Representative John E. Swallow proposes to substitute the following bill:

1 # SPECIAL DISTRICT ELECTIONS

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: John E. Swallow**

5 AN ACT RELATING TO SPECIAL DISTRICTS AND ELECTION CODE; MODIFYING

6 NOTICE REQUIREMENTS FOR SPECIAL DISTRICT OFFICES TO BE FILLED AT AN

7 ELECTION; CHANGING THE DATE FOR SPECIAL DISTRICT ELECTIONS FROM THE

8 MUNICIPAL ELECTION DATE TO THE REGULAR GENERAL ELECTION DATE;

9 MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12   **17A-1-305**, as last amended by Chapter 130, Laws of Utah 1997

13   **20A-1-201**, as last amended by Chapter 21, Laws of Utah 1994

14   **20A-1-202**, as last amended by Chapter 21, Laws of Utah 1994

15   **20A-4-301**, as last amended by Chapter 2, Laws of Utah 1994

16   **20A-4-304**, as last amended by Chapter 21, Laws of Utah 1994

17   **20A-5-101**, as last amended by Chapter 24, Laws of Utah 1997

18   **20A-5-401**, as last amended by Chapter 3, Laws of Utah 1996, Second Special Session

19 REPEALS AND REENACTS:

20   **17A-1-304**, as enacted by Chapter 273, Laws of Utah 1991

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

22   Section 1. Section **17A-1-304** is repealed and reenacted to read:

23   **17A-1-304.** **Notice of offices to be filled.**

24   On or before February 1 of each regular general election year, the board of each special

25 district shall prepare and transmit to the clerk of each county in which any part of the district is

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1   located a written notice that:

2   (1) designates the offices to be filled at that year's regular general election; and

3   (2) identifies the dates for filing a declaration of candidacy for those offices.

4   Section 2. Section **17A-1-305** is amended to read:

5   **17A-1-305. Special district board -- Election procedures.**

6   (1) [Any] Except as provided in Subsection (12), each elected board member shall be

7   selected as provided in this section.

8   (2) [(a) The] Each election [for members] of [the] a special district board member shall

9   be held [on the same day as] in conjunction with the [municipal] regular general election at polling

10   places designated by the clerk of each county in which the special district is located.

11   [(b) (i) The special district board shall fix the polling places for the election.]

12   [(ii) If appropriate, the special district board may consolidate voting districts or ballots

13   with the municipal governing body.]

14   (3) (a) The clerk of each special district with a board member position to be filled at the

15   next regular general election shall provide notice of:

16   (i) each elective position of the special district to be filled at the next regular general

17   election;

18   (ii) the constitutional and statutory qualifications for each position; and

19   (iii) the dates and times for filing a declaration of candidacy.

20   (b) The notice required under Subsection (3)(a) shall be:

21   (i) posted in at least five public places within the special district at least ten days before

22   the first day for filing a declaration of candidacy; or

23   (ii) published in a newspaper of general circulation within the special district at least three

24   but no more than ten days before the first day for filing a declaration of candidacy.

25   [(3)] (4) (a) To become a candidate for an elective special district board position, the

26   prospective candidate shall file a declaration of candidacy in person with the special district,

27   during office hours and not later than 5 p.m. between July 15 and August 15 of any [odd] even

28   numbered year.

29   (b) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5 p.m.

30   on the following Monday.

31   (c) Before the filing officer may accept any declaration of candidacy, the filing officer

1   shall:

2   (i) read to the prospective candidate the constitutional and statutory qualification

3   requirements for the office that the candidate is seeking;

4   (ii) require the candidate to state whether or not the candidate meets those requirements;

5   (iii) if the prospective candidate does not meet the qualification requirements for the

6   office, the filing officer may not accept the declaration of candidacy; and

7   (iv) if it appears that the prospective candidate meets the requirements of candidacy, the

8   filing officer shall accept the declaration of candidacy.

9   (d) (i) The declaration of candidacy shall substantially comply with the following form:

10   "I, (print name) _____, being first duly sworn, say that I reside at (Street)

11   _____, City of , County of , State of Utah, (Zip Code) _____, (Telephone Number, if

12   any)_____; that I am a registered voter and qualified elector of the special district; that

13   I am a candidate for the office of _____(stating the term) to be voted upon at the

14   November [municipal] regular general election to be held on Tuesday, the _____ day of

15   November, [19]____, and I hereby request that my name be printed upon the official ballot for that

16   election.

17   (Signed) _____

18   Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of

19   _____, 19 ____.

20   (Signed) _____

21   (Clerk or Notary Public)"

22   (ii) If at least one person does not file a declaration of candidacy as required by this

23   section, a person shall be appointed to fill that board position by following the procedures and

24   requirements for appointment established in Section 20A-1-512.

25   [(4)] (5) There shall be no primary election.

26   [(5) (a) The special district board shall:]

27   [(i) provide election supplies; and]

28   [(ii) appoint election judges before election day.]

29   [(b) At least one day before the election, and without expense to the special district, the

30   county clerk shall provide the special district clerk with a certified list of registered voters who:]

31   [(i) reside in the special district; and]

1   [(ii) are entitled to vote.]

2   (6) (a) The special district [board] clerk shall [prescribe the form of ballot for the special

3   district board election] certify the candidate names to the clerk of each county in which the special

4   district is located no later than August 20 of the regular general election year.

5   (b) [The ballot shall be a nonpartisan format] The clerk of each county in which the special

6   district is located shall list the name of each candidate for special district office in the nonpartisan

7   section of the regular general election ballot as provided in Title 20A, Chapter 6, Part 3, Regular

8   General Election Ballots.

9   (7) (a) Only qualified electors of the special district who are registered to vote and who

10   are entitled to vote may vote.

11   (b) Each voter may vote for as many candidates as there are offices to be filled.

12   (c) The candidates who receive the highest number of votes are elected.

13   (8) Except as otherwise provided by this section, the election of special district board

14   members is governed by Title 20A, Election Code.

15   (9) (a) A person elected to serve on a special district board shall serve a four-year term,

16   beginning on the January 1 after the person's election.

17   (b) A person elected shall be sworn in as soon as practical after January 1.

18   (10) The term of a person serving on a special district board as of [April 29, 1991] May

19   1, 2000, whose election falls on an [even-numbered] odd-numbered year is extended one year so

20   that the person's election will be on the next November election day in an [odd-numbered]

21   even-numbered year.

22   (11) (a) If the application of Subsection (10) causes a disproportionate number of elected

23   and appointed terms to expire at the same time, or if for any other reason a disproportionate

24   number of positions expire at the same time, a number of elected terms shall be extended to

25   January 1 following the next [municipal] regular general election, or, in the case of appointed

26   terms, a number of appointed terms shall be extended to January 1 following the normal expiration

27   of appointed terms, to equalize, to the extent possible, the number of board positions expiring at

28   the same time.

29   (b) The board member whose term is to be extended shall be determined by lot.

30   (c) After this apportionment has taken place, all board terms shall be four years.

31   (12) This section does not apply to a county improvement district under Chapter 2, Part

1   3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas, that

2   provides electric or gas service or to an irrigation district under Chapter 2, Part 7, Irrigation

3   Districts.

4   Section 3. Section **20A-1-201** is amended to read:

5   **20A-1-201.   Date and purpose of regular general elections.**

6   (1) A regular general election shall be held throughout the state on the first Tuesday after

7   the first Monday in November of each even-numbered year.

8   (2) At the regular general election, the voters shall:

9   (a) choose persons to serve the terms established by law for the following offices:

10   (i) electors of President and Vice President of the United States;

11   (ii) United States Senators;

12   (iii) Representatives to the United States Congress;

13   (iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

14   (v) senators and representatives to the Utah Legislature;

15   (vi) county officers;

16   (vii) State School Board members;

17   (viii) local school board members; [and]

18   (ix) any elected judicial officers; and

19   (x) special district officers; and

20   (b) approve or reject:

21   (i) any proposed amendments to the Utah Constitution that have qualified for the ballot

22   under procedures established in the Utah Code;

23   (ii) any proposed initiatives or referenda that have qualified for the ballot under procedures

24   established in the Utah Code; and

25   (iii) any other ballot propositions submitted to the voters that are authorized by the Utah

26   Code.

27   Section 4. Section **20A-1-202** is amended to read:

28   **20A-1-202.   Date and purpose of local elections.**

29   (1) A municipal general election shall be held in municipalities [and special districts] on

30   the first Tuesday after the first Monday in November of each odd-numbered year.

31   (2) At the municipal general election, the voters shall:

1   (a) choose persons to serve as municipal [and special district] officers; and

2   (b) approve or reject:

3   (i) any proposed initiatives or referenda that have qualified for the ballot as provided by

4 law; and

5   (ii) any other ballot propositions submitted to the voters that are authorized by the Utah

6 Code.

7   Section 5. Section **20A-4-301** is amended to read:

8   **20A-4-301.   Board of canvassers.**

9   (1) (a) Each county legislative body is the board of county canvassers for the county and

10 for each special district whose election is conducted by the county.

11   (b) The board of county canvassers shall meet to canvass the returns at the usual place of

12 meeting of the county legislative body, at noon on the Monday after the election.

13   (c) If one or more of the county legislative body fails to attend the meeting of the board

14 of county canvassers, the remaining members shall replace the absent member by appointing in

15 the order named:

16   (i) the county treasurer;

17   (ii) the county assessor; or

18   (iii) the county sheriff.

19   (d) The board of county canvassers shall always consist of three acting members.

20   (e) The county clerk is the clerk of the board of county canvassers.

21   (2) (a) The mayor and the municipal legislative body are the board of municipal canvassers

22 for the municipality.

23   (b) The board of municipal canvassers shall meet to canvass the returns at the usual place

24 of meeting of the municipal legislative body no later than seven days after the election.

25   [(3) (a) The governing board of a special district is the board of canvassers for that special

26 district.]

27   [(b) The special district board of canvassers shall meet to canvass the returns at the usual

28 place of meeting of the special district governing board no later than seven days after the election.]

29   [(4)] (3) (a) This part does not apply to bond elections.

30   (b) Persons responsible for canvassing bond elections shall comply with the canvassing

31 procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

1   Section 6. Section **20A-4-304** is amended to read:

2   **20A-4-304.   Declaration of results -- Canvassers' report.**

3   (1) Each board of canvassers shall:

4   (a) declare "elected" those persons who:

5   (i) had the highest number of votes; and

6   (ii) sought election to an office completely within the board's jurisdiction;

7   (b) declare:

8   (i) "approved" those ballot propositions that:

9   (A) had more "yes" votes than "no" votes; and

10   (B) were submitted only to the voters within the board's jurisdiction;

11   (ii) "rejected" those ballot propositions that:

12   (A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes"

13   votes; and

14   (B) were submitted only to the voters within the board's jurisdiction; [and]

15   (c) certify the vote totals for persons and for and against ballot propositions that were

16   submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the

17   lieutenant governor; and

18   (d) if applicable, certify the results of each special district election to the special district

19   clerk.

20   (2) (a) As soon as the result is declared, the election officer shall prepare a report of the

21   result, which shall contain:

22   (i) the total number of votes cast in the board's jurisdiction;

23   (ii) the names of each candidate whose name appeared on the ballot;

24   (iii) the title of each ballot proposition that appeared on the ballot;

25   (iv) each office that appeared on the ballot;

26   (v) from each voting precinct:

27   (A) the number of votes for each candidate; and

28   (B) the number of votes for and against each ballot proposition;

29   (vi) the total number of votes given in the board's jurisdiction to each candidate, and for

30   and against each ballot proposition; and

31   (vii) a statement certifying that the information contained in the report is accurate.

1   (b) The election officer and the board of canvassers shall:

2   (i) review the report to ensure that it is correct; and

3   (ii) sign the report.

4   (c) The election officer shall:

5   (i) record or file the certified report in a book kept for that purpose;

6   (ii) prepare and transmit a certificate of nomination or election under the officer's seal to

7   each nominated or elected candidate;

8   (iii) publish a copy of the certified report in a newspaper with general circulation in the

9   board's jurisdiction, or if no newspaper is published within the board's jurisdiction, post it in a

10   conspicuous place within the jurisdiction; and

11   (iv) file a copy of the certified report with the lieutenant governor.

12   (3) When there has been a regular general or a statewide special election for statewide

13   officers, for officers that appear on the ballot in more than one county, or for a statewide or two

14   or more county ballot proposition, each board of canvassers shall:

15   (a) prepare a separate report detailing the number of votes for each candidate and the

16   number of votes for and against each ballot proposition; and

17   (b) transmit it by registered mail to the lieutenant governor.

18   (4) In each county election, municipal election, school election, special district election,

19   and local special election, the election officer shall transmit the reports to the lieutenant governor

20   within 14 days of the canvass.

21   (5) In regular primary elections, the board shall transmit to the lieutenant governor:

22   (a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant

23   governor not later than the Tuesday after the primary election; and

24   (b) a complete tabulation showing voting totals for all primary races, precinct by precinct,

25   to be mailed to the lieutenant governor on or before the second Friday following the primary

26   election.

27   Section 7. Section **20A-5-101** is amended to read:

28   **20A-5-101.   Notice of election.**

29   (1) On or before February 1 in each regular general election year, the lieutenant governor

30   shall prepare and transmit a written notice to each county clerk that:

31   (a) designates the offices to be filled at the regular general election;

1   (b) identifies the dates for filing a declaration of candidacy for those offices; and

2   (c) contains a description of any ballot propositions to be decided by the voters that have

3   qualified for the ballot as of that date.

4   (2) (a) No later than February 10, each county clerk shall:

5   [(a)] (i) publish a [list of the offices that will be voted on in that election in that county]

6   notice once in a newspaper published in that county; or

7   [(b)] (ii) if no newspaper is published in that county:

8   [(i)] (A) cause a copy of the notice to be posted in a conspicuous place most likely to give

9   notice of the election to the voters in each voting precinct within the county; and

10   [(ii)] (B) prepare an affidavit of that posting, showing a copy of the notice and the places

11   where the notice was posted.

12   (b) The notice required by Subsection (2)(a) shall:

13   (i) designate the offices to be voted on in that election in that county; and

14   (ii) identify the dates for filing a declaration of candidacy for those offices.

15   (3) Before each election, the election officer shall give written or printed notice of:

16   (a) the date and place of election;

17   (b) the hours during which the polls will be open;

18   (c) the polling places for each voting precinct; and

19   (d) the qualifications for persons to vote in the election.

20   (4) To provide the notice required by Subsection (2), the election officer shall publish the

21   notice at least two days before the election in a newspaper of general circulation common to the

22   area or in which the election is being held.

23   Section 8. Section **20A-5-401** is amended to read:

24   **20A-5-401.   Official register and posting book -- Preparation -- Contents.**

25   (1) (a) Before the registration days for each regular general or municipal general election,

26   each county clerk shall prepare an official register and posting list of voters for each voting

27   precinct that will participate in the election.

28   (b) The county clerk shall ensure that the official register and posting list are bound or

29   loose leaf books prepared for the alphabetical entry of names and ruled in columns of suitable

30   dimensions to provide for the following entries:

31   (i) registered voter's name;

1   (ii) party affiliation;

2   (iii) grounds for challenge;

3   (iv) name of person challenging a voter;

4   (v) ballot numbers, primary, November, special;

5   (vi) date of birth;

6   (vii) place of birth;

7   (viii) place of current residence;

8   (ix) street address;

9   (x) zip code; and

10   (xi) space for the voter to sign his name for each election.

11   (2) (a) (i) For municipal, special district, and bond elections, the county clerk shall make

12   an official register and posting list only for voting precincts affected by the municipal, special

13   district, or bond election.

14   (ii) Each county clerk, with the assistance of the clerk of each affected special district,

15   shall provide a detailed map or an indication on the registration list or other means to enable an

16   election judge to determine the voters entitled to vote at an election of special district officers.

17   (b) Municipalities shall pay the costs of making the official register and posting list.

18   Section 9. **Effective date.**

19   This act takes effect on January 1, 2000.