

Chapter 4
Election Returns and Election Contests

Part 1
Counting Ballots and Tabulating Results

20A-4-101 Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election before polls close.

- (1) Each county legislative body, municipal legislative body, and each poll worker shall comply with the requirements of this section when counting manual ballots on the day of an election, if:
 - (a) the ballots are cast at a polling place; and
 - (b) the ballots are counted at the polling place before the polls close.
- (2)
 - (a) Each county legislative body or municipal legislative body shall provide:
 - (i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and
 - (ii) a counting room for the use of the poll workers counting the ballots during the day.
 - (b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:
 - (i) close the first ballot box and deliver it to the counting judges; and
 - (ii) prepare and use another ballot box to receive voted ballots.
 - (c) Except as provided in Subsection (2)(f), upon receipt of the ballot box, the counting judges shall:
 - (i) take the ballot box to the counting room;
 - (ii) count the votes on the regular ballots in the ballot box;
 - (iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and
 - (iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.
 - (d)
 - (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and
 - (ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.
 - (e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.
 - (f)
 - (i) The director of elections within the Office of the Lieutenant Governor shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing the procedures that a counting judge is required to follow for counting ballots in an instant runoff voting race under Part 6, Municipal Alternate Voting Methods Pilot Project.
 - (ii) When counting ballots in an instant runoff voting race described in Part 6, Municipal Alternate Voting Methods Pilot Project, a counting judge shall comply with the procedures established under Subsection (2)(f)(i) and Part 6, Municipal Alternate Voting Methods Pilot Project.

- (3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:
- (a) to the extent applicable, Section 20A-4-105; and
 - (b) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate Voting Methods Pilot Project, Subsections 20A-4-603(3) through (5).

Amended by Chapter 342, 2022 General Session

20A-4-102 Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election after polls close.

- (1)
- (a) This section governs counting manual ballots on the day of an election, if:
 - (i) the ballots are cast at a polling place; and
 - (ii) the ballots are counted at the polling place after the polls close.
 - (b) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.
 - (c) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:
 - (i) to the extent applicable, Section 20A-4-105; and
 - (ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate Voting Methods Pilot Project, Subsections 20A-4-603(3) through (5).
- (2)
- (a) First, the election judges shall count the number of ballots in the ballot box.
 - (b)
 - (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.
 - (ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.
 - (c)
 - (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.
 - (ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.
 - (iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.
 - (d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.
- (3) The judges shall:
- (a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and
 - (b) seal that envelope or container.
- (4) The judges shall:
- (a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and
 - (b) seal that envelope or container.

- (5)
 - (a) In counting the votes, the election judges shall read and count each ballot separately.
 - (b) In regular primary elections the judges shall:
 - (i) count the number of ballots cast for each party;
 - (ii) place the ballots cast for each party in separate piles; and
 - (iii) count all the ballots for one party before beginning to count the ballots cast for other parties.
- (6)
 - (a) In all elections, the counting judges shall, except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):
 - (i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;
 - (ii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;
 - (iii) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;
 - (iv) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;
 - (v) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and
 - (vi) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.
 - (b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.
 - (c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.
 - (d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.
- (7)
 - (a) Except as provided in Subsection (7)(b), only an election judge and a watcher may be present at the place where counting is conducted until the count is completed.
 - (b)
 - (i) An auditor conducting an audit described in Section 36-12-15.2 may be present at the place where counting is conducted, regardless of whether the count is completed.
 - (ii) The lieutenant governor may be present at the place where counting is conducted, regardless of whether the count is completed.

Amended by Chapter 156, 2023 General Session
Amended by Chapter 297, 2023 General Session

20A-4-103 Preparing ballots cast at a polling place for the counting center.

- (1) This section governs the preparation of ballots for the counting center when the ballots are cast at a polling place.
- (2)
 - (a) As soon as the polls have been closed and the last qualified voter has voted, the poll workers shall prepare the ballots for delivery to the counting center as provided in this section.
 - (b) The poll workers, election officers, and other persons may not manually count any votes before delivering the ballots to the counting center.
- (3) The poll workers shall:

- (a) complete the statement of disposition of ballots and all other forms required by the election officer;
- (b) place a copy of the forms described in Subsection (3)(a) and the voted ballots in a sealed container;
- (c) place all provisional ballots in the container provided for returning provisional ballots to the counting center and seal the container; and
- (d) deliver to the counting center:
 - (i) the items described in Subsections (3)(a) through (c); and
 - (ii) any other items required by the election officer.

Amended by Chapter 31, 2020 General Session

20A-4-104 Counting ballots electronically -- Notice of testing tabulating equipment.

- (1)
 - (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.
 - (b) The election officer shall provide public notice of the time and place of the test by publishing the notice, as a class A notice under Section 63G-30-102, for the county, municipality, or jurisdiction where the equipment is used, for at least 10 days before the day of the test.
 - (c) The election officer shall conduct the test by processing a preaudited group of ballots.
 - (d) The election officer shall ensure that:
 - (i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;
 - (ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and
 - (iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.
 - (e) If any error is detected, the election officer shall determine the cause of the error and correct it.
 - (f) The election officer shall ensure that:
 - (i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and
 - (ii) before the election returns are approved as official, the automatic tabulating equipment passes a post election audit conducted in accordance with the rules described in Subsection 20A-1-108(1).
- (2)
 - (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.
 - (b)
 - (i) Proceedings at the counting center are public and may be observed by interested persons.
 - (ii) Only those persons authorized to participate in the count may touch any ballot or return.
 - (c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.
- (3)
 - (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

- (i) make a true replication of the ballot with an identifying serial number;
 - (ii) substitute the replicated ballot for the damaged or defective ballot;
 - (iii) label the replicated ballot "replicated"; and
 - (iv) record the replicated ballot's serial number on the damaged or defective ballot.
- (b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:
- (i) the serial number described in Subsection (3)(a);
 - (ii) the identification of the individuals who replicated the ballot;
 - (iii) the reason for the replication; and
 - (iv) any other information required by the lieutenant governor.
- (c) An election officer shall:
- (i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;
 - (ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and
 - (iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.
- (4) The election officer may:
- (a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;
 - (b) release unofficial returns from time to time after the polls close; and
 - (c) report the progress of the count for each candidate during the actual counting of ballots.
- (5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.
- (6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.
- (7)
- (a) The election officer or the election officer's designee shall:
 - (i) separate, count, and tabulate any ballots containing valid write-in votes; and
 - (ii) complete the standard form provided by the clerk for recording valid write-in votes.
 - (b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.
- (8)
- (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.
 - (b) Upon completion of the count, the election officer shall make official returns open to the public.
- (9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.
- (10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Amended by Chapter 45, 2023 General Session
Amended by Chapter 297, 2023 General Session

Amended by Chapter 435, 2023 General Session

20A-4-105 Standards and requirements for evaluating voter's ballot choice.

- (1)
 - (a) An election officer shall ensure that when a question arises regarding a vote recorded on a manual ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.
 - (b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.
 - (c) An election officer shall store adjudicated ballots separately from other ballots to enable a court to review the ballots if the election is challenged in court.
- (2) Except as provided in Subsection (10), Subsection 20A-3a-204(6), or Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.
- (3) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a manual ballot if:
 - (a) the defective or incomplete mark is in the proper place; and
 - (b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.
- (4) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.
- (5)
 - (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.
 - (b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3a, Voting.
- (6) The counting judges may not reject a ballot because of an error in:
 - (a) stamping or writing an official endorsement; or
 - (b) delivering the wrong ballots to a polling place.
- (7) The counting judges may not count a manual ballot that does not have the official endorsement by an election officer.
- (8) The counting judges may not count a ballot proposition vote or candidate vote for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.
- (9) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.
- (10) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.
- (11) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes

for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.

Amended by Chapter 380, 2022 General Session

20A-4-106 Manual ballots -- Sealing.

- (1) After the official canvas of an election, the election officer shall store all election returns in containers that identify the containers' contents.
- (2) After the ballots are stored under Subsection (1), the ballots may not be examined by anyone, except as follows:
 - (a) when examined during a recount conducted under the authority of Section 20A-4-401 or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;
 - (b) an auditor conducting an audit described in Section 36-12-15.2 may examine the ballots:
 - (i) if the audit uncovers evidence that raises a substantial doubt regarding the accuracy of the results of an election, the auditor may examine the ballots until the later of:
 - (A) the end of the calendar year in which the election was held; or
 - (B) if the election is contested, when the contest is resolved; or
 - (ii) at any time via a subpoena or other legal process; or
 - (c) the lieutenant governor may examine the ballots:
 - (i) until the later of:
 - (A) the end of the calendar year in which the election was held; or
 - (B) if the election is contested, when the contest is resolved; or
 - (ii) at any time via a subpoena or other legal process.

Amended by Chapter 156, 2023 General Session

Amended by Chapter 297, 2023 General Session

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

- (1) As used in this section, an individual is "legally entitled to vote" if:
 - (a) the individual:
 - (i) is registered to vote in the state;
 - (ii) votes the ballot for the voting precinct in which the individual resides; and
 - (iii) provides valid voter identification to the poll worker;
 - (b) the individual:
 - (i) is registered to vote in the state;
 - (ii)
 - (A) provided valid voter identification to the poll worker; or
 - (B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the individual's identity and residence through some other means; and
 - (iii) did not vote in the individual's precinct of residence, but the ballot that the individual voted was from the individual's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the individual's precinct of residence; or
 - (c) the individual:
 - (i) is registered to vote in the state;

- (ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and
- (iii)
 - (A) the county clerk verifies the individual's identity and residence through some other means as reliable as photo identification; or
 - (B) the individual provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.
- (2)
 - (a) Upon receipt of a provisional ballot form, the election officer shall review the affirmation on the provisional ballot form and determine if the individual signing the affirmation is:
 - (i) registered to vote in this state; and
 - (ii) legally entitled to vote:
 - (A) the ballot that the individual voted; or
 - (B) if the ballot is from the individual's county of residence, for at least one ballot proposition or candidate on the ballot that the individual voted.
 - (b) Except as provided in Section 20A-2-207, if the election officer determines that the individual is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the individual voted, the election officer shall retain the ballot form, uncounted, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.
 - (c) If the election officer determines that the individual is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the individual voted, the election officer shall place the provisional ballot with the regular ballots to be counted with those ballots at the canvass.
 - (d) The election officer may not count, or allow to be counted a provisional ballot unless the individual's identity and residence is established by a preponderance of the evidence.
- (3) If the election officer determines that the individual is registered to vote in this state, or if the voter registers to vote in accordance with Section 20A-2-207, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot form.
- (4) Except as provided in Section 20A-2-207, if the election officer determines that the individual is not registered to vote in this state and the information on the provisional ballot form is complete, the election officer shall:
 - (a) consider the provisional ballot form a voter registration form for the individual's county of residence; and
 - (b)
 - (i) register the individual if the individual's county of residence is within the county; or
 - (ii) forward the voter registration form to the election officer of the individual's county of residence, which election officer shall register the individual.
- (5) Notwithstanding any provision of this section, the election officer shall place a provisional ballot with the regular ballots to be counted with those ballots at the canvass, if:
 - (a)
 - (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than 11 days before the election;
 - (ii) 11 or more days before the election, the individual who cast the provisional ballot:

- (A) completed and signed the voter registration; and
- (B) provided the voter registration to another person to file;
- (iii) the late filing was made due to the individual described in Subsection (5)(a)(ii)(B) filing the voter registration late; and
- (iv) the election officer receives the voter registration before 5 p.m. no later than one day before the day of the election; or
- (b) the provisional ballot is cast on or before election day and is not otherwise prohibited from being counted under the provisions of this chapter.

Amended by Chapter 31, 2020 General Session

20A-4-109 Ballot reconciliation -- Rulemaking authority.

- (1) In accordance with this section and rules made under Subsection (2), an election officer whose office processes ballots shall:
 - (a) conduct ballot reconciliations every time ballots are tabulated;
 - (b) conduct a final ballot reconciliation when an election officer concludes processing all ballots;
 - (c) document each ballot reconciliation;
 - (d) publicly release the results of each ballot reconciliation; and
 - (e) in conducting ballot reconciliations:
 - (i) ensure that the sum of the number of uncounted verified ballots and the number of ballots tabulated is equal to the number of voters given credit for voting; or
 - (ii) if the sum described in Subsection (1)(e)(i) is not equal to the number of voters given credit for voting, account for and explain the differences in the numbers.
- (2) The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and requirements for conducting, documenting, and publishing a ballot reconciliation.

Amended by Chapter 465, 2024 General Session

Part 2
Transmittal and Disposition of Ballots and Election Returns

20A-4-201 Delivery of election returns.

- (1) At least two poll workers shall deliver the ballots and other items described in Subsection 20A-4-103(3)(d) to:
 - (a) the election officer; or
 - (b) the location directed by the election officer.
- (2)
 - (a) Before they adjourn, the poll workers shall choose two or more of their number to deliver the election returns to the election officer.
 - (b) The poll workers shall:
 - (i) deliver the unopened envelopes to the election officer or counting center immediately but no later than 24 hours after the polls close; or

- (ii) if the polling place is 15 miles or more from the county seat, mail the election returns to the election officer by registered mail from the post office most convenient to the polling place within 24 hours after the polls close.
- (3) The election officer shall pay each poll worker reasonable compensation for travel that is necessary to deliver the election returns and to return to the polling place.
- (4) The requirements of this section do not prohibit transmission of the unofficial vote count to the counting center via electronic means, provided that reasonable security measures are taken to preserve the integrity and privacy of the transmission.

Amended by Chapter 31, 2020 General Session

20A-4-202 Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

- (1) Upon receipt of the election returns from the poll workers, the election officer shall:
 - (a) ensure that the poll workers have provided all of the ballots and election returns;
 - (b) inspect the ballots and election returns to ensure that they are sealed;
 - (c) for manual ballots, deposit and lock the ballots and election returns in a safe and secure place;
 - (d) for mechanical ballots:
 - (i) count the ballots; and
 - (ii) deposit and lock the ballots and election returns in a safe and secure place; and
 - (e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.
- (2) Each election officer shall:
 - (a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;
 - (b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;
 - (c) preserve all other official election returns for at least 22 months after an election; and
 - (d) after that time, destroy them without opening or examining them.
- (3)
 - (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.
 - (b) The election officer:
 - (i) may access these tabulating cards and other materials;
 - (ii) may make copies of these materials and make changes to the copies;
 - (iii) may not alter or make changes to the materials themselves; and
 - (iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.
- (4)
 - (a) If an election contest is begun within 12 months, the election officer shall, except as provided in Subsection (4)(c):
 - (i) keep the ballots and election returns unopened and unaltered until the contest is complete; or
 - (ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

- (b) Except as provided in Subsection (4)(c), when all election contests arising from an election are complete, the election officer shall either:
 - (i) retain the ballots and election returns until the time for preserving them under this section has run; or
 - (ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.
- (c)
 - (i) An auditor conducting an audit described in Section 36-12-15.2 may examine the ballots and election returns described in this Subsection (4).
 - (ii) The lieutenant governor may examine the ballots and election returns described in this Subsection (4).
- (5)
 - (a) Notwithstanding the provisions of this section, the legislative auditor general:
 - (i) may make and keep copies of ballots or election returns as part of a legislative audit; and
 - (ii) may not examine, make copies, or keep copies, of a ballot in a manner that identifies a ballot with the voter who casts the ballot.
 - (b) A copy described in Subsection (5)(a) is not a record, and not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 156, 2023 General Session

Amended by Chapter 297, 2023 General Session

Part 3 Canvassing Returns

20A-4-301 Board of canvassers.

- (1)
 - (a) Each county legislative body is the board of county canvassers for:
 - (i) the county; and
 - (ii) each special district whose election is conducted by the county if:
 - (A) the election relates to the creation of the special district;
 - (B) the county legislative body serves as the governing body of the special district; or
 - (C) there is no duly constituted governing body of the special district.
 - (b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.
 - (c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:
 - (i) the county treasurer;
 - (ii) the county assessor; or
 - (iii) the county sheriff.
 - (d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.
 - (e) The county clerk is the clerk of the board of county canvassers.
- (2)

- (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.
 - (b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:
 - (i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or
 - (ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.
 - (c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.
- (3)
- (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.
 - (b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.
 - (c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.
- (4)
- (a) If a board of trustees or an administrative control board is the governing body of a special district, the board of trustees or the administrative control board is the board of special district canvassers for the special district.
 - (b) The board of special district canvassers shall meet to canvass the returns at the usual place of meeting for the board of trustees or the administrative control board, as applicable, at a date and time determined by the special district clerk that is no sooner than seven days after the day of the election and no later than 14 days after the day of the election.
 - (c) Attendance of a simple majority of the board of trustees or the administrative control board is a quorum for conducting the canvass.
- (5) In relation to an election for the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, or in relation to an election of members of a local school board for a new school district or a reorganized new school district under Section 53G-3-302, the board of canvassers is:
- (a) if the voters permitted to vote in the election are all residents of the same municipality, the mayor and the municipal legislative body;
 - (b) if the voters permitted to vote in the election are not all residents of the same municipality, but are all residents of the same county, the county legislative body; or
 - (c) if the voters permitted to vote in the election are not all residents of the same municipality and are not all residents of the same county, the county legislative body of the county where the majority of the voters permitted to vote in the election are residents.

Amended by Chapter 3, 2024 Special Session 3

20A-4-302 Duties of the board of canvassers -- Receiving returns.

- (1) If the election returns from each voting precinct in which polls were opened have been received at the time the board of canvassers convenes, the board of canvassers shall canvass the election returns as provided in this part.
- (2) If all of the election returns have not been received, the board shall postpone the canvass from day to day, Sundays and legal holidays excepted, until:
 - (a) all of the election returns are received; or

- (b) the board has postponed the canvass seven times.
- (3)
 - (a) If the election officer has not received the election returns from any voting precinct within seven days after the election, the election officer shall send a messenger to the judges to obtain the missing election returns.
 - (b) The messenger shall obtain the election returns from the judges and return the election returns to the election officer.
 - (c) The election officer shall pay the messenger 10 cents per mile for the distance necessarily traveled.
- (4) If the board determines that election returns were not received from a voting precinct because the polls did not open in that precinct, the board shall:
 - (a) sign a certificate attesting to that fact; and
 - (b) file the certificate with the election officer.

Enacted by Chapter 1, 1993 General Session

20A-4-303 Duties of the board of canvassers -- Canvassing the returns.

- (1)
 - (a) Before the board of canvassers convenes, the election officer shall:
 - (i) count the ballots;
 - (ii) prepare a certified summary of:
 - (A) all ballots counted; and
 - (B) all ballots not counted, with an explanation regarding the reason the ballots were not counted; and
 - (iii) make available to the board of canvassers for inspection, all ballots, registers, books, and forms related to the election.
 - (b) The board of canvassers shall canvass the election returns by publicly:
 - (i) reviewing the summary reports prepared by the election officer and any ballots, registers, books, or forms requested by the board of canvassers; and
 - (ii) certifying the votes cast:
 - (A) each person voted for; and
 - (B) for and against each ballot proposition voted upon at the election.
 - (c) The board of canvassers shall, once having begun the canvass, continue until it is completed.
- (2) In canvassing returns, the board of canvassers may not:
 - (a) reject any election returns if the board can determine the number of votes cast for each person from it;
 - (b) reject any election returns if the election returns:
 - (i) do not show who administered the oath to the judges of election;
 - (ii) show that the election judges failed to fill out all the certificates in the pollbooks; or
 - (iii) show that the election judges failed to do or perform any other act in preparing the returns that is not essential to determine for whom the votes were cast; or
 - (c) reject any returns from any voting precinct that do not conform with the requirements for making, certifying, and returning the returns if those returns are sufficiently explicit to enable the board of canvassers to determine the number of votes cast for each person and for and against each ballot proposition.
- (3)

- (a) If it clearly appears to the election officer and board of canvassers that certain matters are omitted or that clerical mistakes exist in election returns received, the election officer shall correct the omissions and mistakes.
- (b) The clerk and the board of canvassers may adjourn from day to day to await receipt of corrected election material.
- (4) If a recount is conducted as authorized by Section 20A-4-401, the board of canvassers shall canvass the results of that recount as provided in this section and Section 20A-4-401.

Amended by Chapter 31, 2020 General Session

20A-4-304 Declaration of results -- Canvassers' report.

- (1)
 - (a) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:
 - (i) had the highest number of votes; and
 - (ii) sought election or nomination to an office completely within the board's jurisdiction.
 - (b) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare a "tie vote" if:
 - (i) two or more candidates for an office receive an equal and the highest number of votes for that office; or
 - (ii) in a race for an at-large office:
 - (A) two or more candidates receive an equal number of votes; and
 - (B) a recount is necessary to determine which candidates are elected to the at-large office.
 - (c) A board of canvassers shall declare:
 - (i) "approved" those ballot propositions that:
 - (A) had more "yes" votes than "no" votes; and
 - (B) were submitted only to the voters within the board's jurisdiction; or
 - (ii) "rejected" those ballot propositions that:
 - (A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and
 - (B) were submitted only to the voters within the board's jurisdiction.
 - (d) A board of canvassers shall:
 - (i) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and
 - (ii) if applicable, certify the results of each special district election to the special district clerk.
- (2) The election officer shall submit a report to the board of canvassers that includes the following information:
 - (a) the total number of votes cast in the board's jurisdiction;
 - (b) the names of each candidate whose name appeared on the ballot;
 - (c) the title of each ballot proposition that appeared on the ballot;
 - (d) each office that appeared on the ballot;
 - (e) from each voting precinct:
 - (i) the number of votes for each candidate;
 - (ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

- (iii) the number of votes for and against each ballot proposition;
 - (f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;
 - (g) standardized statistics, on a form provided by the lieutenant governor, disclosing:
 - (i) the number of ballots counted;
 - (ii) provisional ballots; and
 - (iii) the number of ballots rejected;
 - (h) a final ballot reconciliation report;
 - (i) other information required by law to be provided to the board of canvassers; and
 - (j) a statement certifying that the information contained in the report is accurate.
- (3) The election officer and the board of canvassers shall:
- (a) review the report to ensure that the report is correct; and
 - (b) sign the report.
- (4) The election officer shall:
- (a) record or file the certified report in a book kept for that purpose;
 - (b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;
 - (c) publish a copy of the certified report in accordance with Subsection (5); and
 - (d) file a copy of the certified report with the lieutenant governor.
- (5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the jurisdiction, as a class A notice under Section 63G-30-102, for at least seven days.
- (6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:
- (a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and
 - (b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:
 - (i) if the jurisdiction has a website, the jurisdiction's website;
 - (ii) the physical address for the jurisdiction; and
 - (iii) a mailing address and telephone number.
- (7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:
- (a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and
 - (b) transmit the separate report by registered mail to the lieutenant governor.
- (8) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.
- (9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:
- (a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and
 - (b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Amended by Chapter 503, 2024 General Session

20A-4-305 Delivery of checked official register to county clerk after canvass.

Within 10 days after the canvass of a November municipal election, special district election, bond election, or special election, the clerk or recorder shall transmit the checked official register to the county clerk.

Amended by Chapter 15, 2023 General Session

20A-4-306 Statewide canvass.

- (1)
 - (a) The state board of canvassers shall convene:
 - (i) on the fourth Monday of November, at noon; or
 - (ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.
 - (b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.
 - (c) Attendance of all members of the state board of canvassers is required to constitute a quorum for conducting the canvass.
- (2)
 - (a) The state board of canvassers shall:
 - (i) meet in the lieutenant governor's office; and
 - (ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.
 - (b) The lieutenant governor, as secretary of the board shall file a report in the lieutenant governor's office that details:
 - (i) for each statewide officer and ballot proposition:
 - (A) the name of the statewide office or ballot proposition that appeared on the ballot;
 - (B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;
 - (C) the number of votes from each county cast for each candidate and for and against each ballot proposition;
 - (D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and
 - (E) the total number of votes cast statewide; and
 - (ii) for each officer or ballot proposition voted on in two or more counties:
 - (A) the name of each of those offices and ballot propositions that appeared on the ballot;
 - (B) the candidates for those offices, plus any recorded write-in candidates;
 - (C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and
 - (D) the total number of votes cast for each candidate and for and against each ballot proposition.
 - (c) Except as provided in Subsection (2)(d), the lieutenant governor shall:
 - (i) prepare certificates of election for:
 - (A) each successful candidate; and
 - (B) each of the presidential electors of the candidate for president who received a majority of the votes;
 - (ii) authenticate each certificate with the lieutenant governor's seal; and

- (iii) deliver a certificate of election to:
 - (A) each candidate who had the highest number of votes for each office; and
 - (B) each of the presidential electors of the candidate for president who received a majority of the votes.
- (d) The lieutenant governor shall, in the report described in Subsection (2)(b), declare a tie vote if:
 - (i) two or more officers receive an equal and the highest number of votes for an office; or
 - (ii) in a race for an at-large office:
 - (A) two or more candidates receive an equal number of votes; and
 - (B) a recount is necessary to determine which candidates are elected to the at-large office.
- (3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:
 - (a) send a messenger to the clerk of the board of county canvassers of the delinquent county;
 - (b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and
 - (c) pay the messenger the per diem provided by law as compensation.
- (4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.
- (5)
 - (a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:
 - (i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and
 - (ii) publish and file the results of the canvass in the lieutenant governor's office.
 - (b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the results of the primary canvass to the county clerks.
- (6)
 - (a) At noon on the fourth Tuesday in March of a year in which a presidential election will be held, the lieutenant governor shall:
 - (i) canvass the returns of the presidential primary election; and
 - (ii) publish and file the results of the canvass in the lieutenant governor's office.
 - (b) The lieutenant governor shall certify the results of the presidential primary election canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Amended by Chapter 503, 2024 General Session

Part 4

Recounts and Election Contests

20A-4-401 Recounts -- Procedure.

- (1) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.
- (2) The election officer shall conduct a recount of votes cast in a race if:

- (a) two or more candidates for an office receive an equal and the highest number of votes for that office; or
 - (b) in a race for an at-large office, two or more candidates receive an equal number of votes and at least one of the candidates must be eliminated to determine which candidates are elected.
- (3)
- (a) Except as provided in Subsection (2) or (3)(b), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, the losing candidate may file a request for a recount in accordance with Subsection (4).
 - (b) Except as provided in Subsection (2), for a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, the losing candidate may file a request for a recount in accordance with Subsection (4).
- (4) A losing candidate who files a request for a recount under Subsection (3)(a) or (b) shall file the request:
- (a) for a municipal primary election, with the municipal clerk, before 5 p.m., no later than three days after the day on which the canvass is completed; or
 - (b) for all other elections, before 5 p.m., no later than seven days after the day on which the canvass is completed, with:
 - (i) the municipal clerk, if the election is a municipal general election;
 - (ii) the special district clerk, if the election is a special district election;
 - (iii) the county clerk, for a race voted on entirely within a single county; or
 - (iv) the lieutenant governor, for a statewide race or multi-county race.
- (5)
- (a) The election officer shall conduct the recount:
 - (i) for a race described in Subsection (2), no later than 10 days after the day on which the board of canvassers certifies the vote totals; or
 - (ii) for a race described in Subsection (3), no later than seven days after the day on which the losing candidate requests the recount.
 - (b) In conducting the recount, the election officer shall:
 - (i) supervise the recount;
 - (ii) recount all ballots cast in the race;
 - (iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and
 - (iv)
 - (A) for a race between candidates for a single office, declare elected the candidate who receives the highest number of votes on the recount;
 - (B) for a race for an at-large office, declare elected the candidate who receives the highest number of votes on the recount, until all offices are filled by the candidates who received the highest number of votes;
 - (C) for a race described in Subsection (5)(b)(iv)(A) in which two or more candidates receive an equal and the highest number of votes, declare a tie vote; or
 - (D) for a race described in Subsection (5)(b)(iv)(B) in which two or more candidates receive an equal number of votes, declare a tie vote if the selection of the winning candidate by lot under Section 20A-1-304 is necessary to determine which candidate is elected to the at-large office.
- (6) The cost of a recount under Subsection (5) shall be paid by:

- (a) for a statewide race or multi-county race, the state; or
 - (b) for all other races:
 - (i) the political subdivision that conducts the election; or
 - (ii) the political subdivision that enters into a contract or interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct the election.
- (7)
- (a) Except as provided in Subsection (7)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection (8).
 - (b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection (8).
- (8) The 10 voters who file a request for a recount under Subsection (7)(a) or (b) shall file the request with:
- (a) the municipal clerk, if the election is a municipal election;
 - (b) the special district clerk, if the election is a special district election;
 - (c) the county clerk, for a proposition voted on entirely within a single county; or
 - (d) the lieutenant governor, for a statewide proposition or multi-county proposition.
- (9)
- (a) In conducting the recount, the election officer shall:
 - (i) supervise the recount;
 - (ii) recount all ballots cast for the ballot proposition or bond proposition;
 - (iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and
 - (iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.
 - (b) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.
- (10) The voters requesting a recount under Subsection (7)(a) or (b) shall pay the costs of the recount.
- (11)
- (a) Upon completing a recount described in Subsection (5) or (9), the election officer shall immediately convene the board of canvassers.
 - (b) The board of canvassers shall:
 - (i) canvass the election returns for the race or proposition that was the subject of the recount; and
 - (ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or 20A-4-306.
 - (c) If the recount is for a statewide race, multi-county race, or a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304(7).

- (d) The canvassers' report prepared as provided in this Subsection (11) is the official result of the race or proposition that is the subject of the recount.

Amended by Chapter 503, 2024 General Session

20A-4-402 Election contests -- Grounds.

- (1) The election or nomination of any person to any public office, and the declared result of the vote on any ballot proposition or bond proposition submitted to a vote of the people may be contested according to the procedures established in this part only:
 - (a) for malconduct, fraud, or corruption on the part of the judges of election at any polling place, or of any board of canvassers, or any judge or member of the board sufficient to change the result;
 - (b) when the person declared elected was not eligible for the office at the time of the election;
 - (c) when the person declared elected has:
 - (i) given or offered to any registered voter, judge, or canvasser of the election any bribe or reward in money, property, or anything of value for the purpose of influencing the election; or
 - (ii) committed any other offense against the elective franchise;
 - (d) when illegal votes have been received or legal votes have been rejected at the polls sufficient to change the result;
 - (e) for any error of any board of canvassers or judges of election in counting the votes or declaring the result of the election, if the error would change the result;
 - (f) when the election result would change because a sufficient number of ballots containing uncorrected errors or omissions have been received at the polls;
 - (g) when the candidate declared elected is ineligible to serve in the office to which the candidate was elected;
 - (h) when an election judge or clerk was a party to malconduct, fraud, or corruption sufficient to change the result of the election; and
 - (i) for any other cause that shows that another person was legally elected.
- (2) Any irregularity or improper conduct by the election judges does not void an election unless the irregularity or improper conduct would result in the election of a person who did not receive the highest number of legal votes.
- (3) When any election held for any office is contested because of any irregularity or improper conduct on the part of a judge of any voting precinct, a court, upon proof of the irregularity or improper conduct may not set aside the election unless the irregularity or improper conduct would change the result for that office.

Amended by Chapter 105, 2005 General Session

20A-4-403 Election contest -- Petition and response.

- (1)
 - (a) In contesting the results of all elections, except for primary elections and bond elections, a registered voter may contest the right of an individual declared elected to office by filing a verified written complaint with the district court of the county in which the registered voter resides within 40 days after the day on which the canvass concludes.
 - (b) The complaint shall include:
 - (i) the name of the voter contesting the election;

- (ii) a statement that the voter is a registered voter in the jurisdiction in which the election was held;
 - (iii) the name of the individual whose right to the office is contested;
 - (iv) the office to which the individual was ostensibly elected;
 - (v) one or more of the grounds for an election contest specified in Section 20A-4-402;
 - (vi) the individual who was purportedly elected to the office as respondent; and
 - (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all individuals who allegedly cast illegal votes or whose legal vote was rejected.
- (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:
- (i) illegal votes were given in one or more specified voting precincts to an individual whose election is contested, which, if taken from the individual, would reduce the number of legal votes for the individual below the number of legal votes given to another individual for the same office; or
 - (ii) legal votes for another individual were rejected, which, if counted, would raise the number of legal votes for that individual above the number of legal votes cast for the individual whose election is contested.
- (d)
- (i) The court may not take or receive evidence of any of the votes described in Subsection (1)(c) unless the individual contesting the election delivers to the respondent, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which the individual intends to prove at trial.
 - (ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.
- (2)
- (a) In contesting the results of a primary election, when contesting the petition nominating an independent candidate, or when challenging any person, election officer, election official, board, or convention for failing to nominate an individual, a registered voter may contest the right of an individual declared nominated to office by filing a verified written complaint within 10 days after the day on which the canvass for the primary election concludes, after the date of filing of the petition, or after the date of the convention, respectively, with:
- (i) the district court of the county in which the registered voter resides if the registered voter is contesting a nomination made only by voters from that county; or
 - (ii) the Utah Supreme Court, if the registered voter is contesting a nomination made by voters in more than one county.
- (b) The complaint shall include:
- (i) the name of the voter contesting the nomination;
 - (ii) a statement that the voter contesting the nomination is a registered voter in the jurisdiction in which the election was held;
 - (iii) the name of the individual whose right to nomination is contested or the name of the individual who failed to have their name placed in nomination;
 - (iv) the office to which the individual was nominated or should have been nominated;
 - (v) one or more of the grounds for an election contest specified in Subsection (1);
 - (vi) the individual who was purportedly nominated to the office as respondent; and
 - (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all individuals who allegedly cast illegal votes or whose legal vote was rejected.

- (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:
 - (i) illegal votes were given to an individual whose election is contested, which, if taken from the individual, would reduce the number of legal votes given to the individual below the number of legal votes given to another individual for the same office; or
 - (ii) legal votes for another individual were rejected, which, if counted, would raise the number of legal votes for that individual above the number of legal votes cast for the individual whose election is contested.
- (d)
 - (i) The court may not take or receive evidence of any votes described in Subsection (2)(c), unless the voter contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which the voter intends to prove at trial.
 - (ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.
- (3)
 - (a) In contesting the results of a bond election, a registered voter may contest the validity of the declared results by filing a verified written complaint with the district court of the county in which the registered voter resides within 40 days after the date of the official finding entered under Section 11-14-207.
 - (b) The complaint shall include:
 - (i) the name of the voter contesting the election;
 - (ii) a statement that the voter is a registered voter in the jurisdiction in which the election was held;
 - (iii) the bond proposition that is the subject of the contest;
 - (iv) one or more of the grounds for an election contest specified in Section 20A-4-402; and
 - (v) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all individuals who allegedly cast illegal votes or whose legal vote was rejected.
 - (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:
 - (i) illegal votes were counted in one or more specified voting precincts which, if taken out of the count, would change the declared result of the vote on the proposition; or
 - (ii) legal votes were rejected in one or more specified voting precincts, which, if counted, would change the declared result of the vote on the proposition.
 - (d)
 - (i) The court may not take or receive evidence of any of the votes described in Subsection (3)(c) unless the voter contesting the election delivers to the respondent, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which the voter intends to prove at trial.
 - (ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.
- (4) The court may not reject any statement of the grounds of contest or dismiss the proceedings because of lack of form, if the grounds of the contest are alleged with sufficient certainty as will advise the defendant of the particular proceeding or cause for which the election is contested.
- (5)
 - (a) The petitioner shall serve a copy of the petition on the respondent.
 - (b)

- (i) If the petitioner cannot obtain personal service of the petition on the respondent, the petitioner may serve the respondent by leaving a copy of the petition with the clerk of the court with which the petition was filed.
 - (ii) The clerk shall make diligent inquiry and attempt to inform the respondent that the respondent has five days to answer the complaint.
 - (c) The respondent shall answer the petition within five days after the day of service.
 - (d) If the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the defendant shall include in the answer the name and address of all individuals whom the respondent believes were properly or improperly admitted or denied the vote.
 - (e) If the answer contains a counterclaim, the petitioner shall file a reply within 10 days after the day of service of the counterclaim.
- (6)
- (a) The provisions of this Subsection (6) provide requirements that apply to municipal election contests that are in addition to the other requirements of this section governing election contest.
 - (b) Municipal election contests shall be filed, tried, and determined in the district court of the county in which the municipality is located.
 - (c)
 - (i) As a condition precedent to filing a municipal election contest, the petitioner shall file a written affidavit of intention to contest the election with the clerk of the court within seven days after the day on which the votes are canvassed.
 - (ii) The affidavit shall include:
 - (A) the petitioner's name;
 - (B) the fact that the petitioner is a qualified voter of the municipality;
 - (C) the respondent's name;
 - (D) the elective office contested;
 - (E) the time of election; and
 - (F) the grounds for the contest.
 - (d)
 - (i) Before the district court takes jurisdiction of a municipal election contest, the petitioner shall file a bond with the clerk of the court with the sureties required by the court.
 - (ii) The bond shall name the respondent as obligee and be conditioned for the payment of all costs incurred by the respondent if the respondent prevails.

Amended by Chapter 18, 2022 General Session

20A-4-404 Election contest -- Calendaring and disposition.

- (1)
- (a) Upon receipt of the petition, the clerk shall inform the chief judge of the court having jurisdiction.
 - (b) The chief judge shall issue an order:
 - (i) assigning the case to a district court judge, if the district court has jurisdiction; and
 - (ii) setting a date and time, not less than 10 nor more than 30 days from the date the petition was filed to hear and determine the contest.
 - (c) The clerk shall:
 - (i) issue a subpoena for the person whose right to the office is contested to appear at the time and place specified in the order; and
 - (ii) cause the subpoena to be served.

- (2) The court shall meet at the time and place designated to determine the contest.
- (3)
 - (a) If it is necessary for the court to inspect the ballots of any voting precinct in order to determine any election contest the judge may order the proper officer to produce them.
 - (b) The judge shall:
 - (i) open and inspect the ballots in open court in the presence of the parties or their attorneys; and
 - (ii) immediately after the inspection, seal them in an envelope and return them, by mail or otherwise, to their legal custodian.
- (4)
 - (a) If the petition, response, or counterclaim alleges an error in the canvass sufficient to change the result, the court may order and conduct a recount of the ballots or vote tabulation.
 - (b) The court may also require the production of any documents, records, and other evidence necessary to enable it to determine the legality or illegality of any vote cast or counted.
 - (c)
 - (i) After all the evidence in the contest is submitted, the court shall enter its judgment, either confirming the election result or annulling and setting aside the election.
 - (ii) If the court determines that a person other than the one declared elected received the highest number of legal votes, the court shall declare that person elected.

Enacted by Chapter 1, 1993 General Session

20A-4-405 Election contests -- Costs.

- (1) The court shall enter judgment for costs against the party contesting the election if:
 - (a) the proceedings are dismissed for:
 - (i) insufficiency of pleading or proof; or
 - (ii) want of prosecution; or
 - (b) the election is confirmed by the court.
- (2) The court shall enter judgment for costs against the party whose election was contested if the election is annulled and set aside.
- (3)
 - (a) Each party is liable for the costs of the officers and witnesses that appeared on the party's behalf.
 - (b) The party may pay, and the officers and witnesses may collect, those costs in the same manner as similar costs are paid and collected in other cases.

Amended by Chapter 18, 2022 General Session

20A-4-406 Election contests -- Appeal.

- (1)
 - (a) Either party may appeal the district court's judgment to the Supreme Court as in other cases of appeal from the district court.
 - (b) When an appeal is taken, the district court may not stay execution or proceedings, except execution for costs.
- (2) Whenever an election is annulled or set aside by the judgment of a court and no appeal is taken within 10 days, the certificate of election, if any has been issued, is void, and the office is vacant.

Enacted by Chapter 1, 1993 General Session

Part 5 Offenses Involving Election Returns

20A-4-501 Election returns -- Forgery.

- (1) It is unlawful for any person to:
 - (a) forge or counterfeit any election returns from any election purporting to have been held at any voting precinct where no election was in fact held;
 - (b) willfully substitute any forged or counterfeit election returns in the place of the true return for a voting precinct where any election was actually held; or
 - (c) commit or cause any fraud in any election in any manner.
- (2) A violation of this section is a third degree felony.

Amended by Chapter 253, 2013 General Session

20A-4-502 Altering vote count or returns.

- (1) It is unlawful for any person to:
 - (a) willfully add to or subtract from the votes actually cast at an election in any election returns; or
 - (b) alter any election returns.
- (2) Any person who violates this section is guilty of a third degree felony.

Amended by Chapter 253, 2013 General Session

20A-4-504 Interfering with count.

- (1) It is unlawful for any person to intentionally ascertain, or attempt to ascertain, the progress or state of the count before the ballot count is completed in the voting precinct, or before 8 p.m., whichever is later.
- (2) Any person who violates this section is guilty of a third degree felony.

Enacted by Chapter 1, 1993 General Session

20A-4-505 Communicating about the count.

- (1) It is unlawful for any poll worker to communicate in any manner, directly or indirectly, by word or sign, the progress of the count, the result so far, or any other information about the count.
- (2) Any person who violates this section is guilty of a third degree felony.

Amended by Chapter 75, 2007 General Session

Part 6 Municipal Alternate Voting Methods Pilot Project

20A-4-601 Definitions.

As used in this part:

- (1) "Candidate amplifier" means the product of:

- (a) two less than the total number of candidates in a given ballot-counting phase of a multi-candidate race; and
- (b) .02%.
- (2) "First preference ranking" means the candidate selected as the candidate most preferred by a voter, as indicated by:
 - (a) the number one; or
 - (b) if the voter does not assign the number one to any candidate, the number two.
- (3) "Multi-candidate race" means a nonpartisan municipal race where:
 - (a) for the election of at-large officers, the number of candidates who qualify for the race exceeds the total number of seats to be filled; or
 - (b) for the election of an officer other than an at-large officer, more than two candidates qualify to run for one office.
- (4) "Participating municipality" means a municipality that is participating in the pilot project, in accordance with Subsection 20A-4-602(3).
- (5) "Pilot project" means the Municipal Alternate Voting Methods Pilot Project created in Section 20A-4-602.
- (6) "Recount threshold" means the sum of the candidate amplifier and the following:
 - (a) for a ballot-counting phase in which fewer than 100 valid rankings are counted, 0.21%;
 - (b) for a ballot-counting phase in which at least 100, but fewer than 500, valid rankings are counted, 0.19%;
 - (c) for a ballot-counting phase in which at least 500, but fewer than 1,000, valid rankings are counted, 0.17%;
 - (d) for a ballot-counting phase in which at least 1,000, but fewer than 5,000, valid rankings are counted, 0.15%;
 - (e) for a ballot-counting phase in which at least 5,000, but fewer than 10,000, valid rankings are counted, 0.13%; and
 - (f) for a ballot-counting phase in which 10,000 or more valid rankings are counted, 0.11%.
- (7) "Valid" means that the ballot is marked in a manner that permits the ranking to be counted during the applicable ballot-counting phase.

Amended by Chapter 342, 2022 General Session

20A-4-602 Municipal Alternate Voting Methods Pilot Project -- Creation -- Participation.

- (1) There is created the Municipal Alternate Voting Methods Pilot Project.
- (2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.
- (3)
 - (a) A municipality may participate in the pilot project, in accordance with the requirements of this section and all other applicable provisions of law, during any odd-numbered year that the pilot project is in effect, if, before May 1 of the odd-numbered year, the legislative body of the municipality:
 - (i) votes to participate; and
 - (ii) provides written notice to the lieutenant governor and the county clerk stating that the municipality intends to participate in the pilot project for the year specified in the notice.
 - (b) The legislative body of a municipality that provides the notice of intent described in Subsection (3)(a) may withdraw the notice of intent, and not participate in the pilot project, if the legislative body of the municipality provides written notice of withdrawal to the lieutenant governor and the county clerk before May 1.

- (4) The lieutenant governor shall maintain, in a prominent place on the lieutenant governor's website, a current list of the municipalities that are participating in the pilot project.
- (5)
 - (a) An election officer of a participating municipality shall, in accordance with the provisions of this part, conduct a multi-candidate race during the municipal general election using instant runoff voting.
 - (b) Except as provided in Subsection 20A-4-603(9), an election officer of a participating municipality that will conduct a multi-candidate race under Subsection (5)(a) may not conduct a municipal primary election relating to that race.
 - (c) A municipality that has in effect an ordinance described in Subsection 20A-9-404(3) or (4) may not participate in the pilot project.
- (6) Except for an election described in Subsection 20A-4-603(9), an individual who files a declaration of candidacy or a nomination petition, for a candidate who will run in an election described in this part, shall file the declaration of candidacy or nomination petition during the office hours described in Section 10-3-301 and not later than the close of those office hours, no sooner than the second Tuesday in August and no later than the third Tuesday in August of an odd-numbered year.

Amended by Chapter 170, 2022 General Session

20A-4-603 Instant runoff voting.

- (1) In a multi-candidate race, the election officer for a participating municipality shall:
 - (a)
 - (i) conduct the first ballot-counting phase by counting the valid first preference rankings for each candidate; and
 - (ii) if one of the candidates receives more than 50% of the valid first preference rankings counted, declare that candidate elected;
 - (b) if, after counting the valid first preference rankings for each candidate, no candidate receives more than 50% of the valid first preference rankings counted, conduct the second ballot-counting phase by:
 - (i) excluding from the multi-candidate race:
 - (A) the candidate who received the fewest valid first preference rankings counted; or
 - (B) in the event of a tie for the fewest valid first preference rankings counted, one of the tied candidates, determined by the election officer by lot, in accordance with Subsection (6);
 - (ii) adding, to the valid first preference rankings counted for the remaining candidates, the next valid preference rankings cast for the remaining candidates by the voters who cast a valid first preference ranking for the excluded candidate; and
 - (iii) if, after adding the rankings in accordance with Subsection (1)(b)(ii), one candidate receives more than 50% of the valid rankings counted, declaring that candidate elected; and
 - (c) if, after adding the next valid preference rankings in accordance with Subsection (1)(b)(ii), no candidate receives more than 50% of the valid rankings counted, conduct subsequent ballot-counting phases by continuing the process described in Subsection (1)(b) until a candidate receives more than 50% of the valid rankings counted, as follows:
 - (i) excluding from consideration the candidate who has the fewest valid rankings counted or, in the event of a tie for the fewest valid rankings counted, excluding one of the tied candidates, by lot, in accordance with Subsection (6); and

- (ii) adding the next valid preference ranking cast by each voter whose ranking was counted for the last excluded candidate to one of the remaining candidates, in the order of the next preference indicated by the voter.
- (2) The election officer shall declare elected the first candidate who receives more than 50% of the valid rankings counted under the process described in Subsection (1).
- (3) A ranking is valid for a particular ballot-counting phase of a multi-candidate race if:
 - (a) the voter indicates the voter's preference for that ballot-counting phase and all previous ballot-counting phases; or
 - (b) in the event that the voter skips a number in filling out the rankings on a ballot:
 - (i) the voter clearly indicates an order of preference for the candidates;
 - (ii) the voter does not skip two or more consecutive numbers at any point before the preference ranking that would otherwise be counted for the current ballot-counting phase;
 - (iii) the candidate next preferred by the voter is clearly indicated by a subsequent number that most closely follows the number assigned by the voter for the previously-ranked candidate; and
 - (iv) the voter did not give the same rank to more than one candidate for the applicable ballot-counting phase or a previous ballot-counting phase.
- (4) A ranking is not valid for a particular ballot-counting phase of a multi-candidate race, and for all subsequent ballot-counting phases, if:
 - (a) the voter indicates the same rank for more than one candidate for that ballot-counting phase; or
 - (b) the voter skips two or more consecutive numbers before ranking another candidate.
- (5) If, for a ballot-counting phase, a voter ranks a candidate who has withdrawn from the race, the next-ranked candidate who has not withdrawn from the race will be counted for that ballot-counting phase.
- (6) For each ballot-counting phase after the first phase, if two or more candidates tie as having received the fewest valid rankings counted at that point in the ballot count, the election officer shall eliminate one of those candidates from consideration, by lot, in the following manner:
 - (a) determine the names of the candidates who tie as having received the fewest valid rankings for that ballot-counting phase;
 - (b) cast the lot in the presence of at least two election officials and any counting poll watchers who are present and desire to witness the casting of the lot; and
 - (c) sign a public document that:
 - (i) certifies the method used for casting the lot and the result of the lot; and
 - (ii) includes the name of each individual who witnessed the casting of the lot.
- (7) In a multi-candidate race for an at-large office, where the number of candidates who qualify for the race exceeds the total number of at-large seats to be filled for the office, the election officer shall count the rankings by:
 - (a) except as provided in Subsection (8), counting rankings in the same manner as described in Subsections (1) through (6), until a candidate is declared elected;
 - (b) repeating the process described in Subsection (7)(a) for all candidates that are not declared elected until another candidate is declared elected; and
 - (c) continuing the process described in Subsection (7)(b) until all at-large seats in the race are filled.
- (8) After a candidate is declared elected under Subsection (7), the election officer shall, in repeating the process described in Subsections (1) through (6) to declare the next candidate elected, add to the ranking totals the next valid preference vote of each voter whose ranking was counted for a candidate already declared elected.

- (9) An election officer for a participating municipality may choose to conduct a primary election by using instant runoff voting in the manner described in Subsections (1) through (6), except that:
- (a) instead of determining whether a candidate receives more than 50% of the valid preference rankings for a particular ballot-counting phase, the election officer shall proceed to a subsequent ballot-counting stage, and exclude the candidate who receives the fewest valid preference rankings in that phase, until twice the number of seats to be filled in the race remain; and
 - (b) after complying with Subsection (9)(a), the election officer shall declare the remaining candidates nominated to participate in the municipal general election.
- (10) After completing all ballot-counting phases in a multi-candidate race, the election officer shall order a full recount of the ballots cast for that race if, in one or more of the ballot-counting phases:
- (a) the difference between the number of rankings counted for a candidate who is declared elected and the number of rankings counted for any other candidate in the same ballot-counting phase is equal to or less than the product of the following, rounded up to the nearest whole number:
 - (i) the total number of voters who cast a valid ranking counted in that ballot-counting phase; and
 - (ii) the recount threshold; or
 - (b) the difference between the number of rankings counted for the candidate who received the fewest valid rankings in a ballot-counting phase and the number of rankings counted for any other candidate in the same ballot-counting phase is equal to or less than the product of the following, rounded up to the nearest whole number:
 - (i) the total number of voters who cast a valid ranking counted in that ballot-counting phase; and
 - (ii) the recount threshold.
- (11) A recount described in Subsection (10):
- (a) requires rescanning and tabulating all valid ballots; and
 - (b) provides for only one recount.
- (12) Notwithstanding Section 20A-4-301, a board of municipal canvassers may extend the canvass deadline by up to seven additional days, if necessary, to conduct a recount required under Subsection (10).

Amended by Chapter 342, 2022 General Session

20A-4-604 Batch elimination.

In any ballot count conducted under Section 20A-4-603, the election officer may exclude candidates through batch elimination by, instead of excluding only one candidate in a ballot-counting phase, excluding each candidate:

- (1) for which the number of remaining candidates with more valid rankings than that candidate is greater than or equal to the number of offices to be filled; and
- (2)
 - (a) for which the number of valid rankings counted for the candidate in the ballot-counting phase plus the number of rankings counted for all candidates with fewer valid rankings in the ballot-counting phase is less than the number of valid rankings for the candidate with the next highest amount of valid rankings in the ballot-counting phase; or
 - (b) who has fewer valid rankings in the ballot-counting phase than a candidate who is excluded under Subsection (2)(a).

Amended by Chapter 342, 2022 General Session

