

ELECTION LAW REVISIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

Committee Note:

The Government Operations and Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill amends Title 20A, Election Code.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends a provision regarding arguments for or against a ballot proposition in the local voter information pamphlet;
- ▶ modifies the quantity of voter registration forms a county clerk provides to a political party;
- ▶ amends the deadline for county clerks to change precincts following redistricting;
- ▶ amends the date by which the lieutenant governor is required to certify candidates;
- ▶ changes the date on which the nominating and recruiting committee may act;
- ▶ directs the lieutenant governor to certify a single county candidate; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides an effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **20A-1-102**, as last amended by Laws of Utah 2010, Chapters 129, 197, and 254

32 **20A-2-301**, as last amended by Laws of Utah 2008, Chapter 103

33 **20A-3-104.5**, as last amended by Laws of Utah 2010, Chapter 197

34 **20A-4-107**, as last amended by Laws of Utah 2010, Chapter 197

35 **20A-5-303 (Superseded 03/08/12)**, as last amended by Laws of Utah 2008, Chapter 71

36 **20A-5-303 (Effective 03/08/12)**, as last amended by Laws of Utah 2010, Chapter 130

37 **20A-7-402**, as last amended by Laws of Utah 2008, Chapter 170

38 **20A-9-403**, as last amended by Laws of Utah 2008, Chapter 225

39 **20A-14-105**, as last amended by Laws of Utah 2003, Chapter 315



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

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

43 **20A-1-102. Definitions.**

44 As used in this title:

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

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

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

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

53 (4) "Ballot sheet":

54 (a) means a ballot that:

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

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

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

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

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

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

62 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
63 on the ballot for their approval or rejection including:

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

65 (b) a constitutional amendment;

66 (c) an initiative;

67 (d) a referendum;

68 (e) a bond proposition;

69 (f) a judicial retention question; or

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

71 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
72 20A-4-306 to canvass election returns.

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

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

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

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

81 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
82 the canvass.

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

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

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

89 (16) "Counting poll watcher" means a person selected as provided in Section

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

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

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

96 (19) "Date of the election" or "election day" or "day of the election":

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

99 (b) does not include:

100 (i) deadlines established for absentee voting; or

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

103 (20) "Election" means a regular general election, a municipal general election, a
104 statewide special election, a local special election, a regular primary election, a municipal
105 primary election, and a local district election.

106 (21) "Election Assistance Commission" means the commission established by Public
107 Law 107-252, the Help America Vote Act of 2002.

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

110 (23) "Election judge" means a poll worker that is assigned to:

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

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

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

114 (24) "Election officer" means:

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

116 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
117 as provided in Section 20A-5-400.5;

118 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
119 provided in Section 20A-5-400.5;

120 (d) the local district clerk or chief executive officer for certain ballots and elections as

121 provided in Section 20A-5-400.5; and

122 (e) the business administrator or superintendent of a school district for certain ballots
123 or elections as provided in Section 20A-5-400.5.

124 (25) "Election official" means any election officer, election judge, or poll worker.

125 (26) "Election results" means[;]:

126 (a) for an election other than a bond election, the count of votes cast in the election and
127 the election returns requested by the board of canvassers; or

128 (b) for bond elections, the count of those votes cast for and against the bond
129 proposition plus any or all of the election returns that the board of canvassers may request.

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

134 (28) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
135 device or other voting device that records and stores ballot information by electronic means.

136 (29) (a) "Electronic voting device" means a voting device that uses electronic ballots.

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

138 (30) "Inactive voter" means a registered voter who has:

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

140 (b) failed to respond to that notice.

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

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

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

146 (34) "Local district" means a local government entity under Title 17B, Limited Purpose
147 Local Government Entities - Local Districts, and includes a special service district under Title
148 17D, Chapter 1, Special Service District Act.

149 (35) "Local district officers" means those local district officers that are required by law
150 to be elected.

151 (36) "Local election" means a regular municipal election, a local special election, a

152 local district election, and a bond election.

153 (37) "Local political subdivision" means a county, a municipality, a local district, or a
154 local school district.

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

158 (39) "Municipal executive" means:

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

160 or

161 (b) the mayor in the council-manager form of government defined in Subsection
162 10-3b-103(6).

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

166 (41) "Municipal legislative body" means the council of the city or town in any form of
167 municipal government.

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

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

172 (44) "Official ballot" means the ballots distributed by the election officer to the poll
173 workers to be given to voters to record their votes.

174 (45) "Official endorsement" means:

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

176 (i) the ballot as an official ballot;

177 (ii) the date of the election; and

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

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

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

181 (ii) the ballot number.

182 (46) "Official register" means the official record furnished to election officials by the

183 election officer that contains the information required by Section 20A-5-401.

184 (47) "Paper ballot" means a paper that contains:

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

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

189 (48) "Political party" means an organization of registered voters that has qualified to
190 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
191 and Procedures.

192 (49) (a) "Poll worker" means a person assigned by an election official to assist with an
193 election, voting, or counting votes.

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

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

196 (50) "Pollbook" means a record of the names of voters in the order that they appear to
197 cast votes.

198 (51) "Polling place" means the building where voting is conducted.

199 (52) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
200 in which the voter marks the voter's choice.

201 (53) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

205 (54) "Provisional ballot envelope" means an envelope printed in the form required by
206 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
207 verify a person's legal right to vote.

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

210 (56) "Protective counter" means a separate counter, which cannot be reset, that:

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

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

213 (57) "Qualify" or "qualified" means to take the oath of office and begin performing the

214 duties of the position for which the person was elected.

215 (58) "Receiving judge" means the poll worker that checks the voter's name in the
216 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
217 after the voter has voted.

218 (59) "Registration form" means a book voter registration form and a by-mail voter
219 registration form.

220 (60) "Regular ballot" means a ballot that is not a provisional ballot.

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

224 (62) "Regular primary election" means the election on the fourth Tuesday of June of
225 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to
226 advance to the regular general election.

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

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

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

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

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

236 (68) "Spoiled ballot" means each ballot that:

237 (a) is spoiled by the voter;

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

239 (c) lacks the official endorsement.

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

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

243 (71) "Substitute ballots" means replacement ballots provided by an election officer to
244 the poll workers when the official ballots are lost or stolen.

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

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

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

252 (75) "Valid voter identification" means:

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

- 255 (i) a currently valid Utah driver license;
- 256 (ii) a currently valid identification card that is issued by:
 - 257 (A) the state; or
 - 258 (B) a branch, department, or agency of the United States;
- 259 (iii) a currently valid Utah permit to carry a concealed weapon;
- 260 (iv) a currently valid United States passport; or
- 261 (v) a currently valid United States military identification card;

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

- 264 (i) a valid tribal identification card;
- 265 (ii) a Bureau of Indian Affairs card; or
- 266 (iii) a tribal treaty card; or

267 (c) two forms of identification not listed under Subsection (75)(a) or (b) but that bear
268 the name of the voter and provide evidence that the voter resides in the voting precinct, which
269 may include:

- 270 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
271 election;
- 272 (ii) a bank or other financial account statement, or a legible copy thereof;
- 273 (iii) a certified birth certificate;
- 274 (iv) a valid Social Security card;
- 275 (v) a check issued by the state or the federal government or a legible copy thereof;

- 276 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 277 (vii) a currently valid Utah hunting or fishing license;
- 278 (viii) certified naturalization documentation;
- 279 (ix) a currently valid license issued by an authorized agency of the United States;
- 280 (x) a certified copy of court records showing the voter's adoption or name change;
- 281 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 282 (xii) a currently valid identification card issued by:
 - 283 (A) a local government within the state;
 - 284 (B) an employer for an employee; or
 - 285 (C) a college, university, technical school, or professional school located within the
 - 286 state; or
 - 287 (xiii) a current Utah vehicle registration.

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

- 290 (77) "Voter" means a person who:
- 291 (a) meets the requirements for voting in an election;
 - 292 (b) meets the requirements of election registration;
 - 293 (c) is registered to vote; and
 - 294 (d) is listed in the official register book.

295 (78) "Voter registration deadline" means the registration deadline provided in Section
296 20A-2-102.5.

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

- 299 (80) "Voting booth" means:
- 300 (a) the space or compartment within a polling place that is provided for the preparation
301 of ballots, including the voting machine enclosure or curtain; or
 - 302 (b) a voting device that is free standing.

- 303 (81) "Voting device" means:
- 304 (a) an apparatus in which ballot sheets are used in connection with a punch device for
305 piercing the ballots by the voter;
 - 306 (b) a device for marking the ballots with ink or another substance;

307 (c) an electronic voting device or other device used to make selections and cast a ballot
308 electronically, or any component thereof;

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

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

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

314 (83) "Voting poll watcher" means a person appointed as provided in this title to
315 witness the distribution of ballots and the voting process.

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

318 (85) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
319 poll watcher, and a testing watcher.

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

322 (87) "Write-in ballot" means a ballot containing any write-in votes.

323 (88) "Write-in vote" means a vote cast for a person whose name is not printed on the
324 ballot according to the procedures established in this title.

325 Section 2. Section **20A-2-301** is amended to read:

326 **20A-2-301. County clerk responsibilities -- Voter registration forms.**

327 (1) Each county clerk shall provide book voter registration forms and by-mail voter
328 registration forms for use in the voter registration process.

329 (2) (a) Each county clerk shall:

330 (i) designate certain offices within the county to provide by-mail voter registration
331 forms to the public; and

332 (ii) provide by-mail voter registration forms to each public assistance agency and
333 discretionary voter registration agency.

334 (b) Each county clerk may provide copies of by-mail voter registration forms to public
335 school districts and nonpublic schools as provided in Section 20A-2-302.

336 (3) [~~a~~] Each regular general election year, the county clerk shall [~~make~~] provide
337 by-mail voter registration forms [~~available~~] to the political parties [~~as provided in this~~

338 Subsection (3)] in a quantity requested by the political parties.

339 ~~[(b) The county clerk shall set aside by-mail registration forms equal to 10% of the~~
340 ~~number of registered voters in the county as of January 1 of that regular general election year~~
341 ~~for allocation to political parties.]~~

342 ~~[(c) The forms shall be allocated to the respective political parties in each county as~~
343 ~~follows:]~~

344 ~~[(i) Ninety percent of the forms shall be made available on an equal basis to all parties~~
345 ~~who had any candidate who polled 10% or more of the vote for any partisan office in the last~~
346 ~~regular general election.]~~

347 ~~[(ii) Ten percent of the forms shall be made available on an equal basis to all other~~
348 ~~parties who qualify for a position on the ballot for the next regular general election.]~~

349 (4) Candidates, parties, organizations, and interested persons may purchase by-mail
350 voter registration forms from the county clerk or from the printer.

351 (5) (a) The clerk shall make book voter registration forms available to interested
352 organizations in lots of 250, to be replaced when each lot of 200 is returned to the county clerk.

353 (b) Interested organizations that receive book voter registration forms from the county
354 clerk shall return them to the county clerk on or before the voter registration deadline.

355 (6) The county clerk may not refuse to register any person to vote for failing to provide
356 a telephone number on the voter registration form.

357 (7) (a) It is unlawful for any person to willfully fail or refuse to deliver completed voter
358 registration forms, obtained as provided in this section, to the county clerk.

359 (b) A person who violates this Subsection (7) is guilty of a class B misdemeanor.

360 Section 3. Section **20A-3-104.5** is amended to read:

361 **20A-3-104.5. Voting -- Regular primary election and Western States Presidential**
362 **Primary.**

363 (1) (a) Any registered voter desiring to vote at the regular primary election or Utah's
364 Western States Presidential Primary shall give the voter's name, the name of the registered
365 political party whose ballot the voter wishes to vote, and, if requested, the voter's residence, to
366 one of the poll workers.

367 (b) The voter shall present valid voter identification to one of the poll workers.

368 (c) (i) The poll worker shall follow the procedures and requirements of Section

369 20A-3-105.5 if:

370 (A) the poll worker is not satisfied that the voter presented valid voter identification; or

371 (B) the voter's right to vote is challenged under Section 20A-3-202.

372 (ii) The poll worker shall notify a voter casting a provisional ballot under Section
373 20A-3-105.5 because of failure to present valid voter identification that the voter has until the
374 close of normal office hours on Monday after the day of the election to:

375 (A) present valid voter identification to the county clerk at the county clerk's office; or

376 (B) an election officer who is administering the election.

377 (2) (a) (i) If the voter is properly identified, the poll worker in charge of the official
378 register shall check the official register to determine:

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

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

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

385 (b) (i) Except as provided in Subsection (2)(b)(ii), if the voter's name is not found on
386 the official register, the poll worker shall follow the procedures and requirements of Section
387 20A-3-105.5.

388 (ii) (A) If it is not unduly disruptive of the election process, the poll worker shall
389 attempt to contact the county clerk's office to request oral verification of the voter's registration.

390 (B) If oral verification is received from the county clerk's office, the poll worker shall:

391 (I) record the verification on the official register;

392 (II) determine the voter's party affiliation and the ballot that the voter is qualified to
393 vote; and

394 (III) perform the other administrative steps required by Subsection (3).

395 (c) (i) Except as provided in Subsection (2)(c)(ii), if the voter's political party
396 affiliation listed in the official register does not allow the voter to vote the ballot that the voter
397 requested, the poll worker shall inform the voter of that fact and inform the voter of the ballot
398 or ballots that the voter's party affiliation does allow the voter to vote.

399 (ii) (A) If the voter is listed in the official register as "unaffiliated," or if the official

400 register does not affirmatively identify the voter as either "unaffiliated" or affiliated with a
401 registered political party, and the voter, as an "unaffiliated" voter, is not authorized to vote the
402 ballot that the voter requests, the poll worker shall ask the voter if the voter wishes to vote
403 another registered political party ballot that the voter, as "unaffiliated," is authorized to vote, or
404 remain "unaffiliated."

405 (B) If the voter wishes to vote another registered political party ballot that the
406 unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection
407 (3).

408 (C) If the voter wishes to remain unaffiliated and does not wish to vote another ballot
409 that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the
410 voter may not vote.

411 [~~(iii) For the primary elections held in 2004, 2006, and 2008 only:~~]

412 [~~(A) If the voter is listed in the official register as "unaffiliated," or if the official
413 register does not affirmatively identify the voter as either "unaffiliated" or "affiliated" with a
414 registered political party, the poll worker shall ask the voter if the voter wishes to affiliate with
415 a registered political party, or remain "unaffiliated."~~]

416 [~~(B) If the voter wishes to affiliate with the registered political party whose ballot the
417 voter requested, the poll worker shall direct the voter to complete the change of party affiliation
418 form and proceed as required by Subsection (3):~~]

419 [~~(C) If the voter wishes to remain unaffiliated and wishes to vote another registered
420 political party ballot that the unaffiliated voter is authorized to vote, the poll worker shall
421 proceed as required by Subsection (3):~~]

422 [~~(D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot
423 that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the
424 voter may not vote.~~]

425 (3) If the poll worker determines that the voter is registered and eligible, under
426 Subsection (2), to vote the ballot that the voter requested and:

427 (a) if the ballot is a paper ballot or a ballot sheet:

428 (i) the poll worker in charge of the official register shall:

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

- 431 (B) direct the voter to sign the voter's name in the election column in the official
432 register;
- 433 (ii) another poll worker shall list the ballot number and voter's name in the pollbook;
434 and
- 435 (iii) the poll worker having charge of the ballots shall:
- 436 (A) endorse the voter's initials on the stub;
437 (B) check the name of the voter on the pollbook list with the number of the stub;
438 (C) hand the voter the ballot for the registered political party that the voter requested
439 and for which the voter is authorized to vote; and
- 440 (D) allow the voter to enter the voting booth; or
- 441 (b) if the ballot is an electronic ballot:
- 442 (i) the poll worker in charge of the official register shall direct the voter to sign the
443 voter's name in the official register;
- 444 (ii) another poll worker shall list the voter's name in the pollbook; and
445 (iii) the poll worker having charge of the ballots shall:
- 446 (A) provide the voter access to the electronic ballot for the registered political party
447 that the voter requested and for which the voter is authorized to vote; and
448 (B) allow the voter to vote the electronic ballot.
- 449 (4) Whenever the election officer is required to furnish more than one kind of official
450 ballot to the voting precinct, the poll workers of that voting precinct shall give the registered
451 voter the kind of ballot that the voter is qualified to vote.

452 Section 4. Section **20A-4-107** is amended to read:

453 **20A-4-107. Review and disposition of provisional ballot envelopes.**

454 (1) As used in this section, a [~~voter~~] person is "legally entitled to vote" if:

455 (a) the [~~voter~~] person:

456 (i) is registered to vote in the state;

457 (ii) resides within the voting precinct where the [~~voter~~] person seeks to vote; and

458 (iii) provided valid voter identification to the poll worker as indicated by a notation in
459 the official register;

460 (b) the [~~voter~~] person:

461 (i) is registered to vote in the state;

462 (ii) (A) provided valid voter identification to the poll worker as indicated by a notation
463 in the official register; or

464 (B) either failed to provide valid voter identification or the documents provided as
465 valid voter identification were inadequate and the poll worker recorded that fact in the official
466 register but the county clerk verifies the ~~[voter's]~~ person's identity and residence through some
467 other means; and

468 (iii) did not vote in the ~~[voter's]~~ person's precinct of residence, but the ballot that the
469 ~~[voter]~~ person voted is identical to the ballot voted in the ~~[voter's]~~ person's precinct of
470 residence; or

471 (c) the ~~[voter]~~ person:

472 (i) is registered to vote in the state;

473 (ii) either failed to provide valid voter identification or the documents provided as
474 valid voter identification were inadequate and the poll worker recorded that fact in the official
475 register; and

476 (iii) (A) the county clerk verifies the ~~[voter's]~~ person's identity and residence through
477 some other means as reliable as photo identification; or

478 (B) the ~~[voter]~~ person provides valid voter identification to the county clerk or an
479 election officer who is administering the election by the close of normal office hours on
480 Monday after the date of the election.

481 (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review
482 the affirmation on the face of each provisional ballot envelope and determine if the person
483 signing the affirmation is ~~[a registered voter]~~ registered to vote in this state and legally entitled
484 to vote the ballot that the ~~[voter]~~ person voted.

485 (b) If the election officer determines that the person is not ~~[a registered voter]~~
486 registered to vote in this state or is not legally entitled to vote the ballot that the ~~[voter]~~ person
487 voted, the election officer shall retain the ballot envelope, unopened, for the period specified in
488 Section 20A-4-202 unless ordered by a court to produce or count it.

489 (c) If the election officer determines that the person is ~~[a registered voter]~~ registered to
490 vote in this state and is legally entitled to vote the ballot that the ~~[voter]~~ person voted, the
491 election officer shall remove the ballot from the provisional ballot envelope and place the
492 ballot with the absentee ballots to be counted with those ballots at the canvass.

493 (d) The election officer may not count, or allow to be counted a provisional ballot
494 unless the [~~voter's~~] person's identity and residence is established by a preponderance of the
495 evidence.

496 (3) If the election officer determines that the person is [~~a registered voter~~] registered to
497 vote in this state, the election officer shall ensure that the voter registration records are updated
498 to reflect the information provided on the provisional ballot envelope.

499 (4) If the election officer determines that the person is not [~~a registered voter~~]
500 registered to vote in this state and the information on the provisional ballot envelope is
501 complete, the election officer shall:

502 (a) consider the provisional ballot envelope a voter registration form; and

503 (b) register the [~~voter~~] person.

504 Section 5. Section **20A-5-303 (Superseded 03/08/12)** is amended to read:

505 **20A-5-303 (Superseded 03/08/12). Establishing, dividing, abolishing, and**
506 **changing voting precincts -- Common polling places -- Combined voting precincts --**
507 **Counties.**

508 (1) (a) After receiving recommendations from the county clerk, the county legislative
509 body may establish, divide, abolish, and change voting precincts.

510 (b) Within 30 days after the establishment, division, abolition, or change of a voting
511 precinct under this section, the county legislative body shall file with the Automated
512 Geographic Reference Center, created under Section 63F-1-506, a notice describing the action
513 taken and specifying the resulting boundaries of each voting precinct affected by the action.

514 (2) (a) The county legislative body shall alter or divide voting precincts so that each
515 voting precinct contains not more than 1,250 active voters.

516 (b) The county legislative body shall:

517 (i) identify those precincts that may reach the limit of active voters in a precinct under
518 Subsection (2)(a) or that becomes too large to facilitate the election process; and

519 (ii) except as provided in Subsection (3), divide those precincts on or before January 1,
520 of a general election year.

521 (3) A county legislative body shall divide a precinct identified under Subsection
522 (2)(b)(i) on or before January 31 of a regular general election year that immediately follows the
523 calendar year in which the Legislature divides the state into districts in accordance with Utah

524 Constitution, Article IX, Section 1.

525 ~~[(3) The]~~ (4) Except as provided in Subsection (5), the county legislative body may
526 not:

527 (a) establish or abolish any voting precinct after January 1 of a regular general election
528 year; or

529 (b) alter or change the boundaries of any voting precinct after January 1 of a regular
530 general election year.

531 (5) A county legislative body may establish, divide, abolish, alter, or change a voting
532 precinct on or before January 31 of a regular general election year that immediately follows the
533 calendar year in which the Legislature divides the state into districts in accordance with Utah
534 Constitution, Article IX, Section 1.

535 ~~[(4)]~~ (6) (a) For the purpose of voting in an election, the county legislative body may
536 establish a common polling place for two or more whole voting precincts.

537 (b) At least 90 days before the election, the county legislative body shall designate:

538 (i) the voting precincts that will vote at the common polling place; and

539 (ii) the location of the common polling place.

540 (c) A county may use one set of election judges for the common polling place under
541 this Subsection ~~[(4)]~~ (6).

542 ~~[(5)]~~ (7) Each county shall have at least two polling places open for voting on the date
543 of the election.

544 ~~[(6)]~~ (8) Each common polling place shall have at least one voting device that is
545 accessible for individuals with disabilities in accordance with Public Law 107-252, the Help
546 America Vote Act of 2002.

547 Section 6. Section **20A-5-303 (Effective 03/08/12)** is amended to read:

548 **20A-5-303 (Effective 03/08/12). Establishing, dividing, abolishing, and changing**
549 **voting precincts -- Common polling places -- Combined voting precincts -- Counties.**

550 (1) (a) After receiving recommendations from the county clerk, the county legislative
551 body may establish, divide, abolish, and change voting precincts.

552 (b) Within 30 days after the establishment, division, abolition, or change of a voting
553 precinct under this section, the county legislative body shall file with the Automated
554 Geographic Reference Center, created under Section 63F-1-506, a notice describing the action

555 taken and specifying the resulting boundaries of each voting precinct affected by the action.

556 (2) (a) The county legislative body shall alter or divide voting precincts so that each
557 voting precinct contains not more than 1,250 active voters.

558 (b) The county legislative body shall:

559 (i) identify those precincts that may reach the limit of active voters in a precinct under
560 Subsection (2)(a) or that becomes too large to facilitate the election process; and

561 (ii) except as provided by Subsection (3), divide those precincts on or before January 1,
562 of a general election year.

563 (3) A county legislative body shall divide a precinct identified under Subsection
564 (2)(b)(i) on or before January 31 of a regular general election year that immediately follows the
565 calendar year in which the Legislature divides the state into districts in accordance with Utah
566 Constitution, Article IX, Section 1.

567 [~~3~~] (4) Notwithstanding Subsection (2)(a) and except as provided by Subsection (5),
568 the county legislative body may not:

569 (a) establish or abolish any voting precinct after January 1 of a regular general election
570 year;

571 (b) alter or change the boundaries of any voting precinct after January 1 of a regular
572 general election year; or

573 (c) establish, divide, abolish, alter, or change a voting precinct between January 1 of a
574 year immediately preceding the year in which an enumeration is required by the United States
575 Constitution and the day on which the Legislature divides the state into districts in accordance
576 with Utah Constitution, Article IX, Section 1.

577 (5) A county legislative body may establish, divide, abolish, alter, or change a voting
578 precinct on or before January 31 of a regular general election year that immediately follows the
579 calendar year in which the Legislature divides the state into districts in accordance with Utah
580 Constitution, Article IX, Section 1.

581 [~~4~~] (6) (a) For the purpose of voting in an election, the county legislative body may
582 establish a common polling place for two or more whole voting precincts.

583 (b) At least 90 days before the election, the county legislative body shall designate:

584 (i) the voting precincts that will vote at the common polling place; and

585 (ii) the location of the common polling place.

586 (c) A county may use one set of election judges for the common polling place under
587 this Subsection [~~(4)~~] (6).

588 [~~(5)~~] (7) Each county shall have at least two polling places open for voting on the date
589 of the election.

590 [~~(6)~~] (8) Each common polling place shall have at least one voting device that is
591 accessible for individuals with disabilities in accordance with Public Law 107-252, the Help
592 America Vote Act of 2002.

593 Section 7. Section **20A-7-402** is amended to read:

594 **20A-7-402. Local voter information pamphlet -- Contents -- Limitations --**
595 **Preparation -- Statement on front cover.**

596 (1) The county or municipality that is the subject of [~~an initiative, referendum, or other~~]
597 a ballot proposition shall prepare a local voter information pamphlet that meets the
598 requirements of this part.

599 (2) (a) The arguments for and against [~~initiatives and referenda~~] a ballot proposition
600 shall conform to the requirements of this section.

601 (i) [~~Persons wishing to~~] To prepare arguments for [~~and~~] or against [~~an initiative,~~
602 ~~referendum, or other~~] a ballot proposition, a person shall file a request with the local legislative
603 body at least 50 days before the election at which the [~~proposed measure~~] ballot proposition is
604 to be voted upon.

605 (ii) If more than one person [~~or group~~] requests the opportunity to prepare arguments
606 for or against [~~any measure~~] a ballot proposition, the governing body shall make the final
607 designation according to the following criteria:

608 (A) sponsors have priority in [~~making the~~] preparing an argument [~~for a measure~~]
609 regarding a ballot proposition; and

610 (B) members of the local legislative body have priority over others.

611 [~~(iii) The arguments in favor of the measure shall be prepared by the sponsors,~~
612 ~~whether of the local legislative body or of a voter or voter group, but not more than five names~~
613 ~~shall appear as sponsors.]~~

614 [~~(iv) The arguments against the measure shall be prepared by opponents from among~~
615 ~~the local legislative body, if any, or from among voters requesting permission of the local~~
616 ~~legislative body to prepare these arguments.]~~

617 (iii) (A) Except as provided by Subsection (2)(a)(iv), a sponsor of a ballot proposition
618 may prepare an argument in favor of the ballot proposition.

619 (B) Except as provided by Subsection (2)(a)(iv), a person opposed to the ballot
620 proposition who submits a request under Subsection (2)(a)(i) may prepare an argument against
621 the ballot proposition.

622 (iv) (A) For a referendum, a person who is in favor of a law that is referred to the
623 voters and who submits a request under Subsection (2)(a)(i) may prepare an argument for
624 adoption of the law.

625 (B) The sponsors of a referendum may prepare an argument against the adoption of a
626 law that is referred to the voters.

627 (v) The arguments may not:

628 (A) exceed 500 words in length[-]; or

629 (B) list more than five names as sponsors.

630 (vi) The arguments supporting and opposing any county or municipal [~~measure~~] ballot
631 proposition shall be filed with the local clerk not less than 45 days before the election at which
632 they are to be voted upon.

633 (b) The local voter information pamphlet shall include a copy of the initial fiscal
634 impact estimate prepared for each initiative under Section 20A-7-502.5.

635 (3) (a) In preparing the local voter information pamphlet, the local legislative body
636 shall:

637 (i) ensure that the arguments are printed on the same sheet of paper upon which the
638 [~~proposed measure~~] ballot proposition is also printed;

639 (ii) ensure that the following statement is printed on the front cover or the heading of
640 the first page of the printed arguments:

641 "The arguments for or against [~~the proposed measure(s)~~] a ballot proposition are the
642 opinions of the authors.";

643 (iii) pay for the printing and binding of the local voter information pamphlet; and

644 (iv) ensure that the local clerk distributes the pamphlets either by mail or carrier not
645 less than eight days before the election at which the [~~measures~~] ballot propositions are to be
646 voted upon.

647 (b) (i) If the proposed measure exceeds 500 words in length, the local legislative body

648 may direct the local clerk to summarize the measure in 500 words or less.

649 (ii) The summary shall state where a complete copy of the [~~measure~~] ballot proposition
650 is available for public review.

651 Section 8. Section **20A-9-403** is amended to read:

652 **20A-9-403. Regular primary elections.**

653 (1) (a) The fourth Tuesday of June of each even-numbered year is designated as regular
654 primary election day.

655 (b) Each registered political party that chooses to use the primary election process to
656 nominate some or all of its candidates shall comply with the requirements of this section.

657 (2) (a) As a condition for using the state's election system, each registered political
658 party that wishes to participate in the primary election shall:

659 (i) declare their intent to participate in the primary election;

660 (ii) identify one or more registered political parties whose members may vote for the
661 registered political party's candidates and whether or not persons identified as unaffiliated with
662 a political party may vote for the registered political party's candidates; and

663 (iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1
664 of each even-numbered year.

665 (b) As a condition for using the state's election system, each registered political party
666 that wishes to participate in the primary election shall:

667 (i) certify the name and office of all of the registered political party's candidates to the
668 lieutenant governor no later than 5 p.m. on May 13 of each even-numbered year; and

669 (ii) certify the name and office of each of its county candidates to the county clerks by
670 5 p.m. on May 13 of each even-numbered year.

671 (c) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall
672 send the county clerks a certified list of the names of all statewide [~~or~~] candidates, multicounty
673 candidates, or single county candidates that must be printed on the primary ballot.

674 (d) (i) Except as provided in Subsection (2)(d)(ii), if a registered political party does
675 not wish to participate in the primary election, it shall submit the names of its county
676 candidates to the county clerks and the names of all of its candidates to the lieutenant governor
677 by 5 p.m. on May 30 of each even-numbered year.

678 (ii) A registered political party's candidates for President and Vice-President of the

679 United States shall be certified to the lieutenant governor as provided in Subsection
680 20A-9-202(4).

681 (e) Each political party shall certify the names of its presidential and vice-presidential
682 candidates and presidential electors to the lieutenant governor's office no later than September
683 8 of each presidential election year.

684 (3) The county clerk shall:

685 (a) review the declarations of candidacy filed by candidates for local boards of
686 education to determine if more than two candidates have filed for the same seat;

687 (b) place the names of all candidates who have filed a declaration of candidacy for a
688 local board of education seat on the nonpartisan section of the ballot if more than two
689 candidates have filed for the same seat; and

690 (c) conduct a lottery to determine the order of the candidates' names on the ballot.

691 (4) After the county clerk receives the certified list from a registered political party, the
692 county clerk shall post or publish a primary election notice in substantially the following form:

693 "Notice is given that a primary election will be held Tuesday, June _____,
694 _____(year), to nominate party candidates for the parties and nonpartisan offices listed on
695 the primary ballot. The polling place for voting precinct _____ is _____. The polls will open at 7
696 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk".

697 (5) (a) Candidates receiving the highest number of votes cast for each office at the
698 regular primary election are nominated by their party or nonpartisan group for that office.

699 (b) If two or more candidates are to be elected to the office at the regular general
700 election, those party candidates equal in number to positions to be filled who receive the
701 highest number of votes at the regular primary election are the nominees of their party for those
702 positions.

703 (6) (a) When a tie vote occurs in any primary election for any national, state, or other
704 office that represents more than one county, the governor, lieutenant governor, and attorney
705 general shall, at a public meeting called by the governor and in the presence of the candidates
706 involved, select the nominee by lot cast in whatever manner the governor determines.

707 (b) When a tie vote occurs in any primary election for any county office, the district
708 court judges of the district in which the county is located shall, at a public meeting called by
709 the judges and in the presence of the candidates involved, select the nominee by lot cast in

710 whatever manner the judges determine.

711 (7) The expense of providing all ballots, blanks, or other supplies to be used at any
712 primary election provided for by this section, and all expenses necessarily incurred in the
713 preparation for or the conduct of that primary election shall be paid out of the treasury of the
714 county or state, in the same manner as for the regular general elections.

715 Section 9. Section **20A-14-105** is amended to read:

716 **20A-14-105. Becoming a candidate for membership on the State Board of**
717 **Education -- Selection of candidates by the governor -- Ballot placement.**

718 (1) By August 1 of each regular general election year, the governor shall:

719 (a) for each state board district subject to election in that year, select two candidates for
720 the State Board of Education from the lists submitted by the state board district nominating and
721 recruiting committee; and

722 (b) certify the names of the two candidates from each school board district to the
723 lieutenant governor.

724 (2) If the governor fails to select two candidates for a state board district by
725 [~~September~~ August 1, the nominating and recruiting committee shall:

726 (a) select the two candidates; and

727 (b) notify the lieutenant governor of its selections by September [~~15~~] 8.

728 (3) The lieutenant governor shall:

729 (a) conduct a lottery to determine the order of the candidates' names on the ballot; and

730 (b) certify the names and order of the names to the county clerks for placement on the
731 nonpartisan section of the ballot.

732 Section 10. **Effective date.**

733 (1) Except as provided in Subsection (2), this bill takes effect on May 10, 2011.

734 (2) The amendments to Section 20A-5-303 (Effective 03/08/12) take effect on March
735 8, 2012.

Legislative Review Note
as of 11-22-10 7:30 AM

Office of Legislative Research and General Counsel