

HB0313S01 compared with HB0313

~~text~~ shows text that was in HB0313 but was deleted in HB0313S01.

text shows text that was not in HB0313 but was inserted into HB0313S01.

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Representative Marc K. Roberts proposes the following substitute bill:

PRIMARY ELECTIONS MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Election Code to provide that, for certain primary races for offices where more than two candidates are seeking the nomination of the same political party for the same office, if one candidate does not receive more than 50% of the votes cast in the race, the party shall choose a nominee from among the candidates.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that, for certain primary races for offices where more than two candidates are seeking the nomination of the same political party for the same office, if one candidate does not receive more than 50% of the votes cast in the race, the party shall, in accordance with the party's bylaws, choose a nominee from among the

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candidates; 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 2014, Chapters 17, 31, 231, 362, and 391

20A-1-303, as enacted by Laws of Utah 1993, Chapter 1

20A-1-304, as last amended by Laws of Utah 2001, Chapter 20

20A-4-304, as last amended by Laws of Utah 2012, Chapter 309

20A-9-101, as last amended by Laws of Utah 2014, Chapter 17

20A-9-403, as last amended by Laws of Utah 2014, Chapter 17

20A-9-406, as enacted by Laws of Utah 2014, Chapter 17

20A-9-407, as enacted by Laws of Utah 2014, Chapter 17

20A-9-408, as enacted by Laws of Utah 2014, Chapter 17

63I-1-220, as last amended by Laws of Utah 2014, Chapter 231

ENACTS:

20A-4-303.5, Utah Code Annotated 1953

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

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

20A-1-102. Definitions.

As used in this title:

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

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

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

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

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

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

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

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

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

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

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

(6) "Ballot sheet":

(a) means a ballot that:

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

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

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

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

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

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

(10) "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.

(11) "Business reply mail envelope" means an envelope that may be mailed free of

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charge by the sender.

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

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

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

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

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

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

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

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

(20) "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.

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

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

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

(b) does not include:

(i) deadlines established for absentee voting; or

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

(23) "Elected official" means:

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

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

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

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

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

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

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

- (a) preside over other poll workers at a polling place;
- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

- (a) the lieutenant governor, for all statewide ballots and elections;
- (b) the county clerk for:
 - (i) a county ballot and election; and
 - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

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

(d) the local district clerk or chief executive officer for:

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

(e) the business administrator or superintendent of a school district for:

- (i) a school district ballot and election; and

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

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

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

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

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

(35) "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.

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

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

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

(39) "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.

(40) "Local district officers" means those local district board members that are required

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by law to be elected.

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

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

(43) "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.

(44) "Multi-candidate primary race" means a primary race:

(a) where one individual is to be nominated;

(b) in which more than two candidates qualify for placement on the primary election ballot for the same political party and for the same office; and

(c) where the race is for one of the following offices:

(i) a United States congressional office;

(ii) a state legislative office;

(iii) governor;

(iv) attorney general;

(v) state treasurer;

(vi) state auditor; or

(vii) a partisan, elected county office.

~~(44)~~ (45) "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).

~~(45)~~ (46) "Municipal general election" means the election held in municipalities and, as applicable, 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.

~~(46)~~ (47) "Municipal legislative body" means the council of the city or town in any form of municipal government.

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~~[(47)]~~ (48) "Municipal office" means an elective office in a municipality.

~~[(48)]~~ (49) "Municipal officers" means those municipal officers that are required by law to be elected.

~~[(49)]~~ (50) "Municipal primary election" means an election held to nominate candidates for municipal office.

~~[(50)]~~ (51) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

~~[(51)]~~ (52) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

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

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

(i) the poll worker's initials; and

(ii) the ballot number.

~~[(52)]~~ (53) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

~~[(53)]~~ (54) "Paper ballot" means a paper that contains:

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

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

~~[(54)]~~ (55) "Pilot project" means the election day voter registration pilot project created in Section 20A-4-108.

~~[(55)]~~ (56) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

~~[(56)]~~ (57) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

~~[(57)]~~ (58) "Polling place" means the building where voting is conducted.

~~[(58)]~~ (59) (a) "Poll worker" means a person assigned by an election official to assist

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with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

~~[(59)]~~ (60) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

~~[(60)]~~ (61) "Primary convention" means the political party conventions held during the year of the regular general election.

~~[(61)]~~ (62) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

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

~~[(62)]~~ (63) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

~~[(63)]~~ (64) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

~~[(64)]~~ (65) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

~~[(65)]~~ (66) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

~~[(66)]~~ (67) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

~~[(67)]~~ (68) "Registration form" means a book voter registration form and a by-mail voter registration form.

~~[(68)]~~ (69) "Regular ballot" means a ballot that is not a provisional ballot.

~~[(69)]~~ (70) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the

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purposes established in Section 20A-1-201.

~~[(70)]~~ (71) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

~~[(71)]~~ (72) "Resident" means a person who resides within a specific voting precinct in Utah.

~~[(72)]~~ (73) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

~~[(73)]~~ (74) "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.

~~[(74)]~~ (75) "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.

~~[(75)]~~ (76) "Special election" means an election held as authorized by Section 20A-1-203.

~~[(76)]~~ (77) "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.

~~[(77)]~~ (78) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

~~[(78)]~~ (79) "Stub" means the detachable part of each ballot.

~~[(79)]~~ (80) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

~~[(80)]~~ (81) "Ticket" means each list of candidates for each political party or for each group of petitioners.

~~[(81)]~~ (82) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

~~[(82)]~~ (83) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification,

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resignation, or other cause.

~~[(83)]~~ (84) "Valid voter identification" means:

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

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:
 - (A) the state; or
 - (B) a branch, department, or agency of the United States;
- (iii) a currently valid Utah permit to carry a concealed weapon;
- (iv) a currently valid United States passport; or
- (v) a currently valid United States military identification card;

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

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection ~~[(83)]~~ (84)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

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

- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid Social Security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;
- (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

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(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(84)]~~ (85) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

~~[(85)]~~ (86) "Voter" means a person who:

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

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

~~[(86)]~~ (87) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

~~[(87)]~~ (88) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(88)]~~ (89) "Voting booth" means:

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

(b) a voting device that is free standing.

~~[(89)]~~ (90) "Voting device" means:

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

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

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

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

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

~~[(90)]~~ (91) "Voting machine" means a machine designed for the sole purpose of

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recording and tabulating votes cast by voters at an election.

~~[(91)]~~ (92) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

~~[(92)]~~ (93) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

~~[(93)]~~ (94) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

~~[(94)]~~ (95) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

~~[(95)]~~ (96) "Write-in ballot" means a ballot containing any write-in votes.

~~[(96)]~~ (97) "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-1-303** is amended to read:

20A-1-303. Determining results.

(1) (a) ~~[When]~~ Except as provided in Section 20A-4-303.5, when one person is to be elected or nominated, the person receiving the highest number of votes at any:

- (i) election for any office to be filled at that election is elected to that office; and
- (ii) primary for nomination for any office is nominated for that office.

(b) When more than one person is to be elected or nominated, the persons receiving the highest number of votes at any:

- (i) election for any office to be filled at that election are elected to that office; and
- (ii) primary for nomination for any office are nominated for that office.

(2) Any ballot proposition submitted to voters for their approval or rejection:

- (a) passes if the number of "yes" votes is greater than the number of "no" votes; and
- (b) fails if:

- (i) the number of "yes" votes equal the number of "no" votes; or
- (ii) the number of "no" votes is greater than the number of "yes" votes.

Section 3. Section **20A-1-304** is amended to read:

20A-1-304. Tie votes.

(1) Except as provided in Subsection (2) or Section 20A-4-303.5, if two or more candidates for a position have an equal and the highest number of votes for any office, the

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election officer shall determine by lot which candidate is selected in a public meeting in the presence of each person subject to the tie within 30 days of the canvass or within 30 days of the recount if one is requested or held.

(2) For any municipal primary election, if two or more candidates for a position have an equal and the highest number of votes for any office, the election officer shall determine by lot which candidate is selected in a public meeting in the presence of each person subject to the tie within five days of the canvass or within five days of the recount if one is requested or held.

Section 4. Section **20A-4-303.5** is enacted to read:

20A-4-303.5. Determining nominee in multi-candidate primary race.

(1) Except as provided in Subsection (2), in a multi-candidate primary race the candidate who receives the highest number of votes is nominated.

(2) If the candidate who receives the highest number of votes in a multi-candidate primary race does not receive more than 50% of the total votes cast in that race, the party shall, within ~~60~~30 days after the day on which the board of canvassers certifies the vote totals:

(a) in accordance with the party's bylaws, choose, from among the candidates whose names appeared on the ballot for the multi-candidate primary race, the candidate who will be the party's nominee; and

(b) provide to the election ~~judge~~officer for the next general election a certificate of nomination stating the name of the candidate chosen.

Section 5. Section **20A-4-304** is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Section 20A-4-303.5, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

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(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) (a) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(vii) the number of ballots that were rejected; and

(viii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

(i) review the report to ensure that it is correct; and

(ii) sign the report.

(c) The election officer shall:

(i) record or file the certified report in a book kept for that purpose;

(ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(iii) publish a copy of the certified report:

(A) in one or more conspicuous places within the jurisdiction;

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- (B) in a conspicuous place on the county's website; and
- (C) in a newspaper with general circulation in the board's jurisdiction; and
- (iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(5) In regular primary elections and in the Western States Presidential Primary, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor:

(i) not later than the second Tuesday after the primary election for the regular primary election; and

(ii) not later than the Tuesday following the election for the Western States Presidential Primary; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 6. Section **20A-9-101** is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

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- (ii) presidential elector;
- (iii) any political party offices; and
- (iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" is as defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the office holder is selected by voters entirely within one county.

(b) "County office" does not mean:

- (i) the office of justice or judge of any court of record or not of record;
- (ii) the office of presidential elector;
- (iii) any political party offices;
- (iv) any municipal or local district offices; and
- (v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

- (i) the office of United States Senator and United States Representative; and
- (ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices, and the county clerk in the filer's county of residence, for multicounty offices;

(c) the city or town clerk, for municipal offices; and

(d) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the office holder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

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- (i) a county office;
- (ii) a federal office;
- (iii) the office of justice or judge of any court of record or not of record;
- (iv) the office of presidential elector;
- (v) any political party offices; and
- (vi) any municipal or local district offices.

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

(11) (a) "Political division" means a geographic unit from which an office holder is elected and that an office holder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

(a) permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;

(b) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(c) does not hold the registered political party's convention before April 1 of an even-numbered year;

(d) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407, including, as applicable, Section 20A-4-303.5; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408, including, as applicable, Section 20A-4-303.5; and

(e) no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions

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of Sections 20A-4-303.5, 20A-9-407, and 20A-9-408.

Section 7. Section **20A-9-403** is amended to read:

20A-9-403. Regular primary elections.

(1) (a) [~~Candidates~~] Except as provided in Section 20A-4-303.5, candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate its candidates for elective office in the manner prescribed in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who was not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare their intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of its candidates for elective office featured on the ballot at the next regular general election;

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether [~~or not persons~~] an individual identified as unaffiliated with a political party may vote for the registered political party's candidates; and

(iii) if the registered political party participates in the upcoming regular primary election, indicate whether [~~it~~] the party chooses to nominate unopposed candidates without

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their name appearing on the ballot, as described under Subsection (5)(c).

(b) A registered political party that is a continuing political party must file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 15 of each odd-numbered year. An organization that is seeking to become a registered political party under Section 20A-8-103 must file the statement described in Subsection (2)(b) no later than 5 p.m. on February 15.

(3) (a) Except as provided in Subsection (3)(e), a person who [~~has submitted~~] submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the person is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least two percent of the registered political party's members who reside in the political division of the office that the person seeks.

(b) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March. Candidates may supplement their submissions at any time on or before the filing deadline.

(c) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of persons residing in each elective office's political division who have designated a particular registered political party on their voter registration forms as of November 1 of each odd-numbered year. The lieutenant governor shall publish this determination for each elective office no later than November 15 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submitted nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider a person who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the person has designated that registered

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political party as their preferred party affiliation on their voter registration form prior to 5 p.m. on the final day in March; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures pursuant to rules issued by the lieutenant governor under Subsection (3)(f).

(e) Notwithstanding any other provision in Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) The lieutenant governor shall issue rules that provide for the use of statistical sampling procedures for filing officers to verify signatures under Subsection (3)(d). The statistical sampling procedures shall reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques. The lieutenant governor may also issue supplemental rules and guidance that provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

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

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

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary-election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a

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registered political party under Subsection (5)(c) and instruct the county clerks to exclude such candidates from the primary-election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary-election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

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

(5) (a) [~~Candidates~~] Except as provided in Section 20A-4-303.5, candidates, other than presidential candidates, receiving the highest number of votes cast for each office at the regular primary election are nominated by their registered political party for that office or are nominated as a candidate for a nonpartisan local school board position.

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

(c) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary ballot, provided that the party has chosen to nominate unopposed candidates under Subsection (2)(a)(iii). A candidate is "unopposed" if no person other than the candidate has received a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office.

(6) (a) [~~When~~] Except as otherwise provided in Section 20A-4-303.5, if a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

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(b) [~~When~~] Except as otherwise provided in Section 20A-4-303.5, if a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

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

Section 8. Section **20A-9-406** is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall certify to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year:

(a) the identity of one or more registered political parties whose members may vote for the qualified political party's candidates; and

(b) whether the qualified political party chooses to nominate unopposed candidates without the names of the candidates appearing on the ballot, as described in Subsection 20A-9-403(5)(c);

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) except as provided in Section 20A-4-303.5, an individual may only obtain a nomination for the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-4-303.5, 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party under Section 20A-4-303.5, 20A-9-407, or 20A-9-408:

(a) under the qualified political party's name and emblem, if any; or

(b) under the title of the qualified registered political party as designated by the

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qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot, provided that the party has

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chosen to nominate unopposed candidates under Subsection 20A-9-403(2)(a)(iii); and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 9. Section **20A-9-407** is amended to read:

20A-9-407. Convention nomination process for qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention nomination process.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as follows:

"State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

_____.

Subscribed and sworn before me this _____ (month\day\year). Notary Public (or other officer qualified to administer oath)."

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) file a declaration of candidacy in person with the filing officer on or after the

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second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

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

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section or Section 20A-4-303.5.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section or Section 20A-4-303.5, designate the qualified political party that nominated the candidate.

Section 10. Section **20A-9-408** is amended to read:

20A-9-408. Signature-gathering nomination process for qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering nomination process described in this section.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as follows:

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"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ as a candidate for the ____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

_____.

Subscribed and sworn before me this _____(month\day\year). Notary Public (or other officer qualified to administer oath)."

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

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(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section or Section 20A-4-303.5.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section or Section 20A-4-303.5, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified

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political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor's office, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; and

(v) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor's office, using the same circulation and verification requirements described in Sections 20A-7-304 and 20A-7-305; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual

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files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 11. Section **63I-1-220** is amended to read:

63I-1-220. Repeal dates, Title 20A.

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On January 1, 2017:

- (1) Subsection 20A-1-102[(54)](55) is repealed.
- (2) Subsection 20A-2-102.5(1) the language that states "20A-4-108, or" is repealed.
- (3) Subsection 20A-2-201(3) the language that states "Except as provided in Subsection 20A-4-108(5)," is repealed.
- (4) Subsection 20A-2-202(3)(a) the language that states "Except as provided in Subsection 20A-4-108(6)," is repealed.
- (5) Subsection 20A-2-204(5)(a) the language that states "Except as provided in Subsection 20A-4-108(7)," is repealed.
- (6) Subsection 20A-2-205(7)(a) the language that states "Except as provided in Subsection 20A-4-108(8)," is repealed.
- (7) Subsection 20A-2-206(8)(b) the language that states "Except as provided in Subsection 20A-4-108(9)," is repealed.
- (8) Subsection 20A-2-307(2)(a) is repealed.
- (9) Subsection 20A-4-107(2)(b) the language that states "Except as provided in Subsection 20A-4-108(10)," is repealed.
- (10) Subsection 20A-4-107(3) the language that states "or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10)," is repealed.
- (11) Subsection 20A-4-107(4) the language that states "Except as provided in Subsection 20A-4-108(12)," is repealed.
- (12) Section 20A-4-108 is repealed.

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Legislative Review Note

~~as of 2-11-15 10:32 AM~~

~~Office of Legislative Research and General Counsel~~