

House File 2165 - Introduced

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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:

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.~~
8 on the day before election day ~~or is clearly postmarked by~~
9 ~~an officially authorized postal service or bears a postal~~
10 ~~service barcode traceable to a date of entry into the federal~~
11 ~~mail system not later than the day before the election, as~~
12 ~~provided in section 53.17A.~~ If the materials comply with the
13 requirements of section 53.18, the materials shall be certified
14 by the state commissioner of elections as the ballot of a
15 program participant, and shall be forwarded to the appropriate
16 county commissioner of elections for tabulation by the special
17 voters precinct election board appointed pursuant to section
18 53.23.

19 Sec. 2. NEW SECTION. 53.1B Definitions.

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

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

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

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

1 appropriate return postage or a postal permit guaranteeing that
2 the commissioner will pay the return postage, and includes
3 the same serial number as the affidavit envelope and delivery
4 envelope.

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

7 Sec. 3. Section 53.8, subsection 1, paragraphs a and b, Code
8 2026, are amended to read as follows:

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

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

33 ~~(2) The absentee ballot shall be enclosed in an unsealed~~
34 ~~return envelope marked with a serial number and affidavit~~
35 ~~and marked postage paid. The absentee ballot and return~~

1 ~~envelope shall be enclosed in a second envelope to be sent~~
2 ~~to the registered voter. If the ballot cannot be folded so~~
3 ~~that all of the votes cast on the ballot will be hidden, the~~
4 ~~commissioner shall also enclose a secrecy envelope with the~~
5 ~~absentee ballot.~~

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

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

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

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

34 **53.12 Duty of commissioner.**

35 The commissioner shall affix to the application the same

1 serial number that appears on the affidavit envelope, return
2 envelope, and delivery envelope.

3 Sec. 6. Section 53.16, Code 2026, is amended by striking the
4 section and inserting in lieu thereof the following:

5 **53.16 Subscribing to affidavit.**

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

12 Sec. 7. Section 53.17, subsection 1, unnumbered paragraph
13 1, Code 2026, is amended to read as follows:

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

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

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

35 Sec. 9. Section 53.17, subsection 1, paragraph c,

1 unnumbered paragraph 1, Code 2026, is amended to read as
2 follows:

3 The sealed return envelope may be delivered by a person not
4 prohibited to collect and deliver a completed ballot pursuant
5 to [section 53.33](#) to a ballot drop box established by the
6 commissioner no later than ~~the time the polls are closed~~ 5:00
7 p.m. on the day before election day. However, if delivered by
8 the voter's designee, the envelope shall be delivered within
9 seventy-two hours of retrieving it from the voter or before the
10 closing of the polls on election day, whichever is earlier. A
11 commissioner is not required to establish a ballot drop box. A
12 ballot drop box must meet all of the following requirements:

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

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

18 Sec. 11. Section 53.17, subsection 4, paragraph e, Code
19 2026, is amended to read as follows:

20 e. A statement that the completed absentee ballot will be
21 delivered to the commissioner's office within seventy-two hours
22 of retrieving it from the voter or ~~before the closing of~~ by
23 5:00 p.m. on the polls on day before election day, whichever
24 is earlier.

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

27 3. ~~a.~~ An absentee ballot received after ~~the polls close~~
28 ~~on election day but prior to the official canvass shall be~~
29 ~~counted if the commissioner determines that the ballot entered~~
30 ~~the federal mail system by the deadline specified in section~~
31 ~~53.17 or [53.22](#). The date of entry of such an absentee ballot~~
32 ~~into the federal mail system shall only be verified as provided~~
33 ~~in paragraph "b"~~ 5:00 p.m. on the day before election day shall
34 not be counted.

35 ~~b. (1) If the postmark indicates that the absentee ballot~~

1 ~~entered the federal mail system by the deadline specified~~
2 ~~in [section 53.17](#) or [53.22](#), the ballot shall be included for~~
3 ~~canvass by the absentee and special voters precinct board.~~

4 ~~(2) If the postmark is illegible, missing, or dated on or~~
5 ~~after election day, the commissioner shall attempt to verify~~
6 ~~the ballot's date of entry into the federal mail system by~~
7 ~~querying the postal service barcode in the tracking information~~
8 ~~database. If the tracking information database indicates that~~
9 ~~the absentee ballot entered the federal mail system by the~~
10 ~~deadline specified in [section 53.17](#) or [53.22](#), the ballot shall~~
11 ~~be included for canvass by the absentee and special voters~~
12 ~~precinct board. The commissioner shall provide a report to~~
13 ~~the absentee and special voters precinct board regarding the~~
14 ~~information available in the tracking information database.~~

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

19 ~~(4) (a) If neither the postmark nor the postal service~~
20 ~~barcode indicates that the absentee ballot entered the federal~~
21 ~~mail system by the deadline specified in [section 53.17](#) or~~
22 ~~[53.22](#), the absentee ballot shall be sent to the absentee~~
23 ~~and special voters precinct board pursuant to subparagraph~~
24 ~~division (b) with the numeric value assigned to the postal~~
25 ~~service barcode and a full report from the tracking information~~
26 ~~database.~~

27 ~~(b) Up to five absentee and special voters precinct board~~
28 ~~members from each political party for partisan elections,~~
29 ~~or any two members of the board for nonpartisan elections,~~
30 ~~shall review the postal service barcode and tracking database~~
31 ~~information report of each absentee ballot submitted pursuant~~
32 ~~to subparagraph division (a) and certify that the tracking~~
33 ~~information database report corresponds to the absentee ballot~~
34 ~~by initialing the report and the absentee ballot envelope.~~
35 ~~If the board concludes that the postal service barcode and~~

~~1 tracking information database report verify that the absentee
2 ballot entered the federal mail system by the deadline
3 specified in [section 53.17](#) or [53.22](#), the ballot shall be
4 counted. Otherwise, the ballot shall not be counted.~~

5 Sec. 13. Section 53.18, subsections 2 and 3, Code 2026, are
6 amended to read as follows:

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

24 3. If the affidavit envelope ~~or the return envelope marked~~
25 ~~with the affidavit~~ contains a defect that would cause the
26 absentee ballot to be rejected by the absentee and special
27 voters precinct board, the commissioner shall immediately
28 notify the voter of that fact and that the voter's absentee
29 ballot shall not be counted unless the voter requests and
30 returns a replacement ballot in the time permitted under
31 [section 53.17, subsection 2](#). For the purposes of [this section](#),
32 ~~a return an affidavit envelope marked with the affidavit~~
33 shall be considered to contain a defect if it appears to
34 the commissioner that the signature on the envelope has
35 been signed by someone other than the registered voter, in

1 comparing the signature on the envelope to the signature on
2 record of the registered voter named on the envelope, or if
3 the voter verification number provided does not match the
4 voter verification number associated with the voter's voter
5 registration. A signature or marking made in accordance
6 with [section 39.3, subsection 17](#), shall not be considered a
7 defect for purposes of [this section](#). The voter may request
8 a replacement ballot in person, in writing, or over the
9 telephone. The same serial number that was assigned to the
10 records of the original absentee ballot application shall be
11 used on the ~~envelope~~ envelopes and records of the replacement
12 ballot. The affidavit envelope ~~marked with the affidavit and~~
13 containing the completed replacement ballot shall be marked
14 "Replacement ballot". The affidavit envelope ~~marked with the~~
15 ~~affidavit and~~ containing the original ballot shall be marked
16 ~~"Defective" and the~~ "Defective". The replacement ballot shall
17 be attached to ~~such~~ the affidavit envelope containing the
18 original ballot and shall be stored in a secure place until
19 they are delivered to the absentee and special voters precinct
20 board, notwithstanding [sections 53.26](#) and [53.27](#).

21 Sec. 14. Section 53.21, subsection 2, paragraph b, Code
22 2026, is amended to read as follows:

23 *b.* The voter shall enclose one copy of the above statement
24 in the return envelope along with the affidavit envelope, ~~if~~
25 ~~the voter was mailed a separate affidavit envelope~~, and shall
26 retain a copy for the voter's records.

27 Sec. 15. Section 53.22, subsection 6, paragraph b, Code
28 2026, is amended to read as follows:

29 *b.* Absentee ballots voted under [this subsection](#) shall be
30 delivered to the commissioner no later than the time the polls
31 are closed on election day. If the ballot is returned by mail,
32 the return envelope must be received by ~~the time the polls~~
33 ~~close, or be clearly postmarked by an officially authorized~~
34 ~~postal service or bear a postal service barcode traceable to a~~
35 ~~date of entry into the federal mail system not later than the~~

1 ~~day before the election, as provided in [section 53.17A](#), and~~
2 ~~received by the commissioner no later than the time established~~
3 ~~for the canvass by the board of supervisors for that election~~
4 5:00 p.m. on the day before election day.

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

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

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

29 5. The special precinct election board shall preserve the
30 secrecy of all absentee and provisional ballots. After the
31 affidavits on the affidavit envelopes have been reviewed and
32 the qualifications of the persons casting the ballots have been
33 determined, those that have been accepted for counting shall
34 be opened. The ballots shall be removed from the affidavit
35 envelopes ~~or return envelopes marked with the affidavit, as~~

1 ~~applicable~~, without being unfolded or examined, and then shall
2 be thoroughly intermingled, after which they shall be unfolded
3 and tabulated. If secrecy ~~folders~~ or envelopes are used with
4 provisional paper ballots, the ballots shall be removed from
5 the secrecy ~~folders~~ envelopes after the ballots have been
6 intermingled.

7 Sec. 18. Section 53.25, subsection 1, paragraph a, Code
8 2026, is amended to read as follows:

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

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

25 2. If the absentee or provisional ballot is rejected prior
26 to the opening of the affidavit envelope ~~or return envelope~~
27 ~~marked with the affidavit~~, the voter casting the ballot shall
28 be notified by a precinct election official by the time the
29 canvass is completed of the reason for the rejection on a form
30 prescribed by the state commissioner of elections.

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

33 2. At the conclusion of each meeting of the absentee and
34 special voters precinct board, the board shall securely seal
35 all ballots counted by them in the manner prescribed in section

1 50.12. The ballot envelopes, including the affidavit envelope
2 ~~if an affidavit envelope was provided~~, the return envelope, and
3 secrecy envelope bearing the signatures of precinct election
4 officials, as required by [section 53.23](#), shall be preserved.
5 All applications for absentee ballots, ballots rejected without
6 being opened, absentee ballot logs, and any other documents
7 pertaining to the absentee ballot process shall be preserved
8 until such time as the documents may be destroyed pursuant to
9 section 50.19.

10 Sec. 21. Section 53.32, Code 2026, is amended to read as
11 follows:

12 **53.32 Ballot of deceased voter.**

13 When it shall be made to appear by due proof to the precinct
14 election officials that any elector, who has so marked and
15 forwarded a ballot, has died before the ~~envelope marked with~~
16 ~~the affidavit~~ affidavit envelope is opened, then the ballot of
17 such deceased voter shall be endorsed, "Rejected because voter
18 is dead", and be returned to the commissioner. The casting
19 of the ballot of a deceased voter shall not invalidate the
20 election.

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

23 2. In order for the ballot to be counted, the return
24 envelope must be received in the commissioner's office before
25 the polls close on election day or be clearly postmarked by an
26 officially authorized postal service or bear a postal service
27 barcode traceable to a date of entry into the federal mail
28 system not later than the day before the election, ~~as provided~~
29 ~~in [section 53.17A](#)~~, and received by the commissioner not later
30 than noon on the Monday following the election.

31 EXPLANATION

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

34 This bill relates to the casting of ballots by absent voters.
35 The bill requires an absentee ballot that is mailed to a

1 voter to be enclosed in an unsealed affidavit envelope and
2 with or in an unsealed return envelope, which shall then be
3 enclosed in the delivery envelope, which shall not include a
4 return address. If the ballot cannot be folded so that all
5 the votes on the ballot will be hidden, the bill requires
6 the commissioner to also send a secrecy envelope. The bill
7 requires a registered voter to subscribe to an affidavit on
8 an affidavit envelope by signing the envelope and writing the
9 voter's voter verification number.

10 The bill adds a requirement that an affidavit envelope be
11 considered to contain a defect if the voter verification number
12 on the envelope does not match the voter verification number
13 on file for the voter.

14 The bill strikes certain requirements regarding what
15 materials a commissioner shall include with an absentee ballot
16 and instead requires a commissioner to put the same serial
17 number on the affidavit, return, and delivery envelopes.
18 The bill requires all mailed absentee ballots to include an
19 affidavit envelope. The bill also requires the absentee and
20 special voters precinct board to reject an absentee ballot
21 if the affidavit envelope does not include the voter's voter
22 verification number.

23 The bill changes the timeline for the return of absentee
24 ballots. The bill requires absentee ballots to be delivered
25 to the office of the county commissioner of elections by
26 5:00 p.m. on the day before election day. Under current
27 law, absentee ballots must be delivered to the office of the
28 county commissioner of elections not later than the time polls
29 close on election day. This change does not apply to absentee
30 ballots of confined persons delivered other than by mail or to
31 absentee ballots of members of the U.S. armed forces.