

VOTING REVISIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill establishes a grant program to assist counties in purchasing new voting equipment systems.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes changes to the process by which an individual casts certain paper ballots;
- ▶ changes the requirements by which voting equipment is certified;
- ▶ modifies the authority of a voting equipment selection committee; and
- ▶ creates the Voting Equipment Grant Program.

Money Appropriated in this Bill:

This bill appropriates:

- ▶ to the Governor's Office -- Lieutenant Governor's Office, as a one-time appropriation:
 - from the General Fund, \$2,500,000 subject to intent language stating that the appropriation is non-lapsing and restricting the use of funds to a specific program.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



28 AMENDS:

29 **20A-3-105**, as last amended by Laws of Utah 2007, Chapter 75

30 **20A-5-402.5**, as last amended by Laws of Utah 2010, Chapter 8

31 **20A-5-402.7**, as last amended by Laws of Utah 2010, Chapter 286

32 **63I-2-220**, as last amended by Laws of Utah 2014, Chapter 3

33 ENACTS:

34 **20A-5-402.9**, Utah Code Annotated 1953

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

37 Section 1. Section **20A-3-105** is amended to read:

38 **20A-3-105. Marking and depositing ballots.**

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

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

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

45 (d) Before leaving the booth, the voter shall:

46 (i) fold the ballot so that its contents are concealed and the stub can be removed; and

47 (ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot
48 envelope and complete the information printed on the envelope.

49 (2) (a) (i) If a punch card ballot is used, the voter shall insert the ballot sheet into the
50 voting device and mark the ballot sheet according to the instructions provided on the device.

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

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

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

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

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

59 (c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the
60 provisional ballot envelope and complete the information printed on the envelope.

61 (3) (a) If a ballot sheet other than a punch card is used, the voter shall mark the ballot
62 sheet according to the instructions provided on the voting device or ballot sheet.

63 (b) The voter shall record a write-in vote by:

64 (i) marking the position opposite the area for entering a write-in candidate; and

65 (ii) entering the name of the valid write-in candidate for whom the voter wishes to vote
66 for by means of:

67 (A) writing;

68 (B) a label; or

69 (C) entering the name using the voting device.

70 (c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the
71 provisional ballot envelope and complete the information printed on the envelope.

72 (4) (a) If an electronic ballot is used, the voter shall:

73 (i) insert the ballot access card into the voting device; and

74 (ii) make the selections according to the instructions provided on the device.

75 (b) The voter shall record a write-in vote by:

76 (i) marking the appropriate position opposite the area for entering a write-in candidate;

77 and

78 (ii) using the voting device to enter the name of the valid write-in candidate for whom
79 the voter wishes to vote.

80 (5) After ~~[preparation of the]~~ a voter has prepared the voter's ballot:

81 (a) if the ballot is a paper ballot or punch card ballot ~~[is used]~~:

82 (i) the voter shall:

83 (A) leave the voting booth; and

84 (B) ~~[announce his]~~ provide the voter's name to the poll worker in charge of the ballot
85 box;

86 (ii) the poll worker in charge of the ballot box shall:

87 (A) clearly and audibly ~~[announce]~~ provide the name of the voter and the number on
88 the stub of the voter's ballot;

89 (B) if the ballot is a paper ballot that can be read by an optical scanning device, check

90 the ballot in accordance with Subsection (10);

91 ~~[(B)]~~ (C) if the stub number on the ballot corresponds with the number previously
92 recorded in the official register, and bears the initials of the poll worker, remove the stub from
93 the ballot; and

94 ~~[(C)]~~ (D) return the ballot to the voter;

95 (iii) the voter shall, in full view of the poll workers, cast ~~[his]~~ the voter's vote by
96 depositing the ballot in the ballot box; and

97 (iv) if the stub has been detached from the ballot:

98 (A) the poll worker may not accept the ballot; and

99 (B) the poll worker shall:

100 (I) treat the ballot as a spoiled ballot;

101 (II) provide the voter with a new ballot; and

102 (III) dispose of the spoiled ballot as provided in Section [20A-3-107](#);

103 (b) if a ballot sheet other than a punch card is used:

104 (i) the voter shall:

105 (A) leave the voting booth; and

106 (B) announce ~~[his]~~ the voter's name to the poll worker in charge of the ballot box;

107 (ii) the poll worker in charge of the ballot box shall:

108 (A) clearly and audibly announce the name of the voter and the number on the stub of
109 the voter's ballot; and

110 (B) if the stub number on the ballot corresponds with the number previously recorded
111 in the official register, and bears the initials of the poll worker, return the ballot to the voter;
112 and

113 (iii) the voter shall, in full view of the poll workers, cast ~~[his]~~ the voter's vote by
114 depositing the ballot in the ballot box; and

115 (c) if an electronic ballot is used, the voter shall:

116 (i) cast the voter's ballot;

117 (ii) remove the ballot access card from the voting device; and

118 (iii) return the ballot access card to a designated poll worker.

119 (6) A voter voting a paper ballot in a regular primary election shall, after marking the
120 ballot:

121 (a) (i) if the ballot is designed so that the names of all candidates for all political parties
122 are on the same ballot, detach the part of the paper ballot containing the names of the
123 candidates of the party [he] the voter has voted from the remainder of the paper ballot;

124 (ii) fold that portion of the paper ballot so that its face is concealed; and

125 (iii) deposit it in the ballot box; and

126 (b) (i) fold the remainder of the paper ballot, containing the names of the candidates of
127 the parties that the elector did not vote; and

128 (ii) deposit it in a separate ballot box that is marked and designated as a blank ballot
129 box.

130 (7) (a) Each voter shall mark and cast or deposit the ballot without delay and shall
131 leave the voting area after voting.

132 (b) A voter may not:

133 (i) occupy a voting booth occupied by another, except as provided in Section
134 [20A-3-108](#);

135 (ii) remain within the voting area more than 10 minutes; or

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

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

140 (9) The poll workers may not allow more than four voters more than the number of
141 voting booths into the voting area at one time unless those excess voters are:

142 (a) election officials;

143 (b) watchers; or

144 (c) assisting voters with a disability.

145 (10) (a) If a voter votes using a paper ballot described in Subsection (5)(a)(ii)(B), the
146 poll worker in charge of the ballot box shall ensure that the ballot is readable by an optical
147 scanning device by directing the voter to feed the ballot through an optical scanning device that
148 checks the ballot for inaccurate or erroneous marks that would prevent a vote on the ballot
149 from being counted.

150 (b) An optical scanning device used to check a ballot under Subsection (10)(a) may
151 not:

- 152 (i) record a vote on the ballot; or
 153 (ii) reject a ballot because a voter did not mark a vote.
 154 (c) A poll worker described in Subsection (10)(a):
 155 (i) may assist a voter in feeding the voter's ballot through the optical scanning device;
 156 and
 157 (ii) may not examine a voter's ballot, regardless of the outcome of the check performed
 158 under Subsection (10)(a).
 159 (d) If a check performed under Subsection (10)(a) shows that a vote on a ballot cannot
 160 be read by the optical scanning device because of an inaccurate or erroneous mark on the
 161 ballot, the poll worker shall:
 162 (i) explain to the voter that a vote on the voter's ballot could not be read because of an
 163 inaccurate or erroneous mark on the ballot;
 164 (ii) explain the manner in which a ballot must be marked for the optical scanning
 165 device to read a vote; and
 166 (iii) (A) allow the voter to return to a voting booth to correct the ballot; or
 167 (B) if the voter desires, issue the voter a new ballot.
 168 (e) If the poll worker issues a new ballot under Subsection (10)(d)(iii)(B), the poll
 169 worker shall:
 170 (i) treat the original ballot as a spoiled ballot; and
 171 (ii) dispose of the spoiled ballot as provided in Section [20A-3-107](#).
 172 Section 2. Section **20A-5-402.5** is amended to read:
 173 **20A-5-402.5. Certification of voting equipment.**
 174 (1) As used in this section, "voting equipment" means the following equipment used
 175 for an election:
 176 (a) automatic tabulating equipment[;];
 177 (b) an electronic voting [systems,] system;
 178 (c) a voting [devices, and] device; or
 179 (d) a voting [machines] machine.
 180 (2) [Each] For the voting equipment used in the jurisdiction over which an election
 181 officer has authority, the election officer shall [ensure that]:
 182 [~~(a) the voting equipment used by the election officer is certified by the Election~~

183 Assistance Commission; and]

184 (a) before each election, use logic and accuracy tests to ensure that the voting
 185 equipment performs the voting equipment's functions accurately;

186 (b) develop and implement a procedure to protect the physical security of the voting
 187 equipment; and

188 ~~[(b)]~~ (c) ensure that the voting equipment is certified by the lieutenant governor under
 189 Subsection (3) as having met the requirements of this section.

190 (3) (a) The lieutenant governor shall ensure that all voting equipment used [~~complies~~
 191 ~~with the requirements of this section.~~] in the state is independently tested using security testing
 192 protocols and standards that:

193 (i) are generally accepted in the industry at the time the lieutenant governor reviews the
 194 voting equipment for certification; and

195 (ii) meet the requirements of Subsection (3)(b).

196 (b) The testing protocols and standards described in Subsection (3)(a) shall require that
 197 a voting system:

198 (i) is accurate and reliable;

199 (ii) possess established and maintained access controls;

200 (iii) has not been fraudulently manipulated or tampered with;

201 (iv) is able to identify fraudulent or erroneous changes to the voting equipment; and

202 (v) protects the secrecy of a voter's ballot.

203 (c) The lieutenant governor may comply with the requirements of Subsection (3)(a) by
 204 certifying voting equipment that has been certified by:

205 (i) the United States Election Assistance Commission; or

206 (ii) a laboratory that has been accredited by the United States Election Assistance

207 Commission to test voting equipment.

208 Section 3. Section **20A-5-402.7** is amended to read:

209 **20A-5-402.7. Voting Equipment Selection Committee.**

210 (1) As used in this section, "new voting equipment system" means voting equipment
 211 that is operated in a materially different way or that functions in a materially different way than
 212 the equipment being replaced.

213 (2) Before selecting or purchasing a new voting equipment system after January 1,

214 2007, the lieutenant governor shall:

215 (a) appoint a Voting Equipment Selection Committee; and

216 (b) ensure that the committee includes persons having experience in:

217 (i) election procedures and administration;

218 (ii) computer technology;

219 (iii) data security;

220 (iv) auditing; and

221 (v) access for persons with disabilities.

222 (3) A member may not receive compensation or benefits for the member's service, but
223 may receive per diem and travel expenses in accordance with:

224 (a) Section [63A-3-106](#);

225 (b) Section [63A-3-107](#); and

226 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
227 [63A-3-107](#).

228 (4) The lieutenant governor shall select a chair from the committee membership.

229 (5) The lieutenant governor may fill any vacancies that occur on the committee.

230 (6) The lieutenant governor's office shall provide staffing for the committee.

231 (7) The Voting Equipment Selection Committee shall:

232 (a) evaluate new voting equipment systems proposed for purchase by the state; and

233 (b) provide information and recommendations to assist the lieutenant governor with the
234 purchase of new voting equipment systems.

235 (8) (a) The Voting Equipment Selection Committee may establish requirements for
236 new voting equipment systems purchased under Section [20A-5-402.9](#) through the Voting
237 Equipment Grant Program.

238 (b) A requirement established under Subsection (8)(a) is not binding unless the
239 recommendation:

240 (i) is consistent with the requirements described in Section [20A-5-402.9](#) for the Voting
241 Equipment Grant Program;

242 (ii) specifically states that the recommendation is for voting equipment purchased
243 through the Voting Equipment Grant Program; and

244 (iii) is adopted by the Voting Equipment Selection Committee before December 1,

245 2016.

246 [~~(8)~~] (9) The lieutenant governor may designate individuals, including committee
247 members, to inspect and review proprietary software as part of an evaluation of new voting
248 equipment systems under consideration for purchase.

249 [~~(9)~~] (10) Before making any selection or purchase, the lieutenant governor shall
250 provide for a period of public review and comment on new voting equipment systems under
251 consideration for purchase by the state.

252 Section 4. Section **20A-5-402.9** is enacted to read:

253 **20A-5-402.9. Voting Equipment Grant Program -- Qualifications for receipt --**
254 **Matching funds -- Acceptable uses.**

255 (1) As used in this section:

256 (a) "New voting equipment system" means the same as that term is defined in Section
257 20A-5-402.7.

258 (b) "Program" means the Voting Equipment Grant Program created in this section.

259 (c) "Proportional reimbursement rate" means the dollar amount equal to the product of:

260 (i) the total amount of funds appropriated by the Legislature to the program for fiscal
261 year 2017; and

262 (ii) the quotient of:

263 (A) the total number of registered voters in a county; and

264 (B) the total number of registered voters in the state.

265 (2) (a) There is created the Voting Equipment Grant Program as a grant program to
266 assist counties in purchasing new voting equipment systems.

267 (b) The lieutenant governor shall administer the program using funds appropriated by
268 the Legislature for the purpose of administering the program.

269 (3) (a) After January 1, 2017, a county may submit a proposal to the Office of the
270 Lieutenant Governor to participate in and receive funds from the program.

271 (b) A proposal described in Subsection (3)(a) shall:

272 (i) describe the current condition of voting equipment systems used by the county;

273 (ii) describe the county's need for new voting equipment systems;

274 (iii) describe how the county plans to comply with the requirements of Subsection (4),

275 including:

276 (A) a description of how the county plans to provide the matching funds described in
277 Subsection (4)(b) if the proposal is accepted; and
278 (B) a schedule by which the requirements will be met; and
279 (iv) contain a detailed estimate of the gross cost of procuring new voting equipment
280 systems.

281 (4) A county that receives funds through a program grant:
282 (a) shall use the funds to purchase new voting equipment systems that:
283 (i) meet the requirements of Section [20A-5-402.5](#);
284 (ii) use a paper ballot that may be read by an optical scanning device that is:
285 (A) not exclusively produced for use in elections;
286 (B) widely available for purchase; and
287 (C) supported or operated by widely available computer equipment; and
288 (iv) comply with any additional binding requirement made under Subsection
289 [20A-5-402.7\(8\)](#) by a Voting Equipment Selection Committee;
290 (b) shall, for the purpose of purchasing new voting equipment systems, appropriate
291 funds equal to or greater than the difference of:
292 (i) the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant
293 governor accepts under Subsection (5)(b); and
294 (ii) the amount the lieutenant governor is required to disburse to the county under
295 Subsection (6)(a);
296 (c) may not use funds disbursed under Subsection (5)(b)(i)(D) or appropriated under
297 Subsection (4)(b) for a purpose or in a manner that is not authorized by this section; and
298 (d) except as is necessary to accommodate a person with a disability in accordance
299 with the requirements described in Subsection [20A-3-302\(6\)\(b\)](#), [20A-3-603\(1\)\(c\)](#),
300 [20A-5-303\(8\)](#), or [20A-5-403\(2\)\(b\)\(iii\)](#), may not, after using new voting equipment systems in
301 an election that were purchased under this section, use a voting equipment system that does not
302 meet the requirements described in Subsection (4)(a).

303 (5) Upon receipt of a proposal described in Subsection (3), the lieutenant governor
304 shall;
305 (a) review the proposal to ensure that:
306 (i) the proposal complies with the requirements of Subsection (3); and

307 (ii) the cost estimate described in Subsection (3)(b)(iv) appears to be reasonable; and
 308 (b) (i) if the proposal complies with the requirements of Subsection (3), the cost
 309 estimate appears to be reasonably accurate, and sufficient program funds are available:
 310 (A) accept the proposal;
 311 (B) notify the county clerk of the county that submitted the proposal that the proposal
 312 is accepted;
 313 (C) notify the county clerk of the requirements of Subsection (6); and
 314 (D) disburse the funds described in Subsection (6)(a), in accordance with the
 315 requirements of Subsection (6)(b), to the county that submitted the proposal; or
 316 (ii) if the proposal does not comply with the requirements of Subsection (3) or the cost
 317 estimate does not appear to be reasonable:
 318 (A) reject the proposal; and
 319 (B) notify the county clerk of the county that submitted the proposal that the proposal
 320 is rejected, indicating the reason that the proposal is rejected.
 321 (6) The lieutenant governor:
 322 (a) shall disburse funds under Subsection (5)(b)(i)(D) equal to the lesser of:
 323 (i) 50% of the amount described in Subsection (3)(b)(iv) in the proposal that the
 324 lieutenant governor accepts under Subsection (5)(b); or
 325 (ii) the proportional reimbursement rate; and
 326 (b) may not disburse funds under Subsection (5)(b)(i)(D):
 327 (i) until the county appropriates the matching funds described in Subsection (4)(b); or
 328 (ii) if the disbursement would cause the county's total receipt of funds from the
 329 program to exceed the proportional reimbursement rate.
 330 Section 5. Section **63I-2-220** is amended to read:
 331 **63I-2-220. Repeal dates, Title 20A.**
 332 (1) Section **20A-3-704** is repealed January 1, 2016.
 333 (2) Section **20A-5-410** is repealed January 1, 2016.
 334 (3) (a) Subsection **20A-5-402.7(8)** is repealed July 1, 2022.
 335 (b) Section **20A-5-402.9** is repealed July 1, 2022.
 336 [~~3~~] (4) (a) Subsection **20A-7-101(1)(a)(i)**, the language that states "of the first class"
 337 and "; or" is repealed January 1, 2015.

338 (b) Subsection 20A-7-101(1)(a)(ii), the language that states "for a county not described
339 in Subsection (1)(a)(i), a person designated as budget officer in Section 17-19-19" is repealed
340 January 1, 2015.

341 [~~4~~] (5) Section 20A-9-403.1 is repealed on January 1, 2015.

342 Section 6. **Appropriation.**

343 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
344 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money
345 are appropriated from resources not otherwise appropriated, or reduced from amounts
346 previously appropriated, out of the funds or amounts indicated. These sums of money are in
347 addition to amounts previously appropriated for fiscal year 2017.

348 To Governor's Office

349 From General Fund, One-Time: \$2,500,000

350 Schedule of Programs:

351 Lieutenant Governor's Office \$2,500,000

352 The Legislature intends that:

353 (1) the Office of the Lieutenant Governor expend appropriations provided under this
354 item to implement the Voting Equipment Grant Program created under Section 20A-5-402.9;
355 and

356 (2) under Section 63J-1-603, appropriations provided by this item not lapse at the close
357 of fiscal year 2017.

358 Section 7. **Effective date.**

359 This bill takes effect on May 10, 2016, except that the amendments to Section
360 20A-3-105 in this bill take effect on January 1, 2018.