

WESTERN STATES PRESIDENTIAL PRIMARY

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Raymond W. Short

Mary Carlson
Martin R. Stephens
Kevin S. Garn
David Ure
Greg J. Curtis

David M. Jones
Ralph Becker
Brad King
David L. Gladwell
Carl R. Saunders

Judy Ann Buffmire
A. Lamont Tyler
Duane E. Bourdeaux
David L. Hogue

AN ACT RELATING TO ELECTIONS; ESTABLISHING A WESTERN STATES PRESIDENTIAL PRIMARY FOR UTAH; DEFINING PARTICIPATION REQUIREMENTS AND FILING FEES; ESTABLISHING PROCESSES FOR IDENTIFYING, DECLARING, RECORDING, AND CHANGING PARTY AFFILIATION; PROVIDING DIRECTION ABOUT BALLOT FORM AND ADMINISTRATION OF THE ELECTION; AND MAKING TECHNICAL AND CONFORMING CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

11-14-4, as last amended by Chapter 261, Laws of Utah 1996

20A-1-102, as last amended by Chapters 344 and 369, Laws of Utah 1998

20A-1-204, as enacted by Chapter 325, Laws of Utah 1996

20A-3-101, as last amended by Chapter 152, Laws of Utah 1995

20A-3-105, as enacted by Chapter 1, Laws of Utah 1993

20A-3-201, as last amended by Chapter 340, Laws of Utah 1995

20A-3-304, as last amended by Chapter 10, Laws of Utah 1996

20A-4-301 (Effective 01/01/00), as last amended by Chapters 113 and 362, Laws of Utah

1998

20A-4-301 (Superseded 01/01/00), as last amended by Chapter 113, Laws of Utah 1998

20A-4-304 (Effective 01/01/00), as last amended by Chapter 362, Laws of Utah 1998

20A-4-304 (Superseded 01/01/00), as last amended by Chapter 21, Laws of Utah 1994

20A-4-306, as last amended by Chapter 183, Laws of Utah 1997

20A-4-401, as enacted by Chapter 1, Laws of Utah 1993

20A-5-401 (Effective 01/01/00), as last amended by Chapter 362, Laws of Utah 1998

20A-5-401 (Superseded 01/01/00), as last amended by Chapter 362, Laws of Utah 1998

20A-5-601, as last amended by Chapter 183, Laws of Utah 1997

20A-9-201, as last amended by Chapters 27 and 40, Laws of Utah 1998

ENACTS:

20A-1-201.5, Utah Code Annotated 1953

20A-9-202.5, Utah Code Annotated 1953

20A-9-801, Utah Code Annotated 1953

20A-9-802, Utah Code Annotated 1953

20A-9-803, Utah Code Annotated 1953

20A-9-804, Utah Code Annotated 1953

20A-9-805, Utah Code Annotated 1953

20A-9-806, Utah Code Annotated 1953

20A-9-807, Utah Code Annotated 1953

20A-9-808, Utah Code Annotated 1953

20A-9-809, Utah Code Annotated 1953

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

Section 1. Section **11-14-4** is amended to read:

11-14-4. Election procedure -- Time for election -- Equipment -- Election officials --

Combining precincts.

(1) (a) The governing body shall:

(i) designate the voting places to be used;

(ii) fix the hours during which the polls are to be open, which, if the election is a special election, shall be those provided by law for the conduct of regular general elections;

(iii) cause to be provided the necessary ballot boxes, ballots, paraphernalia, equipment, and supplies needed for the election as determined by the governing body; and

(iv) unless the election officials to serve at each voting place are otherwise appointed under

the provisions of general law, appoint three election officials, who shall be qualified electors of the municipality or other entity calling the election, to serve at each voting place.

(b) The governing body may appoint one or more alternate election officials to so serve in case of the absence for any cause of the designated election officials.

(2) (a) (i) A bond election may be held and the proposition for the issuance of bonds may be submitted at any general, primary, or other election held in the municipality or other entity calling the bond election, or at a special election called for the purpose.

(ii) A bond election may not be held, nor a proposition for issuance of bonds be submitted, at the Western States Presidential Primary election established in Title 20A, Chapter 9, Part 8, Western States Presidential Primary.

(b) A special election may, but need not, be held on the same day as any other election.

(c) Where a bond election is being held on the same day as any other election held in the municipality or entity calling the bond election or in some part of that municipality or entity, the election officials serving for the other election may also serve as election officials for the bond election.

(3) (a) Voting precincts may be combined for purposes of bond elections.

(b) The governing body may designate whatever voting places that it considers best suited, so long as no voter is required to vote outside the county in which he resides.

Section 2. 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 cards and tabulates the results.

(3) "Ballot" means the cardboard, paper, or other material upon which a voter records his votes and includes ballot cards, paper ballots, and secrecy envelopes.

(4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.

(6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, and other questions submitted to the voters for their approval or rejection.

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

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

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

(10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

(13) "Convention" means the political party convention at which party officers and delegates are selected.

(14) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(15) "Counting judge" means a judge designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(17) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the counting judges to count ballots during election day.

(18) "County executive" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county executive in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county executive in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(19) "County legislative body" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county council in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county council in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(20) "County officers" means those county officers that are required by law to be elected.

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(22) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(23) "Election judge" means each canvassing judge, counting judge, and receiving judge.

(24) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots;

(b) the county clerk or clerks for all county ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5;

(c) the municipal clerk for all municipal ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5; and

(d) the special district clerk or chief executive officer for all special district ballots that are not part of a statewide, county, or municipal ballot.

(25) "Election official" means any election officer, election judge, or satellite registrar.

(26) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic voting system" means a system in which a voting device is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated by automatic tabulating equipment.

(28) "Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

(29) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(30) "Judicial office" means the office filled by any judicial officer.

(31) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(32) "Local election" means a regular municipal election, a local special election, a special district election, and a bond election.

(33) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

(34) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(35) "Municipal executive" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the mayor in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the manager in the council-manager optional form of government defined in Section 10-3-1209.

(36) "Municipal general election" means the election held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(37) "Municipal legislative body" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the municipal council in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the municipal council in the council-manager optional form of government defined in Section 10-3-1209.

(38) "Municipal officers" means those municipal officers that are required by law to be elected.

(39) "Municipal primary election" means an election held to nominate candidates for municipal office.

(40) "Official ballot" means the ballots distributed by the election officer to the election judges to be given to voters to record their votes.

(41) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

- (ii) the date of the election; and
- (iii) the facsimile signature of the election officer; and
- (b) the information on the ballot stub that identifies:
 - (i) the election judge's initials; and
 - (ii) the ballot number.

(42) "Official register" means the book furnished election officials by the election officer that contains the information required by Section 20A-5-401.

(43) "Paper ballot" means a paper that contains:

- (a) the names of offices and candidates and statements of ballot propositions to be voted on; and
- (b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

(44) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

(45) "Polling place" means the building where residents of a voting precinct vote.

(46) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

(47) "Posting list" means a list of registered voters within a voting precinct.

(48) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(49) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

(50) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(51) "Receiving judge" means the election judge that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(52) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

(53) "Registration form" means a book voter registration form and a by-mail voter registration form.

(54) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(55) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

(56) "Resident" means a person who resides within a specific voting precinct in Utah.

(57) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(58) "Satellite registrar" means a person appointed under Section 20A-5-201 to register voters and perform other duties.

(59) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(60) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy of the voter's vote.

(61) "Special election" means an election held as authorized by Section 20A-1-204.

(62) "Special district" means those local government entities created under the authority of Title 17A.

(63) "Special district officers" means those special district officers that are required by law to be elected.

(64) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or the election judge; or
- (c) lacks the official endorsement.

(65) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(66) "Stub" means the detachable part of each ballot.

(67) "Substitute ballots" means replacement ballots provided by an election officer to the election judges when the official ballots are lost or stolen.

(68) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(69) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(70) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(71) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(72) "Voter" means a person who meets the requirements of election registration and is registered and is listed in the official register book.

(73) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(74) "Voting booth" means the space or compartment within a polling place that is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

(75) "Voting device" means:

(a) an apparatus in which ballot cards are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance; or

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

(76) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(77) "Voting poll watcher" means a person appointed as provided in this title to witness the

distribution of ballots and the voting process.

(78) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(79) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting poll watcher.

(80) "Western States Presidential Primary" means the election established in Title 20A, Chapter 9, Part 8.

[~~(80)~~] (81) "Write-in ballot" means a ballot containing any write-in votes.

[~~(81)~~] (82) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 3. Section **20A-1-201.5** is enacted to read:

20A-1-201.5. Primary election dates.

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for national, state, school board, and county offices.

(2) A municipal primary election shall be held, if necessary, on the Tuesday following the first Monday in October before the regular municipal election to nominate persons for municipal and special district offices.

(3) The Western States Presidential Primary election shall be held throughout the state on the first Friday after the first Monday in March in the year in which a presidential election will be held.

Section 4. Section **20A-1-204** is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) The governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall schedule the special election to be held on:

(i) the first Tuesday after the first Monday in February;

(ii) the first Tuesday after the first Monday in May;

- (iii) the fourth Tuesday in June in even-numbered years;
- (iv) the first Tuesday after the first Monday in August; or
- (v) the first Tuesday after the first Monday in November.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

[(i)] (A) determines and declares that there is an emergency requiring that a special election be held on a date other than the ones authorized in statute;

[(ii)] (B) identifies specifically the nature of the emergency and the reasons for holding the special election on that other date; and

[(iii)] (C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not call a local special election for the date established in Title 20A, Chapter 9, Part 8, Western States Presidential Primary, for Utah's Western States Presidential Primary.

(d) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) If two or more entities hold a special election within a county on the same day, those entities shall, to the extent practicable, coordinate:

- (a) polling places;
- (b) ballots;
- (c) election officials; and
- (d) other administrative and procedural matters connected with the election.

Section 5. Section **20A-3-101** is amended to read:

20A-3-101. Residency and age requirements of voters.

(1) A person may vote in any regular general election, statewide special election, and statewide primary election if that person:

- (a) is a citizen of the United States;
- (b) is a resident of Utah;
- (c) will, on the date of that election:
 - (i) be at least 18 years old; and
 - (ii) have been a resident of Utah for 30 days immediately before that election; and
- (d) has registered to vote.

(2) A person may vote in [~~a municipal general election, municipal~~] the Western States Presidential Primary [~~; in a local special election, in a special district election, and in a bond~~] election if that person:

- (a) is a citizen of the United States;
- (b) is a resident of Utah;
- (c) will, on the date of that election:
 - (i) be at least 18 years old; and
 - (ii) have been a resident of Utah for 30 days immediately before that election;
- (d) has registered to vote; and
- (e) whose political party affiliation, or unaffiliated status, allows the voter to vote in the election.

(3) A person may vote in a municipal general election, municipal primary, in a local special election, in a special district election, and in a bond election if that person:

- (a) is a citizen of the United States;
- (b) is a resident of Utah;
- (c) is a resident of the local entity that is holding the election;
- (d) will, on the date of the election:
 - (i) be at least 18 years old; and

- (ii) have been a resident of Utah for 30 days immediately before the election; and
- (e) has registered to vote.

~~[(3)]~~ (4) If, as of the date of any election, a person has not resided within the voting precinct for at least 20 days or has not registered to vote in that voting precinct, the person may vote at the voting precinct in which he resided before he moved to the new voting precinct if:

- (a) the person is legally registered in that voting precinct; and
- (b) that voting precinct is in the same county and congressional district as the person's new voting precinct.

Section 6. Section **20A-3-105** is amended to read:

20A-3-105. Marking and depositing ballots.

(1) (a) If paper ballots are used, the voter, upon receipt of the ballot, shall go to a voting booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the name of each candidate of the voter's choice for each office to be filled.

(b) A mark is not required opposite the name of a write-in candidate.

(c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the appropriate square with a mark opposite the answer the voter intends to make.

(d) The voter shall fold the ballot before leaving the booth so its contents are concealed and the stub can be removed.

(2) (a) (i) If ballot cards are used, the voter shall insert the ballot card into the voting device and mark the ballot card according to the instructions provided on the device.

(ii) If the voter is issued a ballot card with a long stub without a secrecy envelope, the voter shall record any write-in votes on the long stub.

(iii) If the voter is issued a ballot card with a secrecy envelope, the voter shall record any write-in votes on the secrecy envelope.

(b) After the voter has marked the ballot card, the voter shall either:

(i) place the ballot card inside the secrecy envelope, if one is provided; or

(ii) fold the long stub over the face of the ballot card to maintain the secrecy of the vote if the voter is issued a ballot card with a long stub without a secrecy envelope.

- (3) (a) After preparation of the ballot, the voter shall:
- (i) leave the voting booth; and
 - (ii) announce his name to the election judge in charge of the ballot box.
- (b) The election judge in charge of the ballot box shall:
- (i) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot;
 - (ii) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the election judge, remove the stub from the ballot; and
 - (iii) return the ballot to the voter.
- (c) The voter shall, in full view of the election judges, cast his vote by depositing the ballot in the ballot box.
- (d) (i) The election judge may not accept a ballot from which the stub has been detached.
- (ii) The election judge shall treat a ballot from which the stub has been detached as a spoiled ballot and shall provide the voter with a new ballot and dispose of the spoiled ballot as provided in Section 20A-3-107.
- (4) A voter voting a paper ballot in a regular primary election shall, after marking the ballot:
- (a) (i) detach the part of the paper ballot containing the names of the candidates of the party he has voted from the remainder of the paper ballot;
 - (ii) fold that portion of the paper ballot so that its face is concealed; and
 - (iii) deposit it in the ballot box; and
- (b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the parties that the elector did not vote; and
- (ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.
- (5) (a) Each voter shall mark and deposit the ballot without delay and leave the voting area after voting.
- (b) A voter may not:
- (i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;
 - (ii) remain within the voting area more than ten minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy them.

(6) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(7) The election judges may not allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are election officials, watchers, or are assisting handicapped voters.

Section 7. Section **20A-3-201** is amended to read:

20A-3-201. Watchers.

(1) (a) (i) For each regular general election or statewide special election, and for each regular primary and Western States Presidential Primary, each registered political party and any person interested in [an issue] a ballot proposition appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.

(ii) Each party poll watcher shall be designated, and his selection made known to the election judges, by an affidavit made by the county chair of each of the parties.

(iii) Each issue poll watcher shall be designated, and his selection made known to the election judges, by an affidavit made by the individual appointing him.

(b) (i) For each municipal general election, municipal primary, local special election, or bond election that uses paper ballots, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.

(ii) For each municipal general election, municipal primary, local special election, or bond election that uses ballot cards, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots,

another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.

(iii) Each candidate poll watcher shall be designated, and his selection made known to the election judges, by an affidavit made by the candidate appointing him.

(iv) Each issue poll watcher shall be designated, and his selection made known to the election judges, by an affidavit made by the individual appointing him.

(2) If an appointed poll watcher is temporarily absent for meals, or is sick or otherwise absent, that poll watcher may substitute some other watcher of similar political beliefs by informing the election judges of the substitution by affidavit.

(3) Voting poll watchers may watch and observe the voting process, and may make a written memorandum, but they may not interfere in any way with the process of voting except to challenge a voter as provided in this part.

(4) The counting poll watcher shall remain in the counting room, except in the case of necessity, until the close of the polls and may not divulge the progress of the count until the count is completed.

(5) (a) It is unlawful for a counting poll watcher to communicate in any manner, directly or indirectly, by word or sign, the progress of the count, the result so far, or any other information about the count.

(b) Any person who violates this subsection is guilty of a third degree felony.

(6) The inspecting poll watcher may be present in the office of the clerk or recorder to whom ballots are delivered after elections to:

(a) inspect the condition of the packages containing the ballots upon their arrival; and

(b) observe the placement of these packages in a safe and secure place.

Section 8. Section **20A-3-304** is amended to read:

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

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

(a) is physically, emotionally, or mentally impaired;

- (b) will be serving as an election judge or who has election duties in another voting precinct;
- (c) is detained or incarcerated in a jail or prison;
- (d) suffers a legal disability;
- (e) is prevented from voting in a particular location because of religious tenets or other strongly-held personal values;
- (f) is called for jury duty in state or federal court; or
- (g) otherwise expects to be absent from the voting precinct on election day.

(2) A registered voter who is or will be an absent elector may file an absentee ballot application with the appropriate election officer for an official absentee ballot.

(3) (a) Each election officer shall prepare blank applications for absentee ballot applications in substantially the following form:

"I, ____ a qualified elector, in full possession of my mental faculties, residing at ____ Street, ____ City, ____ County, Utah and to my best knowledge and belief am entitled to vote by absentee ballot at the next election.

I apply for an official absentee ballot to be voted by me at the election.

Dated _____ 19____

Signed _____

Voter"

- (b) If requested by the applicant, the election officer shall:
 - (i) mail or fax the application blank to the absentee voter; or
 - (ii) deliver the application blank to any voter who personally applies for it at the office of the election officer.

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

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

(iii) Voters applying for an absentee ballot for the Western States Presidential Primary shall file the application for an absentee ballot with the appropriate election officer not later than the

Tuesday before election day.

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

(5) (a) A county clerk may establish a permanent absentee voter list.

(b) The clerk shall place on the list the name of any person who:

(i) requests permanent absentee voter status; and

(ii) meets the requirements of this section.

(c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on the absentee voter list.

(ii) The questionnaire shall allow the absentee person to verify the voter's residence and inability to vote at the voting precinct on election day.

(iii) The clerk may remove the names of any voter from the absentee voter registration list if:

(A) the voter is no longer listed in the official register; or

(B) the voter fails to verify the voter's residence and absentee status.

(d) The clerk shall provide a copy of the permanent absentee voter list to election officers for use in elections.

Section 9. Section **20A-4-301 (Effective 01/01/00)** is amended to read:

20A-4-301 (Effective 01/01/00). Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for the county and for each special district whose election is conducted by the county.

(b) [The] (i) Except as provided in Subsection (1)(b)(ii), the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Monday after the election.

(ii) When canvassing returns for the Western States Presidential Primary, the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Thursday after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of

county canvassers, the remaining members shall replace the absent member by appointing in the order named:

- (i) the county treasurer;
- (ii) the county assessor; or
- (iii) the county sheriff.
- (d) The board of county canvassers shall always consist of three acting members.
- (e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body no sooner than three days and no later than seven days after the election.

(3) (a) This part does not apply to bond elections.

(b) Persons responsible for canvassing bond elections shall comply with the canvassing procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

Section 10. Section **20A-4-301 (Superseded 01/01/00)** is amended to read:

20A-4-301 (Superseded 01/01/00). Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for the county.

(b) [The] (i) Except as provided in Subsection (1)(b)(ii), the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Monday after the election.

(ii) When canvassing returns for the Western States Presidential Primary, the board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Thursday after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

- (i) the county treasurer;

- (ii) the county assessor; or
- (iii) the county sheriff.
- (d) The board of county canvassers shall always consist of three acting members.
- (e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body no sooner than three days and no later than seven days after the election.

(3) (a) The governing board of a special district is the board of canvassers for that special district.

(b) The special district board of canvassers shall meet to canvass the returns at the usual place of meeting of the special district governing board no sooner than three days and no later than seven days after the election.

(4) (a) This part does not apply to bond elections.

(b) Persons responsible for canvassing bond elections shall comply with the canvassing procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

Section 11. Section **20A-4-304 (Effective 01/01/00)** is amended to read:

20A-4-304 (Effective 01/01/00). Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

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

(i) had the highest number of votes; and

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

(b) declare:

(i) "approved" those ballot propositions that:

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

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

(ii) "rejected" those ballot propositions that:

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

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

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

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

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

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition; and

(vii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

(i) review the report to ensure that it is correct; and

(ii) sign the report.

(c) The election officer shall:

(i) record or file the certified report in a book kept for that purpose;

(ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(iii) publish a copy of the certified report in a newspaper with general circulation in the

board's jurisdiction and post it in a conspicuous place within the jurisdiction; and

(iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days of the canvass.

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

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

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

(ii) not later than the Friday after the election for the Western States Presidential Primary;

and

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

Section 12. Section **20A-4-304 (Superseded 01/01/00)** is amended to read:

20A-4-304 (Superseded 01/01/00). Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

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

(i) had the highest number of votes; and

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

(b) declare:

(i) "approved" those ballot propositions that:

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

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

(ii) "rejected" those ballot propositions that:

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

and

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

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

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

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition; and

(vii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

(i) review the report to ensure that it is correct; and

(ii) sign the report.

(c) The election officer shall:

(i) record or file the certified report in a book kept for that purpose;

(ii) prepare and transmit a certificate of nomination or election under the officer's seal to

each nominated or elected candidate;

(iii) publish a copy of the certified report in a newspaper with general circulation in the board's jurisdiction, or if no newspaper is published within the board's jurisdiction, post it in a conspicuous place within the jurisdiction; and

(iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days of the canvass.

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

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

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

(ii) not later than the Friday after the election for the Western States Presidential Primary;

and

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

Section 13. Section **20A-4-306** is amended to read:

20A-4-306. Statewide canvass.

(1) (a) The state board of canvassers shall convene:

(i) on the fourth Monday of November, at noon; or

(ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(2) (a) The state board of canvassers shall:

(i) meet in the lieutenant governor's office; and

(ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in his office that details:

(i) for each statewide officer and ballot proposition:

(A) the name of the statewide office or ballot proposition that appeared on the ballot;

(B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

(D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

(E) the total number of votes cast statewide; and

(ii) for each officer or ballot proposition voted on in two or more counties:

(A) the name of each of those offices and ballot propositions that appeared on the ballot;

(B) the candidates for those offices, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

(D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) The lieutenant governor shall:

(i) prepare certificates of election for:

(A) each successful candidate; and
(B) each of the presidential electors of the candidate for president who received a majority of the votes;

(ii) authenticate each certificate with his seal; and
(iii) deliver a certificate of election to:

(A) each candidate who had the highest number of votes for each office; and
(B) each of the presidential electors of the candidate for president who received a majority of the votes.

(3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

(a) send a messenger to the clerk of the board of county canvassers of the delinquent county;
(b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and
(c) pay the messenger the per diem provided by law as compensation.

(4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.

(5) (a) At noon on the third Monday after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the [~~offices of the~~] lieutenant [~~governor~~] governor's office.

(b) The lieutenant governor shall certify the results of the primary canvass to the county clerks not later than the August 1 after the primary election.

(6) (a) At noon on the third Thursday after the Western States Presidential Primary election,

the lieutenant governor shall:

(i) canvass the returns; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) The lieutenant governor shall certify the results of the Western States Presidential Primary canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Section 14. Section **20A-4-401** is amended to read:

20A-4-401. Recounts -- Procedure.

(1) (a) Any candidate whose name appears on the official ballot in any voting precinct for any regular primary or municipal primary election or for the Western States Presidential Primary election may request that the board of canvassers recount the ballots cast in that voting precinct by alleging, in an affidavit filed with the election officer at least one day before the date fixed for canvassing the returns, that fraud was committed or error or mistake was made in counting or returning the votes cast in that voting precinct.

(b) (i) If the board receives an affidavit requesting a recount, the board shall recount the ballots cast in those voting precincts for the office for which the contestant was a candidate.

(ii) If, after recounting the ballots, the board reaches a different result from that returned by the election judges, the board shall substitute its result as the true and correct return and use its result in all subsequent proceedings.

(c) The board's decision based upon the recount is final and no other contest is permitted.

(2) If a court orders a recount of votes, the ballots shall be recounted in the manner directed by the judicial authority.

(3) (a) For any regular general or municipal general election, when any candidate loses by not more than a total of one vote per voting precinct, he may file a request for a recount with the appropriate election officer within seven days of the canvass.

(b) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that office;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3;
and

(iv) declare elected the person receiving the highest number of votes on the recount.

(4) (a) Any ten voters who voted in an election when any ballot proposition was on the ballot may file a request for a recount with the appropriate election officer within seven days of the canvass.

(b) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that ballot proposition;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3;
and

(iv) declare the ballot proposition to have "passed" or "failed" based upon the results of the recount.

(c) Proponents and opponents of the ballot proposition may designate representatives to witness the recount.

(d) The person or entity requesting the recount shall pay the costs of the recount.

(5) Costs incurred by recount under Subsection (3) may not be assessed against the person requesting the recount.

Section 15. Section **20A-5-401 (Effective 01/01/00)** is amended to read:

20A-5-401 (Effective 01/01/00). Official register and posting book -- Preparation -- Contents.

(1) (a) Before the registration days for each regular general [or], municipal general, regular primary, municipal primary, or Western States Presidential Primary election, each county clerk shall prepare an official register and posting list of voters for each voting precinct that will participate in the election.

(b) The county clerk shall ensure that the official register and posting list are bound or loose leaf books prepared for the alphabetical entry of names and ruled in columns of suitable dimensions to provide for the following entries:

- (i) registered voter's name;
- (ii) party affiliation;
- (iii) grounds for challenge;
- (iv) name of person challenging a voter;
- (v) ballot numbers, primary, November, special;
- (vi) date of birth;
- (vii) place of birth;
- (viii) place of current residence;
- (ix) street address;
- (x) zip code; and
- (xi) space for the voter to sign his name for each election.

(c) When preparing the official register and posting list for the Western States Presidential Primary, the county clerk shall include:

- (i) a column to record the name of the political party whose ballot the voter voted; and
- (ii) a column for the election judge to record changes in the voter's party affiliation.

(2) (a) (i) For regular and municipal elections, primary elections, regular municipal elections, special district elections, and bond elections, the county clerk shall make an official register and posting list only for voting precincts affected by the primary, municipal, special district, or bond election.

(ii) Each county clerk, with the assistance of the clerk of each affected special district, shall provide a detailed map or an indication on the registration list or other means to enable an election judge to determine the voters entitled to vote at an election of special district officers.

(b) Municipalities shall pay the costs of making the official register and posting list for municipal elections.

Section 16. Section **20A-5-401 (Superseded 01/01/00)** is amended to read:

20A-5-401 (Superseded 01/01/00). Official register and posting book -- Preparation -- Contents.

(1) (a) Before the registration days for each regular general [or], municipal general, regular

primary, municipal primary, or Western States Presidential Primary election, each county clerk shall prepare an official register and posting list of voters for each voting precinct that will participate in the election.

(b) The county clerk shall ensure that the official register and posting list are bound or loose leaf books prepared for the alphabetical entry of names and ruled in columns of suitable dimensions to provide for the following entries:

- (i) registered voter's name;
- (ii) party affiliation;
- (iii) grounds for challenge;
- (iv) name of person challenging a voter;
- (v) ballot numbers, primary, November, special;
- (vi) date of birth;
- (vii) place of birth;
- (viii) place of current residence;
- (ix) street address;
- (x) zip code; and
- (xi) space for the voter to sign his name for each election.

(c) When preparing the official register and posting list for the Western States Presidential Primary, the county clerk shall include:

- (i) a column to record the name of the political party whose ballot the voter voted; and
- (ii) a column for the election judge to record changes in the voter's party affiliation.

(2) (a) For regular and municipal elections, primary elections, regular municipal elections, special district elections, and bond elections, the county clerk shall make an official register and posting list only for voting precincts affected by the primary, municipal, special district, or bond election.

(b) Municipalities shall pay the costs of making the official register and posting list for municipal elections.

Section 17. Section **20A-5-601** is amended to read:

20A-5-601. Election judges -- Appointment for regular general elections and primary elections.

(1) (a) By March 1 of each even-numbered year, each county clerk shall provide to the county chair of each registered political party a list of the number of election judges that the party must nominate for each voting precinct.

(b) (i) By April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the county clerk containing, for each voting precinct, the names of registered voters in the county who are willing to be election judges and who are competent and trustworthy.

(ii) The county chair and secretary shall submit, for each voting precinct, names equal in number to the number required by the county clerk plus one.

(2) Each county legislative body shall provide for the appointment of persons to serve as election judges at the regular primary ~~[and] election, the~~ regular general election, and the Western States Presidential Primary.

(3) For regular general elections, each county legislative body shall provide for the appointment of:

(a) (i) three registered voters from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or

(ii) three registered voters from the list to serve as receiving judges in each voting precinct and three registered voters from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and

(b) three registered voters from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

(4) For regular primary elections and for the Western States Presidential Primary election, each county legislative body shall provide for the appointment of:

(a) (i) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or

(ii) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as receiving judges in each voting precinct and two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and

(b) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

(5) Each county legislative body may provide for the appointment of:

(a) three registered voters from the list to serve as inspecting judges at the regular general election to observe the clerk's receipt and deposit of the ballots for safekeeping; and

(b) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as inspecting judges at the regular primary election to observe the clerk's receipt and deposit of the ballots for safekeeping.

(6) (a) For each set of three counting or receiving judges to be appointed for each voting precinct for the regular primary election [and], the regular general election, and the Western States Presidential Primary election, the county legislative body shall ensure that:

(i) two judges are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(b) For each set of two counting or receiving judges to be appointed for each voting precinct

for the regular primary election and Western States Presidential Primary election, the county legislative body shall ensure that:

(i) one judge is appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(7) When the voting precinct boundaries have been changed since the last regular general election, the county legislative body shall ensure that:

(a) for the regular primary election and the Western States Presidential Primary election, when the county legislative body is using three receiving, counting, and canvassing judges, and regular general election, not more than two of the judges are selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment; and

(b) for the regular primary election and the Western States Presidential Primary election, when the county legislative body is using two receiving, counting, and canvassing judges, not more than one of the judges is selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment.

(8) The county legislative body shall provide for the appointment of any qualified county voter as an election judge when:

(a) a political party fails to file the election judge list by the filing deadline; or

(b) the list is incomplete.

(9) A registered voter of the county may serve as an election judge in any voting precinct of

the county.

(10) If a person serves as an election judge outside the voting precinct where the person is registered, that person may vote an absentee voter ballot.

(11) The county clerk shall fill all vacancies in the office of election judge.

(12) If a conflict arises over the right to certify the election judge lists for any political party, the county legislative body may decide between conflicting lists, but may only select names from a properly submitted list.

(13) The county legislative body shall establish compensation for election judges.

Section 18. Section **20A-9-201** is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited -- General filing and form requirements.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

- (a) be a United States citizen; and
- (b) meet the legal requirements of that office.

(2) A person may not:

(a) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year; or

(b) appear on the ballot as the candidate of more than one political party.

(3) If the final date established for filing a declaration of candidacy is a Saturday or Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

(4) (a) (i) [~~Before~~] Except for presidential candidates, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which he is seeking office; and

(D) a current resident of the county in which he is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which he is seeking office; and

(D) a current resident of the prosecution district in which he is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(b) If the prospective candidate states that he does not meet the qualification requirements for the office, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate states that he meets the requirements of candidacy, the filing officer shall:

(i) accept the candidate's declaration of candidacy; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(5) [~~The~~] Except for presidential candidates, the form of the declaration of candidacy shall be substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ as a candidate for the ____ party. I do solemnly swear that: I can qualify to hold that office, both

legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; and I will qualify for the office if elected to it. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ day of _____, 19__.

Notary Public (or other officer qualified to administer oath.)"

(6) (a) [The] Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$25 for candidates for the local school district board; and
(ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office, but not less than \$5, for all other federal, state, and county offices.

(b) [The] Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or
(ii) who the filing officer determines has filed improperly.
(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:
(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) Each person who is unable to pay the filing fee may file a declaration of candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer.

(ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____ Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm] that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____ Affiant

Subscribed and sworn to before me on _____ (date)

(signature)

Name and Title of Officer Authorized to Administer Oath:"

(7) Any person who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

Section 19. Section **20A-9-202.5** is enacted to read:

20A-9-202.5. Declaration of candidacy -- Western States Presidential Primary.

(1) As used in this section:

(a) "Presidential candidate" means a person seeking nomination for President of the United States from a Utah registered political party.

(b) "Utah registered political party" means a political party that has complied with the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures, to become a political party officially recognized by the state.

(2) Each presidential candidate, or the candidate's designated agent, shall file a declaration of candidacy with the lieutenant governor as provided in Section 20A-9-803.

Section 20. Section **20A-9-801** is enacted to read:

Part 8. Western States Presidential Primary

20A-9-801. Definitions.

As used in this part, "registered political party" means a political party that has complied with

the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures, to become a political party officially recognized by the state.

Section 21. Section **20A-9-802** is enacted to read:

20A-9-802. Western States Presidential Primary established -- Other ballot issues prohibited.

(1) (a) There is established a Western States Presidential Primary election to be held the first Friday after the first Monday in March in the year in which a presidential election will be held.

(b) Except as otherwise specifically provided in this chapter, county clerks shall administer the Western States Presidential Primary according to the provisions of Title 20A, Election Code, including:

(i) Title 20A, Chapter 1, General Provisions;

(ii) Title 20A, Chapter 2, Voter Registration;

(iii) Title 20A, Chapter 3, Voting;

(iv) Title 20A, Chapter 4, Election Returns and Election Contests;

(v) Title 20A, Chapter 5, Election Administration; and

(vi) Title 20A, Chapter 6, Ballot Form.

(c) (i) The county clerks shall ensure that the ballot voted by the voters at the Western States Presidential Primary contains only the names of candidates for President of the United States who have qualified as provided in this part.

(ii) The county clerks may not present any other items to the voters to be voted upon at this election.

(2) Registered political parties, and candidates for President of the United States who are affiliated with a registered political party, may participate in the Western States Presidential Primary established by this part.

(3) As a condition for using the state's election system, each registered political party wishing to participate in Utah's Western States Presidential Primary shall:

(a) declare their intent to participate in the Western States Presidential Primary;

(b) identify one or more registered political parties whose members may vote for the

registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates; and

(c) certify that information to the lieutenant governor no later than 5 p.m. on the June 30 of the year before the year in which the presidential primary will be held.

Section 22. Section **20A-9-803** is enacted to read:

20A-9-803. Declaration of candidacy -- Filing fee -- Form.

(1) (a) Candidates for President of the United States who are affiliated with a registered political party in Utah that has elected to participate in Utah's Western States Presidential Primary and who wish to participate in the primary shall:

(i) except as provided in Subsection (1)(b), file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor between July 1 of the year before the primary election will be held and 5 p.m. on January 15 of the year in which the primary election will be held;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(iv) pay the filing fee of \$500.

(b) If January 15 is a Saturday or Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

(2) The lieutenant governor shall develop a declaration of candidacy form for presidential candidates participating in the primary.

Section 23. Section **20A-9-804** is enacted to read:

20A-9-804. Satellite registration provisions not applicable -- registration with county clerk.

(1) Section 20A-2-203 and Section 20A-5-202 do not apply to the Western States Presidential Primary.

(2) (a) For the Western States Presidential Primary election, each county clerk shall register to vote all persons who present themselves for registration at the county clerk's office during designated office hours through the Friday before the Friday of the Western States Presidential

Primary if those persons, on voting day, will be legally qualified and entitled to vote in a voting precinct in the county.

(b) The county clerk shall record the names of person registering to vote during that period in the official register and direct the election judges to allow those persons to vote in the Western States Presidential Primary election if they present themselves at the voting precinct on election day.

Section 24. Section **20A-9-805** is enacted to read:

20A-9-805. Closed primary -- Determining party affiliation -- Changing party affiliation.

(1) If a registered political party has restricted voting for its presidential candidates as authorized by Subsection 20A-9-802(3)(b), the lieutenant governor shall direct the county clerks and other election officials to allow only those voters meeting the registered political party's criteria to vote for that party's presidential candidates.

(2) (a) For each person who registers to vote on or after May 3, 1999, the county clerk shall:

(i) record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(ii) if no political party affiliation is designated by the voter on the voter registration form, record the voter's party affiliation as "unaffiliated."

(b) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of Section 20A-2-107 or Section 20A-9-808.

Section 25. Section **20A-9-806** is enacted to read:

20A-9-806. Ballots.

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall:

(a) develop paper ballots, ballot labels, and ballot cards to be used in Utah's Western States Presidential Primary;

(b) ensure that the paper ballots, ballot labels, and ballot cards comply generally with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All Ballots; and

(c) provide voting booths, election records and supplies, and ballot boxes for each voting

precinct as required by Section 20A-5-403.

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and Section 20A-5-403, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the paper ballots, ballot labels, ballot cards, and voting booths, election records and supplies, and ballot boxes:

- (i) facilitate the distribution, voting, and tallying of ballots in a closed primary;
- (ii) simplify the task of election judges, particularly in determining a voter's party affiliation;
- (iii) minimize the possibility of spoiled ballots due to voter confusion; and
- (iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark, prepunch, or otherwise identify ballot cards as being for a particular registered political party; and

(ii) instruct persons counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

(c) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties may:

(i) notwithstanding the requirements of Sections 20A-6-101 and 20A-6-102, use different colored ballot cards for each registered political party;

(ii) place ballot labels for each registered political party in different voting booths and direct voters to the particular voting booth for the political party whose ballot they are voting; or

(iii) consider other means of accomplishing the objectives outlined in Subsection (2)(a).

Section 26. Section **20A-9-807** is enacted to read:

20A-9-807. Combining voting precincts.

(1) The county legislative body may combine voting precincts for Utah's Western States Presidential Primary by following the procedures and requirements of Section 20A-5-303.

(2) The county legislative body may not combine voting precincts if the voting precincts are

in different congressional districts as established by Section 20A-13-102.

Section 27. Section **20A-9-808** is enacted to read:

20A-9-808. Voting.

(1) (a) Any registered voter desiring to vote at the Western States Presidential Primary shall give his name, the name of the registered political party whose ballot the voter wishes to vote, and, if requested, his residence, to one of the election judges.

(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.

(c) If the voter is challenged as provided in Section 20A-3-202, the judge shall provide a ballot to the voter if the voter takes an oath that the grounds of the challenge are false.

(2) (a) (i) When the voter is properly identified, the election judge in charge of the official register shall check the official register to determine:

(A) whether or not the person is registered to vote; and

(B) whether or not the person's party affiliation designation in the official register allows the voter to vote the ballot that the voter requested.

(ii) If the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."

(b) (i) If the voter's name is not found on the official register and, if it is not unduly disruptive of the election process, the election judge shall attempt to contact the county clerk's office to request oral verification of the voter's registration.

(ii) If oral verification is received from the county clerk's office, the judge shall record the verification on the official register, determine the voter's party affiliation and the ballot that the voter is qualified to vote, and perform the other administrative steps required by Subsection (3).

(c) (i) Except as provided in Subsection (c)(ii), if the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the election judge shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's

party affiliation does allow the voter to vote.

(ii) (A) If the voter is listed in the official register as "unaffiliated," or if the official register does not affirmatively identify the voter as either "unaffiliated" or affiliated with a registered political party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the voter requests, the election judge shall ask the voter if the voter wishes to affiliate with the registered political party whose ballot the voter requested, vote another registered political party ballot that the voter, as "unaffiliated," is authorized to vote, or remain "unaffiliated."

(B) If the voter wishes to affiliate with the registered political party whose ballot the voter requested, the election judge shall enter in the official register the voter's new party affiliation and proceed as required by Subsection (3).

(C) If the voter wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the election judge shall proceed as required by Subsection (3).

(D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the election judge shall instruct the voter that the voter may not vote.

(3) If the election judge determines that the voter is registered and eligible, under Subsection (2), to vote the ballot that the voter requested:

(a) the election judge in charge of the official register shall:

(i) write the ballot number and the name of the registered political party whose ballot the voter voted opposite the name of the voter in the official register; and

(ii) direct the voter to sign his name in the election column in the official register;

(b) another judge shall list the ballot number and voter's name in the pollbook; and

(c) the election judge having charge of the ballots shall:

(i) endorse his initials on the stub;

(ii) check the name of the voter on the pollbook list with the number of the stub;

(iii) hand the voter the ballot for the registered political party that the voter requested and for which the voter is authorized to vote; and

(iv) allow the voter to enter the voting booth.

(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the election judges of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 28. Section **20A-9-809** is enacted to read:

20A-9-809. Counting votes -- Canvass -- Certification of results.

(1) Votes shall be counted, results tabulated, returns transmitted, ballots reviewed and retained, returns canvassed, and recounts and election contests conducted as provided in Title 20A, Chapter 4, Election Returns and Election Contests.

(2) After the canvass is complete and the report prepared, the lieutenant governor shall transmit a copy of the report to each registered political party that participated in Utah's Western States Presidential Primary.