Representative Glenn L. Way proposes to substitute the following bill:

1   **PRIMARY ELECTION AMENDMENTS**

2   1999 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Glenn L. Way**

5   AN ACT RELATING TO ELECTIONS; AUTHORIZING REGISTERED POLITICAL PARTIES

6   TO REQUIRE A CLOSED PRIMARY ELECTION; ESTABLISHING PROCESSES FOR

7   IDENTIFYING, DECLARING, RECORDING, AND CHANGING PARTY AFFILIATION;

8   PROVIDING DIRECTION FOR BALLOT FORM AND ADMINISTRATION OF THE

9   ELECTION; AND MAKING TECHNICAL CORRECTIONS AND CONFORMING CHANGES.

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

11   AMENDS:

12   **20A-2-107**, as last amended by Chapter 213, Laws of Utah 1996

13   **20A-6-201**, as enacted by Chapter 2, Laws of Utah 1994

14   **20A-6-202**, as enacted by Chapter 2, Laws of Utah 1994

15   **20A-9-403**, as last amended by Chapters 24, 182 and 184, Laws of Utah 1997

16   ENACTS:

17   **20A-3-104.5**, Utah Code Annotated 1953

18   **20A-6-203**, Utah Code Annotated 1953

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

20   Section 1. Section **20A-2-107** is amended to read:

21   **20A-2-107.   Designating or changing party affiliation.**

22   (1) For each person who registers to vote on or after May 3, 1999, the county clerk shall:

23   (a) record the party affiliation designated by the voter on the voter registration form as the

24   voter's party affiliation; or

25   (b) if no political party affiliation is designated by the voter on the voter registration form,

26   record the voter's party affiliation as "unaffiliated."

27   [(1)] (2) (a) Any registered voter may designate or change the voter's political party

28   affiliation by complying with the procedures and requirements of this [section] Subsection (2).

29   [(2)] (b) Except for the 20 days immediately before a regular primary election, any

30   registered voter may designate or change the voter's political party affiliation by filing a signed

31   form with the county clerk that identifies the registered political party with which the voter chooses

32   to affiliate.

33   Section 2. Section **20A-3-104.5** is enacted to read:

34   **20A-3-104.5. Voting -- Regular primary election.**

35   (1) (a) Any registered voter desiring to vote at the regular primary election shall give his

36   name, the name of the registered political party whose ballot the voter wishes to vote, and, if

37   requested, his residence, to one of the election judges.

38   (b) If an election judge does not know the person requesting a ballot and has reason to

39   doubt that person's identity, the judge shall request identification or have the voter identified by

40   a known registered voter of the district.

41   (c) If the voter is challenged as provided in Section 20A-3-202, the judge shall provide a

42   ballot to the voter if the voter takes an oath that the grounds of the challenge are false.

43   (2) (a) (i) When the voter is properly identified, the election judge in charge of the official

44   register shall check the official register to determine:

45   (A) whether or not the person is registered to vote; and

46   (B) whether or not the person's party affiliation designation in the official register allows

47   the voter to vote the ballot that the voter requested.

48   (ii) If the official register does not affirmatively identify the voter as being affiliated with

49   a registered political party or if the official register identifies the voter as being "unaffiliated," the

50   voter shall be considered to be "unaffiliated."

51   (b) (i) If the voter's name is not found on the official register and, if it is not unduly

52   disruptive of the election process, the election judge shall attempt to contact the county clerk's

53   office to request oral verification of the voter's registration.

54   (ii) If oral verification is received from the county clerk's office, the judge shall record the

55   verification on the official register, determine the voter's party affiliation and the ballot that the

56   voter is qualified to vote, and perform the other administrative steps required by Subsection (3).

57   (c) (i) Except as provided in Subsection (c)(ii), if the voter's political party affiliation listed

58   in the official register does not allow the voter to vote the ballot that the voter requested, the

59   election judge shall inform the voter of that fact and inform the voter of the ballot or ballots that

60   the voter's party affiliation does allow the voter to vote.

61   (ii) (A) If the voter is listed in the official register as "unaffiliated," or if the official register

62   does not affirmatively identify the voter as either "unaffiliated" or affiliated with a registered

63   political party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the

64   voter requests, the election judge shall ask the voter if the voter wishes to affiliate with the

65   registered political party whose ballot the voter requested, vote another registered political party

66   ballot that the voter, as "unaffiliated" is authorized to vote, or remain "unaffiliated."

67   (B) If the voter wishes to affiliate with the registered political party whose ballot the voter

68   requested, the election judge shall enter in the official register the voter's new party affiliation and

69   proceed as required by Subsection (3).

70   (C) If the voter wishes to vote another registered political party ballot that the unaffiliated

71   voter is authorized to vote, the election judge shall proceed as required by Subsection (3).

72   (D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that

73   unaffiliated voters are authorized to vote, the election judge shall instruct the voter that the voter

74   may not vote.

75   (3) If the election judge determines that the voter is registered and eligible, under

76   Subsection (2), to vote the ballot that the voter requested:

77   (a) the election judge in charge of the official register shall:

78   (i) write the ballot number and the name of the registered political party whose ballot the

79   voter voted opposite the name of the voter in the official register; and

80   (ii) direct the voter to sign his name in the election column in the official register;

81   (b) another judge shall list the ballot number and voter's name in the pollbook; and

82   (c) the election judge having charge of the ballots shall:

83   (i) endorse his initials on the stub;

84   (ii) check the name of the voter on the pollbook list with the number of the stub;

85   (iii) hand the voter the ballot for the registered political party that the voter requested and

86   for which the voter is authorized to vote; and

87   (iv) allow the voter to enter the voting booth.

88   (4) Whenever the election officer is required to furnish more than one kind of official

89   ballot to the voting precinct, the election judges of that voting precinct shall give the registered

90   voter the kind of ballot that the voter is qualified to vote.

91   Section 3. Section **20A-6-201** is amended to read:

92   **20A-6-201.   Paper ballots for regular primary elections.**

93   [Each] Unless the requirements of this section are affirmatively modified as provided in

94   Section 20A-6-203, each election officer shall ensure that:

95   (1) all paper ballots furnished for use at the regular primary election[: (a) are perforated

96   to separate the candidates of one political party from those of the other political parties so that the

97   voter may separate the part of the ballot containing the names of the political party of the voter's

98   choice from the rest of the ballot; (b) have sides that are perforated so that the outside sections of

99   the ballot, when detached, are similar in appearance to the insides sections of the ballot when

100 detached; and (c)] contain no captions or other endorsements except as provided in this section;

101   (2) the names of all candidates from each party are listed on the same ballot in one or more

102 columns under their party name and emblem;

103   (3) the political parties are printed on the ballot in the order determined by the county

104 clerk;

105   (4) (a) the ballot contains a ballot stub that is at least one inch wide, placed across the top

106 of the ballot;

107   (b) the ballot number and the words "Judge's Initial _____" are printed on the stub; and

108   (c) ballot stubs are numbered consecutively;

109   (5) immediately below the perforated ballot stub, the following endorsements are printed

110 in 18-point bold type:

111   (a) "Official Primary Ballot for _____ County, Utah";

112   (b) the date of the election; and

113   (c) a facsimile of the signature of the county clerk and the words "county clerk"; [and]

114   (6) after the facsimile signature, the political party emblem and the name of the political

115 party are printed;

116   (7) after the party name and emblem the ballot contains the following printed in not

117 smaller than ten-point bold face, double leaded type: "Instructions to Voters: To vote for a

118 candidate, place a cross (X) in the square at the right of the name of the person for whom you wish

119   to vote and in no other place. Do not vote for any candidate listed under more than one party or

120   group designation.", followed by two one-point parallel horizontal rules;

121   (8) after the rules, the designation of the office for which the candidates seek nomination

122   is printed flush with the left-hand margin and the words: "Vote for one" or "Vote for two or more"

123   are printed to extend to the extreme right of the column in ten-point bold type, followed by a

124   hair-line rule;

125   (9) after the hair-line rule, the names of the candidates are printed in heavy face type

126   between lines or rules 3/8 inch apart, alphabetically according to surnames with surnames last and

127   grouped according to the office that they seek;

128   (10) a square with sides not less than 1/4 inch long is printed to the right of the names of

129   the candidates;

130   (11) the candidate groups are separated from each other by one light and one heavy line

131   or rule; and

132   (12) the nonpartisan candidates are listed as follows:

133   (a) immediately below the listing of the party candidates, the word "NONPARTISAN" is

134   printed in reverse type in an 18-point solid rule that extends the full width of the type copy of the

135   party listing above; and

136   (b) below "NONPARTISAN," the office, the number of candidates to vote for, the

137   candidate's name, the voting square, and any other necessary information is printed in the same

138   style and manner as for party candidates.

139   Section 4. Section **20A-6-202** is amended to read:

140   **20A-6-202.   Machine-counted ballots for regular primary elections.**

141   (1) The election officer may require that:

142   (a) the ballot label for a regular primary election consist of several groups of pages, so that

143   a separate group can be used to list the names of candidates seeking nomination of each qualified

144   political party, with additional groups used to list candidates for other nonpartisan offices;

145   (b) the separate groups of pages are identified by color or other suitable means; and

146   (c) the ballot label contain instructions that direct the voter how to vote the ballot.

147   (2) [Each] Unless the requirements of this Subsection (2) are affirmatively modified as

148   provided in Section 20A-6-203, each election officer shall[: (a) ensure that the ballot label

149   provides a square for the voter to designate the political party in whose primary the voter is voting;

150 and (b)] determine the order for printing the names of the political parties on the ballot label.

151   Section 5. Section **20A-6-203** is enacted to read:

152   **20A-6-203. Ballots for regular primary elections.**

153   (1) Notwithstanding Sections 26A-6-201 and 26A-6-202, the lieutenant governor, together

154 with county clerks, suppliers of election materials, and representatives of registered political

155 parties, shall:

156   (a) develop paper ballots, ballot labels, and ballot cards to be used in Utah's regular

157 primary election;

158   (b) ensure that the paper ballots, ballot labels, and ballot cards comply generally, where

159 applicable, with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All

160 Ballots, and this part; and

161   (c) provide voting booths, election records and supplies, and ballot boxes for each voting

162 precinct as required by Section 20A-5-403.

163   (2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter

164 6, Part 1, General Requirements for All Ballots, and Sections 20A-5-403, 20A-6-201, and

165 20A-6-202, the lieutenant governor, together with county clerks, suppliers of election materials,

166 and representatives of registered political parties shall ensure that the paper ballots, ballot labels,

167 ballot cards, and voting booths, election records and supplies, and ballot boxes:

168   (i) facilitate the distribution, voting, and tallying of ballots in a primary where not all

169 voters are authorized to vote for a party's candidate;

170   (ii) simplify the task of election judges, particularly in determining a voter's party

171 affiliation;

172   (iii) minimize the possibility of spoiled ballots due to voter confusion; and

173   (iv) protect against fraud.

174   (b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county

175 clerks, suppliers of election materials, and representatives of registered political parties shall:

176   (i) mark, prepunch, or otherwise identify ballot cards as being for a particular registered

177 political party; and

178   (ii) instruct persons counting the ballots to count only those votes for candidates from the

179 registered political party whose ballot the voter received.

180   (c) To accomplish the requirements of this Subsection (2), the lieutenant governor, county

181 clerks, suppliers of election materials, and representatives of registered political parties may:

182   (i) notwithstanding the requirements of Sections 20A-6-101 and 20A-6-102, use different

183 colored ballot cards for each registered political party;

184   (ii) place ballot labels for each registered political party in different voting booths and

185 direct voters to the particular voting booth for the political party whose ballot they are voting; or

186   (iii) consider other means of accomplishing the objectives outlined in Subsection (2)(a).

187   Section 6. Section **20A-9-403** is amended to read:

188   **20A-9-403.   Regular primary elections.**

189   (1) (a) The fourth Tuesday of June of each even-numbered year is designated as regular

190 primary election day.

191   (b) Each registered political party that chooses to use the primary election process to

192 nominate some or all of its candidates shall comply with the requirements of this section.

193   (2) (a) [(i) Each] As a condition for using the state's election system, each registered

194 political party that wishes to participate in the primary election shall:

195   (i) declare their intent to participate in the primary election;

196   (ii) identify one or more registered political parties whose members may vote for the

197 registered political party's candidates and whether or not persons identified as unaffiliated with a

198 political party may vote for the registered political party's candidates;

199   (iii) identify by name and office, all the of the registered political party's candidates for all

200 offices;

201   (iv) certify that information to the lieutenant governor no later than 5:00 p.m. on May 13

202 of each even-numbered year; and

203   (v) submit the names of its county candidates to the county clerks [and the names of all

204 of its candidates to the lieutenant governor] by 5 p.m. on May 13 of each even-numbered year.

205   [(ii)] (b) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall

206 send the county clerks a certified list of the names of all statewide or multicounty candidates that

207 must be printed on the primary ballot.

208   [(b)] (c) (i) Except as provided in Subsection [(b)] (2)(c)(ii), if a registered political party

209 does not wish to participate in the primary election, it shall submit the names of its county

210 candidates to the county clerks and the names of all of its candidates to the lieutenant governor by

211 5 p.m. on May 30 of each even-numbered year.

212   (ii) [Notwithstanding Subsection (b)(i), a] A registered political party's candidates for

213   President and Vice-President of the United States shall be certified to the lieutenant governor as

214   provided in Subsection 20A-9-202(4).

215   [(c)] (d) Each political party shall certify the names of its presidential and vice-presidential

216   candidates and presidential electors to the lieutenant governor's office by August 30 of each

217   presidential election year.

218   (3) The county clerk shall:

219   (a) review the declarations of candidacy filed by candidates for local boards of education

220   to determine if more than two candidates have filed for the same seat;

221   (b) place the names of all candidates who have filed a declaration of candidacy for a local

222   board of education seat on the nonpartisan section of the ballot if more than two candidates have

223   filed for the same seat; and

224   (c) conduct a lottery to determine the order of the candidates' names on the ballot.

225   (4) After the county clerk receives the certified list from a registered political party, the

226   county clerk shall post or publish a primary election notice in substantially the following form:

227   "Notice is given that a primary election will be held Tuesday, June _____, 19__, to nominate

228   party candidates for the parties and nonpartisan offices listed on the primary ballot. The polling

229   place for voting precinct _____ is _____. The polls will open at 7 a.m. and continue open until 8

230   p.m. of the same day. Attest: county clerk".

231   (5) If a registered political party has restricted voting for its candidates as authorized by

232   Subsection (2)(a)(ii), the lieutenant governor shall direct the county clerks and other election

233   officials to allow only those voters meeting the registered political party's criteria to vote for that

234   party's candidates.

235   [(5)] (6) (a) Candidates receiving the highest number of votes cast for each office at the

236   regular primary election are nominated by their party or nonpartisan group for that office.

237   (b) If two or more candidates are to be elected to the office at the regular general election,

238   those party candidates equal in number to positions to be filled who receive the highest number

239   of votes at the regular primary election are the nominees of their party for those positions.

240   [(6)] (7) (a) When a tie vote occurs in any primary election for any national, state, or other

241   office that represents more than one county, the governor, lieutenant governor, and attorney general

242   shall, at a public meeting called by the governor and in the presence of the candidates involved,

243   select the nominee by lot cast in whatever manner the governor determines.

244   (b) When a tie vote occurs in any primary election for any county office, the district court

245   judges of the district in which the county is located shall, at a public meeting called by the judges

246   and in the presence of the candidates involved, select the nominee by lot cast in whatever manner

247   the judges determine.

248   [(7)] (8) The expense of providing all ballots, blanks, or other supplies to be used at any

249   primary election provided for by this section, and all expenses necessarily incurred in the

250   preparation for or the conduct of that primary election shall be paid out of the treasury of the

251   county or state, in the same manner as for the regular general elections.