

**AUTHORIZATION OF OPINION QUESTION
TO VOTERS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ed Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Election Code to establish procedures for submitting a nonbinding opinion question to the voters of Utah.

Highlighted Provisions:

This bill:

- ▶ establishes procedures for submitting a nonbinding opinion question to the voters of Utah;
- ▶ outlines the duties of the lieutenant governor and election officials in submitting a nonbinding opinion question to the voters;
- ▶ establishes procedures for the ballot form, voter information pamphlet, manner of voting, and canvass of returns in relation to a nonbinding opinion question;
- ▶ repeals Sections 36-16a-101 through 36-16a-108 on January 1, 2009; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:



28 **20A-1-102**, as last amended by Chapters 16, 264 and 326, Laws of Utah 2006
29 **20A-6-301**, as last amended by Chapter 326, Laws of Utah 2006
30 **20A-6-303**, as last amended by Chapter 326, Laws of Utah 2006
31 **20A-6-304**, as enacted by Chapter 326, Laws of Utah 2006
32 **20A-7-103**, as last amended by Chapter 127, Laws of Utah 2002
33 **20A-7-701**, as last amended by Chapter 215, Laws of Utah 1997
34 **20A-7-703**, as enacted by Chapter 1 and last amended by Chapter 153, Laws of Utah
35 1995
36 **20A-7-705**, as last amended by Chapter 116, Laws of Utah 1999
37 **63-55b-120**, as last amended by Chapters 131 and 159, Laws of Utah 2003
38 ENACTS:
39 **36-16a-101**, Utah Code Annotated 1953
40 **36-16a-102**, Utah Code Annotated 1953
41 **36-16a-103**, Utah Code Annotated 1953
42 **36-16a-104**, Utah Code Annotated 1953
43 **36-16a-105**, Utah Code Annotated 1953
44 **36-16a-106**, Utah Code Annotated 1953
45 **36-16a-107**, Utah Code Annotated 1953
46 **36-16a-108**, Utah Code Annotated 1953
47 **63-55b-136**, Utah Code Annotated 1953

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

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

51 **20A-1-102. Definitions.**

52 As used in this title:

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

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

57 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon
58 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and

59 secrecy envelopes.

60 (4) "Ballot sheet":

61 (a) means a ballot that:

62 (i) consists of paper or a card where the voter's votes are marked or recorded; and

63 (ii) can be counted using automatic tabulating equipment; and

64 (b) includes punch card ballots, and other ballots that are machine-countable.

65 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that
66 contain the names of offices and candidates and statements of ballot propositions to be voted
67 on and which are used in conjunction with ballot sheets that do not display that information.

68 (6) "Ballot proposition" means opinion questions [~~specifically~~] authorized [~~by the~~
69 ~~Legislature,~~] under Section 36-16a-103, constitutional amendments, initiatives, referenda, and
70 judicial retention questions that are submitted to the voters for their approval or rejection.

71 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
72 20A-4-306 to canvass election returns.

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

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

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

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

81 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
82 the canvass.

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

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

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

89 (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" has the meaning as provided in Subsection 68-3-12(2).

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

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

(23) "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.

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

(25) "Election officer" means:

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

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

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

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

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

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

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

may request.

(28) "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.

(29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(30) "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.

(31) "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.

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

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

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

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

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

(37) "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.

(38) "Municipal executive" means:

(a) the 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 10-3-101; and

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

(39) "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.

(40) "Municipal legislative body" means:

(a) the 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 10-3-101; and

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

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

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

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

(44) "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 poll worker's initials; and

(ii) the ballot number.

(45) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(46) "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.

(47) "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.

(48) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(49) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(50) "Polling place" means the building where voting is conducted.

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

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

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

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by an election judge.

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

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

(55) "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.

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

(57) "Receiving judge" means the poll worker 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.

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

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

214 registration form.

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

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

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

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

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

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

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

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

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

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

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

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

238 (a) is spoiled by the voter;

239 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

240 (c) lacks the official endorsement.

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

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

244 (74) "Substitute ballots" means replacement ballots provided by an election officer to

the poll workers when the official ballots are lost or stolen.

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

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

(77) "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.

(78) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state;

(B) a local government within the state; or

(C) a branch, department, or agency of the United States;

(iii) an identification card that is issued by an employer for an employee;

(iv) a currently valid identification card that is issued by a college, university, technical school, or professional school that is located within the state;

(v) a currently valid Utah permit to carry a concealed weapon;

(vi) a currently valid United States passport; or

(vii) a valid tribal identification card; or

(b) two forms of identification that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a voter identification card;

(ii) a current utility bill or a legible copy thereof;

(iii) a bank or other financial account statement, or a legible copy thereof;

(iv) a certified birth certificate;

(v) a valid Social Security card;

(vi) a check issued by the state or the federal government or a legible copy thereof;

(vii) a paycheck from the voter's employer, or a legible copy thereof;

(viii) a currently valid Utah hunting or fishing license;
(ix) a currently valid United States military identification card;
(x) certified naturalization documentation;
(xi) a currently valid license issued by an authorized agency of the United States;
(xii) a certified copy of court records showing the voter's adoption or name change;
(xiii) a Bureau of Indian Affairs card;
(xiv) a tribal treaty card;
(xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
(xvi) a form of identification listed in Subsection [~~(76)~~] (78)(a) that does not contain a photograph, but establishes the name of the voter and provides evidence that the voter resides in the voting precinct.

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

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

(81) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

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

(83) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(84) "Voting device" means:

(a) an apparatus in which ballot sheets 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;

(c) a device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

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

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

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

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

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

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

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

(91) "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-6-301** is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain no captions or other endorsements except as provided in this section;

(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;

(ii) the ballot number and the words " Poll Worker's Initial ____ " are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

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

(i) "Official 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";

(d) each ticket is placed in a separate column on the ballot in the order determined by

the election officer with the party emblem, followed by the party name, at the head of the column;

(e) the party name or title is printed in capital letters not less than 1/4 of an inch high;

(f) a circle 1/2 inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;

(g) unaffiliated candidates and candidates not affiliated with a registered political party are listed in one column, without a party circle, with the following instructions printed at the head of the column: "All candidates not affiliated with a political party are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.";

(h) the columns containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(i) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(j) the names of candidates are printed in capital letters, not less than 1/8 nor more than 1/4 of an inch high in heavy-faced type not smaller than ten-point, between lines or rules 3/8 of an inch apart;

(k) a square with sides measuring not less than 1/4 of an inch in length is printed at the right of the name of each candidate;

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than 1/4 of an inch in length is printed opposite a double bracket enclosing the right side of the names of the two candidates;

(m) immediately to the right of the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with:

(i) for each office on the ballot, the office to be filled plainly printed immediately above:

(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a square with sides measuring not less than 1/4 of an inch in length printed at the right of the blank horizontal line; or

(B) for the offices of president and vice president and governor and lieutenant

governor, two blank horizontal lines, one placed above the other, to enable the entry of two valid write-in candidates, and one square with sides measuring not less than 1/4 of an inch in length printed opposite a double bracket enclosing the right side of the two blank horizontal lines; and

(ii) the words "Write-In Voting Column" printed at the head of the column without a 1/2 inch circle;

(n) when required, the ballot includes a nonpartisan ticket placed immediately to the right of the write-in ticket with the word "NONPARTISAN" in reverse type in an 18-point solid rule running vertically the full length of the nonpartisan ballot copy; and

(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any political party or group of petitioners is placed on the ballot:

(i) under the party name and emblem, if any; or

(ii) under the title of the party or group as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight-point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in alphabetical order with the surnames last, except for candidates for the State Board of Education and local school boards;

(f) the names of candidates for the State Board of Education are placed on the ballot as certified by the lieutenant governor under Section 20A-14-105;

(g) if candidates for membership on a local board of education were selected in a primary election, the name of the candidate who received the most votes in the primary election is listed first on the ballot;

(h) if candidates for membership on a local board of education were not selected in the primary election, the names of the candidates are listed on the ballot in the order determined by a lottery conducted by the county clerk; and

(i) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for two or more," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot under the heading "Constitutional Amendment Number ____" with the number of the constitutional amendment as assigned under Section 20A-7-103 placed in the blank;

(b) propositions submitted to the voters by the Utah Legislature or as authorized by statute are listed on the ballot under the heading "State Proposition Number ____" with the number of the state proposition as assigned under Section 20A-7-103 placed in the blank;

(c) propositions submitted to the voters by a county are listed on the ballot under the heading "County Proposition Number ____" with the number of the county proposition as assigned by the county legislative body placed in the blank;

(d) propositions submitted to the voters by a school district are listed on the ballot under the heading "School District Proposition Number ____" with the number of the school district proposition as assigned by the county legislative body placed in the blank;

(e) state initiatives that have qualified for the ballot are listed on the ballot under the heading "Citizen's State Initiative Number ____" with the number of the state initiative as assigned by Section 20A-7-209 placed in the blank;

(f) county initiatives that have qualified for the ballot are listed on the ballot under the heading "Citizen's County Initiative Number ____" with the number of the county initiative as

assigned under Section 20A-7-508 placed in the blank;

(g) state referenda that have qualified for the ballot are listed on the ballot under the heading "Citizen's State Referendum Number ___" with the number of the state referendum as assigned under Sections 20A-7-209 and 20A-7-308 placed in the blank;

(h) county referenda that have qualified for the ballot are listed on the ballot under the heading "Citizen's County Referendum Number ___" with the number of the county referendum as assigned under Section 20A-7-608 placed in the blank; and

(i) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

Section 3. Section **20A-6-303** is amended to read:

20A-6-303. Regular general election -- Ballot sheets.

(1) Each election officer shall ensure that:

(a) copy on the ballot sheets or ballot labels, as applicable, are arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are printed in vertical columns or in a series of separate pages;

(c) the ballot sheet or any pages used for the ballot label are of sufficient number to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates of one party by one mark or punch;

(e) the tickets are printed in the order determined by the county clerk;

(f) the office titles are printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(g) the party designation of each candidate is printed to the right or below the candidate's name; and

(h) (i) if possible, all candidates for one office are grouped in one column or upon one page;

(ii) if all candidates for one office cannot be listed in one column or grouped on one page;

(A) the ballot sheet or ballot label shall be clearly marked to indicate that the list of candidates is continued on the following column or page; and

(B) approximately the same number of names shall be printed in each column or on each page; and

(i) arrows shall be used to indicate the place to vote for each candidate and on each measure.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed under the heading "Constitutional Amendment Number ____" with the number of the constitutional amendment as assigned under Section 20A-7-103 placed in the blank;

(b) propositions submitted to the voters by the Utah Legislature or as authorized by statute are listed under the heading "State Proposition Number ____" with the number of the state proposition as assigned under Section 20A-7-103 placed in the blank;

(c) propositions submitted to the voters by a county are listed under the heading "County Proposition Number ____" with the number of the county proposition as assigned by the county legislative body placed in the blank;

(d) propositions submitted to the voters by a school district are listed under the heading "School District Proposition Number ____" with the number of the school district proposition as assigned by the county legislative body placed in the blank;

(e) state initiatives that have qualified for the ballot are listed under the heading "Citizen's State Initiative Number ____" with the number of the state initiative as assigned under Section 20A-7-209 placed in the blank;

(f) county initiatives that have qualified for the ballot are listed under the heading "Citizen's County Initiative Number ____" with the number of the county initiative as assigned under Section 20A-7-508 placed in the blank;

(g) state referenda that have qualified for the ballot are listed under the heading "Citizen's State Referendum Number ____" with the number of the state referendum as assigned under Sections 20A-7-209 and 20A-7-308 placed in the blank;

(h) county referenda that have qualified for the ballot are listed under the heading "Citizen's County Referendum Number ____" with the number of the county referendum as assigned under Section 20A-7-608 placed in the blank; and

(i) bond propositions that have qualified for the ballot are listed under the title assigned to each bond proposition under Section 11-14-206.

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

20A-6-304. Regular general election -- Electronic ballots.

(1) Each election officer shall ensure that:

(a) the format and content of the electronic ballot is arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate display screens;

(c) the electronic ballot is of sufficient length to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates of one party by making a single selection;

(e) the tickets are displayed in the order determined by the county clerk;

(f) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(g) the party designation of each candidate is displayed adjacent to the candidate's name; and

(h) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed under the heading "Constitutional Amendment Number ____" with the number of the constitutional amendment as assigned under Section 20A-7-103 placed in the blank;

(b) propositions submitted to the voters by the Utah Legislature or as authorized by statute are displayed under the heading "State Proposition Number ____" with the number of the state proposition as assigned under Section 20A-7-103 placed in the blank;

(c) propositions submitted to the voters by a county are displayed under the heading "County Proposition Number ____" with the number of the county proposition as assigned by the county legislative body placed in the blank;

(d) propositions submitted to the voters by a school district are displayed under the heading "School District Proposition Number ____" with the number of the school district proposition as assigned by the county legislative body placed in the blank;

(e) state initiatives that have qualified for the ballot are displayed under the heading "Citizen's State Initiative Number ____" with the number of the state initiative as assigned under Section 20A-7-209 placed in the blank;

(f) county initiatives that have qualified for the ballot are displayed under the heading "Citizen's County Initiative Number ____" with the number of the county initiative as assigned under Section 20A-7-508 placed in the blank;

(g) state referenda that have qualified for the ballot are displayed under the heading "Citizen's State Referendum Number ____" with the number of the state referendum as assigned under Sections 20A-7-209 and 20A-7-308 placed in the blank;

(h) county referenda that have qualified for the ballot are displayed under the heading "Citizen's County Referendum Number ____" with the number of the county referendum as assigned under Section 20A-7-608 placed in the blank; and

(i) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206.

Section 5. Section **20A-7-103** is amended to read:

20A-7-103. Constitutional amendments and other questions -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when:

(a) an opinion question is submitted to the voters under Section 36-16a-103;

~~[(a)]~~ (b) the Legislature submits a proposed constitutional amendment or other question to the voters; ~~and~~ or

~~[(b)]~~ (c) an act of the Legislature is referred to the voters by referendum petition.

(2) (a) In addition to the publication in the voter information pamphlet required by Section 20A-7-702, the lieutenant governor shall, not more than 60 days or less than ten days before the regular general election, publish the full text of the amendment, question, or statute in at least one newspaper in every county of the state where a newspaper is published.

(b) Notwithstanding Subsection (2)(a), in lieu of publishing the full text of a statute or resolution that authorizes an opinion question under Section 36-16a-103, the lieutenant

governor may publish that portion of the text that constitutes the opinion question as specifically provided for in the statute or resolution authorizing the opinion question.

(3) The legislative general counsel shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment Number ____" and give it a number;

(b) entitle each proposed question "State Proposition Number ____" and give it a number;

(c) entitle each state referendum that has qualified for the ballot "Citizen's State Referendum Number ____" and give it a number;

(d) draft and designate a ballot title that summarizes the subject matter of the amendment or question; and

(e) deliver them to the lieutenant governor.

(4) The lieutenant governor shall certify the number and ballot title of each amendment or question to the county clerk of each county no later than the second Friday after the primary election.

(5) The county clerk of each county shall:

(a) ensure that both the number and title of the amendment, question, or referendum is printed on the sample ballots and official ballots; and

(b) publish them as provided by law.

Section 6. Section **20A-7-701** is amended to read:

20A-7-701. Voter information pamphlet to be prepared.

(1) The lieutenant governor shall cause to be printed a voter information pamphlet designed to inform the voters of the state of the content, effect, operation, fiscal impact, and the supporting and opposing arguments of any measure submitted to the voters by the Legislature or statute, or by initiative or referendum petition.

(2) The pamphlet shall also include a separate section prepared, analyzed, and submitted by the Judicial Council describing the judicial selection and retention process.

(3) The lieutenant governor shall cause to be printed as many voter information pamphlets as needed to comply with the provisions of this chapter.

Section 7. Section **20A-7-703** is amended to read:

20A-7-703. Impartial analysis of measure -- Determination of fiscal effects.

(1) The director of the Office of Legislative Research and General Counsel, after the

approval of the legislative general counsel as to legal sufficiency, shall:

(a) prepare an impartial analysis of each measure submitted to the voters by the Legislature or statute, or by initiative or referendum petition; and

(b) submit the impartial analysis to the lieutenant governor no later than August 20 of the year in which the measure will appear on the ballot.

(2) The director shall ensure that the impartial analysis:

(a) is not more than 1,000 words long;

(b) is prepared in clear and concise language that will easily be understood by the average voter;

(c) avoids the use of technical terms as much as possible;

(d) shows the effect of the measure on existing law;

(e) identifies any potential conflicts with the United States or Utah Constitutions raised by the measure;

(f) fairly describes the operation of the measure;

(g) identifies the measure's fiscal effects for the first full year of implementation and the first year when the last provisions to be implemented are fully effective; and

(h) identifies the amount of any increase or decrease in revenue or cost to state or local government.

(3) The director shall analyze the measure as it is proposed to be adopted without considering any implementing legislation, unless the implementing legislation has been enacted and will become effective upon the adoption of the measure by the voters.

(4) (a) In determining the fiscal effects of a measure, the director shall confer with the legislative fiscal analyst.

(b) The director shall consider any measure that requires implementing legislation in order to take effect to have no financial effect, unless implementing legislation has been enacted that will become effective upon adoption of the measure by the voters.

(5) If the director requests the assistance of any state department, agency, or official in preparing his analysis, that department, agency, or official shall assist the director.

Section 8. Section **20A-7-705** is amended to read:

20A-7-705. Measures to be submitted to voters and referendum measures --

Preparation of argument of adoption.

617 (1) (a) Whenever ~~[the Legislature submits any]~~ a measure is submitted to the voters by
618 the Legislature or by statute, or whenever an act of the Legislature is referred to the voters by
619 referendum petition, the presiding officer of the house of origin of the measure shall appoint
620 the sponsor of the measure or act and one member of either house who voted with the majority
621 to pass the act or submit the measure to ~~[draft]~~ write an argument for the adoption of the
622 measure.

623 (b) (i) The argument may not exceed 500 words in length.

624 (ii) If the sponsor of the measure or act desires separate arguments to be written in
625 favor by each person appointed, separate arguments may be written but the combined length of
626 the two arguments may not exceed 500 words.

627 (2) (a) If a measure or act submitted to the voters by the Legislature or by statute, or by
628 referendum petition was not adopted unanimously by the Legislature, the presiding officer of
629 each house shall, at the same time as appointments to an argument in its favor are made,
630 appoint one member who voted against the measure or act from their house to write an
631 argument against the measure or act.

632 (b) (i) The argument may not exceed 500 words in length.

633 (ii) If those members appointed to write an argument against the measure or act desire
634 separate arguments to be written in opposition to the measure or act by each person appointed,
635 separate arguments may be written, but the combined length of the two arguments may not
636 exceed 500 words.

637 (3) (a) Notwithstanding Subsections (1) and (2), if an opinion question submitted to the
638 voters permits a voter to select one of more than two possible responses:

639 (i) (A) the presiding officer of each house shall jointly appoint members from either
640 house to write an argument in support of each possible response; and

641 (B) a different member shall be assigned to write each argument in support of each
642 possible response; and

643 (ii) (A) the presiding officer of each house shall jointly appoint members from either
644 house to write an argument against each possible response; and

645 (B) a different member shall be assigned to write each argument against each possible
646 response.

647 (b) Each argument may not exceed 500 words in length.

648 ~~[(3)]~~ (4) (a) The legislators appointed by the presiding officer of the Senate or House of
649 Representatives to submit arguments shall submit them to the lieutenant governor not later than
650 June 1.

651 (b) Except as provided in Subsection ~~[(3)]~~ (4)(d), the authors may not amend or change
652 the arguments after they are submitted to the lieutenant governor.

653 (c) Except as provided in Subsection ~~[(3)]~~ (4)(d), the lieutenant governor may not alter
654 the arguments in any way.

655 (d) The lieutenant governor and the authors of an argument may jointly modify an
656 argument after it is submitted if:

657 (i) they jointly agree that changes to the argument must be made to correct spelling or
658 grammatical errors; and

659 (ii) the argument has not yet been submitted for typesetting.

660 ~~[(4)]~~ (5) (a) If an argument ~~[for or an argument against a measure submitted to the~~
661 ~~voters by the Legislature or by referendum petition]~~ has not been filed by a member of the
662 Legislature within the time required by this section, any voter may request the presiding officer
663 of the house in which the measure originated for permission to prepare and file an argument for
664 the side on which no argument has been prepared by a member of the Legislature.

665 (b) (i) The presiding officer of the house of origin shall grant permission unless two or
666 more voters request permission to submit arguments on the same side of a measure.

667 (ii) If two or more voters request permission to submit arguments on the same side of a
668 measure, the presiding officer shall designate one of the voters to write the argument.

669 (c) Any argument prepared under this subsection shall be submitted to the lieutenant
670 governor not later than June 15.

671 (d) The lieutenant governor may not accept a ballot argument submitted under this
672 section unless it is accompanied by:

673 (i) the name and address of the person submitting it, if it is submitted by an individual
674 voter; or

675 (ii) the name and address of the organization and the names and addresses of at least
676 two of its principal officers, if it is submitted on behalf of an organization.

677 (e) Except as provided in Subsection ~~[(4)]~~ (5)(g), the authors may not amend or change
678 the arguments after they are submitted to the lieutenant governor.

(f) Except as provided in Subsection [(4)] (5)(g), the lieutenant governor may not alter the arguments in any way.

(g) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

Section 9. Section **36-16a-101** is enacted to read:

CHAPTER 16a. ELECTION PROCESS FOR STATEWIDE PUBLIC OPINION

36-16a-101. Title.

This chapter is known as the "Election Process for Statewide Public Opinion."

Section 10. Section **36-16a-102** is enacted to read:

36-16a-102. Definitions.

As used in this chapter:

(1) "Election official" means the county clerk or municipal clerk.

(2) "Opinion question" means a nonbinding question submitted to all the legal voters of the state according to the procedures established in this chapter.

(3) "Originating house" means:

(a) if the opinion question is authorized by a resolution:

(i) the Utah House of Representatives if the resolution is a House joint resolution; or

(ii) the Utah Senate if the resolution is a Senate joint resolution; or

(b) if the opinion question is authorized by statute, the legislative house where the bill that enacted the statute originated.

(4) "Regular general election" has the same meaning as provided under Section 20A-1-102.

Section 11. Section **36-16a-103** is enacted to read:

36-16a-103. Submission of opinion questions to Utah voters.

(1) The Legislature may submit an opinion question to the legal voters of the state:

(a) by passing a joint resolution meeting the requirements of this section; or

(b) by statute, provided that the statute meets the requirements of this section.

(2) The statute or joint resolution required under Subsection (1) shall include:

(a) the language of the opinion question as it will appear on the ballot;

(b) a statement directing that the lieutenant governor submit the language of the opinion question to the legal voters of the state; and

(c) language designating the regular general election date for the election.

Section 12. Section **36-16a-104** is enacted to read:

36-16a-104. Lieutenant governor's duties.

(1) After the Legislature authorizes an opinion question under Section 36-16a-103, the lieutenant governor shall:

(a) submit the opinion question to the legal voters of Utah as required by the statute or resolution;

(b) comply with the procedures of Section 36-16a-106; and

(c) comply with all relevant provisions of Title 20A, Election Code, relating to the conduct of general elections.

(2) The lieutenant governor may establish additional requirements for election officials to facilitate the conduct of the election.

Section 13. Section **36-16a-105** is enacted to read:

36-16a-105. Election official duties.

Each election official shall comply with the requirements of Title 20A, Election Code, relating to general elections, the requirements of Section 36-16a-106, and any other requirement imposed by the lieutenant governor.

Section 14. Section **36-16a-106** is enacted to read:

36-16a-106. Procedures for submission of opinion questions to popular vote.

(1) The lieutenant governor, the Office of Legislative Research and General Counsel, and each election official shall comply with the procedures contained in this section whenever the Legislature authorizes an opinion question under Section 36-16a-103.

(2) Not later than 60 days before the date of the election, the Office of Legislative Research and General Counsel shall:

(a) draft and designate a ballot title that summarizes the subject matter of each opinion question; and

(b) deliver the materials created under Subsection (2)(a) to the lieutenant governor.

(3) Not later than 35 days before the date of the election, the lieutenant governor shall

741 certify the number and ballot title of each opinion question to each election official.

742 (4) Not later than 30 days before the date of the election, the lieutenant governor shall
743 cause the full text of the opinion question to be published in at least one newspaper in every
744 county of the state where a newspaper is published.

745 (5) Each election official shall cause both the number and title of the opinion question
746 to be printed on the ballot to be used on election day, and on the sample ballots, and publish
747 them as provided by law.

748 Section 15. Section **36-16a-107** is enacted to read:

749 **36-16a-107. Ballot form -- Manner of voting.**

750 The lieutenant governor shall ensure that a ballot containing an opinion question
751 includes:

752 (1) a number and ballot title;

753 (2) the text of the opinion question; and

754 (3) (a) the words "YES" and "NO," each adjacent to a square which the voter may
755 select or mark to indicate his vote; or

756 (b) all possible responses to the opinion question, each adjacent to a square which the
757 voter may select or mark to indicate his vote.

758 Section 16. Section **36-16a-108** is enacted to read:

759 **36-16a-108. Canvass of returns.**

760 (1) The county legislative body shall conduct a public canvass of the returns from the
761 opinion question election no later than 14 days after the election.

762 (2) Each election official shall:

763 (a) make a certified abstract of the record of the canvassers detailing the votes cast on
764 the opinion question; and

765 (b) seal the transcript, endorse it "Election Returns," and transmit it to the lieutenant
766 governor's office so that the lieutenant governor receives it by the fifth day before the day
767 designated for the meeting of the state board of canvassers.

768 (3) The state board of canvassers established by Section 20A-4-306 shall meet to
769 compute and determine the vote on the opinion question.

770 (4) After consulting existing statutes governing elections, the lieutenant governor may
771 determine any issues relating to the canvassing process that are not governed by this section.

Section 17. Section **63-55b-120** is amended to read:

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

(1) Subsections 20A-7-103(1)(a) and (2)(b) are repealed on January 1, 2009.

(2) Section 20A-2-107.5 is repealed July 1, 2008.

(3) Subsection 20A-7-705(3) is repealed on January 1, 2009.

Section 18. Section **63-55b-136** is enacted to read:

63-55b-136. Repeal dates -- Title 36.

Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2009.

Section 19. **Effective date.**

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

Legislative Review Note
as of 12-6-06 10:04 AM

Office of Legislative Research and General Counsel

S.B. 105 - Authorization of Opinion Question to Voters

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. It is unknown at this time how many of these opinion questions will be presented to the voters. It is estimated that publication and distribution costs to put each opinion question on the ballot will be \$14,700 from the General Fund.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/16/2007, 8:42:28 AM, Lead Analyst: Bleazard, M.

Office of the Legislative Fiscal Analyst