

Senator Margaret Dayton proposes the following substitute bill:

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:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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



26 [20A-5-402.7](#), as last amended by Laws of Utah 2010, Chapter 286

27 [63I-2-220](#), as last amended by Laws of Utah 2014, Chapter 3

28 ENACTS:

29 [20A-5-402.9](#), Utah Code Annotated 1953

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

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

33 **20A-3-105. Marking and depositing ballots.**

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

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

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

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

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

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

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

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

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

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

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

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

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

56 (3) (a) If a ballot sheet other than a punch card is used, the voter shall mark the ballot

57 sheet according to the instructions provided on the voting device or ballot sheet.

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

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

60 (ii) entering the name of the valid write-in candidate for whom the voter wishes to vote

61 for by means of:

62 (A) writing;

63 (B) a label; or

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

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

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

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

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

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

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

72 and

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

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

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

77 (i) the voter shall:

78 (A) leave the voting booth; and

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

80 box;

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

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

84 (B) if the stub number on the ballot corresponds with the number previously recorded
85 in the official register, and bears the initials of the poll worker, remove the stub from the ballot;
86 and

87 (C) return the ballot to the voter;

- 88 (iii) the voter shall, in full view of the poll workers, cast [~~his~~] the voter's vote by
89 depositing the ballot in the ballot box; and
- 90 (iv) if the stub has been detached from the ballot:
- 91 (A) the poll worker may not accept the ballot; and
- 92 (B) the poll worker shall:
- 93 (I) treat the ballot as a spoiled ballot;
- 94 (II) provide the voter with a new ballot; and
- 95 (III) dispose of the spoiled ballot as provided in Section [20A-3-107](#);
- 96 (b) if a ballot sheet other than a punch card is used:
- 97 (i) the voter shall:
- 98 (A) leave the voting booth; and
- 99 (B) announce [~~his~~] the voter's name to the poll worker in charge of the ballot box;
- 100 (ii) the poll worker in charge of the ballot box shall:
- 101 (A) clearly and audibly announce the name of the voter and the number on the stub of
102 the voter's ballot; and
- 103 (B) if the stub number on the ballot corresponds with the number previously recorded
104 in the official register, and bears the initials of the poll worker, return the ballot to the voter;
105 and
- 106 (iii) the voter shall, in full view of the poll workers, cast [~~his~~] the voter's vote by
107 depositing the ballot in the ballot box; and
- 108 (c) if an electronic ballot is used, the voter shall:
- 109 (i) cast the voter's ballot;
- 110 (ii) remove the ballot access card from the voting device; and
- 111 (iii) return the ballot access card to a designated poll worker.
- 112 (6) A voter voting a paper ballot in a regular primary election shall, after marking the
113 ballot:
- 114 (a) (i) if the ballot is designed so that the names of all candidates for all political parties
115 are on the same ballot, detach the part of the paper ballot containing the names of the
116 candidates of the party [~~he~~] the voter has voted from the remainder of the paper ballot;
- 117 (ii) fold that portion of the paper ballot so that its face is concealed; and
- 118 (iii) deposit it in the ballot box; and

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

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

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

125 (b) A voter may not:

126 (i) occupy a voting booth occupied by another, except as provided in Section
127 [20A-3-108](#);

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

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

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

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

135 (a) election officials;

136 (b) watchers; or

137 (c) assisting voters with a disability.

138 Section 2. Section [20A-5-402.5](#) is amended to read:

139 **[20A-5-402.5. Certification of voting equipment.](#)**

140 (1) As used in this section, "voting equipment" means the following equipment used
141 for an election:

142 (a) automatic tabulating equipment[.];

143 (b) an electronic voting [systems,] system;

144 (c) a voting [devices, and] device; or

145 (d) a voting [machines] machine.

146 (2) [~~Each~~] For the voting equipment used in the jurisdiction over which an election
147 officer has authority, the election officer shall [ensure that]:

148 [~~(a) the voting equipment used by the election officer is certified by the Election~~
149 ~~Assistance Commission; and]~~

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

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

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

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

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

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

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

164 (i) is accurate and reliable;

165 (ii) possess established and maintained access controls;

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

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

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

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

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

172 (ii) a laboratory that has been accredited by the United States Election Assistance
173 Commission to test voting equipment.

174 (d) Voting equipment used in the state may include technology that allows for ranked-
175 choice voting.

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

177 **20A-5-402.7. Voting Equipment Selection Committee.**

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

181 (2) Before selecting or purchasing a new voting equipment system after January 1,
182 2007, the lieutenant governor shall:

- 183 (a) appoint a Voting Equipment Selection Committee; and
- 184 (b) ensure that the committee includes persons having experience in:
 - 185 (i) election procedures and administration;
 - 186 (ii) computer technology;
 - 187 (iii) data security;
 - 188 (iv) auditing; and
 - 189 (v) access for persons with disabilities.

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

- 192 (a) Section [63A-3-106](#);
- 193 (b) Section [63A-3-107](#); and
- 194 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
195 [63A-3-107](#).

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

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

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

199 (7) The Voting Equipment Selection Committee shall:

- 200 (a) evaluate new voting equipment systems proposed for purchase by the state; and
- 201 (b) provide information and recommendations to assist the lieutenant governor with the
202 purchase of new voting equipment systems.

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

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

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

210 (ii) specifically states that the recommendation is for voting equipment purchased
211 through the Voting Equipment Grant Program.

212 ~~[(8)]~~ (9) The lieutenant governor may designate individuals, including committee
213 members, to inspect and review proprietary software as part of an evaluation of new voting
214 equipment systems under consideration for purchase.

215 ~~[(9)]~~ (10) Before making any selection or purchase, the lieutenant governor shall
216 provide for a period of public review and comment on new voting equipment systems under
217 consideration for purchase by the state.

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

219 **20A-5-402.9. Voting Equipment Grant Program -- Qualifications for receipt --**
220 **Matching funds -- Acceptable uses.**

221 (1) As used in this section:

222 (a) "New voting equipment system" means the same as that term is defined in Section
223 20A-5-402.7.

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

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

226 (i) the total amount of funds appropriated by the Legislature to the program; and

227 (ii) the quotient of:

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

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

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

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

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

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

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

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

239 (iii) describe how the county plans to comply with the requirements of Subsection (4),
240 including:

241 (A) a description of how the county plans to provide the matching funds described in
242 Subsection (4)(b) if the proposal is accepted; and

243 (B) a schedule by which the requirements will be met; and
244 (iv) contain a detailed estimate of the gross cost of procuring new voting equipment
245 systems.
246 (4) A county that receives funds through a program grant:
247 (a) shall use the funds to purchase new voting equipment systems that:
248 (i) meet the requirements of Section [20A-5-402.5](#);
249 (ii) use a paper ballot that may be read by an optical scanning device; and
250 (iii) comply with any additional binding requirement made under Subsection
251 [20A-5-402.7](#)(8) by a Voting Equipment Selection Committee;
252 (b) shall, for the purpose of purchasing new voting equipment systems, appropriate
253 funds equal to or greater than the difference of:
254 (i) the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant
255 governor accepts under Subsection (6)(b); and
256 (ii) the amount the lieutenant governor is required to disburse to the county under
257 Subsection (7)(a);
258 (c) may not use funds disbursed under Subsection (6)(b)(i)(D) or appropriated under
259 Subsection (4)(b) for a purpose or in a manner that is not authorized by this section;
260 (d) except as provided in Subsection (5), may not, after using new voting equipment
261 systems in an election that were purchased under this section, use a voting equipment system
262 that does not meet the requirements described in Subsection (4)(a); and
263 (e) shall purchase new voting equipment systems described under Subsection (4)(a)
264 that provide the best value to the county with consideration for the new voting equipment
265 system's:
266 (i) cost of maintenance;
267 (ii) estimated operational lifetime; and
268 (iii) cost of replacement.
269 (5) A county that receives funds through the program may use a voting equipment
270 system that does not comply with the requirements described in Subsection (4)(a) if:
271 (a) using the voting equipment system is necessary to accommodate a person with a
272 disability in accordance with the requirements described in Subsection [20A-3-302](#)(6)(b),
273 [20A-3-603](#)(1)(c), [20A-5-303](#)(8), or [20A-5-403](#)(2)(b)(iii); or

274 (b) the county purchases the voting equipment system before the county expends funds
275 in accordance with this chapter for the purchase of a new voting equipment system.

276 (6) Upon receipt of a proposal described in Subsection (3), the lieutenant governor
277 shall;

278 (a) review the proposal to ensure that:

279 (i) the proposal complies with the requirements of Subsection (3); and

280 (ii) the cost estimate described in Subsection (3)(b)(iv) appears to be reasonable; and

281 (b) (i) if the proposal complies with the requirements of Subsection (3), the cost
282 estimate appears to be reasonably accurate, and sufficient program funds are available:

283 (A) accept the proposal;

284 (B) notify the county clerk of the county that submitted the proposal that the proposal
285 is accepted;

286 (C) notify the county clerk of the requirements of Subsection (7); and

287 (D) disburse the funds described in Subsection (7)(a), in accordance with the
288 requirements of Subsection (7)(b), to the county that submitted the proposal; or

289 (ii) if the proposal does not comply with the requirements of Subsection (3) or the cost
290 estimate does not appear to be reasonable:

291 (A) reject the proposal; and

292 (B) notify the county clerk of the county that submitted the proposal that the proposal
293 is rejected, indicating the reason that the proposal is rejected.

294 (7) The lieutenant governor:

295 (a) shall disburse funds under Subsection (6)(b)(i)(D) equal to the lesser of:

296 (i) 50% of the amount described in Subsection (3)(b)(iv) in the proposal that the
297 lieutenant governor accepts under Subsection (6)(b); or

298 (ii) the proportional reimbursement rate; and

299 (b) may not disburse funds under Subsection (6)(b)(i)(D):

300 (i) until the county appropriates the matching funds described in Subsection (4)(b); or

301 (ii) if the disbursement would cause the county's total receipt of funds from the
302 program to exceed the proportional reimbursement rate.

303 Section 5. Section **63I-2-220** is amended to read:

304 **63I-2-220. Repeal dates, Title 20A.**

305 (1) Section [20A-3-704](#) is repealed January 1, 2016.

306 (2) Section [20A-5-410](#) is repealed January 1, 2016.

307 (3) (a) Subsection [20A-5-402.7\(8\)](#) is repealed July 1, 2022.

308 (b) Section [20A-5-402.9](#) is repealed July 1, 2022.

309 [~~3~~] (4) (a) Subsection [20A-7-101\(1\)\(a\)\(i\)](#), the language that states "of the first class"
310 and "; or" is repealed January 1, 2015.

311 (b) Subsection [20A-7-101\(1\)\(a\)\(ii\)](#), the language that states "for a county not described
312 in Subsection (1)(a)(i), a person designated as budget officer in Section [17-19-19](#)" is repealed
313 January 1, 2015.

314 [~~4~~] (5) Section [20A-9-403.1](#) is repealed on January 1, 2015.