

BALLOT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian Doughty

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions in Title 20A, Election Code, relating to the ballot form to not accommodate straight party ticket voting.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ repeals a provision that authorizes a voter to vote for all the candidates from one registered political party by marking the ballot above the party name;
- ▶ amends the ballot form to not accommodate straight party ticket voting; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335

20A-3-106, as last amended by Laws of Utah 2006, Chapter 326

20A-4-102, as last amended by Laws of Utah 2002, Chapter 177

20A-4-105, as last amended by Laws of Utah 1999, Chapter 56



28 **20A-5-302**, as last amended by Laws of Utah 2007, Chapters 256 and 329

29 **20A-6-301**, as last amended by Laws of Utah 2011, Chapter 292

30 **20A-6-303**, as last amended by Laws of Utah 2011, Chapter 292

31 **20A-6-304**, as last amended by Laws of Utah 2011, Chapter 292

32 **20A-6-305**, as enacted by Laws of Utah 2011, Chapter 292

33

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

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

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

36 As used in this title:

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

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

41 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
42 upon which a voter records the voter's votes.

43 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
44 envelopes.

45 (4) "Ballot sheet":

46 (a) means a ballot that:

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

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

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

50 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

51 (a) contain the names of offices and candidates and statements of ballot propositions to
52 be voted on; and

53 (b) are used in conjunction with ballot sheets that do not display that information.

54 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
55 on the ballot for their approval or rejection including:

56 (a) an opinion question specifically authorized by the Legislature;

57 (b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question; or

(g) any other ballot question specifically authorized by the Legislature.

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

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

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

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

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

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

(13) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

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

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

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

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

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

(19) "County officers" means those county officers that are required by law to be

90 elected.

91 (20) "Date of the election" or "election day" or "day of the election":

92 (a) means the day that is specified in the calendar year as the day that the election
93 occurs; and

94 (b) does not include:

95 (i) deadlines established for absentee voting; or

96 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
97 Voting.

98 (21) "Elected official" means:

99 (a) a person elected to an office under Section 20A-1-303;

100 (b) a person who is considered to be elected to a municipal office in accordance with
101 Subsection 20A-1-206(1)(c)(ii); or

102 (c) a person who is considered to be elected to a local district office in accordance with
103 Subsection 20A-1-206(3)(c)(ii).

104 (22) "Election" means a regular general election, a municipal general election, a
105 statewide special election, a local special election, a regular primary election, a municipal
106 primary election, and a local district election.

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

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

111 (25) "Election judge" means a poll worker that is assigned to:

112 (a) preside over other poll workers at a polling place;

113 (b) act as the presiding election judge; or

114 (c) serve as a canvassing judge, counting judge, or receiving judge.

115 (26) "Election officer" means:

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

117 (b) the county clerk for:

118 (i) a county ballot and election; and

119 (ii) a ballot and election as a provider election officer as provided in Section
120 20A-5-400.1 or 20A-5-400.5;

- 121 (c) the municipal clerk for:
122 (i) a municipal ballot and election; and
123 (ii) a ballot and election as a provider election officer as provided in Section
124 20A-5-400.1 or 20A-5-400.5;
125 (d) the local district clerk or chief executive officer for:
126 (i) a local district ballot and election; and
127 (ii) a ballot and election as a provider election officer as provided in Section
128 20A-5-400.1 or 20A-5-400.5; or
129 (e) the business administrator or superintendent of a school district for:
130 (i) a school district ballot and election; and
131 (ii) a ballot and election as a provider election officer as provided in Section
132 20A-5-400.1 or 20A-5-400.5.
133 (27) "Election official" means:
134 (a) for an election other than a bond election, the count of votes cast in the election and
135 the election returns requested by the board of canvassers; or
136 (b) any election officer, election judge, or poll worker.
137 (28) "Election results" means:
138 (a) for an election other than a bond election, the count of votes cast in the election and
139 the election returns requested by the board of canvassers; or
140 (b) for bond elections, the count of those votes cast for and against the bond
141 proposition plus any or all of the election returns that the board of canvassers may request.
142 (29) "Election returns" includes the pollbook, all affidavits of registration, the military
143 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
144 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
145 spoiled ballots, the ballot disposition form, and the total votes cast form.
146 (30) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
147 device or other voting device that records and stores ballot information by electronic means.
148 (31) "Electronic signature" means an electronic sound, symbol, or process attached to
149 or logically associated with a record and executed or adopted by a person with the intent to sign
150 the record.
151 (32) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(33) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

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

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

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

(37) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(38) "Local district officers" means those local district officers that are required by law to be elected.

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

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

(41) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(42) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

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

(44) "Municipal legislative body" means the council of the city or town in any form of municipal government.

- 183 (45) "Municipal office" means an elective office in a municipality.
- 184 (46) "Municipal officers" means those municipal officers that are required by law to be
185 elected.
- 186 (47) "Municipal primary election" means an election held to nominate candidates for
187 municipal office.
- 188 (48) "Official ballot" means the ballots distributed by the election officer to the poll
189 workers to be given to voters to record their votes.
- 190 (49) "Official endorsement" means:
- 191 (a) the information on the ballot that identifies:
- 192 (i) the ballot as an official ballot;
- 193 (ii) the date of the election; and
- 194 (iii) the facsimile signature of the election officer; and
- 195 (b) the information on the ballot stub that identifies:
- 196 (i) the poll worker's initials; and
- 197 (ii) the ballot number.
- 198 (50) "Official register" means the official record furnished to election officials by the
199 election officer that contains the information required by Section 20A-5-401.
- 200 (51) "Paper ballot" means a paper that contains:
- 201 (a) the names of offices and candidates and statements of ballot propositions to be
202 voted on; and
- 203 (b) spaces for the voter to record the voter's vote for each office and for or against each
204 ballot proposition.
- 205 (52) "Political party" means an organization of registered voters that has qualified to
206 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
207 and Procedures.
- 208 (53) (a) "Poll worker" means a person assigned by an election official to assist with an
209 election, voting, or counting votes.
- 210 (b) "Poll worker" includes election judges.
- 211 (c) "Poll worker" does not include a watcher.
- 212 (54) "Pollbook" means a record of the names of voters in the order that they appear to
213 cast votes.

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

215 (56) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
216 in which the voter marks the voter's choice.

217 (57) "Provider election officer" means an election officer who enters into a contract or
218 interlocal agreement with a contracting election officer to conduct an election for the
219 contracting election officer's local political subdivision in accordance with Section
220 20A-5-400.1.

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

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

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

224 (c) whose identity was not sufficiently established by a poll worker.

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

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

230 (61) "Protective counter" means a separate counter, which cannot be reset, that:

231 (a) is built into a voting machine; and

232 (b) records the total number of movements of the operating lever.

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

235 (63) "Receiving judge" means the poll worker that checks the voter's name in the
236 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
237 after the voter has voted.

238 (64) "Registration form" means a book voter registration form and a by-mail voter
239 registration form.

240 (65) "Regular ballot" means a ballot that is not a provisional ballot.

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

244 (67) "Regular primary election" means the election on the fourth Tuesday of June of

each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

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

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

~~[(70) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.]~~

~~[(71)]~~ (70) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

~~[(72)]~~ (71) "Special election" means an election held as authorized by Section 20A-1-204.

~~[(73)]~~ (72) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

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

(c) lacks the official endorsement.

~~[(74)]~~ (73) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

~~[(75)]~~ (74) "Stub" means the detachable part of each ballot.

~~[(76)]~~ (75) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

~~[(77)]~~ (76) "Ticket" means each list of candidates for each political party or for each group of petitioners.

~~[(78)]~~ (77) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

~~[(79)]~~ (78) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

~~[(80)]~~ (79) "Valid voter identification" means:

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

276 (i) a currently valid Utah driver license;
277 (ii) a currently valid identification card that is issued by:
278 (A) the state; or
279 (B) a branch, department, or agency of the United States;
280 (iii) a currently valid Utah permit to carry a concealed weapon;
281 (iv) a currently valid United States passport; or
282 (v) a currently valid United States military identification card;
283 (b) one of the following identification cards, whether or not the card includes a
284 photograph of the voter:
285 (i) a valid tribal identification card;
286 (ii) a Bureau of Indian Affairs card; or
287 (iii) a tribal treaty card; or
288 (c) two forms of identification not listed under Subsection [~~(80)~~] (79)(a) or (b) but that
289 bear the name of the voter and provide evidence that the voter resides in the voting precinct,
290 which may include:
291 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
292 election;
293 (ii) a bank or other financial account statement, or a legible copy thereof;
294 (iii) a certified birth certificate;
295 (iv) a valid Social Security card;
296 (v) a check issued by the state or the federal government or a legible copy thereof;
297 (vi) a paycheck from the voter's employer, or a legible copy thereof;
298 (vii) a currently valid Utah hunting or fishing license;
299 (viii) certified naturalization documentation;
300 (ix) a currently valid license issued by an authorized agency of the United States;
301 (x) a certified copy of court records showing the voter's adoption or name change;
302 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
303 (xii) a currently valid identification card issued by:
304 (A) a local government within the state;
305 (B) an employer for an employee; or
306 (C) a college, university, technical school, or professional school located within the

307 state; or

308 (xiii) a current Utah vehicle registration.

309 ~~[(81)]~~ (80) "Valid write-in candidate" means a candidate who has qualified as a
310 write-in candidate by following the procedures and requirements of this title.

311 ~~[(82)]~~ (81) "Voter" means a person who:

312 (a) meets the requirements for voting in an election;

313 (b) meets the requirements of election registration;

314 (c) is registered to vote; and

315 (d) is listed in the official register book.

316 ~~[(83)]~~ (82) "Voter registration deadline" means the registration deadline provided in
317 Section 20A-2-102.5.

318 ~~[(84)]~~ (83) "Voting area" means the area within six feet of the voting booths, voting
319 machines, and ballot box.

320 ~~[(85)]~~ (84) "Voting booth" means:

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

323 (b) a voting device that is free standing.

324 ~~[(86)]~~ (85) "Voting device" means:

325 (a) an apparatus in which ballot sheets are used in connection with a punch device for
326 piercing the ballots by the voter;

327 (b) a device for marking the ballots with ink or another substance;

328 (c) an electronic voting device or other device used to make selections and cast a ballot
329 electronically, or any component thereof;

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

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

333 ~~[(87)]~~ (86) "Voting machine" means a machine designed for the sole purpose of
334 recording and tabulating votes cast by voters at an election.

335 ~~[(88)]~~ (87) "Voting poll watcher" means a person appointed as provided in this title to
336 witness the distribution of ballots and the voting process.

337 ~~[(89)]~~ (88) "Voting precinct" means the smallest voting unit established as provided by

law within which qualified voters vote at one polling place.

~~[(90)]~~ (89) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

~~[(91)]~~ (90) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

~~[(92)]~~ (91) "Write-in ballot" means a ballot containing any write-in votes.

~~[(93)]~~ (92) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section **20A-3-106** is amended to read:

20A-3-106. Voting straight ticket -- Splitting ballot -- Writing in names -- Effect of unnecessary marking of cross.

(1) When voting a paper ballot, any voter desiring to vote for all the candidates from any one registered political party may~~[-(a) mark in the circle or position above that political party; (b)]~~ mark in the squares or position opposite the names of all candidates for that party ticket~~[-or]~~.

~~[(c) make both markings.]~~

(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates from any one registered political party may~~[-(i) mark the selected party on the straight party page or section; or (ii)]~~ mark the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may~~[-(i)]~~ mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote ~~[without marking in any circle; or]~~.

~~[(ii) indicate his choice by marking in the circle or position above one political party and marking in the squares or positions opposite the names of desired candidates.]~~

(3) (a) When voting an electronic ballot, any voter desiring to vote for all the candidates from any one registered political party may~~[-(i) select that party on the straight party selection area; or (ii)]~~ select the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may~~[-(i)]~~ select the names of the candidates for whom the voter wishes to vote ~~[without selecting a political party in the straight party selection area; or]~~.

~~[(ii) select a political party in the straight party selection area and select the names of~~

the candidates for whom the voter wishes to vote.]

~~[(4) In any election other than a primary election, if a voter voting a ballot has selected or placed a mark next to a party name in order to vote a straight party ticket and wishes to vote for a person on another party ticket for an office, the voter shall select or mark the ballot next to the name of the candidate for whom the voter wishes to vote.]~~

~~[(5)]~~ (4) (a) The voter may cast a write-in vote on a paper ballot or ballot sheet:

(i) by entering the name of a valid write-in candidate:

(A) by writing the name of a valid write-in candidate in the blank write-in section of the ballot; or

(B) by affixing a sticker with the office and name of the valid write-in name printed on it in the blank write-in part of the ballot; and

(ii) by placing a mark opposite the name of the write-in candidate to indicate the voter's vote.

(b) On a paper ballot or ballot sheet, a voter is considered to have voted for the person whose name is written or whose sticker appears in the blank write-in part of the ballot, if a mark is made opposite that name.

(c) On a paper ballot or ballot sheet, the unnecessary marking of a mark in a square on the ticket below the marked circle does not affect the validity of the vote.

~~[(6)]~~ (5) The voter may cast a write-in vote on an electronic ballot by:

(a) marking the appropriate position opposite the area for entering a write-in candidate for the office sought by the candidate for whom the voter wishes to vote; and

(b) entering the name of a valid write-in candidate in the write-in selection area.

Section 3. Section **20A-4-102** is amended to read:

20A-4-102. Counting paper ballots after the polls close.

(1) (a) Except as provided in Subsection (2), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(b) The election judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the

pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall:

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

431 ~~[(ii)] count one vote for each candidate on the ticket beneath a marked circle, excluding~~
432 ~~any candidate for an office for which a vote has been cast for a candidate for the same office~~
433 ~~upon another ticket by the placing of a mark in the square opposite the name of that candidate~~
434 ~~on the other ticket;]~~

435 ~~[(iii)]~~ (ii) count each vote for each write-in candidate who has qualified by filing a
436 declaration of candidacy under Section 20A-9-601;

437 ~~[(iv)]~~ (iii) read every name marked on the ballot and mark every name upon the tally
438 sheets before another ballot is counted;

439 ~~[(v)]~~ (iv) evaluate each ballot and each vote based on the standards and requirements of
440 Section 20A-4-105;

441 ~~[(vi)]~~ (v) write the word "spoiled" on the back of each ballot that lacks the official
442 endorsement and deposit it in the spoiled ballot envelope; and

443 ~~[(vii)]~~ (vi) read, count, and record upon the tally sheets the votes that each candidate
444 and ballot proposition received from all ballots, except excess or spoiled ballots.

445 (b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or
446 persons clearly not eligible to qualify for office.

447 (c) The judges shall certify to the accuracy and completeness of the tally list in the
448 space provided on the tally list.

449 (d) When the judges have counted all of the voted ballots, they shall record the results
450 on the total votes cast form.

451 (7) Only election judges and counting poll watchers may be present at the place where
452 counting is conducted until the count is completed.

453 Section 4. Section **20A-4-105** is amended to read:

454 **20A-4-105. Standards and requirements for evaluating voter's ballot choices.**

455 (1) Each person counting ballots shall apply the standards and requirements of this
456 section to resolve any questions that arise as ballots are counted.

457 (2) Except as provided in Subsection ~~[(11)]~~ (10), if a voter marks more names than
458 there are persons to be elected to an office, or if for any reason it is impossible to determine the
459 choice of any voter for any office to be filled, the counter may not count that voter's ballot for
460 that office.

461 (3) The counter shall count a defective or incomplete mark on any paper ballot if:

(a) it is in the proper place; and

(b) there is no other mark or cross on the paper ballot indicating the voter's intent to vote other than as indicated by the defective mark.

~~[(4) (a) When the voter has marked the ballot so that it appears that the voter has voted more than one straight ticket, the election judges may not count any votes for party candidates.]~~

~~[(b) The election judges shall count the remainder of the ballot if it is voted correctly.]~~

~~[(5)]~~ (4) A counter may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot or group of ballots show an intent by a person or group to mark their ballots so that their ballots can be identified.

~~[(6)]~~ (5) (a) In counting the ballots, the counters shall give full consideration to the intent of the voter.

(b) The counters may not invalidate a ballot because of mechanical and technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3, Voting.

~~[(7)]~~ (6) The counters may not reject a ballot because of any error in:

(a) stamping or writing any official endorsement; or

(b) delivering the wrong ballots to any polling place.

~~[(8)]~~ (7) The counter may not count any paper ballot that does not have the official endorsement by an election officer.

~~[(9)]~~ (8) If the counter discovers that the name of a candidate voted for is misspelled or that the initial letters of a candidate's given name are transposed or omitted in part or altogether, the counter shall count the voter's vote for that candidate if it is apparent that the voter intended to vote for that candidate.

~~[(10)]~~ (9) The counter shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

~~[(11)]~~ (10) In counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the judges shall count the valid write-in vote as being the obvious intent of the voter.

Section 5. Section **20A-5-302** is amended to read:

20A-5-302. Automated voting system.

493 (1) (a) Any county or municipal legislative body or local district board may:

494 (i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any
495 automated voting system that meets the requirements of this section; and

496 (ii) use that system in any election, in all or a part of the voting precincts within its
497 boundaries, or in combination with paper ballots.

498 (b) Nothing in this title shall be construed to require the use of electronic voting
499 devices in local special elections, municipal primary elections, or municipal general elections.

500 (2) (a) Each automated voting system shall:

501 (i) provide for voting in secrecy, except in the case of voters who have received
502 assistance as authorized by Section 20A-3-108;

503 (ii) permit each voter at any election to:

504 (A) vote for all persons and offices for whom and for which that voter is lawfully
505 entitled to vote;

506 (B) vote for as many persons for an office as that voter is entitled to vote; and

507 (C) vote for or against any ballot proposition upon which that voter is entitled to vote;

508 (iii) permit each voter, at presidential elections, by one mark or punch to vote for the
509 candidates of that party for president, vice president, and for their presidential electors;

510 ~~[(iv) permit each voter, at any regular general election, to vote for all the candidates of~~
511 ~~one registered political party by making one mark or punch;]~~

512 ~~[(v) permit each voter to scratch vote;]~~

513 ~~[(vi)]~~ (iv) at elections other than primary elections, permit each voter to vote for the
514 nominees of one or more parties and for independent candidates;

515 ~~[(vii)]~~ (v) at primary elections:

516 (A) permit each voter to vote for candidates of the political party of his choice; and

517 (B) reject any votes cast for candidates of another party;

518 ~~[(viii)]~~ (vi) prevent the voter from voting for the same person more than once for the
519 same office;

520 ~~[(ix)]~~ (vii) provide the opportunity for each voter to change the ballot and to correct
521 any error before the voter casts the ballot in compliance with the Help America Vote Act of
522 2002, Pub. L. No. 107-252;

523 ~~[(x)]~~ (viii) include automatic tabulating equipment that rejects choices recorded on a

voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;

~~[(xi)]~~ (ix) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

~~[(xii)]~~ (x) when properly operated, record correctly, and count accurately each vote cast;

~~[(xiii)]~~ (xi) for voting equipment certified after January 1, 2005, produce a permanent paper record that:

(A) shall be available as an official record for any recount or election contest conducted with respect to an election where the voting equipment is used;

(B) (I) shall be available for the voter's inspection prior to the voter leaving the polling place; and

(II) shall permit the voter to inspect the record of the voter's selections independently only if reasonably practicable commercial methods permitting independent inspection are available at the time of certification of the voting equipment by the lieutenant governor;

(C) shall include, at a minimum, human readable printing that shows a record of the voter's selections;

(D) may also include machine readable printing which may be the same as the human readable printing; and

(E) allows voting poll watchers and counting poll watchers to observe the election process to ensure its integrity; and

~~[(xiv)]~~ (xii) meet the requirements of Section 20A-5-402.5.

(b) For the purposes of a recount or an election contest, if the permanent paper record contains a conflict or inconsistency between the human readable printing and the machine readable printing, the human readable printing shall supercede the machine readable printing when determining the intent of the voter.

(c) Notwithstanding any other provisions of this section, the election officers shall ensure that the ballots to be counted by means of electronic or electromechanical devices are of a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

Section 6. Section **20A-6-301** is amended to read:

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

(1) Each election officer shall ensure that:

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

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

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

(iii) ballot stubs are numbered consecutively;

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

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the county clerk and the words "county clerk";

(d) each ticket is placed in a separate column on the ballot in the order specified under Section 20A-6-305 with the party emblem, followed by the party name, at the head of the column;

(e) the party name or title is printed in capital letters not less than one-fourth of an inch high;

~~[(f) a circle one-half inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;]~~

~~[(g)]~~ (f) unaffiliated candidates and candidates not affiliated with a registered political party are listed in one column in the order specified under Section 20A-6-305, ~~[without a party circle,]~~ with the following instructions printed at the head of the column: "All candidates not affiliated with a political party are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.";

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

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

~~[(j)]~~ (i) the names of candidates are printed in capital letters, not less than one-eighth

nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point,
between lines or rules three-eighths of an inch apart;

~~[(k)]~~ (j) a square with sides measuring not less than one-fourth of an inch in length is
printed immediately adjacent to the name of each candidate;

~~[(h)]~~ (k) for the offices of president and vice president and governor and lieutenant
governor, one square with sides measuring not less than one-fourth of an inch in length is
printed on the same side as but opposite a double bracket enclosing the names of the two
candidates;

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

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

(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a
square with sides measuring not less than one-fourth of an inch in length printed immediately
adjacent to the blank horizontal line; or

(B) for the offices of president and vice president and governor and lieutenant
governor, two blank horizontal lines, one placed above the other, to enable the entry of two
valid write-in candidates, and one square with sides measuring not less than one-fourth of an
inch in length printed on the same side as but opposite a double bracket enclosing the two
blank horizontal lines; and

(ii) the words "Write-In Voting Column" printed at the head of the column ~~[without a
one-half inch circle]~~;

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

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

(2) Each election officer shall ensure that:

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

- 617 (i) under the party name and emblem, if any; or
618 (ii) under the title of the party or group as designated by them in their certificates of
619 nomination or petition, or, if none is designated, then under some suitable title;
- 620 (b) the names of all unaffiliated candidates that qualify as required in Title 20A,
621 Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;
- 622 (c) the names of the candidates for president and vice president are used on the ballot
623 instead of the names of the presidential electors; and
- 624 (d) the ballots contain no other names.
- 625 (3) When the ballot contains a nonpartisan section, the election officer shall ensure
626 that:
- 627 (a) the designation of the office to be filled in the election and the number of
628 candidates to be elected are printed in type not smaller than eight point;
- 629 (b) the words designating the office are printed flush with the left-hand margin;
- 630 (c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of
631 the column;
- 632 (d) the nonpartisan candidates are grouped according to the office for which they are
633 candidates;
- 634 (e) the names in each group are placed in the order specified under Section 20A-6-305
635 with the surnames last; and
- 636 (f) each group is preceded by the designation of the office for which the candidates
637 seek election, and the words, "Vote for one" or "Vote for two or more," according to the
638 number to be elected.
- 639 (4) Each election officer shall ensure that:
- 640 (a) proposed amendments to the Utah Constitution are listed on the ballot in
641 accordance with Section 20A-6-107;
- 642 (b) ballot propositions submitted to the voters are listed on the ballot in accordance
643 with Section 20A-6-107; and
- 644 (c) bond propositions that have qualified for the ballot are listed on the ballot under the
645 title assigned to each bond proposition under Section 11-14-206.
- 646 Section 7. Section **20A-6-303** is amended to read:
- 647 **20A-6-303. Regular general election -- Ballot sheets.**

(1) Each election officer shall ensure that:

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

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

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

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

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

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

~~[(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;]~~

~~[(e)]~~ (d) the tickets are printed in the order specified under Section 20A-6-305;

~~[(f)]~~ (e) the office titles are printed immediately adjacent to the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

~~[(g)]~~ (f) the party designation of each candidate is printed immediately adjacent to the candidate's name; and

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

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

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

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

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed in accordance with Section 20A-6-107; and

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

Section 8. Section **20A-6-304** is amended to read:

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

(1) Each election officer shall ensure that:

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

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

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

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

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

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

~~[(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;]~~

~~[(e)]~~ (d) the tickets are displayed in the order specified under Section 20A-6-305;

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

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

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

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107; and

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

Section 9. Section **20A-6-305** is amended to read:

**20A-6-305. Master ballot position list -- Random selection -- Procedures --
Publication -- Surname -- Exemptions.**

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) at the beginning of each general election year conduct a random selection to establish the master ballot position list for the current year and the next year in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position lists on the lieutenant governor's election website on or before February 1 in each regular general election year; and

(c) establish written procedures for:

(i) the election official to use the master ballot position list; and

(ii) the lieutenant governor in:

(A) conducting the random selection in a fair manner; and

(B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

(a) the candidate's surname;

(b) for candidates with a surname that has the same spelling, the candidate's given name; and

(c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor[~~;~~ and].

~~[(d) if the ballot provides for a ticket or a straight party ticket, the registered political party name.]~~

(5) This section does not apply to:

(a) an election for an office for which only one candidate is listed on the ballot; or

(b) a judicial retention election under Section 20A-12-201.

Legislative Review Note

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Office of Legislative Research and General Counsel