cannot be folded so that all
 19 the votes on the ballot will be hidden, the commissioner shall
 20 also enclose a secrecy envelope with the absentee ballot.

21 ~~(1) The absentee ballot shall be enclosed in an unsealed~~
 22 ~~envelope marked with a serial number and affidavit. The absentee~~
 23 ~~ballot and affidavit envelope shall be enclosed in or with an~~
 24 ~~unsealed return envelope marked postage paid which bears the same~~
 25 ~~serial number as the affidavit envelope. The absentee ballot,~~
 26 ~~affidavit envelope, and return envelope shall be enclosed in a~~
 27 ~~third envelope to be sent to the registered voter. If the ballot~~
 28 ~~cannot be folded so that all of the votes cast on the ballot will~~
 29 ~~be hidden, the commissioner shall also enclose a secrecy envelope~~
 30 ~~with the absentee ballot.~~

31 ~~(2) The absentee ballot shall be enclosed in an unsealed~~
 32 ~~return envelope marked with a serial number and affidavit and~~
 33 ~~marked postage paid. The absentee ballot and return envelope~~
 34 ~~shall be enclosed in a second envelope to be sent to the~~
 35 ~~registered voter. If the ballot cannot be folded so that all~~

1 ~~of the votes cast on the ballot will be hidden, the commissioner~~
2 ~~shall also enclose a secrecy envelope with the absentee ballot.~~

3 b. ~~The affidavit shall be marked on the appropriate envelope~~
4 ~~in a form prescribed by the state commissioner of elections~~
5 registered voter requesting and receiving an absentee ballot
6 shall subscribe to the affidavit by signing and marking the
7 registered voter's voter verification number on the affidavit
8 envelope.

9 Sec. 4. Section 53.10, subsection 2, paragraph a, Code 2026,
10 is amended to read as follows:

11 a. Each person who wishes to vote by absentee ballot at
12 the commissioner's office shall first sign an application for
13 a ballot including the following information: name, current
14 address, voter verification number, and the election for which
15 the ballot is requested. The person may report a change of
16 address or other information on the person's voter registration
17 record at that time. Prior to furnishing a ballot, the
18 commissioner shall verify the person's identity as provided in
19 section 49.78. The registered voter shall immediately mark the
20 ballot; enclose the ballot in a secrecy envelope, if necessary,
21 and seal ~~it~~ the ballot in the envelope marked with the affidavit
22 envelope; ~~subscribe to the affidavit on the reverse side of~~
23 ~~the envelope by signing and marking the registered voter's~~
24 voter verification number; and return the sealed affidavit
25 envelope containing the absentee ballot to the commissioner.
26 The commissioner shall record the numbers appearing on the
27 application and affidavit envelope along with the name of the
28 registered voter.

29 Sec. 5. Section 53.12, Code 2026, is amended by striking the
30 section and inserting in lieu thereof the following:

31 **53.12 Duty of commissioner.**

32 The commissioner shall affix to the application the same
33 serial number that appears on the affidavit envelope, return
34 envelope, and delivery envelope.

35 Sec. 6. Section 53.16, Code 2026, is amended by striking the

1 section and inserting in lieu thereof the following:

2 **53.16 Subscribing to affidavit.**

3 After marking the ballot, the voter shall enclose the ballot
4 in a secrecy envelope, if necessary, and seal the ballot in
5 the affidavit envelope; subscribe to the affidavit by signing
6 and marking the registered voter's voter verification number;
7 place the sealed affidavit envelope in the return envelope; and
8 securely seal the return envelope.

9 Sec. 7. Section 53.17, subsection 1, unnumbered paragraph 1,
10 Code 2026, is amended to read as follows:

11 ~~If the commissioner mailed the ballot pursuant to section~~
12 ~~53.8, subsection 1, paragraph "a", subparagraph (1), the sealed~~
13 ~~envelope bearing the voter's affidavit and containing the~~
14 ~~absentee ballot shall be enclosed in a return envelope which~~
15 ~~shall be securely sealed. If the commissioner mailed the~~
16 ~~ballot pursuant to section 53.8, subsection 1, paragraph "a",~~
17 ~~subparagraph (2), the absentee ballot shall be enclosed in the~~
18 ~~return envelope which shall be securely sealed. The sealed~~
19 ~~return envelope shall be returned to the commissioner by one of~~
20 ~~the following methods:~~

21 Sec. 8. Section 53.17, subsection 1, paragraph a, Code 2026,
22 is amended to read as follows:

23 a. The sealed return envelope may be delivered by the
24 registered voter, by the voter's designee, or by the special
25 precinct election officials designated pursuant to section 53.22,
26 subsection 2, to the commissioner's office no later than ~~the time~~
27 ~~the polls are closed~~ 5:00 p.m. on the day before election day.
28 However, if delivered by the voter's designee, the envelope shall
29 be delivered within seventy-two hours of retrieving it from the
30 voter or by 5:00 p.m. on the day before ~~the closing of the polls~~
31 ~~on~~ election day, whichever is earlier.

32 Sec. 9. Section 53.17, subsection 1, paragraph c, unnumbered
33 paragraph 1, Code 2026, is amended to read as follows:

34 The sealed return envelope may be delivered by a person not
35 prohibited to collect and deliver a completed ballot pursuant

1 to section 53.33 to a ballot drop box established by the
 2 commissioner no later than ~~the time the polls are closed~~ 5:00
 3 p.m. on the day before election day. However, if delivered by
 4 the voter's designee, the envelope shall be delivered within
 5 seventy-two hours of retrieving it from the voter or before the
 6 closing of the polls on election day, whichever is earlier. A
 7 commissioner is not required to establish a ballot drop box. A
 8 ballot drop box must meet all of the following requirements:

9 Sec. 10. Section 53.17, subsection 2, Code 2026, is amended
 10 to read as follows:

11 2. In order for the ballot to be counted, the return envelope
 12 must be received in the commissioner's office by 5:00 p.m. on the
 13 day before the polls close on election day.

14 Sec. 11. Section 53.17, subsection 4, paragraph e, Code 2026,
 15 is amended to read as follows:

16 e. A statement that the completed absentee ballot will be
 17 delivered to the commissioner's office within seventy-two hours
 18 of retrieving it from the voter or ~~before the closing of~~ by
 19 5:00 p.m. on the polls on day before election day, whichever is
 20 earlier.

21 Sec. 12. Section 53.17A, subsection 3, Code 2026, is amended
 22 to read as follows:

23 3. ~~a.~~ An absentee ballot received after ~~the polls close~~
 24 ~~on election day but prior to the official canvass shall be~~
 25 ~~counted if the commissioner determines that the ballot entered~~
 26 ~~the federal mail system by the deadline specified in section~~
 27 ~~53.17 or 53.22. The date of entry of such an absentee ballot~~
 28 ~~into the federal mail system shall only be verified as provided~~
 29 ~~in paragraph "b"~~ 5:00 p.m. on the day before election day shall
 30 not be counted.

31 ~~b. (1) If the postmark indicates that the absentee ballot~~
 32 ~~entered the federal mail system by the deadline specified in~~
 33 ~~section 53.17 or 53.22, the ballot shall be included for canvass~~
 34 ~~by the absentee and special voters precinct board.~~

35 ~~(2) If the postmark is illegible, missing, or dated on or~~

1 ~~after election day, the commissioner shall attempt to verify the~~
2 ~~ballot's date of entry into the federal mail system by querying~~
3 ~~the postal service barcode in the tracking information database.~~
4 ~~If the tracking information database indicates that the absentee~~
5 ~~ballot entered the federal mail system by the deadline specified~~
6 ~~in section 53.17 or 53.22, the ballot shall be included for~~
7 ~~canvass by the absentee and special voters precinct board. The~~
8 ~~commissioner shall provide a report to the absentee and special~~
9 ~~voters precinct board regarding the information available in the~~
10 ~~tracking information database.~~

11 ~~(3) If there is a discrepancy between the date indicated by~~
12 ~~the postmark and the postal service barcode, the earlier of the~~
13 ~~two shall determine the date of entry of the absentee ballot into~~
14 ~~the federal mail system.~~

15 ~~(4) (a) If neither the postmark nor the postal service~~
16 ~~barcode indicates that the absentee ballot entered the federal~~
17 ~~mail system by the deadline specified in section 53.17 or 53.22,~~
18 ~~the absentee ballot shall be sent to the absentee and special~~
19 ~~voters precinct board pursuant to subparagraph division (b) with~~
20 ~~the numeric value assigned to the postal service barcode and a~~
21 ~~full report from the tracking information database.~~

22 ~~(b) Up to five absentee and special voters precinct board~~
23 ~~members from each political party for partisan elections, or any~~
24 ~~two members of the board for nonpartisan elections, shall review~~
25 ~~the postal service barcode and tracking database information~~
26 ~~report of each absentee ballot submitted pursuant to subparagraph~~
27 ~~division (a) and certify that the tracking information database~~
28 ~~report corresponds to the absentee ballot by initialing the~~
29 ~~report and the absentee ballot envelope. If the board concludes~~
30 ~~that the postal service barcode and tracking information database~~
31 ~~report verify that the absentee ballot entered the federal mail~~
32 ~~system by the deadline specified in section 53.17 or 53.22, the~~
33 ~~ballot shall be counted. Otherwise, the ballot shall not be~~
34 ~~counted.~~

35 ~~Sec. 13. Section 53.18, subsections 2 and 3, Code 2026, are~~

1 amended to read as follows:

2 2. If the commissioner receives the return envelope
3 containing the completed absentee ballot by 5:00 p.m. on the
4 Saturday before the election for general elections and by 5:00
5 p.m. on the Friday before the election for all other elections,
6 the commissioner shall ~~review the affidavit marked on the return~~
7 ~~envelope, if applicable, for completeness or shall open the~~
8 ~~return envelope to review the affidavit for completeness open~~
9 the return envelope, if applicable, and review the affidavit
10 marked on the affidavit envelope for completeness. If the
11 affidavit lacks the signature or voter verification number of
12 the registered voter, the commissioner shall, within twenty-four
13 hours of the receipt of the envelope, notify the voter of the
14 deficiency and inform the voter that the voter may vote a
15 replacement ballot as provided in subsection 3, cast a ballot
16 as provided in section 53.19, subsection 3, or complete the
17 affidavit in person at the office of the commissioner not later
18 than the time polls close on election day.

19 3. If the affidavit envelope ~~or the return envelope marked~~
20 ~~with the affidavit~~ contains a defect that would cause the
21 absentee ballot to be rejected by the absentee and special
22 voters precinct board, the commissioner shall immediately notify
23 the voter of that fact and that the voter's absentee ballot
24 shall not be counted unless the voter requests and returns a
25 replacement ballot in the time permitted under section 53.17,
26 subsection 2. For the purposes of this section, ~~a return an~~
27 affidavit envelope ~~marked with the affidavit~~ shall be considered
28 to contain a defect if it appears to the commissioner that
29 the signature on the envelope has been signed by someone other
30 than the registered voter, in comparing the signature on the
31 envelope to the signature on record of the registered voter named
32 on the envelope, or if the voter verification number provided
33 does not match the voter verification number associated with
34 the voter's voter registration. A signature or marking made
35 in accordance with section 39.3, subsection 17, shall not be

1 considered a defect for purposes of this section. The voter
 2 may request a replacement ballot in person, in writing, or over
 3 the telephone. The same serial number that was assigned to the
 4 records of the original absentee ballot application shall be used
 5 on the envelope envelopes and records of the replacement ballot.
 6 The affidavit envelope ~~marked with the affidavit and~~ containing
 7 the completed replacement ballot shall be marked "Replacement
 8 ballot". The affidavit envelope ~~marked with the affidavit and~~
 9 containing the original ballot shall be marked "Defective" ~~and~~
 10 ~~the "Defective"~~. The replacement ballot shall be attached to
 11 ~~such~~ the affidavit envelope containing the original ballot and
 12 shall be stored in a secure place until they are delivered to
 13 the absentee and special voters precinct board, notwithstanding
 14 sections 53.26 and 53.27.

15 Sec. 14. Section 53.21, subsection 2, paragraph b, Code 2026,
 16 is amended to read as follows:

17 b. The voter shall enclose one copy of the above statement
 18 in the return envelope along with the affidavit envelope, ~~if the~~
 19 ~~voter was mailed a separate affidavit envelope,~~ and shall retain
 20 a copy for the voter's records.

21 Sec. 15. Section 53.22, subsection 6, paragraph b, Code 2026,
 22 is amended to read as follows:

23 b. Absentee ballots voted under this subsection shall be
 24 delivered to the commissioner no later than the time the polls
 25 are closed on election day. If the ballot is returned by mail,
 26 the return envelope must be received by ~~the time the polls close,~~
 27 ~~or be clearly postmarked by an officially authorized postal~~
 28 ~~service or bear a postal service barcode traceable to a date of~~
 29 ~~entry into the federal mail system not later than the day before~~
 30 ~~the election, as provided in section 53.17A, and received by the~~
 31 ~~commissioner no later than the time established for the canvass~~
 32 ~~by the board of supervisors for that election~~ 5:00 p.m. on the
 33 day before election day.

34 Sec. 16. Section 53.23, subsection 3, paragraph b,
 35 subparagraph (1), Code 2026, is amended to read as follows:

1 (1) The commissioner may direct the board to meet on the day
2 before the election for the purpose of reviewing the absentee
3 voters' affidavits appearing on the sealed envelopes. If in the
4 commissioner's judgment this procedure is necessary due to the
5 number of absentee ballots received, the members of the board
6 may open the sealed affidavit envelopes and remove the secrecy
7 envelope containing the ballot, but under no circumstances shall
8 a secrecy envelope or a ~~return~~ an affidavit envelope ~~marked with~~
9 ~~an affidavit~~ be opened before the board convenes on election day,
10 except as provided in paragraph "c". If the affidavit envelopes
11 are opened before election day pursuant to this paragraph "b",
12 the observers appointed by each political party, as defined in
13 section 43.2, shall witness the proceedings. Each political
14 party may appoint up to five observers under this paragraph "b".
15 The observers shall be appointed by the county chairperson or, if
16 the county chairperson fails to make an appointment, by the state
17 chairperson. However, if either or both political parties fail
18 to appoint an observer, the commissioner may continue with the
19 proceedings.

20 Sec. 17. Section 53.23, subsection 5, Code 2026, is amended
21 to read as follows:

22 5. The special precinct election board shall preserve the
23 secrecy of all absentee and provisional ballots. After the
24 affidavits on the affidavit envelopes have been reviewed and
25 the qualifications of the persons casting the ballots have been
26 determined, those that have been accepted for counting shall
27 be opened. The ballots shall be removed from the affidavit
28 envelopes ~~or return envelopes marked with the affidavit, as~~
29 ~~applicable~~, without being unfolded or examined, and then shall
30 be thoroughly intermingled, after which they shall be unfolded
31 and tabulated. If secrecy ~~folders~~ or envelopes are used with
32 provisional paper ballots, the ballots shall be removed from
33 the secrecy ~~folders~~ envelopes after the ballots have been
34 intermingled.

35 Sec. 18. Section 53.25, subsection 1, paragraph a, Code 2026,

1 is amended to read as follows:

2 a. If the absentee voter's affidavit lacks the voter's
3 signature or voter verification number, if the applicant is not
4 a duly registered voter on election day in the precinct where the
5 absentee ballot was cast, if the affidavit envelope ~~marked with~~
6 ~~the affidavit~~ contains more than one ballot of any one kind, or
7 if the voter has voted in person, such vote shall be rejected by
8 the absentee and special voters precinct board. If the affidavit
9 envelope ~~or return envelope marked with the affidavit~~ is open, or
10 has been opened and resealed, or if the ballot is not enclosed in
11 ~~such~~ the affidavit envelope, and an affidavit envelope or return
12 envelope marked with the affidavit with the same serial number
13 and marked "Replacement ballot" is not attached as provided in
14 section 53.18, the ballot shall be rejected by the absentee and
15 special voters precinct board.

16 Sec. 19. Section 53.25, subsection 2, Code 2026, is amended
17 to read as follows:

18 2. If the absentee or provisional ballot is rejected prior
19 to the opening of the affidavit envelope ~~or return envelope~~
20 ~~marked with the affidavit~~, the voter casting the ballot shall be
21 notified by a precinct election official by the time the canvass
22 is completed of the reason for the rejection on a form prescribed
23 by the state commissioner of elections.

24 Sec. 20. Section 53.30, subsection 2, Code 2026, is amended
25 to read as follows:

26 2. At the conclusion of each meeting of the absentee and
27 special voters precinct board, the board shall securely seal
28 all ballots counted by them in the manner prescribed in section
29 50.12. The ballot envelopes, including the affidavit envelope
30 ~~if an affidavit envelope was provided~~, the return envelope, and
31 secrecy envelope bearing the signatures of precinct election
32 officials, as required by section 53.23, shall be preserved. All
33 applications for absentee ballots, ballots rejected without being
34 opened, absentee ballot logs, and any other documents pertaining
35 to the absentee ballot process shall be preserved until such time

1 as the documents may be destroyed pursuant to section 50.19.

2 Sec. 21. Section 53.32, Code 2026, is amended to read as
3 follows:

4 **53.32 Ballot of deceased voter.**

5 When it shall be made to appear by due proof to the precinct
6 election officials that any elector, who has so marked and
7 forwarded a ballot, has died before the ~~envelope marked with~~
8 ~~the affidavit~~ affidavit envelope is opened, then the ballot of
9 such deceased voter shall be endorsed, "Rejected because voter is
10 dead", and be returned to the commissioner. The casting of the
11 ballot of a deceased voter shall not invalidate the election.

12 Sec. 22. Section 53.44, subsection 2, Code 2026, is amended
13 to read as follows:

14 2. In order for the ballot to be counted, the return envelope
15 must be received in the commissioner's office before the polls
16 close on election day or be clearly postmarked by an officially
17 authorized postal service or bear a postal service barcode
18 traceable to a date of entry into the federal mail system not
19 later than the day before the election, ~~as provided in section~~
20 ~~53.17A,~~ and received by the commissioner not later than noon on
21 the Monday following the election.

22 **EXPLANATION**

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to the casting of ballots by absent voters.

26 The bill requires an absentee ballot that is mailed to a voter
27 to be enclosed in an unsealed affidavit envelope and with or in
28 an unsealed return envelope, which shall then be enclosed in the
29 delivery envelope, which shall not include a return address. If
30 the ballot cannot be folded so that all the votes on the ballot
31 will be hidden, the bill requires the commissioner to also send
32 a secrecy envelope. The bill requires a registered voter to
33 subscribe to an affidavit on an affidavit envelope by signing the
34 envelope and writing the voter's voter verification number.

35 The bill adds a requirement that an affidavit envelope be

1 considered to contain a defect if the voter verification number
2 on the envelope does not match the voter verification number on
3 file for the voter.

4 The bill strikes certain requirements regarding what materials
5 a commissioner shall include with an absentee ballot and instead
6 requires a commissioner to put the same serial number on the
7 affidavit, return, and delivery envelopes. The bill requires all
8 mailed absentee ballots to include an affidavit envelope. The
9 bill also requires the absentee and special voters precinct board
10 to reject an absentee ballot if the affidavit envelope does not
11 include the voter's voter verification number.

12 The bill changes the timeline for the return of absentee
13 ballots. The bill requires absentee ballots to be delivered
14 to the office of the county commissioner of elections by
15 5:00 p.m. on the day before election day. Under current law,
16 absentee ballots must be delivered to the office of the county
17 commissioner of elections not later than the time polls close on
18 election day. This change does not apply to absentee ballots
19 of confined persons delivered other than by mail or to absentee
20 ballots of members of the U.S. armed forces.