

STRAIGHT PARTY VOTING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

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 2012, Chapters 72, 251, 309, 359 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 309

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



- 28 **20A-4-105**, as last amended by Laws of Utah 1999, Chapter 56
- 29 **20A-5-302**, as last amended by Laws of Utah 2007, Chapters 256 and 329
- 30 **20A-6-301**, as last amended by Laws of Utah 2012, Chapter 68
- 31 **20A-6-303**, as last amended by Laws of Utah 2011, Chapter 292
- 32 **20A-6-304**, as last amended by Laws of Utah 2011, Chapter 292
- 33 **20A-6-305**, as enacted by Laws of Utah 2011, Chapter 292

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

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

37 **20A-1-102. Definitions.**

38 As used in this title:

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

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

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

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

47 (4) "Ballot sheet":

48 (a) means a ballot that:

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

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

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

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

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

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

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

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

- 59 (b) a constitutional amendment;
- 60 (c) an initiative;
- 61 (d) a referendum;
- 62 (e) a bond proposition;
- 63 (f) a judicial retention question;
- 64 (g) an incorporation of a city or town; or
- 65 (h) any other ballot question specifically authorized by the Legislature.
- 66 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
- 67 together with a staple or stitch in at least three places across the top of the paper in the blank
- 68 space reserved for securing the paper.
- 69 (8) "Board of canvassers" means the entities established by Sections 20A-4-301 and
- 70 20A-4-306 to canvass election returns.
- 71 (9) "Bond election" means an election held for the purpose of approving or rejecting
- 72 the proposed issuance of bonds by a government entity.
- 73 (10) "Book voter registration form" means voter registration forms contained in a
- 74 bound book that are used by election officers and registration agents to register persons to vote.
- 75 (11) "Business reply mail envelope" means an envelope that may be mailed free of
- 76 charge by the sender.
- 77 (12) "By-mail voter registration form" means a voter registration form designed to be
- 78 completed by the voter and mailed to the election officer.
- 79 (13) "Canvass" means the review of election returns and the official declaration of
- 80 election results by the board of canvassers.
- 81 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
- 82 the canvass.
- 83 (15) "Contracting election officer" means an election officer who enters into a contract
- 84 or interlocal agreement with a provider election officer.
- 85 (16) "Convention" means the political party convention at which party officers and
- 86 delegates are selected.
- 87 (17) "Counting center" means one or more locations selected by the election officer in
- 88 charge of the election for the automatic counting of ballots.
- 89 (18) "Counting judge" means a poll worker designated to count the ballots during

90 election day.

91 (19) "Counting poll watcher" means a person selected as provided in Section
92 20A-3-201 to witness the counting of ballots.

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

96 (21) "County officers" means those county officers that are required by law to be
97 elected.

98 (22) "Date of the election" or "election day" or "day of the election":

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

101 (b) does not include:

102 (i) deadlines established for absentee voting; or

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

105 (23) "Elected official" means:

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

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

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

111 (24) "Election" means a regular general election, a municipal general election, a
112 statewide special election, a local special election, a regular primary election, a municipal
113 primary election, and a local district election.

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

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

118 (27) "Election judge" means a poll worker that is assigned to:

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

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

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

152 (33) "Electronic signature" means an electronic sound, symbol, or process attached to
153 or logically associated with a record and executed or adopted by a person with the intent to sign
154 the record.

155 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

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

157 (35) "Inactive voter" means a registered voter who has:

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

159 (b) failed to respond to that notice.

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

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

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

165 (39) "Local district" means a local government entity under Title 17B, Limited Purpose
166 Local Government Entities - Local Districts, and includes a special service district under Title
167 17D, Chapter 1, Special Service District Act.

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

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

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

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

177 (44) "Municipal executive" means:

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

179 or

180 (b) the mayor in the council-manager form of government defined in Subsection
181 10-3b-103(6).

182 (45) "Municipal general election" means the election held in municipalities and local

183 districts on the first Tuesday after the first Monday in November of each odd-numbered year
184 for the purposes established in Section 20A-1-202.

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

187 (47) "Municipal office" means an elective office in a municipality.

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

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

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

194 (51) "Official endorsement" means:

195 (a) the information on the ballot that identifies:

196 (i) the ballot as an official ballot;

197 (ii) the date of the election; and

198 (iii) the facsimile signature of the election officer; and

199 (b) the information on the ballot stub that identifies:

200 (i) the poll worker's initials; and

201 (ii) the ballot number.

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

204 (53) "Paper ballot" means a paper that contains:

205 (a) the names of offices and candidates and statements of ballot propositions to be
206 voted on; and

207 (b) spaces for the voter to record the voter's vote for each office and for or against each
208 ballot proposition.

209 (54) "Political party" means an organization of registered voters that has qualified to
210 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
211 and Procedures.

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

- 214 (b) "Poll worker" includes election judges.
- 215 (c) "Poll worker" does not include a watcher.
- 216 (56) "Pollbook" means a record of the names of voters in the order that they appear to
217 cast votes.
- 218 (57) "Polling place" means the building where voting is conducted.
- 219 (58) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
220 in which the voter marks the voter's choice.
- 221 (59) "Provider election officer" means an election officer who enters into a contract or
222 interlocal agreement with a contracting election officer to conduct an election for the
223 contracting election officer's local political subdivision in accordance with Section
224 20A-5-400.1.
- 225 (60) "Provisional ballot" means a ballot voted provisionally by a person:
226 (a) whose name is not listed on the official register at the polling place;
227 (b) whose legal right to vote is challenged as provided in this title; or
228 (c) whose identity was not sufficiently established by a poll worker.
- 229 (61) "Provisional ballot envelope" means an envelope printed in the form required by
230 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
231 verify a person's legal right to vote.
- 232 (62) "Primary convention" means the political party conventions at which nominees for
233 the regular primary election are selected.
- 234 (63) "Protective counter" means a separate counter, which cannot be reset, that:
235 (a) is built into a voting machine; and
236 (b) records the total number of movements of the operating lever.
- 237 (64) "Qualify" or "qualified" means to take the oath of office and begin performing the
238 duties of the position for which the person was elected.
- 239 (65) "Receiving judge" means the poll worker that checks the voter's name in the
240 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
241 after the voter has voted.
- 242 (66) "Registration form" means a book voter registration form and a by-mail voter
243 registration form.
- 244 (67) "Regular ballot" means a ballot that is not a provisional ballot.

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

248 (69) "Regular primary election" means the election on the fourth Tuesday of June of
249 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to
250 advance to the regular general election.

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

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

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

256 [~~(73)~~] (72) "Secrecy envelope" means the envelope given to a voter along with the
257 ballot into which the voter places the ballot after the voter has voted it in order to preserve the
258 secrecy of the voter's vote.

259 [~~(74)~~] (73) "Special election" means an election held as authorized by Section
260 20A-1-204.

261 [~~(75)~~] (74) "Spoiled ballot" means each ballot that:

262 (a) is spoiled by the voter;

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

264 (c) lacks the official endorsement.

265 [~~(76)~~] (75) "Statewide special election" means a special election called by the governor
266 or the Legislature in which all registered voters in Utah may vote.

267 [~~(77)~~] (76) "Stub" means the detachable part of each ballot.

268 [~~(78)~~] (77) "Substitute ballots" means replacement ballots provided by an election
269 officer to the poll workers when the official ballots are lost or stolen.

270 [~~(79)~~] (78) "Ticket" means each list of candidates for each political party or for each
271 group of petitioners.

272 [~~(80)~~] (79) "Transfer case" means the sealed box used to transport voted ballots to the
273 counting center.

274 [~~(81)~~] (80) "Vacancy" means the absence of a person to serve in any position created
275 by statute, whether that absence occurs because of death, disability, disqualification,

276 resignation, or other cause.

277 [~~(82)~~] (81) "Valid voter identification" means:

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

280 (i) a currently valid Utah driver license;

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

282 (A) the state; or

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

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

285 (iv) a currently valid United States passport; or

286 (v) a currently valid United States military identification card;

287 (b) one of the following identification cards, whether or not the card includes a

288 photograph of the voter:

289 (i) a valid tribal identification card;

290 (ii) a Bureau of Indian Affairs card; or

291 (iii) a tribal treaty card; or

292 (c) two forms of identification not listed under Subsection [~~(82)~~] (81)(a) or (b) but that
293 bear the name of the voter and provide evidence that the voter resides in the voting precinct,
294 which may include:

295 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
296 election;

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

298 (iii) a certified birth certificate;

299 (iv) a valid Social Security card;

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

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

302 (vii) a currently valid Utah hunting or fishing license;

303 (viii) certified naturalization documentation;

304 (ix) a currently valid license issued by an authorized agency of the United States;

305 (x) a certified copy of court records showing the voter's adoption or name change;

306 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

- 307 (xii) a currently valid identification card issued by:
- 308 (A) a local government within the state;
- 309 (B) an employer for an employee; or
- 310 (C) a college, university, technical school, or professional school located within the
- 311 state; or
- 312 (xiii) a current Utah vehicle registration.
- 313 ~~[(83)]~~ (82) "Valid write-in candidate" means a candidate who has qualified as a
- 314 write-in candidate by following the procedures and requirements of this title.
- 315 ~~[(84)]~~ (83) "Voter" means a person who:
- 316 (a) meets the requirements for voting in an election;
- 317 (b) meets the requirements of election registration;
- 318 (c) is registered to vote; and
- 319 (d) is listed in the official register book.
- 320 ~~[(85)]~~ (84) "Voter registration deadline" means the registration deadline provided in
- 321 Section 20A-2-102.5.
- 322 ~~[(86)]~~ (85) "Voting area" means the area within six feet of the voting booths, voting
- 323 machines, and ballot box.
- 324 ~~[(87)]~~ (86) "Voting booth" means:
- 325 (a) the space or compartment within a polling place that is provided for the preparation
- 326 of ballots, including the voting machine enclosure or curtain; or
- 327 (b) a voting device that is free standing.
- 328 ~~[(88)]~~ (87) "Voting device" means:
- 329 (a) an apparatus in which ballot sheets are used in connection with a punch device for
- 330 piercing the ballots by the voter;
- 331 (b) a device for marking the ballots with ink or another substance;
- 332 (c) an electronic voting device or other device used to make selections and cast a ballot
- 333 electronically, or any component thereof;
- 334 (d) an automated voting system under Section 20A-5-302; or
- 335 (e) any other method for recording votes on ballots so that the ballot may be tabulated
- 336 by means of automatic tabulating equipment.
- 337 ~~[(89)]~~ (88) "Voting machine" means a machine designed for the sole purpose of

338 recording and tabulating votes cast by voters at an election.

339 ~~[(90)]~~ (89) "Voting poll watcher" means a person appointed as provided in this title to
340 witness the distribution of ballots and the voting process.

341 ~~[(91)]~~ (90) "Voting precinct" means the smallest voting unit established as provided by
342 law within which qualified voters vote at one polling place.

343 ~~[(92)]~~ (91) "Watcher" means a voting poll watcher, a counting poll watcher, an
344 inspecting poll watcher, and a testing watcher.

345 ~~[(93)]~~ (92) "Western States Presidential Primary" means the election established in
346 Chapter 9, Part 8, Western States Presidential Primary.

347 ~~[(94)]~~ (93) "Write-in ballot" means a ballot containing any write-in votes.

348 ~~[(95)]~~ (94) "Write-in vote" means a vote cast for a person whose name is not printed on
349 the ballot according to the procedures established in this title.

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

351 **20A-3-106. Splitting ballot -- Writing in names -- Effect of unnecessary marking**
352 **of cross.**

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

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

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

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

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

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

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

372 ~~[(ii) select a political party in the straight party selection area and select the names of~~
373 ~~the candidates for whom the voter wishes to vote.]~~

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

378 ~~[(5)]~~ (4) (a) The voter may cast a write-in vote on a paper ballot or ballot sheet:

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

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

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

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

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

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

391 ~~[(6)]~~ (5) The voter may cast a write-in vote on an electronic ballot by:

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

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

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

396 **20A-4-102. Counting paper ballots after the polls close.**

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

400 (b) The election judges shall apply the standards and requirements of Section
401 20A-4-105 to resolve any questions that arise as they count the ballots.

402 (2) (a) First, the election judges shall count the number of ballots in the ballot box.
403 (b) (i) If there are more ballots in the ballot box than there are names entered in the
404 pollbook, the judges shall examine the official endorsements on the ballots.
405 (ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper
406 official endorsement, the judges shall put those ballots in an excess ballot file and not count
407 them.

408 (c) (i) If, after examining the official endorsements, there are still more ballots in the
409 ballot box than there are names entered in the pollbook, the judges shall place the remaining
410 ballots back in the ballot box.
411 (ii) One of the judges, without looking, shall draw a number of ballots equal to the
412 excess from the ballot box.
413 (iii) The judges shall put those excess ballots into the excess ballot envelope and not
414 count them.

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

417 (3) The judges shall:
418 (a) place all unused ballots in the envelope or container provided for return to the
419 county clerk or city recorder; and
420 (b) seal that envelope or container.

421 (4) The judges shall:
422 (a) place all of the provisional ballot envelopes in the envelope provided for them for
423 return to the election officer; and
424 (b) seal that envelope or container.

425 (5) (a) In counting the votes, the election judges shall read and count each ballot
426 separately.
427 (b) In regular primary elections the judges shall:
428 (i) count the number of ballots cast for each party;
429 (ii) place the ballots cast for each party in separate piles; and
430 (iii) count all the ballots for one party before beginning to count the ballots cast for

431 other parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

458 **20A-4-105. Standards and requirements for evaluating voter's ballot choices.**

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

461 (2) Except as provided in Subsection ~~[(H)]~~ (10), if a voter marks more names than

462 there are persons to be elected to an office, or if for any reason it is impossible to determine the
463 choice of any voter for any office to be filled, the counter may not count that voter's ballot for
464 that office.

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

466 (a) it is in the proper place; and

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

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

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

472 ~~[(5)]~~ (4) A counter may not reject a ballot marked by the voter because of marks on the
473 ballot other than those marks allowed by this section unless the extraneous marks on a ballot or
474 group of ballots show an intent by a person or group to mark their ballots so that their ballots
475 can be identified.

476 ~~[(6)]~~ (5) (a) In counting the ballots, the counters shall give full consideration to the
477 intent of the voter.

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

481 ~~[(7)]~~ (6) The counters may not reject a ballot because of any error in:

482 (a) stamping or writing any official endorsement; or

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

484 ~~[(8)]~~ (7) The counter may not count any paper ballot that does not have the official
485 endorsement by an election officer.

486 ~~[(9)]~~ (8) If the counter discovers that the name of a candidate voted for is misspelled or
487 that the initial letters of a candidate's given name are transposed or omitted in part or
488 altogether, the counter shall count the voter's vote for that candidate if it is apparent that the
489 voter intended to vote for that candidate.

490 ~~[(10)]~~ (9) The counter shall count a vote for the president and the vice president of any
491 political party as a vote for the presidential electors selected by the political party.

492 ~~[(11)]~~ (10) In counting the valid write-in votes, if, by casting a valid write-in vote, a

493 voter has cast more votes for an office than that voter is entitled to vote for that office, the
 494 judges shall count the valid write-in vote as being the obvious intent of the voter.

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

496 **20A-5-302. Automated voting system.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

524 [~~(ix)~~] (vii) provide the opportunity for each voter to change the ballot and to correct
525 any error before the voter casts the ballot in compliance with the Help America Vote Act of
526 2002, Pub. L. No. 107-252;

527 [~~(x)~~] (viii) include automatic tabulating equipment that rejects choices recorded on a
528 voter's ballot if the number of the voter's recorded choices is greater than the number which the
529 voter is entitled to vote for the office or on the measure;

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

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

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

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

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

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

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

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

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

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

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

554 (c) Notwithstanding any other provisions of this section, the election officers shall

555 ensure that the ballots to be counted by means of electronic or electromechanical devices are of
 556 a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable
 557 for use in the counting devices in which they are intended to be placed.

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

559 **20A-6-301. Paper ballots -- Regular general election.**

560 (1) Each election officer shall ensure that:

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

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

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

567 (iii) ballot stubs are numbered consecutively;

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

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

571 (ii) the date of the election; and

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

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

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

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

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

585 [~~(h)~~] (g) the columns containing the lists of candidates, including the party name and

586 device, are separated by heavy parallel lines;

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

589 ~~[(‡)]~~ (i) the names of candidates are printed in capital letters, not less than one-eighth
590 nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point,
591 between lines or rules three-eighths of an inch apart;

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

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

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

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

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

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

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

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

616 ~~[(⊖)]~~ (n) constitutional amendments or other questions submitted to the vote of the

617 people, are printed on the ballot after the list of candidates.

618 (2) Each election officer shall ensure that:

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

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

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

624 (b) the names of all unaffiliated candidates that qualify as required in Title 20A,

625 Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

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

628 (d) the ballots contain no other names.

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

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

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

634 (c) the words, "Vote for one" or "Vote for up to ____ (the number of candidates for
635 which the voter may vote)" extend to the extreme right of the column;

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

638 (e) the names in each group are placed in the order specified under Section 20A-6-305
639 with the surnames last; and

640 (f) each group is preceded by the designation of the office for which the candidates
641 seek election, and the words, "Vote for one" or "Vote for up to ____ (the number of
642 candidates for which the voter may vote)," according to the number to be elected.

643 (4) Each election officer shall ensure that:

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

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

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

650 Section 7. Section **20A-6-303** is amended to read:

651 **20A-6-303. Regular general election -- Ballot sheets.**

652 (1) Each election officer shall ensure that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

678 (2) Each election officer shall ensure that:

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

681 (b) ballot propositions submitted to the voters are listed in accordance with Section
682 20A-6-107; and

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

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

686 **20A-6-304. Regular general election -- Electronic ballots.**

687 (1) Each election officer shall ensure that:

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

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

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

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

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

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

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

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

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

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

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

706 (2) Each election officer shall ensure that:

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

709 (b) ballot propositions submitted to the voters are displayed in accordance with Section

710 20A-6-107; and

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

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

714 **20A-6-305. Master ballot position list -- Random selection -- Procedures --**
715 **Publication -- Surname -- Exemptions.**

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

719 (2) The lieutenant governor shall:

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

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

725 (c) establish written procedures for:

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

727 (ii) the lieutenant governor in:

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

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

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

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

735 (a) the candidate's surname;

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

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

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

741 ~~party name:]~~

742 (5) This section does not apply to:

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

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

Legislative Review Note
as of 12-17-12 1:43 PM

Office of Legislative Research and General Counsel