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Primary Election Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason B. Kyle

Senate Sponsor:

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LONG TITLE**General Description:**

This bill addresses primary elections.

Highlighted Provisions:

This bill:

▸ provides that, for certain primary election races, if no candidate receives more than 50% of the votes in the race, the person who wins the nomination will be determined by conducting a runoff election between the two candidates who received the most votes in the initial primary election;

▸ describes deadlines, notice requirements, and procedures relating to a runoff election; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-304, as last amended by Laws of Utah 2024, Chapter 503

20A-3a-601, as last amended by Laws of Utah 2020, Chapter 95 and renumbered and amended by Laws of Utah 2020, Chapter 31

20A-6-203, as last amended by Laws of Utah 2020, Chapter 31

20A-9-403, as last amended by Laws of Utah 2024, Chapter 503

ENACTS:

20A-9-409.1, Utah Code Annotated 1953

27

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

Section 1. Section **20A-1-304** is amended to read:

20A-1-304 . Tie votes.

30

31

32 (1) This section does not apply to a race conducted by instant runoff voting under Chapter
33 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

34 (2) Except as provided in Subsection (3), if, after conducting a recount under Subsection
35 20A-4-401(5), a tie vote occurs, the election officer shall, in a public meeting held no
36 later than three days after the day on which the recount canvass is completed:

37 (a) determine the winning candidate, by lot, in whatever manner the election officer
38 determines; and

39 (b) provide notice and an opportunity for each candidate involved in the tie to observe
40 the casting or drawing of the lot or to send a representative to observe the casting or
41 drawing of the lot.

42 (3)(a) [Hf] Except as otherwise provided in Section 20A-9-409.1, if after conducting a
43 recount under Subsection 20A-4-401(5), a tie vote occurs in a primary election race
44 for a national, statewide, or other office that represents more than one county, the
45 governor, lieutenant governor, and attorney general shall, at a public meeting called
46 by the governor no later than three days after the day on which the recount canvass is
47 completed:

48 (i) determine the winning nominee, by lot, in whatever manner the governor
49 determines; and

50 (ii) provide notice and an opportunity for each candidate involved in the tie to
51 observe the casting or drawing of the lot or to send a representative to observe the
52 casting or drawing of the lot.

53 (b) [Hf] Except as otherwise provided in Section 20A-9-409.1, if, after conducting a
54 recount under Subsection 20A-4-401(5), a tie vote occurs in a primary election race
55 for a county office, the district court judges of the district in which the county is
56 located shall, at a public meeting called by the judges no later than three days after
57 the day on which the recount canvass is completed:

58 (i) determine the winning nominee, by lot, in whatever manner the judges determine;
59 and

60 (ii) provide notice and an opportunity for each candidate involved in the tie to
61 observe the casting or drawing of the lot or to send a representative to observe the
62 casting or drawing of the lot.

63 Section 2. Section **20A-3a-601** is amended to read:

64 **20A-3a-601 . Early voting.**

- 65 (1) Except as provided in Subsection 20A-9-409.1(4)(b) or Section 20A-7-609.5:
- 66 (a) an individual who is registered to vote may vote at a polling place before the election
- 67 date in accordance with this section; and
- 68 (b) except as provided in Subsection 20A-2-207(6), an individual who is not registered
- 69 to vote may register to vote and vote at a polling place before the election date in
- 70 accordance with this section if the individual:
- 71 (i) is otherwise legally entitled to vote the ballot; and
- 72 (ii) casts a provisional ballot in accordance with Section 20A-2-207.
- 73 (2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period:
- 74 (a) begins on the date that is 14 days before the date of the election; and
- 75 (b) continues through the Friday before the election if the election date is a Tuesday.
- 76 (3)(a) An election officer may extend the end of the early voting period to the day
- 77 before the election date if the election officer provides notice of the extension in
- 78 accordance with Section 20A-3a-604.
- 79 (b) For a municipal election, the municipal clerk may reduce the early voting period
- 80 described in this section if:
- 81 (i) the municipal clerk conducts early voting on at least four days;
- 82 (ii) the early voting days are within the period beginning on the date that is 14 days
- 83 before the date of the election and ending on the day before the election; and
- 84 (iii) the municipal clerk provides notice of the reduced early voting period in
- 85 accordance with Section 20A-3a-604.
- 86 (c) For a county election, the county clerk may reduce the early voting period described
- 87 in this section if:
- 88 (i) the county clerk conducts early voting on at least four days;
- 89 (ii) the early voting days are within the period beginning on the date that is 14 days
- 90 before the date of the election and ending on the day before the election; and
- 91 (iii) the county clerk provides notice of the reduced early voting period in accordance
- 92 with Section 20A-3a-604.
- 93 (4) Except as provided in Section 20A-1-308, during the early voting period, the election
- 94 officer:
- 95 (a) for a local special election, a municipal primary election, and a municipal general
- 96 election:
- 97 (i) shall conduct early voting on a minimum of four days during each week of the
- 98 early voting period; and

- 99 (ii) shall conduct early voting on the last day of the early voting period; and
 100 (b) for all other elections:
 101 (i) shall conduct early voting on each weekday; and
 102 (ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.
 103 (5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early
 104 voting shall be administered in accordance with the requirements of this title.

105 Section 3. Section **20A-6-203** is amended to read:

106 **20A-6-203 . Ballots for regular primary elections.**

- 107 (1) The lieutenant governor, together with county clerks, suppliers of election materials,
 108 and representatives of registered political parties, shall:
 109 (a) develop ballots to be used in Utah's regular primary election;
 110 (b) except to the extent otherwise provided in Subsection 20A-9-409.1(6), ensure that
 111 the ballots comply generally, where applicable, with the requirements of [Title 20A,
 112 Chapter 6, Part 1, General Requirements for All Ballots] Part 1, General
 113 Requirements for All Ballots, and this section; and
 114 (c) provide voting booths, election records and supplies, ballot boxes, and as applicable,
 115 voting devices, for each voting precinct as required by Section 20A-5-403.
 116 (2)(a) Notwithstanding the requirements of Subsections (1)(b) and (c), [Title 20A,
 117 Chapter 6, Part 1, General Requirements for All Ballots] Part 1, General
 118 Requirements for All Ballots, and Sections 20A-5-403, 20A-6-401, and 20A-6-401.1,
 119 the lieutenant governor, together with county clerks, suppliers of election materials,
 120 and representatives of registered political parties shall ensure that the ballots, voting
 121 booths, election records and supplies, and ballot boxes:
 122 (i) facilitate the distribution, voting, and tallying of ballots in a primary where not all
 123 voters are authorized to vote for a party's candidate;
 124 (ii) simplify the task of poll workers, particularly in determining a voter's party
 125 affiliation;
 126 (iii) minimize the possibility of spoiled ballots due to voter confusion; and
 127 (iv) protect against fraud.
 128 (b) To accomplish the requirements of this Subsection (2), the lieutenant governor,
 129 county clerks, suppliers of election materials, and representatives of registered
 130 political parties shall:
 131 (i) mark ballots as being for a particular registered political party; and
 132 (ii) instruct individuals counting the ballots to count only those votes for candidates

133 from the registered political party whose ballot the voter received.

134 Section 4. Section **20A-9-403** is amended to read:

135 **20A-9-403 . Regular primary elections -- Candidate nomination process for a**
136 **registered political party that is not a qualified political party -- Determining winning**
137 **nominee for any registered political party, including a qualified political party -- Election**
138 **expenses.**

139 (1)(a) Candidates for elective office that are to be filled at the next regular general
140 election shall be nominated in a regular primary election by direct vote of the people
141 in the manner [~~prescribed~~] described in this section and, as applicable, Section
142 20A-9-409.1. The regular primary election is held on the date specified in Section
143 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a
144 regular general election's ballot as an unaffiliated candidate under Section 20A-9-501
145 or to participate in a regular general election as a write-in candidate under Section
146 20A-9-601.

147 (b) Each registered political party that chooses to have the names of the registered
148 political party's candidates for elective office featured with party affiliation on the
149 ballot at a regular general election shall comply with the requirements of this section
150 and shall nominate the registered political party's candidates for elective office in the
151 manner described in this section.

152 (c) A filing officer may not permit an official ballot at a regular general election to be
153 produced or used if the ballot denotes affiliation between a registered political party
154 or any other political group and a candidate for elective office who is not nominated
155 in the manner prescribed in this section or in Subsection 20A-9-202(4).

156 (d) Unless noted otherwise, the dates in this section refer to those that occur in each
157 even-numbered year in which a regular general election will be held.

158 (2)(a) Each registered political party, in a statement filed with the lieutenant governor,
159 shall:

160 (i) either declare the registered political party's intent to participate in the next regular
161 primary election or declare that the registered political party chooses not to have
162 the names of the registered political party's candidates for elective office featured
163 on the ballot at the next regular general election; and

164 (ii) if the registered political party participates in the upcoming regular primary
165 election, identify one or more registered political parties whose members may
166 vote for the registered political party's candidates and whether individuals

167 identified as unaffiliated with a political party may vote for the registered political
168 party's candidates.

169 (b)(i) A registered political party that is a continuing political party shall file the
170 statement described in Subsection (2)(a) with the lieutenant governor no later than
171 5 p.m. on November 30 of each odd-numbered year.

172 (ii) An organization that is seeking to become a registered political party under
173 Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the
174 time that the registered political party files the petition described in Section
175 20A-8-103.

176 (3)(a) Except as provided in Subsection (3)(e), an individual who submits a declaration
177 of candidacy under Section 20A-9-202 shall appear as a candidate for elective office
178 on the regular primary ballot of the registered political party listed on the declaration
179 of candidacy only if the individual is certified by the appropriate filing officer as
180 having submitted a nomination petition that was:

181 (i) circulated and completed in accordance with Section 20A-9-405; and
182 (ii) signed by at least 2% of the registered political party's members who reside in the
183 political division of the office that the individual seeks.

184 (b)(i) A candidate for elective office shall submit signatures for a nomination
185 petition to the appropriate filing officer for verification and certification no later
186 than 5 p.m. on the final day in March.

187 (ii) A candidate may supplement the candidate's submissions at any time on or before
188 the filing deadline.

189 (c)(i) The lieutenant governor shall determine for each elective office the total
190 number of signatures that must be submitted under Subsection (3)(a)(ii) or
191 20A-9-408(8) by counting the aggregate number of individuals residing in each
192 elective office's political division who have designated a particular registered
193 political party on the individuals' voter registration forms on or before November
194 15 of each odd-numbered year.

195 (ii) The lieutenant governor shall publish the determination for each elective office
196 no later than November 30 of each odd-numbered year.

197 (d) The filing officer shall:

198 (i) except as otherwise provided in Section 20A-21-201, verify signatures on
199 nomination petitions in a transparent and orderly manner, no later than 14 days
200 after the day on which a candidate submits the signatures to the filing officer;

- 201 (ii) for all qualifying candidates for elective office who submit nomination petitions
202 to the filing officer, issue certifications referenced in Subsection (3)(a) no later
203 than the deadline described in Subsection 20A-9-202(1)(b);
- 204 (iii) consider active and inactive voters eligible to sign nomination petitions;
- 205 (iv) consider an individual who signs a nomination petition a member of a registered
206 political party for purposes of Subsection (3)(a)(ii) if the individual has designated
207 that registered political party as the individual's party membership on the
208 individual's voter registration form; and
- 209 (v) except as otherwise provided in Section 20A-21-201 and with the assistance of
210 the county clerk as applicable, use the procedures described in Section 20A-1-1002
211 to verify submitted nomination petition signatures, or use statistical sampling
212 procedures to verify submitted nomination petition signatures in accordance with
213 rules made under Subsection (3)(f).
- 214 (e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant
215 governor may appear on the regular primary ballot of a registered political party
216 without submitting nomination petitions if the candidate files a declaration of
217 candidacy and complies with Subsection 20A-9-202(3).
- 218 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
219 director of elections, within the Office of the Lieutenant Governor, may make rules
220 that:
- 221 (i) provide for the use of statistical sampling procedures that:
- 222 (A) filing officers are required to use to verify signatures under Subsection (3)(d);
223 and
- 224 (B) reflect a bona fide effort to determine the validity of a candidate's entire
225 submission, using widely recognized statistical sampling techniques; and
- 226 (ii) provide for the transparent, orderly, and timely submission, verification, and
227 certification of nomination petition signatures.
- 228 (g) The county clerk shall:
- 229 (i) review the declarations of candidacy filed by candidates for local boards of
230 education to determine if more than two candidates have filed for the same seat;
- 231 (ii) place the names of all candidates who have filed a declaration of candidacy for a
232 local board of education seat on the nonpartisan section of the ballot if more than
233 two candidates have filed for the same seat; and
- 234 (iii) determine the order of the local board of education candidates' names on the

235 ballot in accordance with Section 20A-6-305.

236 (4)(a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant
237 governor shall provide to the county clerks:

238 (i) a list of the names of all candidates for federal, constitutional, multi-county, single
239 county, and county offices who have received certifications under Subsection (3),
240 along with instructions on how those names shall appear on the primary election
241 ballot in accordance with Section 20A-6-305; and

242 (ii) a list of unopposed candidates for elective office who have been nominated by a
243 registered political party under Subsection (5)(c) and instruct the county clerks to
244 exclude the unopposed candidates from the primary election ballot.

245 (b) A candidate for lieutenant governor and a candidate for governor campaigning as
246 joint-ticket running mates shall appear jointly on the primary election ballot.

247 (c) After the county clerk receives the certified list from the lieutenant governor under
248 Subsection (4)(a), the county clerk shall post or publish a primary election notice in
249 substantially the following form:

250 "Notice is given that a primary election will be held Tuesday, June ____,
251 ____ (year), to nominate party candidates for the parties and candidates for nonpartisan
252 local school board positions listed on the primary ballot. The polling place for voting precinct
253 ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day.
254 Attest: county clerk."

255 (5)(a) A candidate who, at the regular primary election, receives the highest number of
256 votes cast for the office sought by the candidate is:

257 (i) except as otherwise provided in Section 20A-9-409.1, nominated for that office by
258 the candidate's registered political party; or

259 (ii) for a nonpartisan local school board position, nominated for that office.

260 (b) If two or more candidates are to be elected to the office at the regular general
261 election, those party candidates equal in number to positions to be filled who receive
262 the highest number of votes at the regular primary election are the nominees of the
263 candidates' party for those positions.

264 (c)(i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

265 (A) no individual other than the candidate receives a certification under
266 Subsection (3) for the regular primary election ballot of the candidate's
267 registered political party for a particular elective office; or

268 (B) for an office where more than one individual is to be elected or nominated, the

269 number of candidates who receive certification under Subsection (3) for the
 270 regular primary election of the candidate's registered political party does not
 271 exceed the total number of candidates to be elected or nominated for that office.

272 (ii) A candidate who is unopposed for an elective office in the regular primary
 273 election of a registered political party is nominated by the party for that office
 274 without appearing on the primary election ballot.

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

279 (7) An individual may not file a declaration of candidacy for a registered political party of
 280 which the individual is not a member, except to the extent that the registered political
 281 party permits otherwise under the registered political party's bylaws.

282 Section 5. Section **20A-9-409.1** is enacted to read:

283 **20A-9-409.1 . Determining winner of certain primary election races where a**
 284 **candidate does not receive a majority of the votes cast -- Runoff primary election for**
 285 **certain races -- Election requirements and notice.**

286 (1) In a regular primary election race for a qualified political party, the election officer shall
 287 determine the winning nominee in accordance with Subsection (2) if:

288 (a) the race is to nominate a qualified political party candidate for United States senator,
 289 United States representative, governor, attorney general, state treasurer, state auditor,
 290 state senator, or state representative; and

291 (b) the candidate who receives the most votes in the initial primary election race does
 292 not receive more than 50% of the votes in the race.

293 (2) To determine the winning nominee for a race described in Subsection (1), the election
 294 officer shall declare as the nominee for that race the candidate who wins the runoff
 295 election, described in Subsection (4), between the two candidates who received the
 296 highest number of votes in the initial primary race.

297 (3) If a tie in the number of votes received in the initial primary election race makes it
 298 impossible to determine, under Subsection (2), the two candidates who received the
 299 highest number of votes in the initial primary race, the tie shall be broken, by lot, in the
 300 presence of the tied candidates or representatives of the tied candidates, by:

301 (a) the election officer; or

302 (b) if the election officer is the lieutenant governor and the race is for governor, one of

303 the following, as designated by the lieutenant governor:

304 (i) the attorney general;

305 (ii) the state treasurer; or

306 (iii) the state auditor.

307 (4) To conduct a runoff election described in Subsection (2), the election officer shall:

308 (a) 35 days after the day of the regular primary election, hold a runoff election between
309 the two candidates identified under Subsection (2);

310 (b) conduct the election in accordance with Section 20A-3a-202, except that the election
311 officer may not provide early voting for the runoff election;

312 (c) provide notice of the runoff election by:

313 (i)(A) at least two days before the day of the election, publishing the notice in a
314 newspaper of general circulation in the jurisdiction to which the election
315 pertains;

316 (B) at least two days before the day of the election, posting one copy of the notice,
317 and at least one additional copy per 2,000 population of the jurisdiction, in
318 places within the jurisdiction that are most likely to give notice of the election
319 to the voters in the jurisdiction, subject to a maximum of 10 notices; or

320 (C) at least five days before the day of the election, mailing the notice to each
321 registered voter who resides in the jurisdiction to which the election pertains;

322 (ii) for 14 days before the day of the election, posting the notice on the Utah Public
323 Notice Website, created in Section 63A-16-601; and

324 (iii) for 14 days before the day of the election, posting notice on the jurisdiction's
325 website;

326 (d) except as provided in Subsection (5), include in the notice described in Subsection
327 (4)(c):

328 (i) at the top of the notice, the following statement:

329 "NOTICE OF RUNOFF ELECTION

330 Notice is given that a runoff election will be held at the date and times

331 indicated below to nominate the candidate for the [name of registered political
332 party] to run for [name of office] in the upcoming regular general election. The
333 candidates in the runoff election are:

334 [list the names of the two candidates participating in the runoff election, in the
335 same order as the candidates will appear on the ballot]

336 A voter who is eligible to vote in the primary election for the [insert the name

- 337 of the applicable political party] may cast a vote in the runoff election.";
338 (ii) the hours during which the polls will be open;
339 (iii) the polling places for each voting precinct and election day voting center;
340 (iv) the address of the Statewide Electronic Voter Information Website and the
341 election officer's website, with a statement indicating that the election officer will
342 post on the websites any changes to the location of a polling place and the location
343 of any additional polling place;
344 (v) a phone number that a voter may call to obtain information regarding the location
345 of a polling place; and
346 (vi) the qualifications for an individual to vote in the election; and
347 (e) no later than 14 days after the day of the election, declaring nominated by the
348 applicable party:
349 (i) the candidate who receives the highest number of votes in the runoff election; or
350 (ii) in the case of a tie, the candidate selected by lot, in the presence of the tied
351 candidates or representatives of the tied candidates, by the individual described in
352 Subsection (3).
- 353 (5) Instead of including the information described in Subsection (4)(d) in the notice
354 described in Subsection (4)(c), the election officer may include the following in the
355 notice:
356 (a) the statement described in Subsection (4)(d)(i);
357 (b) the following statement: "The election will be held in [indicate the jurisdiction] on
358 [indicate date of election]. Information relating to the election, including polling
359 places, polling place hours, and qualifications of voters may be obtained from the
360 following sources:"; and
361 (c) a list of the following sources where an individual may view or obtain the
362 information described in Subsections (4)(d)(ii) through (vi):
363 (i) the jurisdiction's website;
364 (ii) the physical address of the jurisdiction offices; and
365 (iii) a mailing address and telephone number.
- 366 (6)(a) In order to comply with Chapter 16, Uniform Military and Overseas Voters Act,
367 the election officer shall, when sending or providing a ballot under that chapter,
368 provide the ability to rank the candidates in a regular primary election race, in the
369 order the voter prefers the candidates, if the race may result in a runoff election under
370 this section.

- 371 (b) To count a vote cast in a race described in Subsection (6)(a), where the voter ranked
- 372 at least two of the candidates, the election officer shall:
- 373 (i) initially, only count a vote for the candidate the voter ranked highest; and
- 374 (ii) if the race results in a runoff election under this section, count a vote in the runoff
- 375 election for the remaining candidate ranked highest by the voter.

376 Section 6. **Effective Date.**

377 This bill takes effect on May 7, 2025.