

PROCESS FOR CLOSED PRIMARY

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Loraine T. Pace

AN ACT RELATING TO ELECTIONS; ESTABLISHING PROCESSES FOR REGISTERED POLITICAL PARTIES TO REQUEST A CLOSED PRIMARY ELECTION; ESTABLISHING PROCESSES FOR IDENTIFYING, DECLARING, RECORDING, AND CHANGING PARTY AFFILIATION; PROVIDING DIRECTION FOR BALLOT FORM AND ADMINISTRATION OF THE ELECTION; MAKING TECHNICAL CORRECTIONS AND CONFORMING CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

20A-1-102, as last amended by Chapters 21, 22 and 45, Laws of Utah 1999

20A-2-104, as last amended by Chapter 48, Laws of Utah 1999

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

20A-3-101, as last amended by Chapter 22, Laws of Utah 1999

20A-3-202, as last amended by Chapter 266, Laws of Utah 1998

20A-3-304, as last amended by Chapters 22 and 253, Laws of Utah 1999

20A-5-102, as last amended by Chapter 21, Laws of Utah 1994

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

20A-9-404, as last amended by Chapter 56, Laws of Utah 1999

ENACTS:

20A-2-107.1, Utah Code Annotated 1953

20A-3-104.5, Utah Code Annotated 1953

20A-6-203, Utah Code Annotated 1953

20A-6-401.1, Utah Code Annotated 1953

63-55b-120, Utah Code Annotated 1953

REPEALS:

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

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

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

Section 1. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(3) "Ballot" means the cardboard, paper, or other material upon which a voter records his votes and includes ballot cards, paper ballots, and secrecy envelopes.

(4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.

(6) "Ballot proposition" means opinion questions specifically authorized by the Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions that are submitted to the voters for their approval or rejection.

(7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(8) "Bond election" means an election held for the sole purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(9) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

(13) "Convention" means the political party convention at which party officers and delegates are selected.

(14) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(15) "Counting judge" means a judge designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(17) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the counting judges to count ballots during election day.

(18) "County executive" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county executive in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county executive in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(19) "County legislative body" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county council in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county council in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(20) "County officers" means those county officers that are required by law to be elected.

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(22) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(23) "Election judge" means each canvassing judge, counting judge, and receiving judge.

(24) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots;

(b) the county clerk or clerks for all county ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5;

(c) the municipal clerk for all municipal ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5; and

(d) the special district clerk or chief executive officer for all special district ballots that are not part of a statewide, county, or municipal ballot.

(25) "Election official" means any election officer, election judge, or satellite registrar.

(26) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic voting system" means a system in which a voting device is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated by automatic

tabulating equipment.

(28) "Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

(29) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(30) "Judicial office" means the office filled by any judicial officer.

(31) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(32) "Local election" means a regular municipal election, a local special election, a special district election, and a bond election.

(33) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

(34) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(35) "Municipal executive" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the mayor in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the manager in the council-manager optional form of government defined in Section 10-3-1209.

(36) "Municipal general election" means the election held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(37) "Municipal legislative body" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the municipal council in the council-mayor optional form of government defined in

Section 10-3-1209; and

(c) the municipal council in the council-manager optional form of government defined in Section 10-3-1209.

(38) "Municipal officers" means those municipal officers that are required by law to be elected.

(39) "Municipal primary election" means an election held to nominate candidates for municipal office.

(40) "Official ballot" means the ballots distributed by the election officer to the election judges to be given to voters to record their votes.

(41) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the election judge's initials; and

(ii) the ballot number.

(42) "Official register" means the book furnished election officials by the election officer that contains the information required by Section 20A-5-401.

(43) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

(44) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

(45) "Polling place" means the building where residents of a voting precinct vote.

(46) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

(47) "Posting list" means a list of registered voters within a voting precinct.

(48) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(49) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

(50) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(51) "Receiving judge" means the election judge that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(52) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

(53) "Registration form" means a book voter registration form and a by-mail voter registration form.

(54) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(55) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

(56) "Resident" means a person who resides within a specific voting precinct in Utah.

(57) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(58) "Satellite registrar" means a person appointed under Section 20A-5-201 to register voters and perform other duties.

(59) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch

the ballot for one or more candidates who are members of different political parties.

(60) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy of the voter's vote.

(61) "Special district" means those local government entities created under the authority of Title 17A.

(62) "Special district officers" means those special district officers that are required by law to be elected.

(63) "Special election" means an election held as authorized by Section 20A-1-204.

(64) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or the election judge; or

(c) lacks the official endorsement.

(65) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(66) "Stub" means the detachable part of each ballot.

(67) "Substitute ballots" means replacement ballots provided by an election officer to the election judges when the official ballots are lost or stolen.

(68) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(69) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(70) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(71) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(72) "Voter" means a person who meets the requirements for voting in an election, meets the requirements of election registration [~~and~~], is registered to vote, and is listed in the official register book.

(73) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(74) "Voting booth" means the space or compartment within a polling place that is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

(75) "Voting device" means:

(a) an apparatus in which ballot cards are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance; or

(c) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(76) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(77) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(78) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(79) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting poll watcher.

(80) "Western States Presidential Primary" means the election established in Title 20A, Chapter 9, Part 8.

(81) "Write-in ballot" means a ballot containing any write-in votes.

(82) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section **20A-2-104** is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) (a) Every person applying to be registered shall complete a registration form printed in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Name of Voter _____

First

Middle

Last

Driver License or Identification Card Number (optional) _____

Date of Birth _____

Street Address of Principal Place of Residence _____

City

County

State

Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number (optional) _____

Place of Birth _____

Last former address at which I was registered to vote (if known)

City

County

State

Zip Code

Voting Precinct (if known)

Political Party [(optional) _____]

American Democrat Green Independent American Libertarian Natural Law

Reform Populist Republican Socialist Workers Unaffiliated (no political party preference)

Other (Please specify) _____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature

Date _____, [~~19~~] 20 _____.

NOTICE: IN ORDER TO VOTE, YOUR NAME MUST APPEAR IN THE OFFICIAL REGISTER.

FOR OFFICIAL USE ONLY

Voting Precinct _____

Voting I.D. Number _____

(b) The lieutenant governor, after consulting with the county clerks, may direct additional changes to the voter registration form when necessary to provide information to persons registering to vote or to facilitate election administration.

(2) The county clerk shall retain a copy in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

Section 3. Section **20A-2-107** is amended to read:

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

(1) For each person who registers to vote on or after May 1, 2000, the county clerk shall:

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

voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form, record the voter's party affiliation as "unaffiliated."

~~[(1)]~~ (2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this ~~[section]~~ Subsection (2).

~~[(2)]~~ (b) Except for the 20 days immediately before a regular primary election, any registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with which the voter chooses to affiliate.

Section 4. Section **20A-2-107.1** is enacted to read:

20A-2-107.1. Designating or changing party affiliation -- June 2002 primary.

(1) At the primary election held June 24, 2002:

(a) each county clerk shall provide change of party affiliation forms to the election judges for each voting precinct within the county;

(b) any registered voter who is classified as "unaffiliated" may affiliate with a political party by completing the form and giving it to the election judge.

(2) An unaffiliated voter who affiliates with a political party as provided in Subsection (1)(b) may vote in that party's primary election on June 24, 2002.

(3) This section is repealed July 1, 2002.

Section 5. Section **20A-3-101** is amended to read:

20A-3-101. Residency and age requirements of voters.

(1) A person may vote in any regular general election~~;~~ or statewide special ~~[election, and statewide primary]~~ election if that person:

- (a) is a citizen of the United States;
- (b) is a resident of Utah;
- (c) will, on the date of that election:
 - (i) be at least 18 years old; and
 - (ii) have been a resident of Utah for 30 days immediately before that election; and
- (d) has registered to vote.

(2) A person may vote in the Western States Presidential Primary election or a regular primary election if that person:

- (a) is a citizen of the United States;
- (b) is a resident of Utah;
- (c) will, on the date of that election:
 - (i) be at least 18 years old; and
 - (ii) have been a resident of Utah for 30 days immediately before that election;
- (d) has registered to vote; and
- (e) whose political party affiliation, or unaffiliated status, allows the voter to vote in the election.

(3) A person may vote in a municipal general election, municipal primary, in a local special election, in a special district election, and in a bond election if that person:

- (a) is a citizen of the United States;
- (b) is a resident of Utah;
- (c) is a resident of the local entity that is holding the election;
- (d) will, on the date of the election:
 - (i) be at least 18 years old; and
 - (ii) have been a resident of Utah for 30 days immediately before the election; and
- (e) has registered to vote.

(4) If, as of the date of any election, a person has not resided within the voting precinct for at least 20 days or has not registered to vote in that voting precinct, the person may vote at the voting precinct in which he resided before he moved to the new voting precinct if:

- (a) the person is legally registered in that voting precinct; and
- (b) that voting precinct is in the same county and congressional district as the person's new voting precinct.

Section 6. Section **20A-3-104.5** is enacted to read:

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

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

name, the name of the registered political party whose ballot the voter wishes to vote, and, if requested, his residence, to one of the election judges.

(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.

(c) If the voter is challenged as provided in Section 20A-3-202, the judge shall provide a ballot to the voter if the voter takes an oath that the grounds of the challenge are false.

(2) (a) (i) When the voter is properly identified, the election judge in charge of the official register shall check the official register to determine:

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

(B) whether or not the person's party affiliation designation in the official register allows the voter to vote the ballot that the voter requested.

(ii) If the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."

(b) (i) If the voter's name is not found on the official register and, if it is not unduly disruptive of the election process, the election judge shall attempt to contact the county clerk's office to request oral verification of the voter's registration.

(ii) If oral verification is received from the county clerk's office, the judge shall record the verification on the official register, determine the voter's party affiliation and the ballot that the voter is qualified to vote, and perform the other administrative steps required by Subsection (3).

(c) (i) Except as provided in Subsection (2)(c)(ii), if the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the election judge shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the voter to vote.

(ii) (A) If the voter is listed in the official register as "unaffiliated," or if the official register does not affirmatively identify the voter as either "unaffiliated" or affiliated with a registered political party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the voter

requests, the election judge shall ask the voter if the voter wishes to vote another registered political party ballot that the voter, as "unaffiliated," is authorized to vote, or remain "unaffiliated."

(B) If the voter wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the election judge shall proceed as required by Subsection (3).

(C) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the election judge shall instruct the voter that the voter may not vote.

(iii) For the primary election held June 24, 2002, only:

(A) if the voter is listed in the official register as "unaffiliated," or if the official register does not affirmatively identify the voter as either "unaffiliated" or "affiliated" with a registered political party, the election judge shall ask the voter if the voter wishes to affiliate with a registered political party, or remain "unaffiliated."

(B) If the voter wishes to affiliate with the registered political party whose ballot the voter requested, the election judge shall direct the voter to complete the change of party affiliation form and proceed as required by Subsection (3).

(C) If the voter wishes to remain unaffiliated and wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the election judge shall proceed as required by Subsection (3).

(D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the election judge shall instruct the voter that the voter may not vote.

(3) If the election judge determines that the voter is registered and eligible, under Subsection (2), to vote the ballot that the voter requested:

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

(i) write the ballot number and the name of the registered political party whose ballot the voter voted opposite the name of the voter in the official register; and

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

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

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

(i) endorse his initials on the stub;

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

(iii) hand the voter the ballot for the registered political party that the voter requested and for which the voter is authorized to vote; and

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

(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the election judges of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 7. Section **20A-3-202** is amended to read:

20A-3-202. Challenges -- Recorded in official register and in pollbook.

(1) (a) When any person applies for a ballot or when a person offers a ballot for deposit in the ballot box, the person's right to vote in that voting precinct and in that election may be orally challenged by an election judge or any challenger orally stating the challenged voter's name and the basis for the challenge.

(b) A person may challenge another person's right to vote by alleging that:

(i) the voter is not the person whose name appears in the official register and under which name the right to vote is claimed;

(ii) the voter is not a resident of Utah;

(iii) the voter is not a citizen of the United States;

(iv) the voter has not or will not have resided in Utah for 30 days immediately before the date of the election;

(v) the voter does not live in the voting precinct;

(vi) the voter does not live within the geographic boundaries of the entity holding the election;

(vii) the voter's principal place of residence is not in the voting precinct;

(viii) the voter's principal place of residence is not in the geographic boundaries of the election area;

- (ix) the voter has voted before in the election;
 - (x) the voter is not at least 18 years old;
 - (xi) the voter is involuntarily confined or incarcerated in jail or prison and was not a resident of the entity holding the election before the voter was confined or incarcerated; [or]
 - (xii) the voter is a convicted felon and is incarcerated for the commission of a felony; or
 - (xiii) in a regular primary election, the voter does not meet the political party affiliation criteria established by the political party whose ballot the voter seeks to vote.
- (2) (a) The election judges shall give the voter a ballot and allow the voter to vote if:
- (i) the person challenged signs a written affidavit certifying that he meets all the requirements for voting; and
 - (ii) the election judge determines that the person challenged is registered to vote and, in a regular primary election, meets the political party affiliation criteria established by the political party whose ballot the voter seeks to vote.
- (b) The election judges may not give the voter a ballot or allow the voter to vote if:
- (i) the person challenged refuses to sign the written affidavit; [or]
 - (ii) the election judge determines that the person challenged is not registered to vote; or
 - (iii) in a regular primary election, the election judge determines that the person challenged does not meet the political party affiliation criteria established by the political party whose ballot the voter seeks to vote and is unwilling or unable to take the steps authorized by law to comply with those criteria.
- (c) (i) It is unlawful for any person to sign an affidavit certifying that he meets all the requirements for voting when that person knows he does not meet at least one of those requirements.
- (ii) Any person who violates this Subsection (2)(c) is guilty of a class B misdemeanor.
- (3) (a) Any person may challenge the right to vote of any person whose name appears on the posting list by filing a written signed statement identifying the challenged voter's name and the basis for the challenge with the county clerk on the Friday before the election during regular business hours.
- (b) The person challenging a person's right to vote shall allege one or more of the grounds

established in Subsection (1)(b) as the basis for the challenge.

(c) The county clerk shall:

(i) carefully preserve the written challenges;

(ii) write in the appropriate official register opposite the name of any person for whom the county clerk received a written challenge, the words "To be challenged"; and

(iii) transmit the written challenges to election judges of that voting precinct.

(d) On election day, the election judges shall raise the written challenge with the voter before giving the voter a ballot.

(e) If the person challenged takes an oath before any of the election judges that the grounds of the challenge are false, the judges shall allow the person to vote.

(f) If the person applying to vote does not meet the legal requirements to vote, or refuses to take the oath, the election judges may not deliver a ballot to him.

(4) The election judges shall record all challenges in the official register and on the challenge sheets in the pollbook.

(5) If the person challenged under Subsection (3) voted an absentee ballot, the county clerk shall submit the name of the voter and the challenge to the voter to the county attorney, or the district attorney in counties with a prosecution district, for investigation and prosecution for voter fraud.

Section 8. Section **20A-3-304** is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) As used in this section, "absent elector" means a person who:

(a) is physically, emotionally, or mentally impaired;

(b) will be serving as an election judge or who has election duties in another voting precinct;

(c) is detained or incarcerated in a jail or prison as a penalty for committing a misdemeanor;

(d) suffers a legal disability;

(e) is prevented from voting in a particular location because of religious tenets or other strongly held personal values;

(f) is called for jury duty in state or federal court; or

(g) otherwise expects to be absent from the voting precinct during the hours the polls are

open on election day.

(2) A registered voter who is or will be an absent elector may file an absentee ballot application with the appropriate election officer for an official absentee ballot.

(3) (a) [Each] Except as provided in Subsection (3)(b), each election officer shall prepare blank applications for absentee ballot applications in substantially the following form:

"I, _____ a qualified elector, in full possession of my mental faculties, residing at _____ Street, _____ City, _____ County, Utah and to my best knowledge and belief am entitled to vote by absentee ballot at the next election.

I apply for an official absentee ballot to be voted by me at the election.

Dated _____ [~~19~~] 20 _____

Signed _____

Voter"

(b) Each election officer shall prepare blank applications for absentee ballot applications for regular primary elections and for the Western States Presidential Primary in substantially the following form:

"I, _____ a qualified elector, in full possession of my mental faculties, residing at _____ Street, _____ City, _____ County, Utah to my best knowledge and belief am entitled to vote by absentee ballot at the next election.

I apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated _____ (month\day\year) Signed _____

Voter"

If requested by the applicant, the election officer shall:

- (i) mail or fax the application blank to the absentee voter; or
- (ii) deliver the application blank to any voter who personally applies for it at the office of the election officer.

(4) (a) (i) Except as provided in Subsections (4)(a)(ii) and (iii), the voters shall file the

application for an absentee ballot with the appropriate election officer no later than the Friday before election day.

(ii) Overseas applicants shall file their applications with the appropriate election officer no later than 20 days before the day of election.

(iii) Voters applying for an absentee ballot for the Western States Presidential Primary shall file the application for an absentee ballot with the appropriate election officer not later than the Tuesday before election day.

(b) Persons voting an absentee ballot at the office of the election officer shall apply for and cast their ballot no later than the day before the election.

(5) (a) A county clerk may establish a permanent absentee voter list.

(b) The clerk shall place on the list the name of any person who:

(i) requests permanent absentee voter status; and

(ii) meets the requirements of this section.

(c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on the absentee voter list.

(ii) The questionnaire shall allow the absentee person to verify the voter's residence and inability to vote at the voting precinct on election day.

(iii) The clerk may remove the names of any voter from the absentee voter registration list if:

(A) the voter is no longer listed in the official register; or

(B) the voter fails to verify the voter's residence and absentee status.

(d) The clerk shall provide a copy of the permanent absentee voter list to election officers for use in elections.

Section 9. Section **20A-5-102** is amended to read:

20A-5-102. Voting instructions.

(1) Each election officer shall:

(a) print instruction cards for voters;

(b) ensure that the cards are printed in English in large clear type; and

- (c) ensure that the cards instruct voters:
 - (i) about how to obtain ballots for voting;
 - (ii) about special political party affiliation requirements for voting in the Western States

Presidential Primary or in a regular primary election:

- ~~[(ii)]~~ (iii) about how to prepare ballots for deposit in the ballot box;
- ~~[(iii)]~~ (iv) about how to record write-in votes;
- ~~[(iv)]~~ (v) about how to obtain a new ballot in the place of one spoiled by accident or mistake;
- ~~[(v)]~~ (vi) about how to obtain assistance in marking ballots;
- ~~[(vi)]~~ (vii) about obtaining a new ballot if the voter's ballot is defaced; and
- ~~[(vii)]~~ (viii) that identification marks or the spoiling or defacing of a ballot will make it invalid.

(2) Each election officer shall:

- (a) provide the election judges of each voting precinct with sufficient instruction cards to instruct voters in the preparation of their ballots;
- (b) direct the election judges to post:
 - (i) at least one instruction card in each voting booth; and
 - (ii) at least three instruction cards and at least one sample ballot elsewhere in and about the polling place.

Section 10. Section **20A-6-203** is enacted to read:

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

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall:

- (a) develop paper ballots, ballot labels, and ballot cards to be used in Utah's regular primary election;
- (b) ensure that the paper ballots, ballot labels, and ballot cards comply generally, where applicable, with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and this section; and
- (c) provide voting booths, election records and supplies, and ballot boxes for each voting

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

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and Sections 20A-5-403, 20A-6-401, and 20A-6-401.1, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the paper ballots, ballot labels, ballot cards, and voting booths, election records and supplies, and ballot boxes:

(i) facilitate the distribution, voting, and tallying of ballots in a primary where not all voters are authorized to vote for a party's candidate;

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

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

(iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark, prepunch, or otherwise identify ballot cards as being for a particular registered political party; and

(ii) instruct persons counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

Section 11. Section **20A-6-401.1** is enacted to read:

20A-6-401.1. Ballots for partisan municipal primary elections.

(1) If a municipality is using paper ballots, each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular primary election:

(i) are perforated to separate the candidates of one political party from those of the other political parties so that the voter may separate the part of the ballot containing the names of the political party of the voter's choice from the rest of the ballot;

(ii) have sides that are perforated so that the outside sections of the ballot, when detached, are similar in appearance to the inside sections of the ballot when detached; and

(iii) contain no captions or other endorsements except as provided in this section;

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

columns under their party name and emblem;

(c) the political parties are printed on the ballot in the order determined by the county clerk;

(d) (i) the ballot contains a ballot stub that is at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words "Judge's Initials _____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(e) immediately below the perforated ballot stub, the following endorsements are printed in 18-point bold type:

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

(ii) the date of the election; and

(iii) a facsimile of the signature of the county clerk and the words "county clerk";

(f) after the facsimile signature, the political party emblem and the name of the political party are printed;

(g) after the party name and emblem, the ballot contains the following printed in not smaller than ten-point bold face, double leaded type: "Instructions to Voters: To vote for a candidate, place a cross (X) in the square at the right of the name of the person for whom you wish to vote and in no other place. Do not vote for any candidate listed under more than one party or group designation.", followed by two one-point parallel horizontal rules;

(h) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words: "Vote for one" or "Vote for two or more" are printed to extend to the extreme right of the column in ten-point bold type, followed by a hair-line rule;

(i) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules 3/8 inch apart, alphabetically according to surnames with surnames last and grouped according to the office that they seek;

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

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

rule; and

(1) the nonpartisan candidates are listed as follows:

(i) immediately below the listing of the party candidates, the word "NONPARTISAN" is printed in reverse type in an 18-point solid rule that extends the full width of the type copy of the party listing above; and

(ii) below "NONPARTISAN," the office, the number of candidates to vote for, the candidate's name, the voting square, and any other necessary information is printed in the same style and manner as for party candidates.

(2) (a) If a municipality is using machine counted ballots, the election officer may require that:

(i) the ballot label for a regular primary election consist of several groups of pages, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups used to list candidates for other nonpartisan offices;

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

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

(b) If a municipality is using machine counted ballots, each election officer shall:

(i) ensure that the ballot label provides a square for the voter to designate the political party in whose primary the voter is voting; and

(ii) determine the order for printing the names of the political parties on the ballot label.

Section 12. Section **20A-9-403** is amended to read:

20A-9-403. Regular primary elections.

(1) (a) The fourth Tuesday of June of each even-numbered year is designated as regular primary election day.

(b) Each registered political party that chooses to use the primary election process to nominate some or all of its candidates shall comply with the requirements of this section.

(2) (a) ~~Each~~ As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall ~~submit the names~~:

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

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

registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates; and

(iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year.

(b) As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:

(i) certify the name and office of all of the registered political party's candidates to the lieutenant governor no later than 5 p.m. on May 13 of each even-numbered year; and

(ii) certify the name and office of each of its county candidates to the county clerks [~~and the names of all of its candidates to the lieutenant governor~~] by 5 p.m. on May 13 of each even-numbered year.

~~(ii)~~ (c) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall send the county clerks a certified list of the names of all statewide or multicounty candidates that must be printed on the primary ballot.

~~(b)~~ (d) (i) Except as provided in Subsection ~~(b)~~ (2)(d)(ii), if a registered political party does not wish to participate in the primary election, it shall submit the names of its county candidates to the county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May 30 of each even-numbered year.

(ii) ~~[Notwithstanding Subsection (b)(i), a]~~ A registered political party's candidates for President and Vice-President of the United States shall be certified to the lieutenant governor as provided in Subsection 20A-9-202(4).

~~(c)~~ (e) Each political party shall certify the names of its presidential and vice-presidential candidates and presidential electors to the lieutenant governor's office by August 30 of each presidential election year.

(3) The county clerk shall:

(a) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

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

board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

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

(4) After the county clerk receives the certified list from a registered political party, the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, [~~19~~] __ (year), to nominate party candidates for the parties and nonpartisan offices listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk".

(5) (a) Candidates receiving the highest number of votes cast for each office at the regular primary election are nominated by their party or nonpartisan group for that office.

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

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

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

Section 13. Section **20A-9-404** is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) on the Tuesday following the first Monday in the October before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) If the number of candidates for a particular municipal office does not exceed twice the number of persons needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the June 1 before a regular municipal election, any third class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this subsection remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate more than one group of candidates or have placed on the ballot more than one group of candidates for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate a person who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) The convention or committee shall prepare a certificate of nomination for each person nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each person is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each person nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk not later than the sixth Tuesday before the November municipal election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third class city may adopt an ordinance before the July 1 before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder by the seventh Tuesday before the date of the municipal primary election;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections [~~20A-6-201~~] 20A-6-401 and [~~20A-6-202~~] 20A-6-401.1;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation;

(iv) every ballot is folded and perforated so as to separate the candidates of one party from those of the other parties and so as to enable the elector to separate the part of the ballot containing the names of the party of his choice from the remainder of the ballot; and

(v) the side edges of all ballots are perforated so that the outside sections of the ballots, when detached, are similar in appearance to inside sections when detached.

(e) After marking a municipal primary ballot, the voter shall:

(i) detach the part of the ballot containing the names of the candidates of the party he has voted from the rest of the ballot;

(ii) fold the detached part so that its face is concealed and deposit it in the ballot box; and

(iii) fold the remainder of the ballot containing the names of the candidates of the parties for whom the elector did not vote and deposit it in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 14. Section **63-55b-120** is enacted to read:

63-55b-120. Repeal dates -- Title 20A.

Section 20A-2-107.1 is repealed July 1, 2002.

Section 15. **Repealer.**

This act repeals:

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

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

Section 16. **Effective date.**

This act takes effect on July 1, 2000.