

## SB0162S01 compared with SB0162

~~text~~ shows text that was in SB0162 but was deleted in SB0162S01.

inserted text shows text that was not in SB0162 but was inserted into SB0162S01.

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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: \_\_\_\_\_

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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 ~~text~~;
    - 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;
- ~~text~~ ~~changes the date by which~~ • an ordinance may be adopted for

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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; ~~and~~
- ▶ designates an email address provided by or a completed ballot transmitted by, a military or overseas voter as private record; and
- ▶ makes technical and conforming amendments.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~None~~ This bill takes effect on January 1, 2012.

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

### Utah Code Sections Affected:

AMENDS:

- 17B-1-306, as last amended by Laws of Utah 2010, Chapter 197
- 20A-1-201.5, as last amended by Laws of Utah 2007, Chapters 256 and 329
- 20A-1-503, as last amended by Laws of Utah 2010, Chapter 165
- 20A-1-508, as last amended by Laws of Utah 2010, Chapter 197
- 20A-1-509.1, as last amended by Laws of Utah 2010, Chapter 197
- 20A-2-102.5, as last amended by Laws of Utah 2008, Chapter 225
- 20A-3-308, as last amended by Laws of Utah 2007, Chapter 75
- 20A-5-409, as last amended by Laws of Utah 2008, Chapter 225
- 20A-6-103, as last amended by Laws of Utah 2002, Chapter 133
- 20A-6-106, as enacted by Laws of Utah 2008, Chapters 9 and 315
- 20A-7-103, as last amended by Laws of Utah 2008, Chapters 225 and 315
- 20A-9-202, as last amended by Laws of Utah 2009, Chapter 119
- 20A-9-203, as last amended by Laws of Utah 2010, Chapter 197

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

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

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

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

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

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

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

### ENACTS:

20A-16-101, Utah Code Annotated 1953

20A-16-102, Utah Code Annotated 1953

20A-16-103, Utah Code Annotated 1953

20A-16-201, Utah Code Annotated 1953

20A-16-301, Utah Code Annotated 1953

20A-16-302, Utah Code Annotated 1953

20A-16-401, Utah Code Annotated 1953

20A-16-402, Utah Code Annotated 1953

20A-16-403, Utah Code Annotated 1953

20A-16-404, Utah Code Annotated 1953

20A-16-405, Utah Code Annotated 1953

~~20A-16-406~~ 20A-16-408, Utah Code Annotated 1953

~~20A-16-407~~ 20A-16-409, Utah Code Annotated 1953

~~20A-16-408~~ 20A-16-410, Utah Code Annotated 1953

20A-16-501, Utah Code Annotated 1953

20A-16-502, Utah Code Annotated 1953

20A-16-503, Utah Code Annotated 1953

20A-16-504, Utah Code Annotated 1953

20A-16-505, Utah Code Annotated 1953

20A-16-506, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

20A-16-202, (Renumbered from 20A-3-413, as enacted by Laws of Utah 2003, Chapter

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### ~~REPEALS:~~

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

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

### REPEALS:

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

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

20A-3-403, as last amended by Laws of Utah 2006, Chapter 273

20A-3-404, as last amended by Laws of Utah 2008, Chapter 225

20A-3-404.5, as enacted by Laws of Utah 2001, Chapter 20

20A-3-405, as last amended by Laws of Utah 1993, Chapter 228

20A-3-406, as last amended by Laws of Utah 2010, Chapter 169

20A-3-407, as enacted by Laws of Utah 1993, Chapter 1

20A-3-408, as last amended by Laws of Utah 2002, Chapter 112

20A-3-408.5, as last amended by Laws of Utah 2009, Chapter 191

20A-3-411, as enacted by Laws of Utah 1993, Chapter 1

20A-3-412, as enacted by Laws of Utah 1993, Chapter 1

### Utah Code Sections Affected by Coordination Clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"I, (print name) \_\_\_\_\_, being first duly sworn, say that I reside at (Street) \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, State of Utah, (Zip Code) \_\_\_\_\_, (Telephone Number, if any) \_\_\_\_\_; that I meet the qualifications for the office of board of trustees member for \_\_\_\_\_ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election, and I hereby request that my name be printed upon the official ballot for that election.

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

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

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

(Clerk or Notary Public)"

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

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

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

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

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

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

(b) The primary election shall be conducted:

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

(12) The provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

Section ~~112~~2. Section **20A-1-201.5** is amended to read:

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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



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

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

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

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

(A) a declaration of candidacy; or

(B) a certificate of nomination; and

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

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

(B) to each registered political party.

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

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

(ii) run in the regular general election if:

(A) nominated as a party candidate; or

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

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

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general election ballot.

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

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

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

(1) As used in this section:

(a) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, run in the regular general election.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

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

(ii) the vacancy occurs after April 9 of the next even-numbered year but more than ~~50~~ 75 days before the regular primary election.

(b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk shall notify the public and each registered political party that:

(A) the vacancy exists; and

(B) identifies the date and time by which a person interested in becoming a candidate must file a declaration of candidacy.

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

(iii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have

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filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk at least ~~35~~60 days before the regular primary election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant:

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

(ii) when ~~50~~75 days or less remain before the regular primary election but more than ~~50~~65 days remain before the regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

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

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

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

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

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

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

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

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

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

(ii) The governor shall appoint a person to fill the vacancy from that list of nominees to

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fill the vacancy within 30 days after receipt of the letter.

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

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

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

(9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

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

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

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

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

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

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

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

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

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

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

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under ~~Title 20A,~~ Chapter 9, Candidate Qualifications and Nominating Procedures,

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run in the regular general election; and

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

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

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

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

(ii) the vacancy occurs after the third ~~Friday~~ Thursday in March of the even-numbered year but more than ~~50~~ 75 days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate must file a declaration of candidacy.

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

(i) within five days after the date that the notice is made, ending at ~~at~~ the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office as required by ~~Title 20A,~~ Chapter 9, Part 2, Candidate Qualifications and ~~Nominating Procedures~~ Declaration of Candidacy; and

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

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk at least ~~35~~ 60 days before the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

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

(ii) ~~50~~ 75 days or less remain before the regular primary election but more than ~~50~~

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65 days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

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

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

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

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

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

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

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

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

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

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

(6) Nothing in this section prevents or prohibits independent candidates from filing a

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declaration of candidacy for the office within the required time limits.

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

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

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

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

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

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

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

(b) The poll workers shall:

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

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

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

(i) the affidavit is sufficient;

(ii) the signatures correspond; and

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

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

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

(A) the voter included valid voter identification; or

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



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

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

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

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

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

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

(iii) remove the stub from the ballot;

(iv) deposit the ballot in the ballot box; and

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

(3) If the poll workers determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:

(a) disallow the vote; and

(b) without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or

(ii) "Rejected as not a registered voter."

(4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.

(5) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

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

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

No later than ~~September 8~~ **August 31** of each regular general election year, the lieutenant governor shall certify to each county clerk the name of each candidate qualified to be printed on the regular general election ballot for that county clerk's county.

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

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

Notwithstanding any other provisions of this title, any county may, if selected by the Department of Defense, participate in the Federal Voting Assistance Program pilot project to allow ~~[military and voters overseas as defined by Section 20A-3-403]~~ a covered voter as defined in Section 20A-16-102 to register to vote and cast their votes electronically.

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

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

Unless otherwise specifically provided for by statute, the certified ballot title of each ballot proposition, ballot question, or ballot issue shall be submitted to the election officer no later than ~~[60]~~ 65 days before the date of the election at which the matter will be submitted to the voters.

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

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

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

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

(3) The legislative general counsel shall:

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

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

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

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

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

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election.

(5) The county clerk of each county shall:

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

(b) publish them as provided by law.

Section ~~2~~12. Section **20A-9-202** is amended to read:

### **20A-9-202. Declarations of candidacy for regular general elections --**

#### **Requirements for candidates.**

(1) (a) Each person seeking to become a candidate for elective office for any county office that is to be filled at the next regular general election shall:

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

(ii) pay the filing fee.

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

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

(ii) pay the filing fee.

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

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

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

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

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(ii) pay the filing fee.

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

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

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third ~~Friday~~ Thursday in March before the next regular general election; and

(ii) pay the filing fee.

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

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

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

(ii) pay the filing fee.

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

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

(4) Each registered political party shall:

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

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

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

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

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

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

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

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

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

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

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

Section ~~3~~13. Section **20A-9-203** is amended to read:

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

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

(A) the person is a registered voter; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) read to the prospective candidate or person filing the petition the constitutional and

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statutory qualification requirements for the office that the candidate is seeking; and

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

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

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

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

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

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

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

(A) signing the pledge is voluntary; and

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

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

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

(i) accept the candidate's pledge; and

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

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

"I, (print name) \_\_\_\_\_, being first sworn, say that I reside at \_\_\_\_\_ Street, City of \_\_\_\_\_, County of \_\_\_\_\_, state of Utah, Zip Code \_\_\_\_\_, Telephone Number (if any) \_\_\_\_\_; that I am a registered voter; and that I am a candidate for the office of \_\_\_\_\_ (stating the term). I will meet the legal qualifications required of candidates for this office. I will file all campaign financial

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disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed)

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

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

(5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated for municipal office by submitting a petition signed by:

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

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

"NOMINATION PETITION

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

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

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

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

"NOMINATION PETITION

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

(ii) The remainder of the petition shall contain lines and columns for the signatures of



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persons signing the petition and their addresses and telephone numbers.

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

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

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

(9) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{4}~~14. Section **20A-9-403** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(d) (i) Except as provided in Subsection (2)(d)(ii), if a registered political party does

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not wish to participate in the primary election, it shall submit the names of its county candidates to the county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May 30 of each even-numbered year.

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

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

(3) The county clerk shall:

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

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

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

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

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

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

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

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

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involved, select the nominee by lot cast in whatever manner the governor determines.

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

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

Section ~~5~~15. Section **20A-9-404** is amended to read:

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

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

(b) Municipal primary elections shall be held:

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

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

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

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

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

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

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

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

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

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

(ii) The certificate of nomination shall:

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

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

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

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

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

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

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

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

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

(4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the June

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May 1 that falls before the regular municipal election that:

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

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

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

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

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

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

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

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

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

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

(d) The clerk shall ensure that:

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

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

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

(iv) every ballot is folded and perforated so as to separate the candidates of one party

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from those of the other parties and so as to enable the elector to separate the part of the ballot containing the names of the party of his choice from the remainder of the ballot; and

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

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

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

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

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

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

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

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

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

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

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

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

(iii) pay the filing fee; or

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

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

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

(iii) pay the filing fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) After the first retention election:

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

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

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

(i) file a declaration of candidacy as if a candidate for multi-county office in



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accordance with Section 20A-9-202; and

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

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

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

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

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

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

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

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

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

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

Yes ()

No ()."

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

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

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

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

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

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

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

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

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

(a) select the two candidates; and

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

(3) The lieutenant governor shall:

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

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

Section ~~6~~ 20. Section 20A-16-101 is enacted to read:

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

### **Part 1. General Provisions**

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

This chapter is known as, "Uniform Military and Overseas Voters Act."~~1.1~~

Section ~~7~~ 21. Section 20A-16-102 is enacted to read:

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

As used in this chapter:

(1) "Covered voter" means:

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

or

(b) a uniformed-service voter whose voting residence is in the state and who otherwise

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satisfies ~~the~~the state's voter eligibility requirements.

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

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

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

(5) "Military-overseas ballot" means:

(a) a federal write-in absentee ballot;

(b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

(c) a ballot cast by a covered voter in accordance with this chapter.

(6) "Overseas voter" means a United States citizen who is outside the United States.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(8) "Uniformed service" means:

(a) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(b) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(c) the National Guard.

(9) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(b) a member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(c) a member on activated status of the National Guard; or

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(d) a spouse or dependent of a member referred to in Subsections (9)(a) through (c).

(10) "United States" means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Section ~~{8}~~22. Section **20A-16-103** is enacted to read:

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

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

Section ~~{9}~~23. Section **20A-16-201** is enacted to read:

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

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

The lieutenant governor shall:

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

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

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

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

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

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

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

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

(c) that is a prominent part of all balloting materials for which the declaration is

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required, including an indication of the date of execution of the declaration.

Section ~~{10}~~24. Section **20A-16-202**, which is renumbered from Section 20A-3-413 is renumbered and amended to read:

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

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

- (a) the number of ballots sent to military and overseas citizen voters; and
- (b) the number of ballots returned by military and overseas citizen voters that were counted.

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

Section ~~{11}~~25. Section **20A-16-301** is enacted to read:

### **Part 3. Voter Registration**

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

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

- (1) of the address of the last place of residence of the voter in the state; or
- (2) if the address described in Subsection (1) is no longer a recognized residential address, the voter shall be assigned an address for voting purposes.

Section ~~{12}~~26. Section **20A-16-302** is enacted to read:

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

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

(2) (a) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the ~~{voter registration deadline established in Section 20A-2-102.5}~~ **Friday immediately before the election.**

(b) If the declaration is received after ~~{voter registration}~~ **the Friday immediately before the election**, the declaration shall be treated as an application to register to vote for subsequent elections.

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

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

Section ~~{13}~~27. Section **20A-16-401** is enacted to read:

### **Part 4. Voting and Ballots**

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

(1) A covered voter who is registered to vote in ~~{this}~~the state may apply for a military-overseas ballot using:

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

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

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

(2) A covered voter who is not registered to vote in this state may use a federal postcard application or the federal postcard application's electronic equivalent to apply simultaneously to register to vote under Section ~~{20A-9-302}~~20A-16-302 and for a military-overseas ballot.

(3) (a) The lieutenant governor shall ensure that the electronic transmission system described in Subsection ~~{20A-9-201}~~20A-16-201(3) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official.

(b) The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the ~~{fifth day}~~Friday immediately before the election.

(5) To receive the benefits of this chapter, a covered voter ~~{must}~~shall inform the appropriate election official that the voter is a covered voter by:

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

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

(c) the inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

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

Section ~~{14}~~28. Section **20A-16-402** is enacted to read:

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

(1) An application for a military-overseas ballot is timely if received by the ~~{fifth day}~~Friday immediately before the election.

(2) An application for a military-overseas ballot for a regular primary election or municipal primary election, whether or not timely, is effective as an application for a military-overseas ballot for the regular general election or municipal general election.

Section ~~{15}~~29. Section **20A-16-403** is enacted to read:

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

(1) For an election for which ~~{this}~~the state has not received a waiver pursuant to the Military and Overseas Voter Empowerment Act, Sec. ~~{5}~~579, 42 U.S.C. ~~{1}~~1973ff-1(g)(2), not later than 45 days before the election or, notwithstanding Section 20A-1-401, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

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

(i) facsimile transmission;

(ii) email delivery; or

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

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

(3) If a ballot application from a covered voter arrives after the jurisdiction begins

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transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than two business days after the application arrives.

Section ~~{16}~~30. Section 20A-16-404 is enacted to read:

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

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

Section ~~{17}~~31. Section 20A-16-405 is enacted to read:

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

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

Section ~~{18}~~32. Section 20A-16-406, which is renumbered from Section 20A-3-409 is renumbered and amended to read:

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

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

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

(b) securely seal and endorse it with:

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

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

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

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

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



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

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

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

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

(b) The election judges shall:

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

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

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

(i) the registration and voting certificate appears to be executed in proper form and contains information qualifying the ~~[military or overseas citizen]~~ covered voter to be registered as a voter; and

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

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

(i) disallow the registration; and

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

(c) When a ~~[military or overseas citizen]~~ covered voter's name is entered upon the registration books, the voter is considered to be registered and the registration and voting

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certificate, signed and sworn to by the military or overseas citizen voter on the back of the ballot envelope, together with his name upon the registration books, constitute his registration record.

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

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

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

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

(b) The election judges shall:

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

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

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

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

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

(i) disallow the vote; and

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

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

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

Section 34. Section ~~{20A-16-406}~~20A-16-408 is enacted to read:

~~{20A-16-406}~~20A-16-408. **Receipt of voted ballot.**

(1) A valid military-overseas ballot cast in accordance with Section 20A-16-404 ~~{must}~~shall be counted if ~~{it}~~the military-overseas ballot is delivered by the end of business on

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the business day before the latest deadline for completing the canvass to the address that the appropriate state or local election office has specified.

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

~~{~~ ~~20A-3-409. Disposition of ballot by county clerk:~~

~~\_\_\_\_\_ (1) Upon receipt by the county clerk of the envelope containing the ballot, the county clerk shall:~~

~~\_\_\_\_\_ (a) enclose the unopened envelope containing the ballot and the written application of the military or overseas citizen voter in a larger envelope;~~

~~\_\_\_\_\_ (b) securely seal and endorse it with:~~

~~\_\_\_\_\_ (i) the name or number of the proper voting precinct;~~

~~\_\_\_\_\_ (ii) the name and official title of the clerk;~~

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

~~\_\_\_\_\_ (c) safely keep the envelope in his office until it is delivered by him to the proper election judges.~~

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

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

~~‡~~ Section ~~{19}~~ 35. Section ~~{20A-16-407}~~ 20A-16-409 is enacted to read:

~~{20A-16-407}~~ 20A-16-409. **Declaration.**

A military-overseas ballot ~~{must}~~ shall include or be accompanied by:

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

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~~**20A-3-410. Duty of election judges:**~~

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

~~(b) The election judges shall:~~

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

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

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

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

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

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

~~(i) disallow the registration; and~~

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

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

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

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

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- ~~(i) the registration and voting certificate is sufficient; and~~
- ~~(ii) the signatures on the certificate and the application correspond, where a comparison is required;~~
- ~~(b) The election judges shall:~~
- ~~(i) remove the ballot from the envelope without unfolding it or permitting it to be opened or examined;~~
- ~~(ii) initial the stub in the same manner as for other ballots;~~
- ~~(iii) deposit the ballot in the proper ballot box; and~~
- ~~(iv) mark the official register and pollbook to show that the voter has voted;~~
- ~~(c) If the election judges determine that the registration and voting certificate is insufficient or that the signatures do not correspond, they shall:~~
- ~~(i) disallow the vote; and~~
- ~~(ii) without opening the ballot envelope, mark across the face of the envelope "Rejected as defective because of \_\_\_\_\_." with the reason for the rejection placed in the blank;~~
- ~~(4) The election judges shall deposit the envelope, when the ballot is voted, and the envelope with its contents unopened, when the absent vote is rejected, in the ballot box containing the ballots;~~
- ~~(5) The county clerk shall retain and preserve the envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election;~~

~~Section 20}; and~~

~~(2) the following statement if the military-overseas ballot is electronically transmitted: "I understand that by electronically transmitting my voted ballot I am voluntarily waiving my right to a secret ballot. Signature of voter \_\_\_\_\_ Date \_\_\_\_\_".~~

~~Section 36. Section {20A-16-408}20A-16-410 is enacted to read:~~

~~{20A-16-408}20A-16-410. **Confirmation of receipt of application and voted ballot.**~~

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

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

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

Section ~~{21}~~37. Section **20A-16-501** is enacted to read:

### **Part 5. Miscellaneous**

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

(1) An election officer shall request an email address from each covered voter who registers to vote after ~~{May 10}~~January 1, ~~{2011}~~2012.

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

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

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

(3) The request for an email address shall:

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

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

(4) (a) A covered voter who provides an email address may request that the covered voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies.

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

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

Section ~~{22}~~38. Section **20A-16-502** is enacted to read:

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

(1) At least 100 days before an election, other than a statewide special election or local special election, and as soon as practicable before a statewide special election or local special election, the election officer shall prepare an election notice for the election officer's

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jurisdiction, to be used in conjunction with a federal write-in absentee ballot.

(2) The election notice must contain:

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

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

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

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

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

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

Section ~~23~~39. Section **20A-16-503** is enacted to read:

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

(1) (a) If a covered voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document.

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

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

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

(b) (i) An authentication, other than the declaration specified in Section ~~20A-16-407~~20A-16-409 or the declaration on the federal postcard application and federal

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write-in absentee ballot, is not required for execution of a document under this chapter.

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

Section ~~{24}~~40. Section **20A-16-504** is enacted to read:

**20A-16-504. Equitable ~~{Relief}~~relief.**

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

- (1) a covered voter alleging a grievance under this chapter; or
- (2) an election officer.

Section ~~{25}~~41. Section **20A-16-505** is enacted to read:

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

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

Section ~~{26}~~42. Section **20A-16-506** is enacted to read:

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

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

Section ~~{27}~~43. Section **63G-2-302** is amended to read:

**63G-2-302. Private records.**

- (1) The following records are private:
  - (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
  - (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
  - (c) records of publicly funded libraries that when examined alone or with other records identify a patron;



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(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

unless the record is classified as public under legislative rule;

(e) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(f) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions;

(g) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(h) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 61-1-4, or 61-2f-203;

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

(j) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information

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Officer; and

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

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

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

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

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

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

(m) information provided by an offender that is:

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

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

[and]

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

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

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

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

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

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

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

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

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

(c) records of independent state agencies if the disclosure of those records would

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conflict with the fiduciary obligations of the agency;

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

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

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

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

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

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

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

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

Section ~~{28}~~44. **Repealer.**

This bill repeals:

**Section 20A-3-401, Intent and purpose of part.**

**Section 20A-3-402, Scope of part.**

**Section 20A-3-403, Definitions.**

**Section 20A-3-404, Special military write-in absentee ballots.**

**Section 20A-3-404.5, Special overseas citizen voter absentee ballot.**

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### Legislative Review Note

as of ~~2-25-11 10:51 AM~~

Section 20A-3-405, Registration of military voters and overseas citizen voters.

Section 20A-3-406, Absentee ballots for military personnel and citizens living overseas -- Federal postcard applications for ballot.

Section 20A-3-407, Mailing of ballot to military voter.

Section 20A-3-408, Voting of ballot by military or overseas citizen voter.

Section 20A-3-408.5, Electronic registration and voting by military and overseas citizen voters in a hostile fire zone -- Procedures for accepting and processing a federal postcard application form -- Returned ballot.

Section 20A-3-411, Challenge of ballot.

Section 20A-3-412, State and county officials to provide supplies -- Violation a misdemeanor.

Section 45. Effective date.

This bill takes effect on January 1, 2012.

Section 46. Coordinating S.B. 162 with H.B. 33 -- Substantive amendments.

If this S.B 162 and H.B. 33, Election Law Revisions, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 20A-14-105(2)(b) to read:

"(b) notify the lieutenant governor of its selections by [September 15] August 31."