

MILITARY AND OVERSEAS VOTING

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ changes the period of time in which to file a declaration of candidacy;
- ▶ changes the date of the municipal primary;
- ▶ changes the date by a party certifies a candidate for the primary ballot;
- ▶ changes the date by which an ordinance may be adopted for exemption from a primary;
- ▶ enacts the Uniform Military and Overseas Voting Act; and
- ▶ designates an email address provided by a military or overseas voter as private record.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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



- 28 **20A-9-202**, as last amended by Laws of Utah 2009, Chapter 119
- 29 **20A-9-203**, as last amended by Laws of Utah 2010, Chapter 197
- 30 **20A-9-403**, as last amended by Laws of Utah 2008, Chapter 225
- 31 **20A-9-404**, as last amended by Laws of Utah 2007, Chapter 256
- 32 **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379

33 ENACTS:

- 34 **20A-16-101**, Utah Code Annotated 1953
- 35 **20A-16-102**, Utah Code Annotated 1953
- 36 **20A-16-103**, Utah Code Annotated 1953
- 37 **20A-16-201**, Utah Code Annotated 1953
- 38 **20A-16-301**, Utah Code Annotated 1953
- 39 **20A-16-302**, Utah Code Annotated 1953
- 40 **20A-16-401**, Utah Code Annotated 1953
- 41 **20A-16-402**, Utah Code Annotated 1953
- 42 **20A-16-403**, Utah Code Annotated 1953
- 43 **20A-16-404**, Utah Code Annotated 1953
- 44 **20A-16-405**, Utah Code Annotated 1953
- 45 **20A-16-406**, Utah Code Annotated 1953
- 46 **20A-16-407**, Utah Code Annotated 1953
- 47 **20A-16-408**, Utah Code Annotated 1953
- 48 **20A-16-501**, Utah Code Annotated 1953
- 49 **20A-16-502**, Utah Code Annotated 1953
- 50 **20A-16-503**, Utah Code Annotated 1953
- 51 **20A-16-504**, Utah Code Annotated 1953
- 52 **20A-16-505**, Utah Code Annotated 1953
- 53 **20A-16-506**, Utah Code Annotated 1953

54 RENUMBERS AND AMENDS:

- 55 **20A-16-202**, (Renumbered from 20A-3-413, as enacted by Laws of Utah 2003, Chapter
- 56 117)

57 REPEALS:

- 58 **20A-3-402**, as enacted by Laws of Utah 1993, Chapter 1

59 **20A-3-403**, as last amended by Laws of Utah 2006, Chapter 273

60 **20A-3-404**, as last amended by Laws of Utah 2008, Chapter 225

61 **20A-3-404.5**, as enacted by Laws of Utah 2001, Chapter 20

62

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

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

65 **20A-1-201.5. Primary election dates.**

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

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

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

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

75 **20A-9-202. Declarations of candidacy for regular general elections --**

76 **Requirements for candidates.**

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

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

82 (ii) pay the filing fee.

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

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

89 (ii) pay the filing fee.

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

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

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

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

100 (ii) pay the filing fee.

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

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

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

110 (ii) pay the filing fee.

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

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

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

117 (ii) pay the filing fee.

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

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

121 replace the disqualified candidate.

122 (4) Each registered political party shall:

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

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

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

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

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

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

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

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

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

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

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

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

146 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

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

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

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

151 or

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

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

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

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

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

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

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

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

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

182 (iii) The ordinance shall specify the number of signatures that the candidate must

183 obtain on the nominating petition in order to become a candidate for municipal office under
184 this Subsection (2), but that number may not exceed 5% of registered voters.

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

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

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

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

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

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

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

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

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

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

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

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

210 (A) signing the pledge is voluntary; and

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

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

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

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

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

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

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

227 Subscribed and sworn to (or affirmed) before me by ____ on this
228 _____(month\day\year).

229 (Signed) _____ (Clerk or other officer qualified to administer oath)"

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

234 (i) 25 residents of the municipality who are at least 18 years old; or

235 (ii) 20% of the residents of the municipality who are at least 18 years old.

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

237 "NOMINATION PETITION

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

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

242 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized by
243 Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection (2)(b),

244 any registered voter may be nominated for municipal office by submitting a petition signed by the
245 same percentage of registered voters in the municipality as required by the ordinance passed under
246 authority of Subsection (2)(b).

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

248 "NOMINATION PETITION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

274 and

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

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

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

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

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

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

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

288 **20A-9-403. Regular primary elections.**

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

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

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

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

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

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

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

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

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

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

311 (d) (i) Except as provided in Subsection (2)(d)(ii), if a registered political party does not
312 wish to participate in the primary election, it shall submit the names of its county candidates to the
313 county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May
314 30 of each even-numbered year.

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

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

320 (3) The county clerk shall:

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

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

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

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

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

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

335 (b) If two or more candidates are to be elected to the office at the regular general election,
336 those party candidates equal in number to positions to be filled who receive the highest number

337 of votes at the regular primary election are the nominees of their party for those positions.

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

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

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

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

351 **20A-9-404. Municipal primary elections.**

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

354 (b) Municipal primary elections shall be held:

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

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

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

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

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

367 (ii) Any primary election exemption ordinance adopted under the authority of this

368 subsection remains in effect until repealed by ordinance.

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

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

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

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

379 (ii) The certificate of nomination shall:

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

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

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

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

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

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

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

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

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

399 included with the candidate's name.

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

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

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

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

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

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

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

415 (C) is substantially similar to the form of the signature sheets described in Section
416 20A-7-303; and

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

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

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

424 (d) The clerk shall ensure that:

425 (i) the partisan municipal primary ballot is similar to the ballot forms required by Sections
426 20A-6-401 and 20A-6-401.1;

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

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

430 party designation;

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

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

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

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

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

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

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

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

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

446 **Part 1. General Provisions**

447 **20A-16-101. Title.**

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

449 Section 7. Section **20A-16-102** is enacted to read:

450 **20A-16-102. Definitions.**

451 As used in this chapter:

452 (1) "Covered voter" means:

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

454 or

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

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

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

460 (4) "Federal write-in absentee ballot" means the ballot described in the Uniformed and

461 Overseas Citizens Absentee Voting Act, Sec. 103, 42 U.S.C. Sec. 1973ff-2.

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

463 (a) a federal write-in absentee ballot;

464 (b) a ballot specifically prepared or distributed for use by a covered voter in accordance

465 with this chapter; or

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

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

468 (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the

469 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
470 United States.

471 (8) "Uniformed service" means:

472 (a) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast

473 Guard of the United States;

474 (b) the Merchant Marine, the commissioned corps of the Public Health Service, or the

475 commissioned corps of the National Oceanic and Atmospheric Administration of the United

476 States; or

477 (c) the National Guard.

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

479 (a) a member of the active or reserve components of the Army, Navy, Air Force, Marine

480 Corps, or Coast Guard of the United States who is on active duty;

481 (b) a member of the Merchant Marine, the commissioned corps of the Public Health

482 Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of

483 the United States;

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

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

486 (10) "United States" means the several states, the District of Columbia, Puerto Rico, the

487 United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of

488 the United States.

489 Section 8. Section **20A-16-103** is enacted to read:

490 **20A-16-103. Application to elections.**

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

492 Section 9. Section **20A-16-201** is enacted to read:

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

494 **20A-16-201. Duties of lieutenant governor.**

495 The lieutenant governor shall:

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

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

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

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

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

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

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

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

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

517 Section 10. Section **20A-16-202**, which is renumbered from Section 20A-3-413 is
518 renumbered and amended to read:

519 ~~[20A-3-413].~~ **20A-16-202. Report on absentee ballots.**

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

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

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

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

528 Section 11. Section **20A-16-301** is enacted to read:

529 **Part 3. Voter Registration**

530 **20A-16-301. Overseas voter's registration address.**

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

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

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

536 Section 12. Section **20A-16-302** is enacted to read:

537 **20A-16-302. Methods of registering to vote.**

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

540 (2) (a) A covered voter may use the declaration accompanying a federal write-in absentee
541 ballot to apply to register to vote simultaneously with the submission of the federal write-in
542 absentee ballot, if the declaration is received by the voter registration deadline established in
543 Section 20A-2-102.5.

544 (b) If the declaration is received after voter registration, the declaration shall be treated as
545 an application to register to vote for subsequent elections.

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

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

551 Section 13. Section **20A-16-401** is enacted to read:

552 **Part 4. Voting and Ballots**

553 **20A-16-401. Methods of applying for military-overseas ballots.**

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

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

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

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

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

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

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

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

572 (5) To receive the benefits of this chapter, a covered voter must inform the appropriate
573 election official that the voter is a covered voter by:

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

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

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

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

581 Section 14. Section **20A-16-402** is enacted to read:

582 **20A-16-402. Timeliness and scope of application for military-overseas ballot.**

583 (1) An application for a military-overseas ballot is timely if received by the fifth day before
584 the election.

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

588 Section 15. Section **20A-16-403** is enacted to read:

589 **20A-16-403. Transmission of unvoted ballots.**

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

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

599 (i) facsimile transmission;

600 (ii) email delivery; or

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

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

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

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

610 **20A-16-404. Timely casting of ballot.**

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

615 Section 17. Section **20A-16-405** is enacted to read:

616 **20A-16-405. Federal write-in absentee ballot.**

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

619 Section 18. Section **20A-16-406** is enacted to read:

620 **20A-16-406. Receipt of voted ballot.**

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

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

629 Section 19. Section **20A-16-407** is enacted to read:

630 **20A-16-407. Declaration.**

631 A military-overseas ballot must include or be accompanied by a declaration signed by the
632 voter that a material misstatement of fact in completing the ballot may be grounds for a conviction
633 of perjury under the laws of the United States or Title 76, Chapter 8, Part 5, Falsification in
634 Official Matters.

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

636 **20A-16-408. Confirmation of receipt of application and voted ballot.**

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

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

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

644 Section 21. Section **20A-16-501** is enacted to read:

645 **Part 5. Miscellaneous**

646 **20A-16-501. Use of voter's email address.**

647 (1) An election officer shall request an email address from each covered voter who
648 registers to vote after May 10, 2011.

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

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

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

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

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

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

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

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

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

666 Section 22. Section **20A-16-502** is enacted to read:

667 **20A-16-502. Publication of election notice.**

668 (1) At least 100 days before an election other than a statewide special election or local
669 special election and as soon as practicable before a statewide special election or local special
670 election, the election officer shall prepare an election notice for the election officer's jurisdiction,
671 to be used in conjunction with a federal write-in absentee ballot. (2) The election notice must
672 contain:

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

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

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

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

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

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

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

687 **20A-16-503. Prohibition of nonsubstantive requirements.**

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

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

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

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

698 **(b) (i) An authentication, other than the declaration specified in Section 20A-16-407 or**
699 **the declaration on the federal postcard application and federal write-in absentee ballot, is not**
700 **required for execution of a document under this chapter.**

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

703 Section 24. Section **20A-16-504** is enacted to read:

704 **20A-16-504. Equitable Relief.**

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

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

708 **(2) an election officer.**

709 Section 25. Section **20A-16-505** is enacted to read:

710 **20A-16-505. Uniformity of application and construction.**

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

713 Section 26. Section **20A-16-506** is enacted to read:

714 **20A-16-506. Relation to Electronic Signatures in Global and National Commerce Act.**

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

719 Section 27. Section **63G-2-302** is amended to read:

720 **63G-2-302. Private records.**

721 (1) The following records are private:

722 (a) records concerning an individual's eligibility for unemployment insurance benefits,
723 social services, welfare benefits, or the determination of benefit levels;

724 (b) records containing data on individuals describing medical history, diagnosis, condition,
725 treatment, evaluation, or similar medical data;

726 (c) records of publicly funded libraries that when examined alone or with other records
727 identify a patron;

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

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

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

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

732 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
733 unless the record is classified as public under legislative rule;

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

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

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

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

740 hearing; and

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

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

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

748 (h) that part of a record indicating a person's Social Security number or federal employer
749 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
750 58-1-301, 61-1-4, or 61-2f-203;

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

754 (j) a record that:

755 (i) contains information about an individual;

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

757 (iii) goes into an electronic database that:

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

759 and

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

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

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

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

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

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

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

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

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

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

774 (o) an email address provided by a military or overseas voter under Section 20A-16-501.

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

776 (a) records concerning a current or former employee of, or applicant for employment with
777 a governmental entity, including performance evaluations and personal status information such as
778 race, religion, or disabilities, but not including records that are public under Subsection
779 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

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

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

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

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

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

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

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

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

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

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

801 (i) in connection with any legal or administrative proceeding in which the patient's

802 physical, mental, or emotional condition is an element of any claim or defense; or

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

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

808 Section 28. **Repealer.**

809 This bill repeals:

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

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

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

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

Legislative Review Note

as of 2-25-11 10:51 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 162

SHORT TITLE: **Military and Overseas Voting**

SPONSOR: **Hillyard, L.**

2011 GENERAL SESSION, STATE OF UTAH

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

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

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

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

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

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