

**Senator Lyle W. Hillyard** proposes the following substitute bill:

**MILITARY AND OVERSEAS VOTING**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Brad L. Dee

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**LONG TITLE**

**General Description:**

This bill amends and enacts provisions related to elections to provide for military and overseas voting.

**Highlighted Provisions:**

This bill:

- ▶ changes the period of time in which to file:
  - a declaration of candidacy; or
  - a certificate of nomination;
- ▶ changes the date of the municipal primary;
- ▶ changes the date by which:
  - a political party certifies a candidate for the primary ballot;
  - an ordinance may be adopted for exemption from a primary;
  - a candidate is certified for the ballot; and
  - a certified ballot title is submitted to an election officer;
- ▶ changes dates related to:
  - filing a midterm vacancy; and
  - nominating a State Board of Education member;
- ▶ enacts the Uniform Military and Overseas Voting Act;



26           ▶ designates an email address provided by, or a completed ballot transmitted by, a  
27 military or overseas voter as private record; and

28           ▶ makes technical and conforming amendments.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           This bill takes effect on January 1, 2012.

33           This bill coordinates with H.B. 33, Election Law Revisions, by providing substantive  
34 amendments.

35 **Utah Code Sections Affected:**

36 **AMENDS:**

37           **17B-1-306**, as last amended by Laws of Utah 2010, Chapter 197

38           **20A-1-201.5**, as last amended by Laws of Utah 2007, Chapters 256 and 329

39           **20A-1-503**, as last amended by Laws of Utah 2010, Chapter 165

40           **20A-1-508**, as last amended by Laws of Utah 2010, Chapter 197

41           **20A-1-509.1**, as last amended by Laws of Utah 2010, Chapter 197

42           **20A-2-102.5**, as last amended by Laws of Utah 2008, Chapter 225

43           **20A-3-308**, as last amended by Laws of Utah 2007, Chapter 75

44           **20A-5-409**, as last amended by Laws of Utah 2008, Chapter 225

45           **20A-6-103**, as last amended by Laws of Utah 2002, Chapter 133

46           **20A-6-106**, as enacted by Laws of Utah 2008, Chapters 9 and 315

47           **20A-7-103**, as last amended by Laws of Utah 2008, Chapters 225 and 315

48           **20A-9-202**, as last amended by Laws of Utah 2009, Chapter 119

49           **20A-9-203**, as last amended by Laws of Utah 2010, Chapter 197

50           **20A-9-403**, as last amended by Laws of Utah 2008, Chapter 225

51           **20A-9-404**, as last amended by Laws of Utah 2007, Chapter 256

52           **20A-9-503**, as last amended by Laws of Utah 2010, Chapter 197

53           **20A-9-701**, as last amended by Laws of Utah 2008, Chapter 225

54           **20A-12-201**, as last amended by Laws of Utah 2008, Chapters 93 and 225

55           **20A-14-105**, as last amended by Laws of Utah 2003, Chapter 315

56           **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379

57 ENACTS:

58 **20A-16-101**, Utah Code Annotated 1953

59 **20A-16-102**, Utah Code Annotated 1953

60 **20A-16-103**, Utah Code Annotated 1953

61 **20A-16-201**, Utah Code Annotated 1953

62 **20A-16-301**, Utah Code Annotated 1953

63 **20A-16-302**, Utah Code Annotated 1953

64 **20A-16-401**, Utah Code Annotated 1953

65 **20A-16-402**, Utah Code Annotated 1953

66 **20A-16-403**, Utah Code Annotated 1953

67 **20A-16-404**, Utah Code Annotated 1953

68 **20A-16-405**, Utah Code Annotated 1953

69 **20A-16-408**, Utah Code Annotated 1953

70 **20A-16-409**, Utah Code Annotated 1953

71 **20A-16-410**, Utah Code Annotated 1953

72 **20A-16-501**, Utah Code Annotated 1953

73 **20A-16-502**, Utah Code Annotated 1953

74 **20A-16-503**, Utah Code Annotated 1953

75 **20A-16-504**, Utah Code Annotated 1953

76 **20A-16-505**, Utah Code Annotated 1953

77 **20A-16-506**, Utah Code Annotated 1953

78 RENUMBERS AND AMENDS:

79 **20A-16-202**, (Renumbered from 20A-3-413, as enacted by Laws of Utah 2003, Chapter  
80 117)

81 **20A-16-406**, (Renumbered from 20A-3-409, as last amended by Laws of Utah 1995,  
82 Chapter 340)

83 **20A-16-407**, (Renumbered from 20A-3-410, as last amended by Laws of Utah 2006,  
84 Chapter 16)

85 REPEALS:

86 **20A-3-401**, as last amended by Laws of Utah 2006, Chapter 264

87 **20A-3-402**, as enacted by Laws of Utah 1993, Chapter 1

- 88            **20A-3-403**, as last amended by Laws of Utah 2006, Chapter 273
- 89            **20A-3-404**, as last amended by Laws of Utah 2008, Chapter 225
- 90            **20A-3-404.5**, as enacted by Laws of Utah 2001, Chapter 20
- 91            **20A-3-405**, as last amended by Laws of Utah 1993, Chapter 228
- 92            **20A-3-406**, as last amended by Laws of Utah 2010, Chapter 169
- 93            **20A-3-407**, as enacted by Laws of Utah 1993, Chapter 1
- 94            **20A-3-408**, as last amended by Laws of Utah 2002, Chapter 112
- 95            **20A-3-408.5**, as last amended by Laws of Utah 2009, Chapter 191
- 96            **20A-3-411**, as enacted by Laws of Utah 1993, Chapter 1
- 97            **20A-3-412**, as enacted by Laws of Utah 1993, Chapter 1

**Utah Code Sections Affected by Coordination Clause:**

- 98            **20A-14-105**, as last amended by Laws of Utah 2003, Chapter 315



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

102            Section 1. Section **17B-1-306** is amended to read:

103            **17B-1-306. Local district board -- Election procedures.**

104            (1) Except as provided in Subsection (11), each elected board member shall be selected  
105 as provided in this section.

106            (2) (a) Each election of a local district board member shall be held:

107            (i) at the same time as the municipal general election; and

108            (ii) at polling places designated by the county clerk in consultation with the local  
109 district for each county in which the local district is located, which polling places shall coincide  
110 with municipal general election polling places whenever feasible.

111            (b) (i) Subject to Subsections (4)(f) and (g), the number of polling places under  
112 Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one  
113 polling place per division of the district, designated by the district board.

114            (ii) Each polling place designated by an irrigation district board under Subsection  
115 (2)(b)(i) shall coincide with a polling place designated by the county clerk under Subsection  
116 (2)(a)(ii).

117            (3) (a) The clerk of each local district with a board member position to be filled at the  
118 next municipal general election shall provide notice of:

119 (i) each elective position of the local district to be filled at the next municipal general  
120 election;

121 (ii) the constitutional and statutory qualifications for each position; and

122 (iii) the dates and times for filing a declaration of candidacy.

123 (b) The notice required under Subsection (3)(a) shall be:

124 (i) posted in at least five public places within the local district at least 10 days before  
125 the first day for filing a declaration of candidacy; or

126 (ii) (A) published in a newspaper of general circulation within the local district at least  
127 three but no more than 10 days before the first day for filing a declaration of candidacy; and

128 (B) published, in accordance with Section 45-1-101, for 10 days before the first day for  
129 filing a declaration of candidacy.

130 (4) (a) To become a candidate for an elective local district board position, the  
131 prospective candidate shall file a declaration of candidacy in person with the local district,  
132 during office hours and not later than the close of normal office hours between [~~July~~] June 1  
133 and [~~July~~] June 15 of any odd-numbered year.

134 (b) When [~~July~~] June 15 is a Saturday, Sunday, or holiday, the filing time shall be  
135 extended until the close of normal office hours on the following regular business day.

136 (c) (i) Before the filing officer may accept any declaration of candidacy, the filing  
137 officer shall:

138 (A) read to the prospective candidate the constitutional and statutory qualification  
139 requirements for the office that the candidate is seeking; and

140 (B) require the candidate to state whether or not the candidate meets those  
141 requirements.

142 (ii) If the prospective candidate does not meet the qualification requirements for the  
143 office, the filing officer may not accept the declaration of candidacy.

144 (iii) If it appears that the prospective candidate meets the requirements of candidacy,  
145 the filing officer shall accept the declaration of candidacy.

146 (d) The declaration of candidacy shall substantially comply with the following form:

147 "I, (print name) \_\_\_\_\_, being first duly sworn, say that I reside at (Street)  
148 \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, State of Utah,  
149 (Zip Code) \_\_\_\_\_, (Telephone Number, if any)\_\_\_\_\_; that I meet the qualifications

150 for the office of board of trustees member for \_\_\_\_\_ (state the name of  
151 the local district); that I am a candidate for that office to be voted upon at the next election, and  
152 I hereby request that my name be printed upon the official ballot for that election.

153 (Signed) \_\_\_\_\_

154 Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this \_\_\_\_\_ day  
155 of \_\_\_\_\_, \_\_\_\_\_.

156 (Signed) \_\_\_\_\_

157 (Clerk or Notary Public)"

158 (e) Each person wishing to become a valid write-in candidate for an elective local  
159 district board position is governed by Section 20A-9-601.

160 (f) If at least one person does not file a declaration of candidacy as required by this  
161 section, a person shall be appointed to fill that board position by following the procedures and  
162 requirements for appointment established in Section 20A-1-512.

163 (g) If only one candidate files a declaration of candidacy and there is no write-in  
164 candidate who complies with Section 20A-9-601, the board need not hold an election for that  
165 position and may appoint the candidate to the board.

166 (5) (a) A primary election may be held if:

167 (i) the election is authorized by the local district board; and

168 (ii) the number of candidates for a particular local board position or office exceeds  
169 twice the number of persons needed to fill that position or office.

170 (b) The primary election shall be conducted:

171 (i) on the same date as the municipal primary election, as provided for in Section  
172 20A-1-201.5; and

173 (ii) according to the procedures for municipal primary elections provided under Title  
174 20A, Election Code.

175 (6) (a) Except as provided in Subsection (6)(c), the local district clerk shall certify the  
176 candidate names to the clerk of each county in which the local district is located no later than  
177 [~~August~~] July 20 of the municipal election year.

178 (b) (i) Except as provided in Subsection (6)(c), the clerk of each county in which the  
179 local district is located shall coordinate the placement of the name of each candidate for local  
180 district office in the nonpartisan section of the municipal general election ballot with the

181 municipal election clerk.

182 (ii) If consolidation of the local district election ballot with the municipal general  
183 election ballot is not feasible, the county clerk shall provide for a separate local district election  
184 ballot to be administered by poll workers at polling locations designated under Subsection (2).

185 (c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board  
186 of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

187 (ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall  
188 prescribe the form of the ballot for each board member election.

189 (B) Each ballot for an election of an irrigation district board member shall be in a  
190 nonpartisan format.

191 (7) (a) Each voter at an election for a board of trustees member of a local district shall:

192 (i) be a registered voter within the district, except for an election of:

193 (A) an irrigation district board of trustees member; or

194 (B) a basic local district board of trustees member who is elected by property owners;

195 and

196 (ii) meet the requirements to vote established by the district.

197 (b) Each voter may vote for as many candidates as there are offices to be filled.

198 (c) The candidates who receive the highest number of votes are elected.

199 (8) Except as otherwise provided by this section, the election of local district board  
200 members is governed by Title 20A, Election Code.

201 (9) (a) A person elected to serve on a local district board shall serve a four-year term,  
202 beginning at noon on the January 1 after the person's election.

203 (b) A person elected shall be sworn in as soon as practical after January 1.

204 (10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse  
205 the county or municipality holding an election under this section for the costs of the election  
206 attributable to that local district.

207 (b) Each irrigation district shall bear its own costs of each election it holds under this  
208 section.

209 (11) This section does not apply to an improvement district that provides electric or gas  
210 service.

211 (12) The provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an

212 election under this section.

213 Section 2. Section **20A-1-201.5** is amended to read:

214 **20A-1-201.5. Primary election dates.**

215 (1) A regular primary election shall be held throughout the state on the fourth Tuesday  
216 of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for  
217 national, state, school board, and county offices.

218 (2) A municipal primary election shall be held, if necessary, on the second Tuesday  
219 following the first Monday in [~~September~~] August before the regular municipal election to  
220 nominate persons for municipal offices.

221 (3) The Western States Presidential Primary election shall be held throughout the state  
222 on the first Tuesday in February in the year in which a presidential election will be held.

223 Section 3. Section **20A-1-503** is amended to read:

224 **20A-1-503. Midterm vacancies in the Legislature.**

225 (1) As used in this section:

226 (a) "Filing deadline" means the final date for filing:

227 (i) a declaration of candidacy as provided in Section 20A-9-202; and

228 (ii) a certificate of nomination as provided in Section 20A-9-503.

229 (b) "Party liaison" means the political party officer designated to serve as a liaison with  
230 the lieutenant governor on all matters relating to the political party's relationship with the state  
231 as required by Section 20A-8-401.

232 (2) When a vacancy occurs for any reason in the office of representative in the  
233 Legislature, the governor shall fill the vacancy by immediately appointing the person whose  
234 name was submitted by the party liaison of the same political party as the prior representative.

235 (3) (a) Except as provided by Subsection (5), when a vacancy occurs for any reason in  
236 the office of senator in the Legislature, it shall be filled for the unexpired term at the next  
237 regular general election.

238 (b) The governor shall fill the vacancy until the next regular general election by  
239 immediately appointing the person whose name was submitted by the party liaison of the same  
240 political party as the prior senator.

241 (4) (a) If a vacancy described in Subsection (3)(a) occurs after the filing deadline but  
242 before [~~September 1~~] August 31 of an even-numbered year in which the term of office does not



243 expire, the lieutenant governor shall:

244 (i) establish a date, that is before the date for a candidate to be certified for the ballot  
245 under Section 20A-9-701 and no later than 21 days after the day on which the vacancy  
246 occurred, by which a person intending to obtain a position on the ballot for the vacant office  
247 shall file:

248 (A) a declaration of candidacy; or

249 (B) a certificate of nomination; and

250 (ii) give notice of the vacancy and the date described in Subsection (4)(a)(i):

251 (A) on the lieutenant governor's website; and

252 (B) to each registered political party.

253 (b) A person intending to obtain a position on the ballot for the vacant office shall:

254 (i) by the date specified in Subsection (4)(a)(i), file a declaration of candidacy or  
255 certificate of nomination according to the procedures and requirements of Chapter 9, Candidate  
256 Qualifications and Nominating Procedures; and

257 (ii) run in the regular general election if:

258 (A) nominated as a party candidate; or

259 (B) qualified as an unaffiliated candidate as provided by Chapter 9, Candidate  
260 Qualifications and Nominating Procedures.

261 (c) If a vacancy described in Subsection (3)(a) occurs on or after ~~[May 1]~~ the first  
262 Monday after the third Saturday in April and before ~~[September 1]~~ August 31 of an  
263 even-numbered year in which the term of office does not expire, a party liaison from each  
264 registered political party may submit a name of a person described in Subsection (4)(b) to the  
265 lieutenant governor by August ~~[31]~~ 30 for placement on the regular general election ballot.

266 (5) If a vacancy described in Subsection (3)(a) occurs on or after ~~[September 1]~~ August  
267 31 of an even-numbered year in which a term does not expire, the governor shall fill the  
268 vacancy for the unexpired term by immediately appointing the person whose name was  
269 submitted by the party liaison of the same political party as the prior senator.

270 Section 4. Section **20A-1-508** is amended to read:

271 **20A-1-508. Midterm vacancies in county elected offices.**

272 (1) As used in this section:

273 (a) "County offices" includes the county executive, members of the county legislative

274 body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county  
275 recorder, the county surveyor, and the county assessor.

276 (b) "County offices" does not mean the offices of president and vice president of the  
277 United States, United States senators and representatives, members of the Utah Legislature,  
278 state constitutional officers, county attorneys, district attorneys, and judges.

279 (2) (a) Until a replacement is selected as provided in this section and has qualified, the  
280 county legislative body shall appoint an interim replacement to fill the vacant office by  
281 following the procedures and requirements of this Subsection (2).

282 (b) (i) To appoint an interim replacement, the county legislative body shall give notice  
283 of the vacancy to the county central committee of the same political party of the prior office  
284 holder and invite that committee to submit the names of three nominees to fill the vacancy.

285 (ii) That county central committee shall, within 30 days, submit the names of three  
286 nominees for the interim replacement to the county legislative body.

287 (iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint  
288 one of those nominees to serve out the unexpired term.

289 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the  
290 vacancy within 45 days, the county clerk shall send to the governor a letter that:

291 (A) informs the governor that the county legislative body has failed to appoint a  
292 replacement within the statutory time period; and

293 (B) contains the list of nominees submitted by the party central committee.

294 (ii) The governor shall appoint an interim replacement from that list of nominees to fill  
295 the vacancy within 30 days after receipt of the letter.

296 (d) A person appointed as interim replacement under this Subsection (2) shall hold  
297 office until their successor is elected and has qualified.

298 (3) (a) The requirements of this Subsection (3) apply to all county offices that become  
299 vacant if:

300 (i) the vacant office has an unexpired term of two years or more; and

301 (ii) the vacancy occurs after the election at which the person was elected but before  
302 April 10 of the next even-numbered year.

303 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk  
304 shall notify the public and each registered political party that the vacancy exists.

305 (ii) All persons intending to become candidates for the vacant office shall:  
306 (A) file a declaration of candidacy according to the procedures and requirements of  
307 Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and  
308 (B) if nominated as a party candidate or qualified as an independent or write-in  
309 candidate under Chapter 8, Political Party Formation and Procedures, run in the regular general  
310 election.

311 (4) (a) The requirements of this Subsection (4) apply to all county offices that become  
312 vacant if:  
313 (i) the vacant office has an unexpired term of two years or more; and  
314 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than [50]  
315 75 days before the regular primary election.

316 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk  
317 shall notify the public and each registered political party that:  
318 (A) the vacancy exists; and  
319 (B) identifies the date and time by which a person interested in becoming a candidate  
320 must file a declaration of candidacy.

321 (ii) All persons intending to become candidates for the vacant offices shall, within five  
322 days after the date that the notice is made, ending at the close of normal office hours on the  
323 fifth day, file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2,  
324 Candidate Qualifications and Declarations of Candidacy.

325 (iii) The county central committee of each party shall:  
326 (A) select a candidate or candidates from among those qualified candidates who have  
327 filed declarations of candidacy; and  
328 (B) certify the name of the candidate or candidates to the county clerk at least [35] 60  
329 days before the regular primary election.

330 (5) (a) The requirements of this Subsection (5) apply to all county offices that become  
331 vacant:  
332 (i) if the vacant office has an unexpired term of two years or more; and  
333 (ii) when [50] 75 days or less remain before the regular primary election but more than  
334 [50] 65 days remain before the regular general election.

335 (b) When the conditions established in Subsection (5)(a) are met, the county central

336 committees of each political party registered under this title that wishes to submit a candidate  
337 for the office shall summarily certify the name of one candidate to the county clerk for  
338 placement on the regular general election ballot.

339 (6) (a) The requirements of this Subsection (6) apply to all county offices that become  
340 vacant:

341 (i) if the vacant office has an unexpired term of less than two years; or

342 (ii) if the vacant office has an unexpired term of two years or more but ~~[50]~~ 65 days or  
343 less remain before the next regular general election.

344 (b) (i) When the conditions established in Subsection (6)(a) are met, the county  
345 legislative body shall give notice of the vacancy to the county central committee of the same  
346 political party as the prior office holder and invite that committee to submit the names of three  
347 nominees to fill the vacancy.

348 (ii) That county central committee shall, within 30 days, submit the names of three  
349 nominees to fill the vacancy to the county legislative body.

350 (iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint  
351 one of those nominees to serve out the unexpired term.

352 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy within  
353 45 days, the county clerk shall send to the governor a letter that:

354 (A) informs the governor that the county legislative body has failed to appoint a person  
355 to fill the vacancy within the statutory time period; and

356 (B) contains the list of nominees submitted by the party central committee.

357 (ii) The governor shall appoint a person to fill the vacancy from that list of nominees to  
358 fill the vacancy within 30 days after receipt of the letter.

359 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office  
360 until their successor is elected and has qualified.

361 (7) Except as otherwise provided by law, the county legislative body may appoint  
362 replacements to fill all vacancies that occur in those offices filled by appointment of the county  
363 legislative body.

364 (8) Nothing in this section prevents or prohibits independent candidates from filing a  
365 declaration of candidacy for the office within the same time limits.

366 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a

367 county office shall serve for the remainder of the unexpired term of the person who created the  
368 vacancy and until a successor is elected and qualified.

369 (b) Nothing in this section may be construed to contradict or alter the provisions of  
370 Section 17-16-6.

371 Section 5. Section **20A-1-509.1** is amended to read:

372 **20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15**  
373 **or more attorneys.**

374 (1) When a vacancy occurs in the office of county or district attorney in a county or  
375 district having 15 or more attorneys who are licensed active members in good standing with the  
376 Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

377 (2) (a) The requirements of this Subsection (2) apply when the office of county  
378 attorney or district attorney becomes vacant and:

379 (i) the vacant office has an unexpired term of two years or more; and

380 (ii) the vacancy occurs before the third [~~Friday~~] Thursday in March of the  
381 even-numbered year.

382 (b) When the conditions established in Subsection (2)(a) are met, the county clerk shall  
383 notify the public and each registered political party that the vacancy exists.

384 (c) All persons intending to become candidates for the vacant office shall:

385 (i) file a declaration of candidacy according to the procedures and requirements of  
386 [~~Title 20A,~~] Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

387 (ii) if nominated as a party candidate or qualified as an independent or write-in  
388 candidate under [~~Title 20A,~~] Chapter 9, Candidate Qualifications and Nominating Procedures,  
389 run in the regular general election; and

390 (iii) if elected, complete the unexpired term of the person who created the vacancy.

391 (d) If the vacancy occurs after the second Friday in March and before the third [~~Friday~~]  
392 Thursday in March, the time for filing a declaration of candidacy under Section 20A-9-202  
393 shall be extended until seven days after the county clerk gives notice under Subsection (2)(b),  
394 but no later than the fourth [~~Friday~~] Thursday in March.

395 (3) (a) The requirements of this Subsection (3) apply when the office of county  
396 attorney or district attorney becomes vacant and:

397 (i) the vacant office has an unexpired term of two years or more; and

- 398 (ii) the vacancy occurs after the third [~~Friday~~] Thursday in March of the  
399 even-numbered year but more than [~~50~~] 75 days before the regular primary election.
- 400 (b) When the conditions established in Subsection (3)(a) are met, the county clerk  
401 shall:
- 402 (i) notify the public and each registered political party that the vacancy exists; and  
403 (ii) identify the date and time by which a person interested in becoming a candidate  
404 must file a declaration of candidacy.
- 405 (c) All persons intending to become candidates for the vacant office shall:
- 406 (i) within five days after the date that the notice is made, ending at [~~at~~] the close of  
407 normal office hours on the fifth day, file a declaration of candidacy for the vacant office as  
408 required by [~~Title 20A,~~] Chapter 9, Part 2, Candidate Qualifications and [~~Nominating~~  
409 ~~Procedures~~] Declaration of Candidacy; and
- 410 (ii) if elected, complete the unexpired term of the person who created the vacancy.
- 411 (d) The county central committee of each party shall:
- 412 (i) select a candidate or candidates from among those qualified candidates who have  
413 filed declarations of candidacy; and
- 414 (ii) certify the name of the candidate or candidates to the county clerk at least [~~35~~] 60  
415 days before the regular primary election.
- 416 (4) (a) The requirements of this Subsection (4) apply when the office of county  
417 attorney or district attorney becomes vacant and:
- 418 (i) the vacant office has an unexpired term of two years or more; and  
419 (ii) [~~50~~] 75 days or less remain before the regular primary election but more than [~~50~~]  
420 65 days remain before the regular general election.
- 421 (b) When the conditions established in Subsection (4)(a) are met, the county central  
422 committees of each registered political party that wish to submit a candidate for the office shall  
423 summarily certify the name of one candidate to the county clerk for placement on the regular  
424 general election ballot.
- 425 (c) The candidate elected shall complete the unexpired term of the person who created  
426 the vacancy.
- 427 (5) (a) The requirements of this Subsection (5) apply when the office of county  
428 attorney or district attorney becomes vacant and:

429 (i) the vacant office has an unexpired term of less than two years; or

430 (ii) the vacant office has an unexpired term of two years or more but [50] 65 days or  
431 less remain before the next regular general election.

432 (b) When the conditions established in Subsection (5)(a) are met, the county legislative  
433 body shall give notice of the vacancy to the county central committee of the same political  
434 party of the prior officeholder and invite that committee to submit the names of three nominees  
435 to fill the vacancy.

436 (c) That county central committee shall, within 30 days of receiving notice from the  
437 county legislative body, submit to the county legislative body the names of three nominees to  
438 fill the vacancy.

439 (d) The county legislative body shall, within 45 days after the vacancy occurs, appoint  
440 one of those nominees to serve out the unexpired term.

441 (e) If the county legislative body fails to appoint a person to fill the vacancy within 45  
442 days, the county clerk shall send to the governor a letter that:

443 (i) informs the governor that the county legislative body has failed to appoint a person  
444 to fill the vacancy within the statutory time period; and

445 (ii) contains the list of nominees submitted by the party central committee.

446 (f) The governor shall appoint a person to fill the vacancy from that list of nominees  
447 within 30 days after receipt of the letter.

448 (g) A person appointed to fill the vacancy under Subsection (5) shall complete the  
449 unexpired term of the person who created the vacancy.

450 (6) Nothing in this section prevents or prohibits independent candidates from filing a  
451 declaration of candidacy for the office within the required time limits.

452 Section 6. Section **20A-2-102.5** is amended to read:

453 **20A-2-102.5. Voter registration deadline.**

454 (1) Except as provided in Section 20A-2-201 [~~and in Title 20A, Chapter 3, Part 4,~~  
455 ~~Voting by Members of the Military and by Other Persons Living or Serving Abroad]~~ and  
456 Chapter 16, Uniform Military and Overseas Voters Act, a person who fails to submit a  
457 correctly completed voter registration form on or before the voter registration deadline shall not  
458 be permitted to vote in the election.

459 (2) The voter registration deadline shall be the date that is 30 calendar days before the

460 date of the election.

461 Section 7. Section **20A-3-308** is amended to read:

462 **20A-3-308. Absentee ballots in the custody of poll workers -- Disposition.**

463 (1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots  
464 that are in their custody on election day at the polling places during the time the polls are open  
465 as provided in this Subsection (1).

466 (b) The poll workers shall:

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

468 (ii) compare the signature of the voter on the application with the signature on the  
469 affidavit.

470 (2) (a) The poll workers shall carefully open and remove the absentee voter envelope  
471 so as not to destroy the affidavit on the envelope if they find that:

472 (i) the affidavit is sufficient;

473 (ii) the signatures correspond; and

474 (iii) the applicant is registered to vote in that voting precinct and has not voted in that  
475 election.

476 (b) If, after opening the absentee voter envelope, the poll worker finds that a  
477 provisional ballot envelope is enclosed, the poll worker shall:

478 (i) record, in the official register, whether [~~or not~~];

479 (A) the voter included valid voter identification; or

480 (B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter  
481 identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;

482 (ii) if any type of identification was included, record the type of identification provided  
483 by the voter in the appropriate space in the official register;

484 (iii) record the provisional ballot number on the official register; and

485 (iv) place the provisional ballot envelope with the other provisional ballot envelopes to  
486 be transmitted to the county clerk.

487 (c) If the absentee ballot is not a provisional ballot, the poll workers shall:

488 (i) remove the absentee ballot from the envelope without unfolding it or permitting it to  
489 be opened or examined;

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



- 491 (iii) remove the stub from the ballot;
- 492 (iv) deposit the ballot in the ballot box; and
- 493 (v) mark the official register and pollbook to show that the voter has voted.
- 494 (3) If the poll workers determine that the affidavit is insufficient, or that the signatures
- 495 do not correspond, or that the applicant is not a registered voter in the voting precinct, they
- 496 shall:
  - 497 (a) disallow the vote; and
  - 498 (b) without opening the absentee voter envelope, mark across the face of the envelope:
    - 499 (i) "Rejected as defective"; or
    - 500 (ii) "Rejected as not a registered voter."
- 501 (4) The poll workers shall deposit the absentee voter envelope, when the absentee
- 502 ballot is voted, and the absentee voter envelope with its contents unopened when the absent
- 503 vote is rejected, in the ballot box containing the ballots.
- 504 (5) The election officer shall retain and preserve the absentee voter envelopes in the
- 505 manner provided by law for the retention and preservation of official ballots voted at that
- 506 election.

507 Section 8. Section **20A-5-409** is amended to read:

508 **20A-5-409. Certification of candidates to county clerks.**

509 No later than [~~September 8~~] August 31 of each regular general election year, the

510 lieutenant governor shall certify to each county clerk the name of each candidate qualified to be

511 printed on the regular general election ballot for that county clerk's county.

512 Section 9. Section **20A-6-103** is amended to read:

513 **20A-6-103. Internet voting pilot project.**

514 Notwithstanding any other provisions of this title, any county may, if selected by the

515 Department of Defense, participate in the Federal Voting Assistance Program pilot project to

516 allow [~~military and voters overseas as defined by Section 20A-3-403~~] a covered voter as

517 defined in Section 20A-16-102 to register to vote and cast their votes electronically.

518 Section 10. Section **20A-6-106** is amended to read:

519 **20A-6-106. Deadline for submission of ballot titles.**

520 Unless otherwise specifically provided for by statute, the certified ballot title of each

521 ballot proposition, ballot question, or ballot issue shall be submitted to the election officer no

522 later than [60] 65 days before the date of the election at which the matter will be submitted to  
523 the voters.

524 Section 11. Section **20A-7-103** is amended to read:

525 **20A-7-103. Constitutional amendments and other questions submitted by the**  
526 **Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.**

527 (1) The procedures contained in this section govern when the Legislature submits a  
528 proposed constitutional amendment or other question to the voters.

529 (2) In addition to the publication in the voter information pamphlet required by Section  
530 20A-7-702, the lieutenant governor shall, not more than 60 days or less than 14 days before the  
531 date of the election, publish the full text of the amendment, question, or statute in at least one  
532 newspaper in every county of the state where a newspaper is published.

533 (3) The legislative general counsel shall:

534 (a) entitle each proposed constitutional amendment "Constitutional Amendment \_\_\_"  
535 and assign it a letter according to the requirements of Section 20A-6-107;

536 (b) entitle each proposed question " Proposition Number \_\_\_" with the number assigned  
537 to the proposition under Section 20A-6-107 placed in the blank;

538 (c) draft and designate a ballot title for each proposed amendment or question  
539 submitted by the Legislature that summarizes the subject matter of the amendment or question;  
540 and

541 (d) deliver each number and title to the lieutenant governor.

542 (4) The lieutenant governor shall certify the number and ballot title of each amendment  
543 or question to the county clerk of each county no later than [50] 65 days before the date of the  
544 election.

545 (5) The county clerk of each county shall:

546 (a) ensure that both the number and title of each amendment and question is printed on  
547 the sample ballots and official ballots; and

548 (b) publish them as provided by law.

549 Section 12. Section **20A-9-202** is amended to read:

550 **20A-9-202. Declarations of candidacy for regular general elections --**  
551 **Requirements for candidates.**

552 (1) (a) Each person seeking to become a candidate for elective office for any county

553 office that is to be filled at the next regular general election shall:

554 (i) file a declaration of candidacy in person with the county clerk on or after the second  
555 Friday in March and before 5 p.m. on the third [~~Friday~~] Thursday in March before the next  
556 regular general election; and

557 (ii) pay the filing fee.

558 (b) Each person intending to become a candidate for any legislative office or  
559 multicounty office that is to be filled at the next regular general election shall:

560 (i) file a declaration of candidacy in person with either the lieutenant governor or the  
561 county clerk in the candidate's county of residence on or after the second Friday in March and  
562 before 5 p.m. on the third [~~Friday~~] Thursday in March before the next regular general election;  
563 and

564 (ii) pay the filing fee.

565 (c) (i) Each county clerk who receives a declaration of candidacy from a candidate for  
566 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of  
567 candidacy to the lieutenant governor within one working day after it is filed.

568 (ii) Each day during the filing period, each county clerk shall notify the lieutenant  
569 governor electronically or by telephone of legislative candidates who have filed in their office.

570 (d) Each person seeking to become a candidate for elective office for any federal office  
571 or constitutional office that is to be filled at the next regular general election shall:

572 (i) file a declaration of candidacy in person with the lieutenant governor on or after the  
573 second Friday in March and before 5 p.m. on the third [~~Friday~~] Thursday in March before the  
574 next regular general election; and

575 (ii) pay the filing fee.

576 (e) Each person seeking the office of lieutenant governor, the office of district attorney,  
577 or the office of President or Vice President of the United States shall comply with the specific  
578 declaration of candidacy requirements established by this section.

579 (2) (a) Each person intending to become a candidate for the office of district attorney  
580 within a multicounty prosecution district that is to be filled at the next regular general election  
581 shall:

582 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement  
583 creating the prosecution district on or after the second Friday in March and before 5 p.m. on the

584 third [~~Friday~~] Thursday in March before the next regular general election; and

585 (ii) pay the filing fee.

586 (b) The designated clerk shall provide to the county clerk of each county in the  
587 prosecution district a certified copy of each declaration of candidacy filed for the office of  
588 district attorney.

589 (3) (a) Within five working days of nomination, each lieutenant governor candidate  
590 shall:

591 (i) file a declaration of candidacy with the lieutenant governor; and

592 (ii) pay the filing fee.

593 (b) (i) Any candidate for lieutenant governor who fails to file within five working days  
594 is disqualified.

595 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to  
596 replace the disqualified candidate.

597 (4) Each registered political party shall:

598 (a) certify the names of its candidates for President and Vice President of the United  
599 States to the lieutenant governor no later than [~~September 8~~] August 31; or

600 (b) provide written authorization for the lieutenant governor to accept the certification  
601 of candidates for President and Vice President of the United States from the national office of  
602 the registered political party.

603 (5) (a) A declaration of candidacy filed under this section is valid unless a written  
604 objection is filed with the clerk or lieutenant governor within five days after the last day for  
605 filing.

606 (b) If an objection is made, the clerk or lieutenant governor shall:

607 (i) mail or personally deliver notice of the objection to the affected candidate  
608 immediately; and

609 (ii) decide any objection within 48 hours after it is filed.

610 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the  
611 problem by amending the declaration or petition within three days after the objection is  
612 sustained or by filing a new declaration within three days after the objection is sustained.

613 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

614 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable

615 by a district court if prompt application is made to the court.

616 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
617 of its discretion, agrees to review the lower court decision.

618 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by  
619 filing a written affidavit with the clerk.

620 Section 13. Section **20A-9-203** is amended to read:

621 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

622 (1) (a) (i) A person may become a candidate for any municipal office if:

623 (A) the person is a registered voter; and

624 (B) (I) the person has resided within the municipality in which that person seeks to  
625 hold elective office for the 12 consecutive months immediately before the date of the election;  
626 or

627 (II) if the territory in which the person resides was annexed into the municipality, the  
628 person has resided within the annexed territory or the municipality the 12 consecutive months  
629 immediately before the date of the election.

630 (ii) For purposes of determining whether a person meets the residency requirement of  
631 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before  
632 the election, the municipality shall be considered to have been incorporated 12 months before  
633 the date of the election.

634 (b) In addition to the requirements of Subsection (1)(a), each candidate for a municipal  
635 council position shall, if elected from a district, be a resident of the council district from which  
636 elected.

637 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally  
638 incompetent person, any person convicted of a felony, or any person convicted of treason or a  
639 crime against the elective franchise may not hold office in this state until the right to hold  
640 elective office is restored under Section 20A-2-101.5.

641 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to  
642 become a candidate for a municipal office shall:

643 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during  
644 office hours and not later than the close of normal office hours, between [~~July~~] June 1 and  
645 [~~July~~] June 15 of any odd-numbered year; and

646 (ii) pay the filing fee, if one is required by municipal ordinance.

647 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of  
648 persons registered to vote in the municipality on the January 1 of the municipal election year.

649 (ii) A third, fourth, or fifth class city that used the convention system to nominate  
650 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the  
651 process contained in this Subsection (2)(b) in the last municipal election or a town that used the  
652 convention system to nominate candidates in the last municipal election as authorized by  
653 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last  
654 municipal election may, by ordinance, require, in lieu of the convention system, that candidates  
655 for municipal office file a nominating petition signed by a percentage of registered voters at the  
656 same time that the candidate files a declaration of candidacy.

657 (iii) The ordinance shall specify the number of signatures that the candidate must  
658 obtain on the nominating petition in order to become a candidate for municipal office under  
659 this Subsection (2), but that number may not exceed 5% of registered voters.

660 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

661 (i) filing a nomination petition with the city recorder or town clerk during office hours,  
662 but not later than the close of normal office hours, between [~~July~~] June 1 and [~~July~~] June 15 of  
663 any odd-numbered year; and

664 (ii) paying the filing fee, if one is required by municipal ordinance.

665 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination  
666 petition, the filing officer shall:

667 (i) read to the prospective candidate or person filing the petition the constitutional and  
668 statutory qualification requirements for the office that the candidate is seeking; and

669 (ii) require the candidate or person filing the petition to state whether or not the  
670 candidate meets those requirements.

671 (b) If the prospective candidate does not meet the qualification requirements for the  
672 office, the filing officer may not accept the declaration of candidacy or nomination petition.

673 (c) If it appears that the prospective candidate meets the requirements of candidacy, the  
674 filing officer shall:

675 (i) inform the candidate that the candidate's name will appear on the ballot as it is  
676 written on the declaration of candidacy;

677 (ii) provide the candidate with a copy of the current campaign financial disclosure laws  
678 for the office the candidate is seeking and inform the candidate that failure to comply will  
679 result in disqualification as a candidate and removal of the candidate's name from the ballot;

680 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
681 Electronic Voter Information Website Program and inform the candidate of the submission  
682 deadline under Subsection 20A-7-801(4)(a);

683 (iv) provide the candidate with a copy of the pledge of fair campaign practices  
684 described under Section 20A-9-206 and inform the candidate that:

685 (A) signing the pledge is voluntary; and

686 (B) signed pledges shall be filed with the filing officer; and

687 (v) accept the declaration of candidacy or nomination petition.

688 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing  
689 officer shall:

690 (i) accept the candidate's pledge; and

691 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
692 candidate's pledge to the chair of the county or state political party of which the candidate is a  
693 member.

694 (4) The declaration of candidacy shall substantially comply with the following form:

695 "I, (print name) \_\_\_\_, being first sworn, say that I reside at \_\_\_\_ Street, City of \_\_\_\_,  
696 County of \_\_\_\_, state of Utah, Zip Code \_\_\_\_, Telephone Number (if any) \_\_\_\_; that I am a  
697 registered voter; and that I am a candidate for the office of \_\_\_\_ (stating the term). I will meet  
698 the legal qualifications required of candidates for this office. I will file all campaign financial  
699 disclosure reports as required by law and I understand that failure to do so will result in my  
700 disqualification as a candidate for this office and removal of my name from the ballot. I  
701 request that my name be printed upon the applicable official ballots. (Signed)

702 \_\_\_\_\_

703 Subscribed and sworn to (or affirmed) before me by \_\_\_\_ on this  
704 \_\_\_\_\_(month\day\year).

705 (Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)"

706 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that  
707 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not

708 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated  
709 for municipal office by submitting a petition signed by:

- 710 (i) 25 residents of the municipality who are at least 18 years old; or
- 711 (ii) 20% of the residents of the municipality who are at least 18 years old.

712 (b) (i) The petition shall substantially conform to the following form:

713 "NOMINATION PETITION

714 The undersigned residents of (name of municipality) being 18 years old or older  
715 nominate (name of nominee) to the office of \_\_\_\_ for the (two or four-year term, whichever is  
716 applicable)."

717 (ii) The remainder of the petition shall contain lines and columns for the signatures of  
718 persons signing the petition and their addresses and telephone numbers.

719 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized  
720 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection  
721 (2)(b), any registered voter may be nominated for municipal office by submitting a petition  
722 signed by the same percentage of registered voters in the municipality as required by the  
723 ordinance passed under authority of Subsection (2)(b).

724 (b) (i) The petition shall substantially conform to the following form:

725 "NOMINATION PETITION

726 The undersigned residents of (name of municipality) being 18 years old or older  
727 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,  
728 whichever is applicable)."

729 (ii) The remainder of the petition shall contain lines and columns for the signatures of  
730 persons signing the petition and their addresses and telephone numbers.

731 (7) If the declaration of candidacy or nomination petition fails to state whether the  
732 nomination is for the two or four-year term, the clerk shall consider the nomination to be for  
733 the four-year term.

734 (8) (a) The clerk shall verify with the county clerk that all candidates are registered  
735 voters.

736 (b) Any candidate who is not registered to vote is disqualified and the clerk may not  
737 print the candidate's name on the ballot.

738 (9) Immediately after expiration of the period for filing a declaration of candidacy, the



739 clerk shall:

740 (a) cause the names of the candidates as they will appear on the ballot to be published:

741 (i) in at least two successive publications of a newspaper with general circulation in the  
742 municipality; and

743 (ii) as required in Section 45-1-101; and

744 (b) notify the lieutenant governor of the names of the candidates as they will appear on  
745 the ballot.

746 (10) A declaration of candidacy or nomination petition filed under this section may not  
747 be amended after the expiration of the period for filing a declaration of candidacy.

748 (11) (a) A declaration of candidacy or nomination petition filed under this section is  
749 valid unless a written objection is filed with the clerk within five days after the last day for  
750 filing.

751 (b) If an objection is made, the clerk shall:

752 (i) mail or personally deliver notice of the objection to the affected candidate  
753 immediately; and

754 (ii) decide any objection within 48 hours after it is filed.

755 (c) If the clerk sustains the objection, the candidate may correct the problem by  
756 amending the declaration or petition within three days after the objection is sustained or by  
757 filing a new declaration within three days after the objection is sustained.

758 (d) (i) The clerk's decision upon objections to form is final.

759 (ii) The clerk's decision upon substantive matters is reviewable by a district court if  
760 prompt application is made to the district court.

761 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
762 of its discretion, agrees to review the lower court decision.

763 (12) Any person who filed a declaration of candidacy and was nominated, and any  
764 person who was nominated by a nomination petition, may, any time up to 23 days before the  
765 election, withdraw the nomination by filing a written affidavit with the clerk.

766 Section 14. Section **20A-9-403** is amended to read:

767 **20A-9-403. Regular primary elections.**

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

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

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

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

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

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

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

782 (i) certify the name and office of all of the registered political party's candidates to the  
783 lieutenant governor no later than 5 p.m. ~~on May 13~~ on the first Monday after the third  
784 Saturday in April of each even-numbered year; and

785 (ii) certify the name and office of each of its county candidates to the county clerks by  
786 5 p.m. on ~~May 13~~ the first Monday after the third Saturday in April of each even-numbered  
787 year.

788 (c) By 5 p.m. on ~~May 16~~ the first Wednesday after the third Saturday in April of each  
789 even-numbered year, the lieutenant governor shall send the county clerks a certified list of the  
790 names of all statewide or multicounty candidates that must be printed on the primary ballot.

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

795 (ii) A registered political party's candidates for President and Vice-President of the  
796 United States shall be certified to the lieutenant governor as provided in Subsection  
797 20A-9-202(4).

798 (e) Each political party shall certify the names of its presidential and vice-presidential  
799 candidates and presidential electors to the lieutenant governor's office no later than September  
800 8 of each presidential election year.

801 (3) The county clerk shall:

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

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

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

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

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

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

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

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

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

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

832 Section 15. Section **20A-9-404** is amended to read:

833 **20A-9-404. Municipal primary elections.**

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

836 (b) Municipal primary elections shall be held:

837 (i) consistent with Section 20A-1-201.5, on the second Tuesday following the first  
838 Monday in the [~~September~~] August before the regular municipal election; and

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

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

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

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

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

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

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

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

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

861 (ii) The certificate of nomination shall:

862 (A) contain the name of the office for which each person is nominated, the name, post

863 office address, and, if in a city, the street number of residence and place of business, if any, of  
864 each person nominated;

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

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

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

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

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

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

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

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

884 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the ~~June~~  
885 May 1 that falls before the regular municipal election that:

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

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

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

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

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

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

899 (C) is substantially similar to the form of the signature sheets described in Section  
900 20A-7-303; and

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

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

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

908 (d) The clerk shall ensure that:

909 (i) the partisan municipal primary ballot is similar to the ballot forms required by  
910 Sections 20A-6-401 and 20A-6-401.1;

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

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

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

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

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

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

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

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

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

929 Section 16. Section **20A-9-503** is amended to read:

930 **20A-9-503. Certificate of nomination -- Filing -- Fees.**

931 (1) After the certificate of nomination has been certified, executed, and acknowledged  
932 by the county clerk, the candidate shall:

933 (a) between the second Friday in March and the close of normal office hours on the  
934 third [~~Friday~~] Thursday in March of the year in which the regular general election will be held,  
935 file the petition in person with:

936 (i) the lieutenant governor, if the office the candidate seeks is a constitutional office or  
937 a federal office; or

938 (ii) the county clerk, if the office the candidate seeks is a county office; and

939 (iii) pay the filing fee; or

940 (b) not later than the close of normal office hours on [~~July~~] June 15 of any  
941 odd-numbered year, file the petition in person with:

942 (i) the municipal clerk, if the candidate seeks an office in a city or town;

943 (ii) the local district clerk, if the candidate seeks an office in a local district; and

944 (iii) pay the filing fee.

945 (2) (a) At the time of filing, and before accepting the petition, the filing officer shall  
946 read the constitutional and statutory requirements for candidacy to the candidate.

947 (b) If the candidate states that he does not meet the requirements, the filing officer may  
948 not accept the petition.

949 (3) (a) Persons filing a certificate of nomination for President of the United States  
950 under this section shall pay a filing fee of \$500.

951 (b) Notwithstanding Subsection (1), a person filing a certificate of nomination for  
952 President or Vice President of the United States:

953 (i) may file the certificate of nomination between the second Friday in March and the  
954 close of normal office hours on August 15 of the year in which the regular general election will  
955 be held; and

956 (ii) may use a designated agent to file the certificate of nomination.

957 Section 17. Section **20A-9-701** is amended to read:

958 **20A-9-701. Certification of party candidates to county clerks -- Display on ballot.**

959 (1) No later than [~~September 8~~] August 31 of each regular general election year, the  
960 lieutenant governor shall certify to each county clerk the names of each candidate, including  
961 candidates for president and vice president, certified by each registered political party as that  
962 party's nominees for offices to be voted upon at the regular general election in that county  
963 clerk's county.

964 (2) The names shall be certified by the lieutenant governor and shall be displayed on  
965 the ballot as they are provided on the candidate's declaration of candidacy.

966 Section 18. Section **20A-12-201** is amended to read:

967 **20A-12-201. Judicial appointees -- Retention elections.**

968 (1) (a) Each judicial appointee to a court is subject to an unopposed retention election  
969 at the first general election held more than three years after the judge or justice was appointed.

970 (b) After the first retention election:

971 (i) each Supreme Court justice shall be on the regular general election ballot for an  
972 unopposed retention election every tenth year; and

973 (ii) each judge of other courts shall be on the regular general election ballot for an  
974 unopposed retention election every sixth year.

975 (2) (a) Each justice or judge of a court of record who wishes to retain office shall, in  
976 the year the justice or judge is subject to a retention election:

977 (i) file a declaration of candidacy as if a candidate for multi-county office in  
978 accordance with Section 20A-9-202; and

979 (ii) pay a filing fee of \$50.

980 (b) Each justice court judge who wishes to retain office shall, in the year the justice  
981 court judge is subject to a retention election:

982 (i) file a declaration of candidacy as if a candidate for county office in accordance with  
983 Section 20A-9-202; and

984 (ii) pay a filing fee of \$25.

985 (3) (a) The lieutenant governor shall, no later than [~~September 8~~] August 31 of each  
986 regular general election year:



987 (i) transmit a certified list containing the names of the justices of the Supreme Court  
988 and judges of the Court of Appeals declaring their candidacy to the county clerk of each  
989 county; and

990 (ii) transmit a certified list containing the names of judges of other courts declaring  
991 their candidacy to the county clerk of each county in the geographic division in which the judge  
992 filing the declaration holds office.

993 (b) Each county clerk shall place the names of justices and judges standing for  
994 retention election in the nonpartisan section of the ballot.

995 (4) At the general election, the ballots shall contain, as to each justice or judge of any  
996 court to be voted on in the county, the following question:

997 "Shall \_\_\_\_\_(name of justice or judge) be retained in the  
998 office of \_\_\_\_\_?" (name of office, such as "Justice of the Supreme  
999 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the  
1000 Third Judicial District;" "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "  
1001 Justice Court Judge of (name of county) County or (name of municipality)")

1002 Yes ()

1003 No ()."

1004 (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge  
1005 is retained for the term of office provided by law.

1006 (b) If the justice or judge does not receive more yes votes than no votes, the justice or  
1007 judge is not retained, and a vacancy exists in the office on the first Monday in January after the  
1008 regular general election.

1009 (6) A justice or judge not retained is ineligible for appointment to the office for which  
1010 the justice or judge was defeated until after the expiration of that term of office.

1011 Section 19. Section **20A-14-105** is amended to read:

1012 **20A-14-105. Becoming a candidate for membership on the State Board of**  
1013 **Education -- Selection of candidates by the governor -- Ballot placement.**

1014 (1) By August 1 of each regular general election year, the governor shall:

1015 (a) for each state board district subject to election in that year, select two candidates for  
1016 the State Board of Education from the lists submitted by the state board district nominating and  
1017 recruiting committee; and

1018 (b) certify the names of the two candidates from each school board district to the  
1019 lieutenant governor.

1020 (2) If the governor fails to select two candidates for a state board district by  
1021 ~~September~~ August 1, the nominating and recruiting committee shall:

1022 (a) select the two candidates; and

1023 (b) notify the lieutenant governor of its selections by ~~September 15~~ August 31.

1024 (3) The lieutenant governor shall:

1025 (a) conduct a lottery to determine the order of the candidates' names on the ballot; and

1026 (b) certify the names and order of the names to the county clerks for placement on the  
1027 nonpartisan section of the ballot.

1028 Section 20. Section **20A-16-101** is enacted to read:

1029 **CHAPTER 16. UNIFORM MILITARY AND OVERSEAS VOTERS ACT**

1030 **Part 1. General Provisions**

1031 **20A-16-101. Title.**

1032 This chapter is known as, "Uniform Military and Overseas Voters Act."

1033 Section 21. Section **20A-16-102** is enacted to read:

1034 **20A-16-102. Definitions.**

1035 As used in this chapter:

1036 (1) "Covered voter" means:

1037 (a) a uniformed-service voter or an overseas voter who is registered to vote in the state;

1038 or

1039 (b) a uniformed-service voter whose voting residence is in the state and who otherwise  
1040 satisfies the state's voter eligibility requirements.

1041 (2) "Dependent" means an individual recognized as a dependent by a uniformed  
1042 service.

1043 (3) "Federal postcard application" means the application prescribed under the  
1044 Uniformed and Overseas Citizens Absentee Voting Act, Sec. 101(b)(2), 42 U.S.C. Sec.  
1045 1973ff(b)(2).

1046 (4) "Federal write-in absentee ballot" means the ballot described in the Uniformed and  
1047 Overseas Citizens Absentee Voting Act, Sec. 103, 42 U.S.C. Sec. 1973ff-2.

1048 (5) "Military-overseas ballot" means:

- 1049 (a) a federal write-in absentee ballot;
- 1050 (b) a ballot specifically prepared or distributed for use by a covered voter in accordance
- 1051 with this chapter; or
- 1052 (c) a ballot cast by a covered voter in accordance with this chapter.
- 1053 (6) "Overseas voter" means a United States citizen who is outside the United States.
- 1054 (7) "State" means a state of the United States, the District of Columbia, Puerto Rico,
- 1055 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
- 1056 of the United States.
- 1057 (8) "Uniformed service" means:
- 1058 (a) active and reserve components of the Army, Navy, Air Force, Marine Corps, or
- 1059 Coast Guard of the United States;
- 1060 (b) the Merchant Marine, the commissioned corps of the Public Health Service, or the
- 1061 commissioned corps of the National Oceanic and Atmospheric Administration of the United
- 1062 States; or
- 1063 (c) the National Guard.
- 1064 (9) "Uniformed-service voter" means an individual who is qualified to vote and is:
- 1065 (a) a member of the active or reserve components of the Army, Navy, Air Force,
- 1066 Marine Corps, or Coast Guard of the United States who is on active duty;
- 1067 (b) a member of the Merchant Marine, the commissioned corps of the Public Health
- 1068 Service, or the commissioned corps of the National Oceanic and Atmospheric Administration
- 1069 of the United States;
- 1070 (c) a member on activated status of the National Guard; or
- 1071 (d) a spouse or dependent of a member referred to in Subsections (9)(a) through (c).
- 1072 (10) "United States" means the several states, the District of Columbia, Puerto Rico,
- 1073 the United States Virgin Islands, and any territory or insular possession subject to the
- 1074 jurisdiction of the United States.

1075 Section 22. Section **20A-16-103** is enacted to read:

1076 **20A-16-103. Application to elections.**

1077 The voting procedures in this chapter apply to an election authorized by this chapter.

1078 Section 23. Section **20A-16-201** is enacted to read:

1079 **Part 2. Administration of Military and Overseas Voting**

1080 **20A-16-201. Duties of lieutenant governor.**

1081 The lieutenant governor shall:

1082 (1) implement this chapter and the state's responsibilities under the Uniformed and  
1083 Overseas Citizens Absentee Voting Act, 42 U.S.C. Sec. 1973ff et seq.;

1084 (2) make available to covered voters information regarding voter registration  
1085 procedures for covered voters and procedures for casting military-overseas ballots.

1086 (3) establish an electronic transmission system through which a covered voter may  
1087 apply for and receive voter registration materials, military-overseas ballots, and other  
1088 information under this chapter;

1089 (4) (a) develop standardized absentee-voting materials, including privacy and  
1090 transmission envelopes and electronic equivalents of the envelopes, authentication materials,  
1091 and voting instructions, to be used with the military-overseas ballot of a voter authorized to  
1092 vote in any jurisdiction in the state; and

1093 (b) to the extent reasonably possible, coordinate with other states to the development  
1094 required by Subsection (4)(a); and

1095 (5) prescribe the form and content of a declaration:

1096 (a) for use by a covered voter to swear or affirm specific representations pertaining to  
1097 the voter's identity, eligibility to vote, status as a covered voter, and timely and proper  
1098 completion of an overseas-military ballot;

1099 (b) that is based on the declaration prescribed to accompany a federal write-in absentee  
1100 ballot, as modified to be consistent with this chapter; and

1101 (c) that is a prominent part of all balloting materials for which the declaration is  
1102 required, including an indication of the date of execution of the declaration.

1103 Section 24. Section **20A-16-202**, which is renumbered from Section 20A-3-413 is  
1104 renumbered and amended to read:

1105 ~~[20A-3-413].~~ **20A-16-202. Report on absentee ballots.**

1106 (1) Not later than 60 days after each regular general election, each county clerk shall  
1107 submit a report to the lieutenant governor indicating:

1108 (a) the number of ballots sent to military and overseas citizen voters; and

1109 (b) the number of ballots returned by military and overseas citizen voters that were  
1110 counted.

1111 (2) Not later than 90 days after each regular general election, the lieutenant governor  
1112 shall submit a statewide report to the Election Assistance Commission that includes the  
1113 information required by Subsection (1).

1114 Section 25. Section **20A-16-301** is enacted to read:

1115 **Part 3. Voter Registration**

1116 **20A-16-301. Overseas voter's registration address.**

1117 In registering to vote, an overseas voter who is eligible to vote in the state shall use and  
1118 be assigned to the voting precinct:

1119 (1) of the address of the last place of residence of the voter in the state; or

1120 (2) if the address described in Subsection (1) is no longer a recognized residential  
1121 address, the voter shall be assigned an address for voting purposes.

1122 Section 26. Section **20A-16-302** is enacted to read:

1123 **20A-16-302. Methods of registering to vote.**

1124 (1) To apply to register to vote, in addition to any other approved method, a covered  
1125 voter may use a federal postcard application or the application's electronic equivalent.

1126 (2) (a) A covered voter may use the declaration accompanying a federal write-in  
1127 absentee ballot to apply to register to vote simultaneously with the submission of the federal  
1128 write-in absentee ballot, if the declaration is received by the Friday immediately before the  
1129 election.

1130 (b) If the declaration is received after the Friday immediately before the election, the  
1131 declaration shall be treated as an application to register to vote for subsequent elections.

1132 (3) (a) The lieutenant governor shall ensure that the electronic transmission system  
1133 described in Subsection 20A-16-201(3) is capable of accepting both a federal postcard  
1134 application and any other approved electronic registration application sent to the appropriate  
1135 election official.

1136 (b) The voter may use the electronic transmission system or any other approved  
1137 method to register to vote.

1138 Section 27. Section **20A-16-401** is enacted to read:

1139 **Part 4. Voting and Ballots**

1140 **20A-16-401. Methods of applying for military-overseas ballots.**

1141 (1) A covered voter who is registered to vote in the state may apply for a

1142 military-overseas ballot using:

1143 (a) an absentee ballot application under Section 20A-3-304; or

1144 (b) (i) the federal postcard application; or

1145 (ii) the federal postcard application's electronic equivalent.

1146 (2) A covered voter who is not registered to vote in this state may use a federal

1147 postcard application or the federal postcard application's electronic equivalent to apply

1148 simultaneously to register to vote under Section 20A-16-302 and for a military-overseas ballot.

1149 (3) (a) The lieutenant governor shall ensure that the electronic transmission system

1150 described in Subsection 20A-16-201(3) is capable of accepting the submission of both a federal

1151 postcard application and any other approved electronic military-overseas ballot application sent

1152 to the appropriate election official.

1153 (b) The voter may use the electronic transmission system or any other approved

1154 method to apply for a military-overseas ballot.

1155 (4) A covered voter may use the declaration accompanying a federal write-in absentee

1156 ballot as an application for a military-overseas ballot simultaneously with the submission of the

1157 federal write-in absentee ballot, if the declaration is received by the appropriate election official

1158 by the Friday immediately before the election.

1159 (5) To receive the benefits of this chapter, a covered voter shall inform the appropriate

1160 election official that the voter is a covered voter by:

1161 (a) the use of a federal postcard application or federal write-in absentee ballot;

1162 (b) the use of an overseas address on an approved voter registration application or

1163 ballot application; or

1164 (c) the inclusion on an approved voter registration application or ballot application of

1165 other information sufficient to identify the voter as a covered voter.

1166 (6) This chapter does not preclude a covered voter from voting under Chapter 3, Part 3,

1167 Absentee Voting.

1168 Section 28. Section **20A-16-402** is enacted to read:

1169 **20A-16-402. Timeliness and scope of application for military-overseas ballot.**

1170 (1) An application for a military-overseas ballot is timely if received by the Friday

1171 immediately before the election.

1172 (2) An application for a military-overseas ballot for a regular primary election or

1173 municipal primary election, whether or not timely, is effective as an application for a  
1174 military-overseas ballot for the regular general election or municipal general election.

1175 Section 29. Section **20A-16-403** is enacted to read:

1176 **20A-16-403. Transmission of unvoted ballots.**

1177 (1) For an election for which the state has not received a waiver pursuant to the  
1178 Military and Overseas Voter Empowerment Act, Sec. 579, 42 U.S.C. 1973ff-1(g)(2), not later  
1179 than 45 days before the election or, notwithstanding Section 20A-1-401, if the 45th day before  
1180 the election is a weekend or holiday, not later than the business day preceding the 45th day, the  
1181 election official in each jurisdiction charged with distributing a ballot and balloting materials  
1182 shall transmit a ballot and balloting materials to all covered voters who by that date submit a  
1183 valid military-overseas ballot application.

1184 (2) (a) A covered voter who requests that a ballot and balloting materials be sent to the  
1185 voter by electronic transmission may choose:

1186 (i) facsimile transmission;

1187 (ii) email delivery; or

1188 (iii) if offered by the voter's jurisdiction, Internet delivery.

1189 (b) The election official in each jurisdiction charged with distributing a ballot and  
1190 balloting materials shall transmit the ballot and balloting materials to the voter using the means  
1191 of transmission chosen by the voter.

1192 (3) If a ballot application from a covered voter arrives after the jurisdiction begins  
1193 transmitting ballots and balloting materials to voters, the official charged with distributing a  
1194 ballot and balloting materials shall transmit them to the voter not later than two business days  
1195 after the application arrives.

1196 Section 30. Section **20A-16-404** is enacted to read:

1197 **20A-16-404. Timely casting of ballot.**

1198 (1) To be valid, a military-overseas ballot shall be received by the appropriate election  
1199 officer not later than the close of the polls, or the voter shall submit the ballot for mailing,  
1200 electronic transmission, or other authorized means of delivery not later than 12:01 a.m., at the  
1201 place where the voter completes the ballot, on the date of the election.

1202 Section 31. Section **20A-16-405** is enacted to read:

1203 **20A-16-405. Federal write-in absentee ballot.**

1204 A covered voter may use a federal write-in absentee ballot to vote for all offices and  
1205 ballot measures in an election.

1206 Section 32. Section **20A-16-406**, which is renumbered from Section 20A-3-409 is  
1207 renumbered and amended to read:

1208 ~~[20A-3-409].~~ **20A-16-406. Disposition of ballot by county clerk.**

1209 (1) Upon receipt by the county clerk of the envelope containing ~~[the]~~ a  
1210 military-overseas ballot, the county clerk shall:

1211 (a) enclose the unopened envelope containing the ballot and the written application of  
1212 the ~~[military or overseas citizen]~~ covered voter in a larger envelope;

1213 (b) securely seal and endorse it with:

1214 (i) the name or number of the proper voting precinct;

1215 (ii) the name and official title of the clerk;

1216 (iii) the words: "This envelope contains an absentee voter's official Utah election ballot  
1217 to be voted at \_\_\_\_ (Insert Name and Number) precinct, in \_\_\_\_ (Insert Name) county, and  
1218 may be opened on election day at the polls while the polls are open."; and

1219 (c) safely keep the envelope in ~~[his]~~ the county clerk's office until ~~[it]~~ the envelope is  
1220 delivered by ~~[him]~~ the county clerk to the proper election judges.

1221 (2) (a) When reasonably possible, the county clerk shall deliver or mail all ~~[military or~~  
1222 ~~overseas citizen]~~ military-overseas voter ballot envelopes to the appropriate voting precinct  
1223 election judges so that ~~[they]~~ the ballots may be processed on election day.

1224 (b) If the clerk is unable to determine the voting precinct to which the ballot should be  
1225 sent or when valid ballots are received too late to deliver to the election judges on election day,  
1226 the clerk shall keep them in a safe place until delivery can be made as required by Section  
1227 20A-3-309.

1228 Section 33. Section **20A-16-407**, which is renumbered from Section 20A-3-410 is  
1229 renumbered and amended to read:

1230 ~~[20A-3-410].~~ **20A-16-407. Duty of election judges.**

1231 (1) (a) Voting precinct election judges shall open envelopes containing ~~[military or~~  
1232 ~~overseas citizen voter]~~ military-overseas ballots that are in ~~[their]~~ the judges' custody on  
1233 election day at the polling places during the time the polls are open as provided in this  
1234 subsection.



- 1235 (b) The election judges shall:
- 1236 (i) first, open the outer envelope only; and
- 1237 (ii) [~~unless the ballot is a disabled military or overseas citizen voter's ballot,~~] compare
- 1238 the signature of the [~~military or overseas citizen~~] covered voter on the application with the
- 1239 signature on the registration and voting certificate.
- 1240 (2) (a) The judges shall register the [~~military or overseas citizen~~] covered voter to vote
- 1241 if the voter is not already registered if the judges find that:
- 1242 (i) the registration and voting certificate appears to be executed in proper form and
- 1243 contains information qualifying the [~~military or overseas citizen~~] covered voter to be registered
- 1244 as a voter; and
- 1245 (ii) the signatures on the certificate and the application correspond, where a
- 1246 comparison is required.
- 1247 (b) If the election judges determine that the registration and voting certificate is
- 1248 insufficient or that the signatures do not correspond, they shall:
- 1249 (i) disallow the registration; and
- 1250 (ii) without opening the ballot envelope, mark across the face of the envelope
- 1251 "Rejected as defective because of \_\_\_\_\_ ." with the reason for the rejection placed in the
- 1252 blank.
- 1253 (c) When a [~~military or overseas citizen~~] covered voter's name is entered upon the
- 1254 registration books, the voter is considered to be registered and the registration and voting
- 1255 certificate, signed and sworn to by the military or overseas citizen voter on the back of the
- 1256 ballot envelope, together with his name upon the registration books, constitute his registration
- 1257 record.
- 1258 (d) Nothing in this title may abridge the right of the [~~military or overseas citizen~~]
- 1259 covered voter to be registered as provided in this section.
- 1260 (3) (a) After registering the voter, the judges shall carefully open the ballot envelope so
- 1261 as not to destroy the information printed on it if they find that:
- 1262 (i) the registration and voting certificate is sufficient; and
- 1263 (ii) the signatures on the certificate and the application correspond, where a
- 1264 comparison is required.
- 1265 (b) The election judges shall:

1266 (i) remove the ballot from the envelope without unfolding it or permitting it to be  
1267 opened or examined;

1268 (ii) initial the stub in the same manner as for other ballots;

1269 (iii) deposit the ballot in the proper ballot box; and

1270 (iv) mark the official register and pollbook to show that the voter has voted.

1271 (c) If the election judges determine that the registration and voting certificate is  
1272 insufficient or that the signatures do not correspond, they shall:

1273 (i) disallow the vote; and

1274 (ii) without opening the ballot envelope, mark across the face of the envelope  
1275 "Rejected as defective because of \_\_\_\_\_ ." with the reason for the rejection placed in the  
1276 blank.

1277 (4) The election judges shall deposit the envelope, when the ballot is voted, and the  
1278 envelope with its contents unopened, when the absent vote is rejected, in the ballot box  
1279 containing the ballots.

1280 (5) The county clerk shall retain and preserve the envelopes in the manner provided by  
1281 law for the retention and preservation of official ballots voted at that election.

1282 Section 34. Section **20A-16-408** is enacted to read:

1283 **20A-16-408. Receipt of voted ballot.**

1284 (1) A valid military-overseas ballot cast in accordance with Section 20A-16-404 shall  
1285 be counted if the military-overseas ballot is delivered by the end of business on the business  
1286 day before the latest deadline for completing the canvass to the address that the appropriate  
1287 state or local election office has specified.

1288 (2) If, at the time of completing a military-overseas ballot and balloting materials, the  
1289 voter has declared under penalty of perjury as provided in Title 76, Chapter 8, Part 5,  
1290 Falsification in Official Matters, that the ballot was timely submitted, the ballot may not be  
1291 rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

1292 Section 35. Section **20A-16-409** is enacted to read:

1293 **20A-16-409. Declaration.**

1294 A military-overseas ballot shall include or be accompanied by:

1295 (1) a declaration signed by a covered voter that a material misstatement of fact in  
1296 completing the ballot may be grounds for a conviction of perjury under the laws of the United

1297 States or Title 76, Chapter 8, Part 5, Falsification in Official Matters; and

1298 (2) the following statement if the military-overseas ballot is electronically transmitted:

1299 "I understand that by electronically transmitting my voted ballot I am voluntarily waiving my  
1300 right to a secret ballot. Signature of voter \_\_\_\_\_ Date \_\_\_\_\_".

1301 Section 36. Section **20A-16-410** is enacted to read:

1302 **20A-16-410. Confirmation of receipt of application and voted ballot.**

1303 The lieutenant governor, in coordination with an election officer, shall implement an  
1304 electronic free-access system by which a covered voter may determine by telephone, electronic  
1305 mail, or Internet whether:

1306 (1) the voter's federal postcard application or other registration or military-overseas  
1307 ballot application has been received and accepted; and

1308 (2) the voter's military-overseas ballot has been received and the current status of the  
1309 ballot.

1310 Section 37. Section **20A-16-501** is enacted to read:

1311 **Part 5. Miscellaneous**

1312 **20A-16-501. Use of voter's email address.**

1313 (1) An election officer shall request an email address from each covered voter who  
1314 registers to vote after January 1, 2012.

1315 (2) An email address provided by a covered voter:

1316 (a) is a private record under Section 63G-2-302; and

1317 (b) may be used only for official communication with the covered voter about the  
1318 voting process, including transmitting military-overseas ballots and election materials if the  
1319 voter has requested electronic transmission, and verifying the voter's mailing address and  
1320 physical location.

1321 (3) The request for an email address shall:

1322 (a) describe the purposes for which the email address may be used; and

1323 (b) include a statement that any other use or disclosure of the email address is  
1324 prohibited.

1325 (4) (a) A covered voter who provides an email address may request that the covered  
1326 voter's application for a military-overseas ballot be considered a standing request for electronic  
1327 delivery of a ballot for all elections held through December 31 of the year following the

1328 calendar year of the date of the application or another shorter period the voter specifies.

1329 (b) An election official shall provide a military-overseas ballot to a voter who makes a  
1330 standing request for each election to which the request is applicable.

1331 (c) A covered voter who is entitled to receive a military-overseas ballot for a primary  
1332 election under this Subsection (4) is entitled to receive a military-overseas ballot for the general  
1333 election.

1334 Section 38. Section **20A-16-502** is enacted to read:

1335 **20A-16-502. Publication of election notice.**

1336 (1) At least 100 days before an election, other than a statewide special election or local  
1337 special election, and as soon as practicable before a statewide special election or local special  
1338 election, the election officer shall prepare an election notice for the election officer's  
1339 jurisdiction, to be used in conjunction with a federal write-in absentee ballot.

1340 (2) The election notice must contain:

1341 (a) a list of all of the ballot measures and federal, state, and local offices that as of that  
1342 date the election officer expects to be on the ballot on the date of the election; and

1343 (b) specific instructions for how a voter is to indicate on the federal write-in absentee  
1344 ballot the voter's choice for each office to be filled and for each ballot measure to be contested.

1345 (3) (a) A covered voter may request a copy of an election notice.

1346 (b) The election officer shall send the notice to the voter by facsimile, email, or regular  
1347 mail, as the voter requests.

1348 (4) As soon as the ballot is certified, and not later than the date ballots are required to  
1349 be transmitted to voters under Chapter 3, Part 3, Absentee Voting, the official charged with  
1350 preparing the election notice under Subsection (1) shall update the notice with the certified  
1351 candidates for each office and ballot measure questions and make the updated notice publicly  
1352 available.

1353 (5) A political subdivision that maintains a website shall make the election notice  
1354 prepared under this section and updated versions of the election notice regularly available on  
1355 the website.

1356 Section 39. Section **20A-16-503** is enacted to read:

1357 **20A-16-503. Prohibition of nonsubstantive requirements.**

1358 (1) (a) If a covered voter's mistake or omission in the completion of a document under

1359 this chapter does not prevent determining whether a covered voter is eligible to vote, the  
1360 mistake or omission does not invalidate the document.

1361 (b) Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of  
1362 a specified size or weight, does not invalidate a document submitted under this chapter.

1363 (c) In a write-in ballot authorized by this chapter or in a vote for a write-in candidate on  
1364 a regular ballot, if the intention of the voter is discernable under this state's uniform definition  
1365 of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of  
1366 the name of a candidate or a political party is a valid vote.

1367 (2) (a) Notarization is not required for the execution of a document under this chapter.

1368 (b) (i) An authentication, other than the declaration specified in Section 20A-16-409 or  
1369 the declaration on the federal postcard application and federal write-in absentee ballot, is not  
1370 required for execution of a document under this chapter.

1371 (ii) The declaration and any information in the declaration may be compared with  
1372 information on file to ascertain the validity of the document.

1373 Section 40. Section **20A-16-504** is enacted to read:

1374 **20A-16-504. Equitable relief.**

1375 A court may issue an injunction or grant other equitable relief appropriate to ensure  
1376 substantial compliance with, or enforce, this chapter on application by:

1377 (1) a covered voter alleging a grievance under this chapter; or

1378 (2) an election officer.

1379 Section 41. Section **20A-16-505** is enacted to read:

1380 **20A-16-505. Uniformity of application and construction.**

1381 In applying and construing this uniform act, consideration shall be given to the need to  
1382 promote uniformity of the law with respect to its subject matter among states that enact it.

1383 Section 42. Section **20A-16-506** is enacted to read:

1384 **20A-16-506. Relation to Electronic Signatures in Global and National Commerce**

1385 **Act.**

1386 This chapter modifies, limits, and supersedes the Electronic Signatures in Global and  
1387 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede  
1388 Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the  
1389 notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

1390 Section 43. Section **63G-2-302** is amended to read:  
1391 **63G-2-302. Private records.**  
1392 (1) The following records are private:  
1393 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
1394 social services, welfare benefits, or the determination of benefit levels;  
1395 (b) records containing data on individuals describing medical history, diagnosis,  
1396 condition, treatment, evaluation, or similar medical data;  
1397 (c) records of publicly funded libraries that when examined alone or with other records  
1398 identify a patron;  
1399 (d) records received by or generated by or for:  
1400 (i) the Independent Legislative Ethics Commission, except for:  
1401 (A) the commission's summary data report that is required under legislative rule; and  
1402 (B) any other document that is classified as public under legislative rule; or  
1403 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,  
1404 unless the record is classified as public under legislative rule;  
1405 (e) records received or generated for a Senate confirmation committee concerning  
1406 character, professional competence, or physical or mental health of an individual:  
1407 (i) if prior to the meeting, the chair of the committee determines release of the records:  
1408 (A) reasonably could be expected to interfere with the investigation undertaken by the  
1409 committee; or  
1410 (B) would create a danger of depriving a person of a right to a fair proceeding or  
1411 impartial hearing; and  
1412 (ii) after the meeting, if the meeting was closed to the public;  
1413 (f) employment records concerning a current or former employee of, or applicant for  
1414 employment with, a governmental entity that would disclose that individual's home address,  
1415 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
1416 deductions;  
1417 (g) records or parts of records under Section 63G-2-303 that a current or former  
1418 employee identifies as private according to the requirements of that section;  
1419 (h) that part of a record indicating a person's Social Security number or federal  
1420 employer identification number if provided under Section 31A-23a-104, 31A-25-202,

1421 31A-26-202, 58-1-301, 61-1-4, or 61-2f-203;

1422 (i) that part of a voter registration record identifying a voter's driver license or  
1423 identification card number, Social Security number, or last four digits of the Social Security  
1424 number;

1425 (j) a record that:

1426 (i) contains information about an individual;

1427 (ii) is voluntarily provided by the individual; and

1428 (iii) goes into an electronic database that:

1429 (A) is designated by and administered under the authority of the Chief Information  
1430 Officer; and

1431 (B) acts as a repository of information about the individual that can be electronically  
1432 retrieved and used to facilitate the individual's online interaction with a state agency;

1433 (k) information provided to the Commissioner of Insurance under:

1434 (i) Subsection 31A-23a-115(2)(a);

1435 (ii) Subsection 31A-23a-302(3); or

1436 (iii) Subsection 31A-26-210(3);

1437 (l) information obtained through a criminal background check under Title 11, Chapter  
1438 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

1439 (m) information provided by an offender that is:

1440 (i) required by the registration requirements of Section 77-27-21.5; and

1441 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);

1442 [and]

1443 (n) a statement and any supporting documentation filed with the attorney general in  
1444 accordance with Section 34-45-107, if the federal law or action supporting the filing involves  
1445 homeland security[-];

1446 (o) an email address provided by a military or overseas voter under Section  
1447 20A-16-501; and

1448 (p) a completed military-overseas ballot that is electronically transmitted under Title  
1449 20A, Chapter 16, Uniform Military and Overseas Voters Act.

1450 (2) The following records are private if properly classified by a governmental entity:

1451 (a) records concerning a current or former employee of, or applicant for employment

1452 with a governmental entity, including performance evaluations and personal status information  
1453 such as race, religion, or disabilities, but not including records that are public under Subsection  
1454 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

1455 (b) records describing an individual's finances, except that the following are public:

1456 (i) records described in Subsection 63G-2-301(2);

1457 (ii) information provided to the governmental entity for the purpose of complying with  
1458 a financial assurance requirement; or

1459 (iii) records that must be disclosed in accordance with another statute;

1460 (c) records of independent state agencies if the disclosure of those records would  
1461 conflict with the fiduciary obligations of the agency;

1462 (d) other records containing data on individuals the disclosure of which constitutes a  
1463 clearly unwarranted invasion of personal privacy;

1464 (e) records provided by the United States or by a government entity outside the state  
1465 that are given with the requirement that the records be managed as private records, if the  
1466 providing entity states in writing that the record would not be subject to public disclosure if  
1467 retained by it; and

1468 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
1469 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
1470 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

1471 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
1472 records, statements, history, diagnosis, condition, treatment, and evaluation.

1473 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
1474 doctors, or affiliated entities are not private records or controlled records under Section  
1475 63G-2-304 when the records are sought:

1476 (i) in connection with any legal or administrative proceeding in which the patient's  
1477 physical, mental, or emotional condition is an element of any claim or defense; or

1478 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
1479 relies upon the condition as an element of the claim or defense.

1480 (c) Medical records are subject to production in a legal or administrative proceeding  
1481 according to state or federal statutes or rules of procedure and evidence as if the medical  
1482 records were in the possession of a nongovernmental medical care provider.



1483 Section 44. **Repealer.**  
1484 This bill repeals:  
1485 Section **20A-3-401, Intent and purpose of part.**  
1486 Section **20A-3-402, Scope of part.**  
1487 Section **20A-3-403, Definitions.**  
1488 Section **20A-3-404, Special military write-in absentee ballots.**  
1489 Section **20A-3-404.5, Special overseas citizen voter absentee ballot.**  
1490 Section **20A-3-405, Registration of military voters and overseas citizen voters.**  
1491 Section **20A-3-406, Absentee ballots for military personnel and citizens living**  
1492 **overseas -- Federal postcard applications for ballot.**  
1493 Section **20A-3-407, Mailing of ballot to military voter.**  
1494 Section **20A-3-408, Voting of ballot by military or overseas citizen voter.**  
1495 Section **20A-3-408.5, Electronic registration and voting by military and overseas**  
1496 **citizen voters in a hostile fire zone -- Procedures for accepting and processing a federal**  
1497 **postcard application form -- Returned ballot.**  
1498 Section **20A-3-411, Challenge of ballot.**  
1499 Section **20A-3-412, State and county officials to provide supplies -- Violation a**  
1500 **misdemeanor.**  
1501 Section 45. **Effective date.**  
1502 This bill takes effect on January 1, 2012.  
1503 Section 46. **Coordinating S.B. 162 with H.B. 33 -- Substantive amendments.**  
1504 If this S.B. 162 and H.B. 33, Election Law Revisions, both pass, it is the intent of the  
1505 Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah  
1506 Code database for publication by amending Subsection 20A-14-105(2)(b) to read:  
1507 "(b) notify the lieutenant governor of its selections by [~~September 15~~] August 31."

# FISCAL NOTE

S.B. 162 1st Sub. (Green)

SHORT TITLE: **Military and Overseas Voting**

SPONSOR: **Hillyard, L.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.