

SB0074S04 compared with SB0074S03

~~deleted text~~ shows text that was in SB0074S03 but was deleted in SB0074S04.

Inserted text shows text that was not in SB0074S03 but was inserted into SB0074S04.

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 Norman K. Thurston proposes the following substitute bill:

VOTER PRIVACY AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Rebecca P. Edwards

LONG TITLE

General Description:

This bill amends provisions related to a date of birth on a voter registration record.

Highlighted Provisions:

This bill:

- ▶ specifies that a qualified person may only obtain a voter's month and year of birth from the list of registered voters instead of a voter's entire date of birth;
- ▶ amends the voter registration form;
- ▶ allows any individual to request that the individual's voter registration record be classified as a private record;
- ▶ amends provisions relating to the process by which a voter may request that the voter's voter registration record be classified as a private record;
- ▶ specifies that a governmental entity may share a protected voter registration record

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with another governmental entity for a purpose related to voter registration or the administration of an election; and

- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-2-104, as last amended by Laws of Utah 2015, Chapter 130

20A-2-108, as last amended by Laws of Utah 2015, Chapter 130

20A-2-306, as last amended by Laws of Utah 2017, Chapter 52

20A-6-105, as last amended by Laws of Utah 2014, Chapter 373

63G-2-202, as last amended by Laws of Utah 2016, Chapter 348

Utah Code Sections Affected by Coordination Clause:

20A-2-104, as last amended by Laws of Utah 2015, Chapter 130

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

Section 1. Section **20A-2-104** is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America? Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote? Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

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First Middle Last
Utah Driver License or Utah Identification Card Number _____
Date of Birth _____
Street Address of Principal Place of Residence

City County State Zip Code
Telephone Number (optional) _____
Last four digits of Social Security Number _____
Last former address at which I was registered to vote (if known) _____

City County State Zip Code

Political Party
(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)
 Unaffiliated (no political party preference) Other (Please specify) _____

You may request that your voter registration record be classified as a private record by indicating here: _____ Yes, I would like to request that my voter registration record be classified as a private record.

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature
_____(month/day/year).

[^]The portion of [a] your voter registration form that lists [~~a person's~~] your driver

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license or identification card number, social security number, ~~[and]~~ email address, and the day of your month of birth is a private record. The portion of [a] your voter registration form that lists ~~[a person's date]~~ your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."]~~

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

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Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party; or

(vi) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the [date] month or year of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vi)(A), to whom a [date]

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month or year of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i) or (v), to whom the person provides the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters, will only use the [~~date~~] month or year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters, will only use the [~~date~~] month or year of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v), to whom the person provides the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters, will only use the [~~date~~] month or year of birth for a political purpose.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the [~~dates~~] months and years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the [~~dates~~] months and years of birth;

(D) a list of the purposes for which the [~~date~~] qualified person may use the month or

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year of birth of a registered voter that is obtained from the list of registered voters [~~may be used~~];

(E) a statement that the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the [~~date~~] month or year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the [~~date~~] month or year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)[~~(k)~~](j); or

(ii) will provide or use the [~~date~~] month or year of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(f) to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(e) A person is guilty of a class A misdemeanor if the person:

(i) obtains the [~~date~~] month or year of birth of a registered voter from the list of registered voters under false pretenses; or

(ii) uses or provides the [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters, in a manner that is not permitted by law.

(f) The lieutenant governor or a county clerk shall classify the voter registration record

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of a voter as a private record if the voter [submits]:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private; [~~and~~] or

~~[(ii) provides evidence to the lieutenant governor or a county clerk establishing that release of the information on the voter's voter registration record is likely to put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a member of the voter's household at risk of being stalked or harassed.]~~

~~[(g) The evidence described in Subsection (4)(f) may include:]~~

~~[(i) a protective order;]~~

~~[(ii) a police report; or]~~

~~[(iii) other evidence designated by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor.]~~

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record.

~~[(h)]~~ (g) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who obtains the [~~date~~] month or year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses a [~~date~~] month or year of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of [~~dates~~] months or years of birth obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) \$200.

~~[(†)]~~ (h) A qualified person may not obtain, provide, or use the [~~date~~] month or year of birth of a registered voter, if the [~~date~~] month or year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the [~~date~~] month or year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or

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uses the ~~[date]~~ month or year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) and obtains, provides, or uses the ~~[date]~~ month or year of birth for a political purpose; or

(iv) is a qualified person described in Subsection (4)(a)(vi) and obtains, provides, or uses the ~~[date]~~ month or year of birth to provide the ~~[date]~~ month or year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

~~[(f)]~~ (i) A person who is not a qualified person may not obtain, provide, or use the ~~[date]~~ month or year of birth of a registered voter, if the ~~[date]~~ month or year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a candidate for public office and uses the ~~[date]~~ month or year of birth only for a political purpose; or

(ii) obtains the ~~[date]~~ month or year of birth from a political party or a candidate for public office and uses the ~~[date]~~ month or year of birth only for the purpose of assisting the political party or candidate for public office to fulfill a political purpose.

~~[(k)]~~ (j) The lieutenant governor or a county clerk may provide a ~~[date]~~ month or year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible

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prosecution.

Section 2. Section **20A-2-108** is amended to read:

20A-2-108. Driver license registration form -- Transmittal of information.

(1) The lieutenant governor and the Driver License Division shall design the driver license application and renewal forms to include the following questions:

(a) "If you are not registered to vote where you live now, would you like to register to vote today?"; and

(b) "If you are 16 or 17 years of age, and will not be 18 years of age before the date of the next election, would you like to preregister to vote today?"

(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.

(b) Each driver license application and renewal form shall contain:

(i) a place for the applicant to decline to register or preregister to vote;

(ii) the following statement: "You may request that your voter registration record be classified as a private record by indicating here: Yes, I would like to request that my voter registration record be classified as a private record.";

~~[(ii)]~~ (iii) an eligibility statement in substantially the following form:

"I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election.

Signed and sworn

Voter's Signature

_____(month\day\year)";

~~[(iii)]~~ (iv) a citizenship affidavit in substantially the following form:

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

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Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500";

~~[(iv)]~~ (v) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

~~[(v)]~~ (vi) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

~~[(vi)]~~ (vii) the following statement:

"The portion of [a] your voter registration form that lists [~~a person's~~] your driver license or identification card number, social security number, [~~and~~] email address, and the day of your month of birth is a private record. The portion of [a] your voter registration form that lists [~~a person's date~~] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons."

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.]~~

(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review the voter registration form for completeness and accuracy; and

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(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 3. Section **20A-2-306** is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

Street

City

County

State

Zip

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If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

Signature of Voter"

"The portion of [a] your voter registration form that lists [~~a person's~~] your driver license or identification card number, social security number, [~~and~~] email address, and the day of your month of birth is a private record. The portion of [a] your voter registration form that lists [~~a person's date~~] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you]~~ You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

- (i) the voter requests, in writing, that the voter's name be removed; or
- (ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk

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may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

Section 4. Section **20A-6-105** is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

"AFFIRMATION

Are you a citizen of the United States of America? Yes No

Will you be 18 years old on or before election day? Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____

First

Middle

Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known)

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I, (please print your full name) _____ do solemnly swear or affirm:

That I am currently registered to vote in the state of Utah and am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____

In accordance with Section 20A-3-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine."

"The portion of [a] your voter registration form that lists [~~a person's~~] your driver license or identification card number, social security number, and email address, and the day of your month of birth, is a private record. The portion of [a] your voter registration form that lists [~~a person's date~~] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you]~~ You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a

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citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500."

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section 5. Section **63G-2-202** is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) [~~Upon request, and except~~] Except as provided in Subsection (11)(a), a governmental entity [~~shall~~]:

(a) shall, upon request, disclose a private record to:

~~(a)~~ (i) the subject of the record;

~~(b)~~ (ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

~~(c)~~ (iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

~~(d)~~ (iv) any other individual who:

~~(i)~~ (A) has a power of attorney from the subject of the record;

~~(ii)~~ (B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

~~(iii)~~ (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

~~(e)~~ (v) any person to whom the record must be provided pursuant to:

~~(i)~~ (A) court order as provided in Subsection (7); or

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~~[(ii)]~~ (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers[-]; and

(b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political

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subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) [A] Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

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(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

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(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 6. Coordinating S.B. 74 with H.B. 218 -- Technical amendments.

If this S.B. 74 and H.B. 218, Modifications to Election Law, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 20A-2-104(4)(f) in this S.B. 74 supercede the amendments to Subsection 20A-2-104(4)(f) in H.B. 218, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

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