

**Representative John Dougall** proposes the following substitute bill:

**INTEGRITY OF ELECTION RESULTS**

**AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: John Dougall**

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**LONG TITLE**

**General Description:**

This bill amends election law and the duties of the chief election officer to require that voting equipment produces an auditable record of votes cast.

**Highlighted Provisions:**

This bill:

- ▶ amends the Election Code to require that voting equipment be capable of producing an auditable, voter verified paper trail of votes cast in order to be certified for use;
- ▶ amends the duties of the chief election officer to require that any voting equipment purchased be capable of producing an auditable, voter verified paper trail of votes cast;
- ▶ amends the Election Code to require the lieutenant governor to establish a Voting Equipment Selection Committee to provide recommendations and information on new voting equipment systems before new voting systems are purchased;
- ▶ amends the Election Code to establish membership and reimbursement requirements for the Voting Equipment Selection Committee;
- ▶ amends the Election Code to require the lieutenant governor to provide the public with an opportunity to review and comment on new voting equipment systems before new voting equipment systems are purchased; and



26           ▶ amends the Election Code to require that any automatic voting equipment will  
27 permit each voter to verify and correct the voter's selections before the ballot is cast.

28 **Monies Appropriated in this Bill:**

29           None

30 **Other Special Clauses:**

31           This bill provides an immediate effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34           **20A-5-302**, as last amended by Chapter 113, Laws of Utah 2002

35           **67-1a-2**, as last amended by Chapters 133 and 176, Laws of Utah 2002

36 ENACTS:

37           **20A-5-402.7**, Utah Code Annotated 1953



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

40           Section 1. Section **20A-5-302** is amended to read:

41           **20A-5-302. Automated voting system.**

42           (1) Any county or municipal legislative body or special district board may:

43           (a) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any  
44 automated voting system that meets the requirements of this section; and

45           (b) use that system in any election, in all or a part of the voting precincts within its  
46 boundaries, or in combination with paper ballots.

47           (2) (a) Each automated voting system shall:

48           (i) provide for voting in secrecy, except in the case of voters who have received  
49 assistance as authorized by Section 20A-3-108;

50           (ii) permit each voter at any election to:

51           (A) vote for all persons and offices for whom and for which that voter is lawfully  
52 entitled to vote;

53           (B) vote for as many persons for an office as that voter is entitled to vote; and

54           (C) vote for or against any ballot proposition upon which that voter is entitled to vote;

55           (iii) permit each voter, at presidential elections, by one mark or punch to vote for the  
56 candidates of that party for president, vice president, and for their presidential electors;

57 (iv) permit each voter, at any regular general election, to vote for all the candidates of  
58 one registered political party by making one mark or punch;

59 (v) permit each voter to scratch vote;

60 (vi) at elections other than primary elections, permit each voter to vote for the  
61 nominees of one or more parties and for independent candidates;

62 (vii) at primary elections:

63 (A) permit each voter to vote for candidates of the political party of his choice; and

64 (B) reject any votes cast for candidates of another party;

65 (viii) prevent the voter from voting for the same person more than once for the same  
66 office;

67 (ix) permit each voter, including those with disabilities, to verify and correct the voter's  
68 selections before the voter casts the ballot;

69 [~~(ix)~~] (x) include automatic tabulating equipment that rejects choices recorded on a  
70 voter's ballot if the number of the voter's recorded choices is greater than the number which the  
71 voter is entitled to vote for the office or on the measure;

72 [~~(x)~~] (xi) be of durable construction, suitably designed so that it may be used safely,  
73 efficiently, and accurately in the conduct of elections and counting ballots;

74 [~~(xi)~~] (xii) when properly operated, record correctly and count accurately each vote  
75 cast; [~~and~~]

76 (xiii) produce a permanent paper record that is available for the voter's inspection prior  
77 to the voter leaving the ~~H~~→ [voting booth] polling place ←~~H~~ that:

78 (A) shall be available as an official record for any recount or challenge conducted with  
79 respect to an election where the automated voting system is used;

80 (B) shall include ~~H~~→ a ←~~H~~ human readable ~~H~~→ [printing] format ←~~H~~ which shall be  
80a the ultimate record of the  
81 voter's intent;

82 (C) may also include ~~H~~→ a ←~~H~~ machine readable ~~H~~→ [printing] format ←~~H~~ , which  
82a may be the same as the human

83 readable ~~H~~→ [printing] format ←~~H~~ ; and

84 (D) allows ~~H~~→ voting ←~~H~~ poll watchers and ~~H~~→ counting ←~~H~~ poll ~~H~~→ [counters]  
84a watchers ←~~H~~ to observe the election process to ensure its  
85 integrity.

86 [~~(xii)~~] (xiv) meet the requirements of Section 20A-5-402.5.

87 (b) Notwithstanding any other provisions of this section, the election officers shall

88 ensure that the ballots to be counted by means of electronic or electromechanical devices are of  
89 a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable  
90 for use in the counting devices in which they are intended to be placed.

91 Section 2. Section **20A-5-402.7** is enacted to read:

92 **20A-5-402.7. Voting equipment selection committee.**

93 (1) As used in this section, "new voting equipment system" means voting equipment  
94 that is operated in a materially different way or that functions in a materially different way than  
95 the equipment being replaced.

96 (2) Before selecting or purchasing a new voting equipment system, the lieutenant  
97 governor shall:

98 (a) appoint a Voting Equipment Selection Committee; and

99 (b) ensure that the committee includes persons having experience in:

100 (i) election procedures and administration;

101 (ii) computer technology;

102 (iii) data security;

103 (iv) auditing; and

104 (v) access for persons with disabilities.

105 (3) (a) (i) A member of the committee who is not a government employee shall receive  
106 no compensation or benefits for the member's services, but may receive per diem and expenses  
107 incurred in the performance of the member's official duties at the rates established by the  
108 Division of Finance under Sections 63A-3-106 and 63A-3-107.

109 (ii) A member may decline to receive per diem and expenses for the member's services.

110 (b) (i) A state government officer or employee member who does not receive salary,  
111 per diem, or expenses from the member's agency for the member's service may receive per  
112 diem and expenses incurred in the performance of the member's official duties at the rates  
113 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

114 (ii) A state government officer or employee member may decline to receive per diem  
115 for the member's service.

116 (4) The lieutenant governor shall select a chair from the committee membership.

117 (5) The lieutenant governor may fill any vacancies that occur on the committee.

118 (6) The lieutenant governor's office shall provide staffing for the committee.

- 119           (7) The Voting Equipment Selection Committee shall:  
120           (a) evaluate new voting equipment systems proposed for purchase by the state; and  
121           (b) provide information and recommendations to assist the lieutenant governor with the  
122 purchase of new voting equipment systems.
- 123           (8) The lieutenant governor may designate individuals, including committee members,  
124 to inspect and review proprietary software as part of an evaluation of new voting equipment  
125 systems under consideration for purchase.
- 126           (9) Before making any selection or purchase, the lieutenant governor shall provide for a  
127 period of public review and comment on new voting equipment systems under consideration  
128 for purchase by the state.
- 129           (10) The committee shall submit an annual report to the Legislative Management  
130 Committee and the governor by November 30 of each year.

131           Section 3. Section **67-1a-2** is amended to read:

132           **67-1a-2. Duties enumerated.**

- 133           (1) The lieutenant governor shall:
- 134           (a) perform duties delegated by the governor, including assignments to serve in any of  
135 the following capacities:
- 136           (i) as the head of any one department, if so qualified, with the consent of the Senate,  
137 and, upon appointment at the pleasure of the governor and without additional compensation;
- 138           (ii) as the chairperson of any cabinet group organized by the governor or authorized by  
139 law for the purpose of advising the governor or coordinating intergovernmental or  
140 interdepartmental policies or programs;
- 141           (iii) as liaison between the governor and the state Legislature to coordinate and  
142 facilitate the governor's programs and budget requests;
- 143           (iv) as liaison between the governor and other officials of local, state, federal, and  
144 international governments or any other political entities to coordinate, facilitate, and protect the  
145 interests of the state;
- 146           (v) as personal advisor to the governor, including advice on policies, programs,  
147 administrative and personnel matters, and fiscal or budgetary matters; and
- 148           (vi) as chairperson or member of any temporary or permanent boards, councils,  
149 commissions, committees, task forces, or other group appointed by the governor;

- 150 (b) serve on all boards and commissions in lieu of the governor, whenever so  
 151 designated by the governor;
- 152 (c) serve as the chief election officer of the state as required by Subsection (2);
- 153 (d) keep custody of the Great Seal of Utah;
- 154 (e) keep a register of, and attest, the official acts of the governor;
- 155 (f) affix the Great Seal, with an attestation, to all official documents and instruments to  
 156 which the official signature of the governor is required; and
- 157 (g) furnish a certified copy of all or any part of any law, record, or other instrument  
 158 filed, deposited, or recorded in the office of the lieutenant governor to any person who requests  
 159 it and pays the fee.
- 160 (2) (a) As the chief election officer, the lieutenant governor shall:
- 161 (i) exercise general supervisory authority over all elections;
- 162 (ii) exercise direct authority over the conduct of elections for federal, state, and  
 163 multicounty officers and statewide or multicounty ballot propositions and any recounts  
 164 involving those races;
- 165 (iii) assist county clerks in unifying the election ballot;
- 166 (iv) prepare election information for the public and make that information available to  
 167 the news media;
- 168 (v) receive and answer election questions and maintain an election file on opinions  
 169 received from the attorney general;
- 170 (vi) maintain election returns and statistics;
- 171 (vii) certify to the governor the names of those persons who have received the highest  
 172 number of votes for any office; [~~and~~]
- 173 (viii) ensure that all voting equipment purchased by the state complies with the  
 174 requirements of Subsection 20A-5-302(2) and ~~H~~→ [Title 20A, Chapter 5, Part 4, Election Officer's  
 175 Duties] Sections 20A-5-402.5 and 20A-5-402.7 ←~~H~~ ; and
- 176 [~~(viii)~~] (ix) perform other election duties as provided in Title 20A, Election Code.
- 177 (b) As chief election officer, the lieutenant governor may not assume the  
 178 responsibilities assigned to the county clerks, city recorders, town clerks, or other local election  
 179 officials by Title 20A, Election Code.
- 180 Section 4. **Effective date.**

181           If approved by two-thirds of all the members elected to each house, this bill takes effect  
182 upon approval by the governor, or the day following the constitutional time limit of Utah  
183 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
184 the date of veto override.