

## HB0338S02 compared with HB0338S01

~~deleted text~~ shows text that was in HB0338S01 but was deleted in HB0338S02.

Inserted text shows text that was not in HB0338S01 but was inserted into HB0338S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative  ~~Daniel McCay~~  Justin L. Fawson  proposes the following substitute bill:

### ELECTION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

Senate Sponsor: \_\_\_\_\_

---

#### LONG TITLE

##### General Description:

This bill amends provisions of the Election Code.

##### Highlighted Provisions:

This bill:

- ▶ modifies and makes the following deadlines, for a registered political party that is not a qualified political party, consistent with deadlines for a qualified political party:
  - the deadline for filing a declaration of candidacy;
  - the deadline for submitting signature sheets to secure a nomination; and
  - the deadline for a filing officer to verify signatures and issue certifications;
- ▶ removes an unnecessary provision of law relating to the duty of a registered political party;

## HB0338S02 compared with HB0338S01

- ▶ provides that a candidate who is selected at convention may not be kept from the ballot based on an action by a qualified political party to prevent an individual from seeking nomination by gathering signatures;
- ▶ shortens the period of time for filing a notice of intent to gather signatures to qualify for placement on the regular primary election ballot;
- ▶ if the Count My Vote citizen's initiative petition fails to become law, reinstates the election system in effect before passage of 2014 General Session, S.B. 54, Elections Amendments, as follows:
  - modifies dates and other provisions relating to a notice of election;
  - repeals provisions relating to obtaining the nomination of a registered political party by petition;
  - repeals certain limitations relating to when a ballot or ballot sheet may indicate that a candidate is associated with a particular political party;
  - repeals all provisions relating to a qualified political party;
  - modifies provisions and dates relating to a declaration of candidacy; and
  - modifies provisions relating to the conduct of a primary election; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

### Utah Code Sections Affected:

AMENDS:

~~{20A-9-202}~~20A-1-102, as last amended by Laws of Utah 2017, Chapter ~~{63}~~52  
~~{20A-9-403}~~20A-1-201.5, as last amended by Laws of Utah ~~{2017}~~2015, ~~{Chapter~~  
~~9}~~Chapters 296 and 352  
~~{20A-9-408}~~20A-1-501, as last amended by Laws of Utah ~~{2017}~~2016, Chapter  
~~{9}~~16  
~~{20A-9-409}~~20A-3-106, as last amended by Laws of Utah 2015, Chapter 296  
20A-5-101, as last amended by Laws of Utah 2017, Chapters 251, 267 and last

## HB0338S02 compared with HB0338S01

amended by Coordination Clause, Laws of Utah 2017, Chapter 267

20A-6-301, as last amended by Laws of Utah 2016, Chapter 66

20A-6-302, as last amended by Laws of Utah 2014, Chapter 17

20A-6-303, as last amended by Laws of Utah 2016, Chapter 66

20A-6-304, as last amended by Laws of Utah 2016, Chapter 66

20A-8-103, as last amended by Laws of Utah 2017, Chapter 91

20A-9-101, as last amended by Laws of Utah 2016, Chapter 16

20A-9-201, as last amended by Laws of Utah 2017, Chapter 63

20A-9-202, as last amended by Laws of Utah 2017, Chapter 63

20A-9-203, as last amended by Laws of Utah 2017, Chapter 91

20A-9-403, as last amended by Laws of Utah 2017, Chapter 91

20A-9-404, as last amended by Laws of Utah 2017, Chapter 91

20A-9-408, as last amended by Laws of Utah 2017, Chapter 91

20A-9-409, as last amended by Laws of Utah 2017, Chapters 54 and 91

20A-9-701, as last amended by Laws of Utah 2015, Chapter 296

### ENACTS:

**20A-9-406.5, Utah Code Annotated 1953**

### REPEALS:

20A-1-103, as last amended by Laws of Utah 2015, Chapter 258

20A-9-405, as enacted by Laws of Utah 2014, Chapter 17

20A-9-406, as last amended by Laws of Utah 2017, Chapter 91

20A-9-407, as last amended by Laws of Utah 2017, Chapter 91

20A-9-408.5, as enacted by Laws of Utah 2015, Chapter 296

20A-9-410, as enacted by Laws of Utah 2014, Chapter 17

20A-9-411, as enacted by Laws of Utah 2015, Chapter 296

### Utah Code Sections Affected by Revisor Instructions:

20A-9-202, as last amended by Laws of Utah 2017, Chapter 63

20A-9-403, as last amended by Laws of Utah 2017, Chapter 91

20A-9-408, as last amended by Laws of Utah 2017, Chapter 91

20A-9-409, as last amended by Laws of Utah 2017, Chapters 54 and 91

## HB0338S02 compared with HB0338S01

*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.
  - (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.

## **HB0338S02 compared with HB0338S01**

(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 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

## HB0338S02 compared with HB0338S01

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;

(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 the Help America Vote Act of 2002, Pub. L. No. 107-252.

(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;

## HB0338S02 compared with HB0338S01

- (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
    - (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 is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

## **HB0338S02 compared with HB0338S01**

(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 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) "Municipal executive" means:

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

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(45) "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) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

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

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



## HB0338S02 compared with HB0338S01

elected.

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

(50) "Municipality" means a city, town, or metro township.

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

(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) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

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

(i) the poll worker's initials; and

(ii) the ballot number.

(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.

(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.

(55) "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) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

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

(58) (a) "Poll worker" means a person assigned by an election official to assist with an

## HB0338S02 compared with HB0338S01

election, voting, or counting votes.

(b) "Poll worker" includes election judges.

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

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

(60) "Primary convention" means ~~[the] a~~ political party ~~[conventions held during the year of]~~ convention at which nominees for the regular ~~[general]~~ primary election are selected.

(61) "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) "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) "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) "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) "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) "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) "Registration form" means a book voter registration form and a by-mail voter registration form.

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

(69) "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 purposes

## HB0338S02 compared with HB0338S01

established in Section 20A-1-201.

(70) "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~~ nonpolitical groups to advance to the regular general election.

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

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

(73) "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 ~~or who are unaffiliated~~.

(74) "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) "Special election" means an election held as authorized by Section 20A-1-203.

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

(78) "Stub" means the detachable part of each ballot.

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

(80) "Ticket" means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

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

(82) "Vacancy" means the absence of a person to serve in any position created by

## HB0338S02 compared with HB0338S01

statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) "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)(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;

## HB0338S02 compared with HB0338S01

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;  
(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) "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) "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) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

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

(88) "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) "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.

## HB0338S02 compared with HB0338S01

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

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

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

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

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

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "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-1-201.5 is amended to read:

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

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year, as provided in Section 20A-9-403, ~~20A-9-407, or 20A-9-408, as applicable,~~ to nominate persons for:

- (a) national, state, school board, and county offices; and
- (b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

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

(3) If the Legislature makes an appropriation for a Western States Presidential Primary election, the Western States Presidential Primary election shall be held throughout the state on the first Tuesday in February in the year in which a presidential election will be held.

### Section 3. Section 20A-1-501 is amended to read:

#### **20A-1-501. Candidate vacancies -- Procedure for filling.**

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass

## HB0338S02 compared with HB0338S01

more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor ~~[provides the list]~~ makes the certification described in Subsection 20A-9-403~~[(4)(a)]~~(2)(c):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician, that prevents the candidate from continuing the candidacy; or

(C) is disqualified by an election officer for improper filing or nominating procedures;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures;

or

(iv) resigns to become a candidate for president or vice president of the United States;

or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

## HB0338S02 compared with HB0338S01

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in Subsection (1)(b) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.

(5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.

### Section 4. Section 20A-3-106 is amended to read:

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

(1) When voting a paper ballot, any voter desiring to vote for all the candidates ~~who are listed on the ballot as being~~ **[who** from any one registered political party may:

(a) mark in the circle or position above that political party;

(b) mark in the squares or position opposite the names of all candidates for that party ticket; or



## HB0338S02 compared with HB0338S01

(c) make both markings.

(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates

~~[who are listed on the ballot as being]~~ from any one registered political party may:

(i) mark the selected party on the straight party page or section; or

(ii) mark the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may:

(i) mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote without marking in any circle; or

(ii) indicate the voter's choice by:

(A) marking in the circle or position above one political party; and

(B) marking in the squares or positions opposite the names of desired candidates ~~[who are members of any party, are unaffiliated, or are listed without party name]~~.

(3) (a) When voting an electronic ballot, any voter desiring to vote for all the candidates ~~[who are listed on the ballot as being]~~ from any one registered political party may:

(i) select that party on the straight party selection area; or

(ii) select the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may:

(i) select the names of the candidates for whom the voter wishes to vote without selecting a political party in the straight party selection area; or

(ii) (A) select a political party in the straight party selection area; and

(B) select the names of the candidates for whom the voter wishes to vote ~~[who are members of any party, are unaffiliated, or are listed without party name]~~.

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

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

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

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

## HB0338S02 compared with HB0338S01

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

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

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

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

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

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

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

Section 5. Section 20A-5-101 is amended to read:

### **20A-5-101. Notice of election.**

(1) On or before ~~November 15 in the year before~~ February 1 in each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the ~~next year's~~ regular general election;

(b) identifies the dates for filing a declaration of candidacy ~~and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408~~ for those offices;

(c) includes the master ballot position list for the current year and the next year ~~and the year following~~ as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than ~~seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1)~~ February 15, each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

## HB0338S02 compared with HB0338S01

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give printed notice of the following information, or printed notice of a website where the following information can be obtained:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(4) To provide the printed notice described in Subsection (3), the election officer shall:

(a) publish the notice at least two days before election day:

(i) in a newspaper of general circulation common to the area to which the election pertains; and

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

(b) mail the notice to each registered voter who resides in the area to which the election pertains at least five days before election day.

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

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

(1) Each election officer shall ensure that:

## HB0338S02 compared with HB0338S01

(a) all paper ballots furnished for use at the regular general election contain ~~;~~ ~~(i) { }~~ no captions or other endorsements except as provided in this section; ~~(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and~~

~~(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).~~

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

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

(iii) ballot stubs are numbered consecutively;

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

(i) "Official Ballot for \_\_\_\_ County, Utah";

(ii) the date of the election; and

(iii) the words "Clerk of \_\_\_\_\_ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;

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

(e) unaffiliated candidates ~~;~~ and candidates not affiliated with a registered political party ~~;~~ and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), ~~;~~ are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title, and with a mark referencing the following statement at the bottom of the ticket: "This candidate is not affiliated with ~~;~~ or does not qualify to be listed on the ballot as affiliated with, ~~;~~ a political party.";

(f) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

## HB0338S02 compared with HB0338S01

(g) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(h) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

(i) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party ~~under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other person,~~ or group of petitioners is placed on the ballot:

(i) under the registered political party's name, if any; or

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

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

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

(d) the ballots contain no other names.

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

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

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

## HB0338S02 compared with HB0338S01

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

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

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

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

(4) Each election officer shall ensure that:

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

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

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

### Section 7. Section 20A-6-302 is amended to read:

#### **20A-6-302. Paper ballots -- Placement of candidates' names.**

(1) Each election officer shall ensure, for paper ballots in regular general elections, that:

(a) each candidate is listed by party~~], if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5)]~~;

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

(c) the names of candidates are placed on the ballot in the order specified under Section 20A-6-305.

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county

## HB0338S02 compared with HB0338S01

attorney? Yes \_\_\_\_ No \_\_\_\_."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified person files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes \_\_\_\_ No \_\_\_\_."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not

## HB0338S02 compared with HB0338S01

elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified person files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

### Section 8. Section 20A-6-303 is amended to read:

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

(1) Each election officer shall ensure that:

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

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

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

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

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

(d) the party designation of each candidate ~~who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5)~~ is printed



## HB0338S02 compared with HB0338S01

immediately adjacent to the candidate's name; and

(e) (i) if possible, all candidates for one office are grouped in one column or upon one page;

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

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

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

(2) Each election officer shall ensure that:

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

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

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

### Section 9. Section 20A-6-304 is amended to read:

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

(1) Each election officer shall ensure that:

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

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

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

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

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

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

(e) the party designation of each candidate ~~[who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5)]~~ is displayed adjacent to the candidate's name; and

## HB0338S02 compared with HB0338S01

(f) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

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

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

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

### Section 10. Section 20A-8-103 is amended to read:

#### **20A-8-103. Petition procedures -- Criminal penalty.**

(1) As used in this section, the proposed name or emblem of a registered political party is "distinguishable" if a reasonable person of average intelligence will be able to perceive a difference between the proposed name or emblem and any name or emblem currently being used by another registered political party.

(2) To become a registered political party, an organization of registered voters that is not a continuing political party shall:

(a) circulate a petition seeking registered political party status beginning no earlier than the date of the statewide canvass held after the last regular general election and ending no later than ~~November 30~~ February 15 of the year ~~before the year~~ in which the next regular general election will be held;

(b) file a petition with the lieutenant governor that is signed, with a holographic signature, by at least 2,000 registered voters on or before ~~November 30~~ February 15 of the year in which a regular general election will be held; and

(c) file, with the petition described in Subsection (2)(b), a document certifying:

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

(ii) whether unaffiliated voters may vote for the organization's candidates ~~;~~ and

~~(iii) whether, for the next election, the organization intends to nominate the organization's candidates in accordance with the provisions of Section 20A-9-406.~~

(3) The petition shall:

## HB0338S02 compared with HB0338S01

- (a) be on sheets of paper 8-1/2 inches long and 11 inches wide;
- (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;
- (c) contain the name of the political party and the words "Political Party Registration Petition" printed directly below the horizontal line;
- (d) contain the word "Warning" printed directly under the words described in Subsection (3)(c);
- (e) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a political party registration petition signature sheet with any name other than the individual's own name or more than once for the same party or if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor.";

- (f) contain the following statement directly under the statement described in Subsection (3)(e):

"POLITICAL PARTY REGISTRATION PETITION To the Honorable \_\_\_\_\_,  
Lieutenant Governor:

We, the undersigned citizens of Utah, seek registered political party status for \_\_\_\_\_  
(name);

Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor;

I am or desire to become a member of the political party; and

My street address is written correctly after my name."; and

- (g) be vertically divided into columns as follows:
  - (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;
  - (ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed

## HB0338S02 compared with HB0338S01

Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(vi) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records.";

(h) have a final page bound to one or more signature sheets that are bound together that contains the following printed statement:

"Verification

State of Utah, County of \_\_\_\_\_

I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by individuals who professed to be the individuals whose names appear on the signature sheets, and each individual signed the individual's name on the signature sheets in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's street address correctly, and that each individual is registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor.

---

(Signature)

(Residence Address)

(Date)"; and

(i) be bound to a cover sheet that:

(i) identifies the political party's name, which may not exceed four words, and the emblem of the party;

(ii) states the process that the organization will follow to organize and adopt a constitution and bylaws; and

(iii) is signed by a filing officer, who agrees to receive communications on behalf of

## HB0338S02 compared with HB0338S01

the organization.

(4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the individual in whose presence each signature sheet is signed:

- (a) is at least 18 years old;
- (b) meets the residency requirements of Section 20A-2-105; and
- (c) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(5) An individual may not sign the verification if the individual signed a signature sheet bound to the verification.

(6) The lieutenant governor shall:

- (a) determine whether the required number of voters appears on the petition;
- (b) review the proposed name and emblem to determine if they are "distinguishable"

from the names and emblems of other registered political parties; and

(c) certify the lieutenant governor's findings to the filing officer described in Subsection (3)(i)(iii) within 30 days of the filing of the petition.

(7) (a) If the lieutenant governor determines that the petition meets the requirements of this section, and that the proposed name and emblem are distinguishable, the lieutenant governor shall authorize the filing officer described in Subsection (3)(i)(iii) to organize the prospective political party.

(b) If the lieutenant governor finds that the name, emblem, or both are not distinguishable from the names and emblems of other registered political parties, the lieutenant governor shall notify the filing officer that the filing officer has seven days to submit a new name or emblem to the lieutenant governor.

(8) A registered political party may not change its name or emblem during the regular general election cycle.

(9) (a) It is unlawful for an individual to:

(i) knowingly sign a political party registration petition:

(A) with any name other than the individual's own name;

(B) more than once for the same political party; or

(C) if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor; or

## HB0338S02 compared with HB0338S01

(ii) sign the verification of a political party registration petition signature sheet if the individual:

(A) does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those individuals whose names appear on the political party registration petition signature sheet; or

(C) knows that an individual whose signature appears on the political party registration petition signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) An individual who violates this Subsection (9) is guilty of a class A misdemeanor.

Section 11. 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]~~ individuals selected by a registered political party as party candidates 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;

(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" means the same as that term is defined in Section 20A-8-101.]~~

~~[(4)]~~ (3) (a) "County office" means an elective office where the officeholder 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;

## HB0338S02 compared with HB0338S01

- (iv) any municipal or local district offices; and
- (v) the office of United States Senator and United States Representative.

~~[(5)]~~ [(4)] "Federal office" means an elective office for United States Senator and United States Representative.

~~[(6)]~~ [(5)] "Filing officer" means:

- (a) the lieutenant governor, for:

[(i) an office representing a political division that contains territory in two or more counties;

~~[(+)]~~ [(ii)] the office of United States Senator and United States Representative; and

~~[(ii)]~~ [(iii)] 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)]~~ [(6)] "Local district office" means an elected office in a local district.

~~[(8)]~~ [(7)] "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)]~~ [(8)] (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

- (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)]~~ [(9)] "Municipal office" means an elective office in a municipality.

~~[(11)]~~ [(10)] (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school

## HB0338S02 compared with HB0338S01

district, a legislative district, and a county prosecution district.

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

~~[(a) (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;]~~

~~[(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;]~~

~~[(c) 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; or]~~

~~[(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and]~~

~~[(d) (i) if the registered political party is a continuing political party, 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 of Section 20A-9-406; or]~~

~~[(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406;]~~

Section 12. Section 20A-9-201 is amended to read:

**20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, a person shall:

(a) be a United States citizen; and

(b) meet the legal requirements of that office ~~;~~ and;

~~[(c) if seeking a registered political party's nomination as a candidate for elective~~



## HB0338S02 compared with HB0338S01

~~office, state: ]~~

~~[(i) the registered political party of which the person is a member; or ]~~

~~[(ii) that the person is not a member of a registered political party.]~~

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) A person may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the person resigns the person's candidacy for the other office after the person is officially nominated for president or vice president of the United States.

(ii) A person may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) A person may file a declaration of candidacy for lieutenant governor even if the person filed a declaration of candidacy for another office in the same election year if the person withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

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

(B) require the candidate to state whether the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which the person is seeking office; and

## HB0338S02 compared with HB0338S01

(D) a current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which the person is seeking office; and

(D) a current resident of the prosecution district in which the person is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the person filing the declaration of candidacy:

(A) as of the date of filing:

(I) is a United States citizen;

(II) is a registered voter in the county in which the person seeks office;

(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(Bb) has met the waiver requirements in Section 53-6-206; and

(IV) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(B) as of the date of the election, shall have been a resident of the county in which the person seeks office for at least one year.

(v) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of

## HB0338S02 compared with HB0338S01

Education member, the filing officer shall ensure:

(A) that the person filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(B) if the filing officer is not the lieutenant governor, that the financial disclosure is provided to the lieutenant governor according to the procedures and requirements of Section 20A-11-1603.

(b) If the prospective candidate states that the qualification requirements for the office are not met, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate meets the requirements of Subsection (3)(a) and states that the requirements of candidacy are met, the filing officer shall:

(i) inform the candidate that:

(A) the candidate's name will appear on the ballot as the candidate's name is written on the declaration of candidacy;

(B) the candidate may be required to comply with state or local campaign finance disclosure laws; and

(C) the candidate is required to file a financial statement before the candidate's political convention under:

(I) Section 20A-11-204 for a candidate for constitutional office;

(II) Section 20A-11-303 for a candidate for the Legislature; or

(III) local campaign finance disclosure laws, if applicable;

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

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

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

(A) signing the pledge is voluntary; and

## HB0338S02 compared with HB0338S01

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

(v) accept the candidate's declaration of candidacy; and

(vi) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

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

(i) accept the candidate's pledge; and

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

(4) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall ~~be~~

~~be~~ ~~(i) (ii)~~ be substantially as follows:

"State of Utah, County of \_\_\_\_\_

I, \_\_\_\_\_, declare my ~~candidacy~~ intention of becoming a candidate for the office of \_\_\_\_\_, ~~seeking the nomination 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). "~~;~~ ~~and~~

~~(ii) require the candidate to state, in the sworn statement described in Subsection (4)(a)(i):~~

~~(A) the registered political party of which the candidate is a member; or~~

## HB0338S02 compared with HB0338S01

~~[(B) that the candidate is not a member of a registered political party.]~~

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (4)(a).

(5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in

**HB0338S02 compared with HB0338S01**

Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name \_\_\_\_\_

\_\_\_\_\_ Address \_\_\_\_\_

Phone Number \_\_\_\_\_

I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Affiant

Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

\_\_\_\_\_  
(signature)

Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (5)(d) file a financial statement on a form prepared by the election official.

(6) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

## HB0338S02 compared with HB0338S01

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(iv) pay the filing fee of \$500.

(b) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (6)(a)(i)(A).

(7) Any person who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(8) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section ~~11~~13. Section **20A-9-202** is amended to read:

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

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

(i) file a declaration of candidacy in person with the filing officer;

(A) on or after January 1 of the regular general election year~~[-and];~~;

(B) if applicable, before the candidate circulates nomination petitions under Section 20A-9-405; and

(C) before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

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

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

(d) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific

## HB0338S02 compared with HB0338S01

declaration of candidacy requirements established by this section.

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

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

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

(3) (a) On or before 5 p.m. on the first Monday after the third Saturday in April, each lieutenant governor candidate shall:

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

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) Any candidate for lieutenant governor who fails to timely file is disqualified. If a lieutenant governor is disqualified, another candidate shall file to replace the disqualified candidate.

(4) On or before August 31, each registered political party shall:

(a) certify the names of its candidates for president and vice president of the United States to the lieutenant governor; or

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

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

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



## HB0338S02 compared with HB0338S01

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

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

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

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

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

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

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

(7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement in this section to file a declaration of candidacy in person, a person may designate an agent to file the form described in Subsection 20A-9-201(4) in person with the filing officer if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

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

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

(C) the National Guard on activated status;

(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other; and

(c) the person provides the filing officer with an email address to which the filing officer may send the copies described in Subsection 20A-9-201(3).

(8) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, on or before August 31 of a

## HB0338S02 compared with HB0338S01

general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (8)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee, if applicable; and

(iii) submit a letter from the presidential candidate described in Subsection (8)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (8)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (8) may not appear on the general election ballot.

Section 14. Section 20A-9-203 is amended to read:

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

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

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

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months

## HB0338S02 compared with HB0338S01

before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

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

(c) In accordance with Utah Constitution, Article IV, Section 6, any mentally incompetent person, any person convicted of a felony, or any person convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall ~~regardless of the nomination method by which the individual is seeking to become a candidate~~:

(i) file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

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

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

(i) filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

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

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

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

(ii) require the candidate or individual filing the petition to state whether the candidate meets those requirements.

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

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

## HB0338S02 compared with HB0338S01

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

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

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

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

(A) signing the pledge is voluntary; and

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

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

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

(i) accept the candidate's pledge; and

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

(5) Notwithstanding the requirement in Subsection (3)(a)(i) to file a declaration of candidacy in person, an individual may designate an agent to file the form described in Subsection (6) in person with the city recorder or town clerk if:

(a) the individual is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the individual is a member of:

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

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

(C) the National Guard on activated status;

## HB0338S02 compared with HB0338S01

(b) the individual makes the declaration of candidacy described in Subsection (6) to an individual qualified to administer an oath;

(c) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and the city recorder or town clerk to see and hear each other; and

(d) the individual provides the city recorder or town clerk with an email address to which the filing officer may send the copies described in Subsection (4).

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

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

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

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

(b) An agent designated to file a declaration of candidacy under Subsection (5) may not sign the form described in Subsection (6)(a).

(7) (a) A registered voter may be nominated for municipal office by submitting a petition signed, with a holographic signature, by:

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

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

### "NOMINATION PETITION

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

## HB0338S02 compared with HB0338S01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The clerk's decision upon substantive matters is reviewable by a district court if

## HB0338S02 compared with HB0338S01

prompt application is made to the district court.

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

(13) An individual who files a declaration of candidacy and is nominated, and an individual who is nominated by a nomination petition, may, any time up to 23 days before the election, withdraw the nomination by filing a written affidavit with the clerk.

Section ~~{2}~~15. Section **20A-9-403** is amended to read:

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

(1) (a) 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 the registered political party's 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 the registered political party's candidates for elective office in the manner described in this section.]~~

~~[(c)]~~ (b) 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 is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

~~[(d)]~~ (c) 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 the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next

## HB0338S02 compared with HB0338S01

regular general election; and

(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 individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who 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 individual 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 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) 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~~] second Friday in April.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) 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 individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.



## HB0338S02 compared with HB0338S01

(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 submit 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~~] fourth Friday in April;

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

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; 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 in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this 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) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, shall make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) 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

## HB0338S02 compared with HB0338S01

(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~~] On the first [~~Wednesday~~] Monday after the [~~third~~] fourth 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, single 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 registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed 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) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

- (i) nominated for that office by the candidate's registered political party; or
- (ii) for a nonpartisan local school board position, nominated for that office.

(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 the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

- (A) no individual other than the candidate receives a certification under Subsection (3)

## HB0338S02 compared with HB0338S01

for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) 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 election ballot.

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

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

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

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 16. Section 20A-9-404 is amended to read:

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

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

(b) Municipal primary elections shall be held:

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

## HB0338S02 compared with HB0338S01

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

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

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

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

(ii) Any primary election exemption ordinance adopted under the authority of this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate ~~an individual who has not submitted a declaration of candidacy, or has not been nominated by a nomination petition, under Section 20A-9-203; or~~ more than one group of candidates, or have placed on the ballot more than one group of candidates, for the municipal offices to be voted upon at the municipal election.

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

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

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

(ii) The certificate of nomination shall:

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

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

(C) contain a copy of the resolution passed at the convention that authorized the

## HB0338S02 compared with HB0338S01

committee to make the nomination;

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

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

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

(iii) Certificates of nomination shall be filed with the clerk not later than 80 days before the municipal general election.

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

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

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

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

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

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

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

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

(B) is filed with the city recorder by May 31 of any odd-numbered year;

(C) is substantially similar to the form of the signature sheets described in Section

## HB0338S02 compared with HB0338S01

20A-7-303; and

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

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

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

(d) The clerk shall ensure that:

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

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

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

(iv) every ballot is folded and perforated in a manner that separates the candidates of one party from those of the other parties and enables the voter to separate the part of the ballot containing the names of the party of the voter's choice from the remainder of the ballot; and

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

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

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

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

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

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

Section ~~3~~17. Section 20A-9-406.5 is enacted to read:

**20A-9-406.5. Candidate's right to placement on ballot.**

## HB0338S02 compared with HB0338S01

(1) As used in this section, "valid candidate" means a candidate who lawfully files a declaration of candidacy to seek nomination to run for office as a member of a political party that certifies as a qualified political party under Subsection 20A-9-101(12)(d).

(2) If a political party that provides the certification described in Subsection 20A-9-101(12)(d) takes any action to prevent an individual from seeking nomination by gathering signatures under Section 20A-9-408, the lieutenant governor may not refuse to place a nominee of the political party, who is selected at the political party's convention, or who qualifies for the ballot by collecting signatures, on the primary election ballot or the general election ballot, as applicable.

(3) If a person brings a legal action claiming that a political party has taken the action described in Subsection (2), the legal action may not result in prohibiting placement of a nominee of the political party, who is selected at the political party's convention, or who qualifies for the ballot by collecting signatures, on the primary election ballot or the general election ballot, as applicable.

Section ~~{4}~~18. Section **20A-9-408** is amended to read:

**20A-9-408. Signature-gathering process to seek the nomination of a 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 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 described in Section 20A-9-408.5.

(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] the first business day in January of an even-numbered year and ending at 5 p.m. on the fifth business day in January of the same year,

## HB0338S02 compared with HB0338S01

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.

(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~~] within the period beginning on the first business day in January of an even-numbered year and ending on the fifth business day in January of the same year, 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



## HB0338S02 compared with HB0338S01

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, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and 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.

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

(8) A member of a qualified political party may seek the nomination of the qualified 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, during the period beginning on [~~January 1~~] the first business day in January 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~~] at 5 p.m. on the second Friday in April, 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;

## HB0338S02 compared with HB0338S01

(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;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) 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, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; 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 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

## HB0338S02 compared with HB0338S01

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 ~~5~~19. Section **20A-9-409** is amended to read:

**20A-9-409. Primary election provisions relating to qualified political party.**

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

(2) (a) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that office under Section 20A-9-408, may, but is not required to, participate in the primary election for that office.

(b) A qualified political party that has only one candidate qualify as a candidate for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407, may, but is not required to, participate in the primary election for that office.

## HB0338S02 compared with HB0338S01

(c) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate for that office under Section 20A-9-408 shall participate in the primary election for that office.

(d) A qualified political party that has two or more candidates qualify as candidates for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407 shall participate in the primary election for that office.

(3) Notwithstanding Subsection (2), in an opt-in county, as defined in Section 17-52-501 or Section 17-52-502, a qualified political party shall participate in the primary election for a county commission office if:

(a) there is more than one:

(i) open position as defined in Section 17-52-501; or

(ii) midterm vacancy as defined in Section 17-52-501; and

(b) the number of candidates nominated under Section 20A-9-407 or qualified under Section 20A-9-408 for the respective open positions or midterm vacancies exceeds the number of respective open positions or midterm vacancies.

(4) (a) As used in this Subsection (4), a candidate is "unopposed" if:

(i) no individual other than the candidate receives a certification, from the appropriate filing officer, for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(ii) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification, from the appropriate filing officer, for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(b) [~~By 5 p.m. on~~] On the first [~~Wednesday~~] Monday after the [~~third~~] fourth Saturday in April, the lieutenant governor shall:

(i) provide to the county clerks:

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

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

## HB0338S02 compared with HB0338S01

registered political party; and

(ii) instruct the county clerks to exclude unopposed candidates from the primary election ballot.

Section ~~6~~20. Section 20A-9-701 is amended to read:

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

(1) No later than August 31 of each regular general election year, the lieutenant governor shall certify to each county clerk[, for offices to be voted upon at the regular general election in that county clerk's county: (a)] the names of each candidate [nominated under Subsection 20A-9-202(4) or Subsection 20A-9-403(5); and (b) the names of the], including candidates for president and vice president that are certified by the registered political party as the party's nominees, for offices to be voted upon at the regular general election in that county clerk's county.

(2) The names shall be certified by the lieutenant governor and shall be displayed on the ballot as they are provided on the candidate's declaration of candidacy. [No other names may appear on the ballot as affiliated with, endorsed by, or nominated by any other registered political party, political party, or other political group.]

### Section 21. Repealer.

This bill repeals:

Section 20A-1-103, Severability clause.

Section 20A-9-405, Nomination petitions for regular primary elections.

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

Section 20A-9-407, Convention process to seek the nomination of a qualified political party.

Section 20A-9-408.5, Declaration of candidacy form for qualified political party.

Section 20A-9-410, Rulemaking authority.

Section 20A-9-411, Signing multiple nomination petitions.

Section 22. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on January 1, 2019.

(2) (a) If this bill is approved by two-thirds of all the members elected to each house, ~~this bill takes~~ the enactment of Sections 20A-9-202, 20A-9-403, and 20A-9-406.5 take effect

## HB0338S02 compared with HB0338S01

upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(b) If this bill is not approved by two-thirds of all the members elected to each house, the enactment of Sections 20A-9-202, 20A-9-403, and 20A-9-406.5 takes effect on May 8, 2018, unless this bill is vetoed by the governor.

(3) (a) Except as provided in Subsection (3)(b), this bill does not take effect if the Count My Vote citizens' initiative petition, entitled "Direct Primary Election," filed with the lieutenant governor on September 27, 2017, becomes law.

(b) If approved by two-thirds vote of all the members elected to each house, the enactment of Section 20A-9-406.5 takes effect upon the governor's signature, or if not approved by two-thirds vote, on May 8, 2018, unless this bill is vetoed by the governor.

### Section 23. Revisor instructions.

If the Count My Vote citizen's initiative petition, entitled "Direct Primary Election," filed with the lieutenant governor on September 27, 2017, does not become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication on January 1, 2019, shall:

(1) reverse the changes made to Sections 20A-9-202 and 20A-9-403 in this bill;

(2) after complying with Subsection (1):

(a) amend Subsections 20A-9-202(1) through (3), as follows:

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

(i) file a declaration of candidacy in person with the [filing officer on or after January 1 of the regular general election year, and, if applicable, before the candidate circulates nomination petitions under Section 20A-9-405] county clerk 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

(ii) pay the filing fee.

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

(i) file a declaration of candidacy in person with either the lieutenant governor or the

## HB0338S02 compared with HB0338S01

county clerk in the candidate's county of residence on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

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

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

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

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

(ii) pay the filing fee.

~~[(d)]~~ (e) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

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

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after ~~[January 1 of the regular general election year, and before the candidate circulates nomination petitions under Section 20A-9-405]~~ the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(ii) pay the filing fee.

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

(3) (a) ~~[On or before 5 p.m. on the first Monday after the third Saturday in April]~~

## HB0338S02 compared with HB0338S01

Within five working days of nomination, each lieutenant governor candidate shall:

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

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the [primary-election] primary election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) Any candidate for lieutenant governor who fails to [timely file] within five working days is disqualified. If a lieutenant governor is disqualified, another candidate shall [file] be nominated to replace the disqualified candidate."; and

(b) amend Subsections 20A-9-403(1) through (5) as follows:

"(1) (a) [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] use the primary election process to nominate some or all of the registered political party's 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 the registered political party's candidates for elective office in the manner described 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 is 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] As a condition for using the state's election system, each registered political party[, in a statement filed with the lieutenant governor,] that wishes to participate in the primary election shall:



## HB0338S02 compared with HB0338S01

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

~~(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 individuals identified as unaffiliated with a political party may vote for the registered political party's candidates[-]; and~~

~~[(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.]~~

~~[(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.]~~

~~[(3) (a) Except as provided in Subsection (3)(c), an individual who 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 individual 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 2% of the registered political party's members who reside in the political division of the office that the individual seeks.]~~

~~[(b) (i) 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.]~~

~~[(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.]~~

~~[(c) (i) 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 individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on~~

## HB0338S02 compared with HB0338S01

or before November 15 of each odd-numbered year.]

[(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 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 submit 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 an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; 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 in accordance with rules made under Subsection (3)(f):]

[(c) Notwithstanding any other provision in this 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) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, shall make rules that:]

[(i) provide for the use of statistical sampling procedures that:]

[(A) filing officers are required to use to verify signatures under Subsection (3)(d); and]

[(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and]

[(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures:]

[(iii) certify the information described in this Subsection (2)(a) to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year.]

## HB0338S02 compared with HB0338S01

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

(i) certify the name and office of each of the registered political party's candidates to the lieutenant governor no later than 5 p.m. on the first Monday after the third Saturday in April of each even-numbered year and indicate which of the candidates will be on the primary ballot; and

(ii) certify the name and office of each of the registered political party's county candidates to the county clerks by 5 p.m. on the first Monday after the third Saturday in April of each even-numbered year and indicate which of the candidates will be on the primary ballot.

(c) By 5 p.m. on the first Wednesday after the third Saturday in April of each even-numbered year, the lieutenant governor shall send the county clerks a certified list of the names of all statewide candidates, multicounty candidates, or single county candidates that shall be printed on the primary ballot and the order the candidates are to appear on the ballot in accordance with Section 20A-6-305.

(d) Except for presidential candidates, if a registered political party does not wish to participate in the primary election, the registered political party shall submit the names of the registered political party's county candidates to the county clerks and the names of all of the registered political party's candidates to the lieutenant governor by 5 p.m. on May 30 of each even-numbered year.

[(g)] (3) The county clerk shall:

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

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

[(iii)] (c) 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, single county, and county offices who have received certifications under Subsection (3), along with

## HB0338S02 compared with HB0338S01

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 registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed 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)] (4) After the county clerk receives the certified list from [the lieutenant governor under Subsection (4)(a)] a registered political party, the county clerk shall post or publish a primary election notice in substantially the following form:

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

(5) (a) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is[:(i)] nominated for that office by the candidate's registered political party[:] or nonpartisan group.

[(ii) for a nonpartisan local school board position, nominated for that office.]

(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 the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection [(3)] (2) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection [(3)] (2) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

## **HB0338S02 compared with HB0338S01**

(ii) 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 election ballot."; and

(3) repeal Sections 20A-9-408 and 20A-9-409.