

1                                   **ELECTION CODE REVISIONS**

2   2006 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Parley G. Hellewell**

5                                   House Sponsor: Douglas C. Aagard

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7 **LONG TITLE**

8 **General Description:**

9           This bill amends the Election Code and related provisions to correct technical errors  
10 and clarify existing law.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ removes obsolete terms;
- 14           ▶ corrects cross-references;
- 15           ▶ clarifies what information election judges should enter on defective ballot  
16 envelopes;
- 17           ▶ clarifies that certain election filing deadlines should be extended when the deadline  
18 falls on a weekend; and
- 19           ▶ makes technical corrections.

20 **Monies Appropriated in this Bill:**

21           None

22 **Other Special Clauses:**

23           None

24 **Utah Code Sections Affected:**

25 AMENDS:

26           **20A-1-102**, as last amended by Chapter 105, Laws of Utah 2005

27           **20A-1-506**, as enacted by Chapter 1, Laws of Utah 1993



- 28           **20A-3-410**, as last amended by Chapter 2, Laws of Utah 1994
- 29           **20A-9-403**, as last amended by Chapter 146, Laws of Utah 2004
- 30           **20A-11-508**, as repealed and reenacted by Chapter 355, Laws of Utah 1997
- 31           **78-5-134**, as last amended by Chapter 71, Laws of Utah 2001

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

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

35           **20A-1-102. Definitions.**

36           As used in this title:

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

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

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

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

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

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

51           (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and  
52 20A-4-306 to canvass election returns.

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

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

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

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

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

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

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

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

69 (16) "Counting poll watcher" means a person selected as provided in Section  
70 20A-3-201 to witness the counting of ballots.

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

74 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

75 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

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

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

81 (22) "Election Assistance Commission" means the commission established by Public  
82 Law 107-252, the Help America Vote Act of 2002.

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

85 (24) "Election judge" means each canvassing judge, counting judge, and receiving  
86 judge.

87 (25) "Election officer" means:

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

89 (b) the county clerk or clerks for all county ballots and for certain ballots and elections

90 as provided in Section 20A-5-400.5;

91 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as  
92 provided in Section 20A-5-400.5;

93 (d) the special district clerk or chief executive officer for certain ballots and elections  
94 as provided in Section 20A-5-400.5; and

95 (e) the business administrator or superintendent of a school district for certain ballots  
96 or elections as provided in Section 20A-5-400.5.

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

98 (27) "Election results" means, for bond elections, the count of those votes cast for and  
99 against the bond proposition plus any or all of the election returns that the board of canvassers  
100 may request.

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

105 (29) "Electronic voting system" means a system in which a voting device is used in  
106 conjunction with ballots so that votes recorded by the voter are counted and tabulated by  
107 automatic tabulating equipment.

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

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

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

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

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

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

119 (36) "Local special election" means a special election called by the governing body of a  
120 local political subdivision in which all registered voters of the local political subdivision may

121 vote.

122 (37) "Municipal executive" means:

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

125 (b) the mayor in the council-mayor optional form of government defined in Section  
126 10-3-101; and

127 (c) the manager in the council-manager optional form of government defined in  
128 Section 10-3-101.

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

132 (39) "Municipal legislative body" means:

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

135 (b) the municipal council in the council-mayor optional form of government defined in  
136 Section 10-3-101; and

137 (c) the municipal council in the council-manager optional form of government defined  
138 in Section 10-3-101.

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

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

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

145 (43) "Official endorsement" means:

146 (a) the information on the ballot that identifies:

147 (i) the ballot as an official ballot;

148 (ii) the date of the election; and

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

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

151 (i) the election judge's initials; and

152 (ii) the ballot number.

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

155 (45) "Paper ballot" means a paper that contains:

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

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

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

163 (47) "Polling place" means the building where residents of a voting precinct vote or  
164 where absentee voting is conducted.

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

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

168 (50) "Proof of identity" means some form of photo identification, such as a driver  
169 license or identification card, that establishes a person's identity.

170 (51) "Proof of residence" means some official document or form, such as a driver  
171 license or utility bill that establishes a person's residence.

172 (52) "Provisional ballot" means a ballot voted provisionally by a person:

173 (a) whose name is not listed on the official register at the polling place; or

174 (b) whose legal right to vote is challenged as provided in this title.

175 (53) "Provisional ballot envelope" means an envelope printed in the form required by  
176 Section 20A-6-105 that is used to identify provisional ballots and to provide information to  
177 verify a person's legal right to vote.

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

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

182 (56) "Qualify" or "qualified" means to take the oath of office and begin performing the

183 duties of the position for which the person was elected.

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

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

189 (59) "Registration form" means a book voter registration form and a by-mail voter  
190 registration form.

191 (60) "Regular ballot" means a ballot that is not a provisional ballot.

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

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

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

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

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

203 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or  
204 punch the ballot for one or more candidates who are members of different political parties.

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

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

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

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

213 (71) "Spoiled ballot" means each ballot that:

- 214 (a) is spoiled by the voter;
- 215 (b) is unable to be voted because it was spoiled by the printer or the election judge; or
- 216 (c) lacks the official endorsement.
- 217 (72) "Statewide special election" means a special election called by the governor or the
- 218 Legislature in which all registered voters in Utah may vote.
- 219 (73) "Stub" means the detachable part of each ballot.
- 220 (74) "Substitute ballots" means replacement ballots provided by an election officer to
- 221 the election judges when the official ballots are lost or stolen.
- 222 (75) "Ticket" means each list of candidates for each political party or for each group of
- 223 petitioners.
- 224 (76) "Transfer case" means the sealed box used to transport voted ballots to the
- 225 counting center.
- 226 (77) "Vacancy" means the absence of a person to serve in any position created by
- 227 statute, whether that absence occurs because of death, disability, disqualification, resignation,
- 228 or other cause.
- 229 (78) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 230 candidate by following the procedures and requirements of this title.
- 231 (79) "Voter" means a person who meets the requirements for voting in an election,
- 232 meets the requirements of election registration, is registered to vote, and is listed in the official
- 233 register book.
- 234 (80) "Voting area" means the area within six feet of the voting booths, voting
- 235 machines, and ballot box.
- 236 (81) "Voting booth" means the space or compartment within a polling place that is
- 237 provided for the preparation of ballots and includes the voting machine enclosure or curtain.
- 238 (82) "Voting device" means:
- 239 (a) an apparatus in which ballot cards are used in connection with a punch device for
- 240 piercing the ballots by the voter;
- 241 (b) a device for marking the ballots with ink or another substance; or
- 242 (c) any other method for recording votes on ballots so that the ballot may be tabulated
- 243 by means of automatic tabulating equipment.
- 244 (83) "Voting machine" means a machine designed for the sole purpose of recording



245 and tabulating votes cast by voters at an election.

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

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

250 (86) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting  
251 poll watcher.

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

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

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

257 Section 2. Section **20A-1-506** is amended to read:

258 **20A-1-506. Judicial vacancies -- Courts not of record.**

259 (1) As used in this section:

260 (a) "Appointing authority" means:

261 (i) the chair of the county commission in counties having the county commission form  
262 of county government;

263 (ii) the county executive in counties having the county executive-council form of  
264 government;

265 (iii) the chair of the [~~city commission,~~] city council[;] or town council in municipalities  
266 having:

267 (A) the traditional management arrangement established by Title 10, Chapter 3, Part 1,  
268 Governing Body; and

269 (B) the council-manager optional form of government defined in Section [~~10-3-1209~~]  
270 10-3-101; and

271 (iv) the mayor, in the council-mayor optional form of government defined in Section  
272 [~~10-3-1209~~] 10-3-101;

273 (b) "Local legislative body" means:

274 (i) the county commission or county council; and

275 (ii) the [~~city commission,~~] city council[;] or town council.

276 (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the  
277 completion of his term of office, the appointing authority may:

278 (i) fill the vacancy by appointment for the unexpired term by following the procedures  
279 and requirements for appointments in Section 78-5-134; or

280 (ii) contract with a justice court judge of the county, an adjacent county, or another  
281 municipality within those counties for judicial services.

282 (b) When the appointing authority chooses to contract under Subsection ~~[(+)]~~ (2)(a)(ii),  
283 it shall ensure that the contract is for the same term as the term of office of the judge whose  
284 services are replaced by the contract.

285 (c) The appointing authority shall notify the Office of the State Court Administrator in  
286 writing of the appointment, resignation, or the contractual agreement for services of a judge  
287 under this section within 30 days after filling the vacancy.

288 (3) (a) If a vacancy occurs in the office of a county justice court judge before the  
289 completion of that judge's term of office, the appointing authority may fill the vacancy by  
290 appointment for the unexpired term by following the procedures and requirements for  
291 appointments in Section 78-5-134.

292 (b) The appointing authority shall notify the Office of the State Court Administrator in  
293 writing of any appointment of a county justice court judge under this section within 30 days  
294 after the appointment is made.

295 (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing  
296 authority shall:

297 (i) advertise the vacancy and solicit applications for the vacancy;

298 (ii) appoint the best qualified candidate to office based solely upon fitness for office;

299 (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting  
300 employment of relatives in making appointments to fill the vacancy; and

301 (iv) submit the name of the appointee to the local legislative body.

302 (b) If the local legislative body does not confirm the appointment within 30 days of  
303 submission, the appointing authority may either appoint another of the applicants or reopen the  
304 vacancy by advertisement and solicitations of applications.

305 Section 3. Section **20A-3-410** is amended to read:

306 **20A-3-410. Duty of election judges.**

307 (1) (a) Voting precinct election judges shall open envelopes containing military or  
308 overseas citizen voter ballots that are in their custody on election day at the polling places  
309 during the time the polls are open as provided in this subsection.

310 (b) The election judges shall:

311 (i) first, open the outer envelope only; and

312 (ii) unless the ballot is a disabled military or overseas citizen voter's ballot, compare  
313 the signature of the military or overseas citizen voter on the application with the signature on  
314 the registration and voting certificate.

315 (2) (a) The judges shall register the military or overseas citizen voter to vote if the  
316 voter is not already registered if the judges find that:

317 (i) the registration and voting certificate appears to be executed in proper form and  
318 contains information qualifying the military or overseas citizen voter to be registered as a voter;  
319 and

320 (ii) the signatures on the certificate and the application correspond, where a  
321 comparison is required.

322 (b) If the election judges determine that the registration and voting certificate is  
323 insufficient or that the signatures do not correspond, they shall:

324 (i) disallow the registration; and

325 (ii) without opening the ballot envelope, mark across the face of the envelope  
326 "Rejected as defective because of \_\_\_\_\_ ." with the reason for the rejection placed in the  
327 blank.

328 (c) When a military or overseas citizen voter's name is entered upon the registration  
329 books, the voter is considered to be registered and the registration and voting certificate, signed  
330 and sworn to by the military or overseas citizen voter on the back of the ballot envelope,  
331 together with his name upon the registration books, constitute his registration record.

332 (d) Nothing in this title may abridge the right of the military or overseas citizen voter to  
333 be registered as provided in this section.

334 (3) (a) After registering the voter, the judges shall carefully open the ballot envelope so  
335 as not to destroy the information printed on it if they find that:

336 (i) the registration and voting certificate is sufficient; and

337 (ii) the signatures on the certificate and the application correspond, where a

338 comparison is required.

339 (b) The election judges shall:

340 (i) remove the ballot from the envelope without unfolding it or permitting it to be  
341 opened or examined;

342 (ii) initial the stub in the same manner as for other ballots;

343 (iii) deposit the ballot in the proper ballot box; and

344 (iv) mark the official register and pollbook to show that the voter has voted.

345 (c) If the election judges determine that the registration and voting certificate is  
346 insufficient or that the signatures do not correspond, they shall:

347 (i) disallow the vote; and

348 (ii) without opening the ballot envelope, mark across the face of the envelope

349 "Rejected as defective because of \_\_\_\_\_ ." with the reason for the rejection placed in the  
350 blank.

351 (4) The election judges shall deposit the envelope, when the ballot is voted, and the  
352 envelope with its contents unopened, when the absent vote is rejected, in the ballot box  
353 containing the ballots.

354 (5) The county clerk shall retain and preserve the envelopes in the manner provided by  
355 law for the retention and preservation of official ballots voted at that election.

356 Section 4. Section **20A-9-403** is amended to read:

357 **20A-9-403. Regular primary elections.**

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

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

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

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

365 (ii) identify one or more registered political parties whose members may vote for the  
366 registered political party's candidates and whether or not persons identified as unaffiliated with  
367 a political party may vote for the registered political party's candidates; and

368 (iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1

369 of each even-numbered year, except that when March 1 is a Saturday or Sunday, the  
370 certification deadline shall be extended until 5 p.m. on the following regular business day.

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

373 (i) certify the name and office of all of the registered political party's candidates to the  
374 lieutenant governor no later than 5 p.m. on May 13 of each even-numbered year, except that  
375 when May 13 is a Saturday or Sunday, the certification deadline shall be extended until 5 p.m.  
376 on the following regular business day; and

377 (ii) certify the name and office of each of its county candidates to the county clerks by  
378 5 p.m. on May 13 of each even-numbered year, except that when May 13 is a Saturday or  
379 Sunday, the certification deadline shall be extended until 5 p.m. on the following regular  
380 business day.

381 (c) By 5 p.m. on May 16 of each even-numbered year, or by 5 p.m. on the following  
382 regular business day if May 16 is a Saturday or Sunday, the lieutenant governor shall send the  
383 county clerks a certified list of the names of all statewide or multicounty candidates that must  
384 be printed on the primary ballot.

385 (d) (i) Except as provided in Subsection (2)(d)(ii), if a registered political party does  
386 not wish to participate in the primary election, it shall submit the names of its county  
387 candidates to the county clerks and the names of all of its candidates to the lieutenant governor  
388 by 5 p.m. on May 30 of each even-numbered year, except that when May 30 is a Saturday or  
389 Sunday, the submission deadline shall be extended until 5 p.m. on the following regular  
390 business day.

391 (ii) A registered political party's candidates for President and Vice-President of the  
392 United States shall be certified to the lieutenant governor as provided in Subsection  
393 20A-9-202(4).

394 (e) Each political party shall certify the names of its presidential and vice-presidential  
395 candidates and presidential electors to the lieutenant governor's office by September 3 of each  
396 presidential election year, or by the following regular business day if September 3 is a Saturday  
397 or Sunday.

398 (3) The county clerk shall:

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

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

401 (b) place the names of all candidates who have filed a declaration of candidacy for a  
402 local board of education seat on the nonpartisan section of the ballot if more than two  
403 candidates have filed for the same seat; and

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

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

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

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

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

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

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

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

429 Section 5. Section **20A-11-508** is amended to read:

430 **20A-11-508. Political party reporting requirements -- Criminal penalties.**

431 (1) (a) Each registered political party that fails to file the interim reports due September  
432 15 or before the regular general [~~session~~] election is guilty of a class B misdemeanor.

433 (b) The lieutenant governor shall report all violations of Subsection (1)(a) to the  
434 attorney general.

435 (2) Within 30 days after a deadline for the filing of a summary report required by this  
436 part, the lieutenant governor shall review each filed report to ensure that:

437 (a) each political party that is required to file a report has filed one; and

438 (b) each report contains the information required by this part.

439 (3) If it appears that any political party has failed to file a report required by law, if it  
440 appears that a filed report does not conform to the law, or if the lieutenant governor has  
441 received a written complaint alleging a violation of the law or the falsity of any report, the  
442 lieutenant governor shall, within five days of discovery of a violation or receipt of a written  
443 complaint, notify the political party of the violation or written complaint and direct the political  
444 party to file a summary report correcting the problem.

445 (4) (a) It is unlawful for any political party to fail to file or amend a summary report  
446 within 14 days after receiving notice from the lieutenant governor under this section.

447 (b) Each political party who violates Subsection (4)(a) is guilty of a class B  
448 misdemeanor.

449 (c) The lieutenant governor shall report all violations of Subsection (4)(a) to the  
450 attorney general.

451 Section 6. Section **78-5-134** is amended to read:

452 **78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial**  
453 **Council -- Retention election -- Vacancy.**

454 (1) As used in this section:

455 (a) "Appointing authority" means:

456 (i) the chair of the county commission in counties having the county commission form  
457 of county government;

458 (ii) the county executive in counties having the county executive-council form of  
459 government;

460 (iii) the chair of the [~~city commission~~], city council[;] or town council in municipalities  
461 having the traditional management arrangement established by Title 10, Chapter 3, Part 1,

462 Governing Body;

463 (iv) the city manager, in the council-manager optional form of government defined in  
464 Section [~~10-3-1209~~] 10-3-101; and

465 (v) the mayor, in the council-mayor optional form of government defined in Section  
466 [~~10-3-1209~~] 10-3-101.

467 (b) "Local legislative body" means:

468 (i) the county commission or county council; and

469 (ii) the [~~city commission,~~] city council[;] or town council.

470 (2) Justice court judges shall be appointed by the appointing authority and confirmed  
471 by a majority vote of the local legislative body.

472 (3) (a) After a newly appointed justice court judge has been confirmed, the local  
473 legislative body shall report the confirmed judge's name to the Judicial Council.

474 (b) The Judicial Council shall certify the judge as qualified to hold office upon  
475 successful completion of the orientation program and upon the written opinion of the county or  
476 municipal attorney that the judge meets the statutory qualifications for office.

477 (c) A justice court judge may not perform judicial duties until certified by the Judicial  
478 Council.

479 (4) Upon the expiration of a county justice court judge's term of office the judge shall  
480 be subject to an unopposed retention election in accordance with the procedures set forth in  
481 Section 20A-12-201.

482 (5) Upon the expiration of a municipal justice court judge's term of office a municipal  
483 justice court judge shall be reappointed absent a showing of good cause by the appointing  
484 authority.

485 (a) If an appointing authority asserts good cause to not reappoint a municipal justice  
486 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of  
487 the local legislative body.

488 (b) The local legislative body shall determine by majority vote whether good cause  
489 exists not to reappoint the municipal justice court judge.

490 (c) The decision of the local legislative body is not subject to appeal.

491 (d) In determining whether good cause exists to not reappoint a municipal justice court  
492 judge, the appointing authority and local legislative body shall consider:



493 (i) whether or not the judge has been certified as meeting the evaluation criteria for  
494 judicial performance established by the Judicial Council; and

495 (ii) any other factors considered relevant by the appointing authority.

496 (6) Before reappointment or retention election, each justice court judge shall be  
497 evaluated in accordance with the performance evaluation program established in Subsection  
498 78-3-21(4).

499 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of  
500 justice court judge, the appointing authority may contract with a justice court judge in the  
501 county or an adjacent county to serve as justice court judge.

502 (b) The contract shall be for the duration of the justice court judge's term of office.

503 (8) Vacancies in the office of justice court judge shall be filled as provided in Section  
504 20A-1-506.

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**Legislative Review Note**

**as of 10-19-05 11:58 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**

**as of 12-21-05 12:25 PM**

The Government Operations Interim Committee recommended this bill.