

**POLL WATCHERS AND CHALLENGES TO VOTERS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Keven J. Stratton

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**LONG TITLE**

**General Description:**

This bill amends provisions related to poll watchers and challenges to an individual's eligibility to vote.

**Highlighted Provisions:**

This bill:

- ▶ consolidates definitions associated with poll watchers and defines other terms;
- ▶ creates a process for an individual to register as a watcher;
- ▶ designates activities in which a watcher may engage;
- ▶ prohibits a watcher from taking certain actions;
- ▶ permits an election officer to take certain actions with regard to a watcher;
- ▶ establishes criminal penalties;
- ▶ modifies deadlines related to the challenge of an individual's eligibility to vote; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-1-102**, as last amended by Laws of Utah 2017, Chapter 52



- 28            **20A-1-607**, as enacted by Laws of Utah 1993, Chapter 1
- 29            **20A-3-202**, as last amended by Laws of Utah 2012, Chapter 251
- 30            **20A-3-202.3**, as last amended by Laws of Utah 2015, Chapter 19
- 31            **20A-3-202.5**, as enacted by Laws of Utah 2010, Chapter 83
- 32            **20A-3-203**, as enacted by Laws of Utah 1993, Chapter 1
- 33            **20A-4-101**, as last amended by Laws of Utah 2008, Chapter 225
- 34            **20A-4-102**, as last amended by Laws of Utah 2002, Chapter 177
- 35            **20A-4-104**, as last amended by Laws of Utah 2017, Chapter 327
- 36            **20A-4-202**, as last amended by Laws of Utah 2007, Chapters 75 and 97
- 37            **20A-5-302**, as last amended by Laws of Utah 2007, Chapters 256 and 329

38 REPEALS AND REENACTS:

- 39            **20A-3-201**, as last amended by Laws of Utah 2009, Chapter 388

40 REPEALS:

- 41            **20A-15-105**, as enacted by Laws of Utah 1995, Chapter 1

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

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

45            **20A-1-102. Definitions.**

46            As used in this title:

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

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

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

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

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

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

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

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

- 61 (a) an opinion question specifically authorized by the Legislature;
- 62 (b) a constitutional amendment;
- 63 (c) an initiative;
- 64 (d) a referendum;
- 65 (e) a bond proposition;
- 66 (f) a judicial retention question;
- 67 (g) an incorporation of a city or town; or
- 68 (h) any other ballot question specifically authorized by the Legislature.

69 (6) "Ballot sheet":

- 70 (a) means a ballot that:
  - 71 (i) consists of paper or a card where the voter's votes are marked or recorded; and
  - 72 (ii) can be counted using automatic tabulating equipment; and
- 73 (b) includes punch card ballots and other ballots that are machine-countable.

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

77 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and  
78 [20A-4-306](#) to canvass election returns.

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

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

83 (11) "Business reply mail envelope" means an envelope that may be mailed free of  
84 charge by the sender.

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

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

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

90 the canvass.

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

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

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

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

99 [~~(19) "Counting poll watcher" means a person selected as provided in Section~~  
100 ~~20A-3-201 to witness the counting of ballots.~~]

101 [~~(20)~~ (19) "Counting room" means a suitable and convenient private place or room,  
102 immediately adjoining the place where the election is being held, for use by the poll workers  
103 and counting judges to count ballots during election day.

104 [~~(21)~~ (20) "County officers" means those county officers that are required by law to be  
105 elected.

106 [~~(22)~~ (21) "Date of the election" or "election day" or "day of the election":

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

109 (b) does not include:

110 (i) deadlines established for absentee voting; or

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

113 [~~(23)~~ (22) "Elected official" means:

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

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

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

119 [~~(24)~~ (23) "Election" means a regular general election, a municipal general election, a  
120 statewide special election, a local special election, a regular primary election, a municipal

121 primary election, and a local district election.

122 ~~[(25)]~~ (24) "Election Assistance Commission" means the commission established by  
123 the Help America Vote Act of 2002, Pub. L. No. 107-252.

124 ~~[(26)]~~ (25) "Election cycle" means the period beginning on the first day persons are  
125 eligible to file declarations of candidacy and ending when the canvass is completed.

126 ~~[(27)]~~ (26) "Election judge" means a poll worker that is assigned to:

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

130 ~~[(28)]~~ (27) "Election officer" means:

- 131 (a) the lieutenant governor, for all statewide ballots and elections;
- 132 (b) the county clerk for:
  - 133 (i) a county ballot and election; and
  - 134 (ii) a ballot and election as a provider election officer as provided in Section

135 [20A-5-400.1](#) or [20A-5-400.5](#);

136 (c) the municipal clerk for:

- 137 (i) a municipal ballot and election; and
- 138 (ii) a ballot and election as a provider election officer as provided in Section

139 [20A-5-400.1](#) or [20A-5-400.5](#);

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

- 141 (i) a local district ballot and election; and
- 142 (ii) a ballot and election as a provider election officer as provided in Section

143 [20A-5-400.1](#) or [20A-5-400.5](#); or

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

- 145 (i) a school district ballot and election; and
- 146 (ii) a ballot and election as a provider election officer as provided in Section

147 [20A-5-400.1](#) or [20A-5-400.5](#).

148 ~~[(29)]~~ (28) "Election official" means any election officer, election judge, or poll  
149 worker.

150 ~~[(30)]~~ (29) "Election results" means:

- 151 (a) for an election other than a bond election, the count of votes cast in the election and

152 the election returns requested by the board of canvassers; or

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

155 ~~[(31)]~~ (30) "Election returns" includes the pollbook, the military and overseas absentee  
156 voter registration and voting certificates, one of the tally sheets, any unprocessed absentee  
157 ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot  
158 disposition form, and the total votes cast form.

159 ~~[(32)]~~ (31) "Electronic ballot" means a ballot that is recorded using a direct electronic  
160 voting device or other voting device that records and stores ballot information by electronic  
161 means.

162 ~~[(33)]~~ (32) "Electronic signature" means an electronic sound, symbol, or process  
163 attached to or logically associated with a record and executed or adopted by a person with the  
164 intent to sign the record.

165 ~~[(34)]~~ (33) (a) "Electronic voting device" means a voting device that uses electronic  
166 ballots.

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

168 ~~[(35)]~~ (34) "Inactive voter" means a registered voter who is listed as inactive by a  
169 county clerk under Subsection [20A-2-306\(4\)\(c\)\(i\)](#) or (ii).

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

172 ~~[(37)]~~ (35) "Judicial office" means the office filled by any judicial officer.

173 ~~[(38)]~~ (36) "Judicial officer" means any justice or judge of a court of record or any  
174 county court judge.

175 ~~[(39)]~~ (37) "Local district" means a local government entity under Title 17B, Limited  
176 Purpose Local Government Entities - Local Districts, and includes a special service district  
177 under Title 17D, Chapter 1, Special Service District Act.

178 ~~[(40)]~~ (38) "Local district officers" means those local district board members that are  
179 required by law to be elected.

180 ~~[(41)]~~ (39) "Local election" means a regular county election, a regular municipal  
181 election, a municipal primary election, a local special election, a local district election, and a  
182 bond election.

183            [~~(42)~~] (40) "Local political subdivision" means a county, a municipality, a local  
184 district, or a local school district.

185            [~~(43)~~] (41) "Local special election" means a special election called by the governing  
186 body of a local political subdivision in which all registered voters of the local political  
187 subdivision may vote.

188            [~~(44)~~] (42) "Municipal executive" means:

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

190            (b) the mayor in the council-manager form of government defined in Subsection

191 10-3b-103(7); or

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

193            [~~(45)~~] (43) "Municipal general election" means the election held in municipalities and,

194 as applicable, local districts on the first Tuesday after the first Monday in November of each

195 odd-numbered year for the purposes established in Section 20A-1-202.

196            [~~(46)~~] (44) "Municipal legislative body" means:

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

198            (b) the council of a metro township.

199            [~~(47)~~] (45) "Municipal office" means an elective office in a municipality.

200            [~~(48)~~] (46) "Municipal officers" means those municipal officers that are required by

201 law to be elected.

202            [~~(49)~~] (47) "Municipal primary election" means an election held to nominate

203 candidates for municipal office.

204            [~~(50)~~] (48) "Municipality" means a city, town, or metro township.

205            [~~(51)~~] (49) "Official ballot" means the ballots distributed by the election officer to the

206 poll workers to be given to voters to record their votes.

207            [~~(52)~~] (50) "Official endorsement" means:

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

209            (i) the ballot as an official ballot;

210            (ii) the date of the election; and

211            (iii) (A) for a ballot prepared by an election officer other than a county clerk, the

212 facsimile signature required by Subsection 20A-6-401(1)(b)(iii); or

213            (B) for a ballot prepared by a county clerk, the words required by Subsection

214 20A-6-301(1)(c)(iii); and

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

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

217 (ii) the ballot number.

218 [~~53~~] (51) "Official register" means the official record furnished to election officials  
219 by the election officer that contains the information required by Section 20A-5-401.

220 [~~54~~] (52) "Paper ballot" means a paper that contains:

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

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

225 [~~55~~] (53) "Political party" means an organization of registered voters that has  
226 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party  
227 Formation and Procedures.

228 [~~58~~] (54) (a) "Poll worker" means a person assigned by an election official to assist  
229 with an election, voting, or counting votes.

230 (b) "Poll worker" includes election judges.

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

232 [~~56~~] (55) "Pollbook" means a record of the names of voters in the order that they  
233 appear to cast votes.

234 [~~57~~] (56) "Polling place" means the building where voting is conducted.

235 [~~59~~] (57) "Position" means a square, circle, rectangle, or other geometric shape on a  
236 ballot in which the voter marks the voter's choice.

237 [~~60~~] (58) "Primary convention" means the political party conventions held during the  
238 year of the regular general election.

239 [~~61~~] (59) "Protective counter" means a separate counter, which cannot be reset, that:

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

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

242 [~~62~~] (60) "Provider election officer" means an election officer who enters into a  
243 contract or interlocal agreement with a contracting election officer to conduct an election for  
244 the contracting election officer's local political subdivision in accordance with Section



245 20A-5-400.1.

246 [~~(63)~~] (61) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

250 [~~(64)~~] (62) "Provisional ballot envelope" means an envelope printed in the form  
251 required by Section 20A-6-105 that is used to identify provisional ballots and to provide  
252 information to verify a person's legal right to vote.

253 [~~(65)~~] (63) "Qualify" or "qualified" means to take the oath of office and begin  
254 performing the duties of the position for which the person was elected.

255 [~~(66)~~] (64) "Receiving judge" means the poll worker that checks the voter's name in the  
256 official register, provides the voter with a ballot, and removes the ballot stub from the ballot  
257 after the voter has voted.

258 [~~(67)~~] (65) "Registration form" means a book voter registration form and a by-mail  
259 voter registration form.

260 [~~(68)~~] (66) "Regular ballot" means a ballot that is not a provisional ballot.

261 [~~(69)~~] (67) "Regular general election" means the election held throughout the state on  
262 the first Tuesday after the first Monday in November of each even-numbered year for the  
263 purposes established in Section 20A-1-201.

264 [~~(70)~~] (68) "Regular primary election" means the election on the fourth Tuesday of  
265 June of each even-numbered year, to nominate candidates of political parties and candidates for  
266 nonpartisan local school board positions to advance to the regular general election.

267 [~~(71)~~] (69) "Resident" means a person who resides within a specific voting precinct in  
268 Utah.

269 [~~(72)~~] (70) "Sample ballot" means a mock ballot similar in form to the official ballot  
270 printed and distributed as provided in Section 20A-5-405.

271 [~~(73)~~] (71) "Scratch vote" means to mark or punch the straight party ticket and then  
272 mark or punch the ballot for one or more candidates who are members of different political  
273 parties or who are unaffiliated.

274 [~~(74)~~] (72) "Secrecy envelope" means the envelope given to a voter along with the  
275 ballot into which the voter places the ballot after the voter has voted it in order to preserve the

276 secrecy of the voter's vote.

277 [~~(75)~~] (73) "Special election" means an election held as authorized by Section  
278 20A-1-203.

279 [~~(76)~~] (74) "Spoiled ballot" means each ballot that:

280 (a) is spoiled by the voter;

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

282 (c) lacks the official endorsement.

283 [~~(77)~~] (75) "Statewide special election" means a special election called by the governor  
284 or the Legislature in which all registered voters in Utah may vote.

285 [~~(78)~~] (76) "Stub" means the detachable part of each ballot.

286 [~~(79)~~] (77) "Substitute ballots" means replacement ballots provided by an election  
287 officer to the poll workers when the official ballots are lost or stolen.

288 [~~(80)~~] (78) "Ticket" means a list of:

289 (a) political parties;

290 (b) candidates for an office; or

291 (c) ballot propositions.

292 [~~(81)~~] (79) "Transfer case" means the sealed box used to transport voted ballots to the  
293 counting center.

294 [~~(82)~~] (80) "Vacancy" means the absence of a person to serve in any position created  
295 by statute, whether that absence occurs because of death, disability, disqualification,  
296 resignation, or other cause.

297 [~~(83)~~] (81) "Valid voter identification" means:

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

300 (i) a currently valid Utah driver license;

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

302 (A) the state; or

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

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

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

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

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

309 (i) a valid tribal identification card;

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

311 (iii) a tribal treaty card; or

312 (c) two forms of identification not listed under Subsection [~~(83)~~] (81)(a) or (b) but that  
313 bear the name of the voter and provide evidence that the voter resides in the voting precinct,  
314 which may include:

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

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

318 (iii) a certified birth certificate;

319 (iv) a valid social security card;

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

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

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

323 (viii) certified naturalization documentation;

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

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

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

327 (xii) a currently valid identification card issued by:

328 (A) a local government within the state;

329 (B) an employer for an employee; or

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

332 (xiii) a current Utah vehicle registration.

333 [~~(84)~~] (82) "Valid write-in candidate" means a candidate who has qualified as a  
334 write-in candidate by following the procedures and requirements of this title.

335 [~~(85)~~] (83) "Voter" means a person who:

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

337 (b) meets the requirements of election registration;

338 (c) is registered to vote; and

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

340 ~~[(86)]~~ (84) "Voter registration deadline" means the registration deadline provided in  
341 Section [20A-2-102.5](#).

342 ~~[(87)]~~ (85) "Voting area" means the area within six feet of the voting booths, voting  
343 machines, and ballot box.

344 ~~[(88)]~~ (86) "Voting booth" means:

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

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

348 ~~[(89)]~~ (87) "Voting device" means:

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

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

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

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

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

357 ~~[(90)]~~ (88) "Voting machine" means a machine designed for the sole purpose of  
358 recording and tabulating votes cast by voters at an election.

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

361 ~~[(92)]~~ (89) "Voting precinct" means the smallest voting unit established as provided by  
362 law within which qualified voters vote at one polling place.

363 ~~[(93)]~~ (90) "Watcher" means ~~[a voting poll watcher, a counting poll watcher, an  
364 inspecting poll watcher, and a testing watcher]~~ an individual who complies with the  
365 requirements described in Section [20A-3-201](#) to become a watcher for an election.

366 ~~[(94)]~~ (91) "Western States Presidential Primary" means the election established in  
367 Chapter 9, Part 8, Western States Presidential Primary.

368 ~~[(95)]~~ (92) "Write-in ballot" means a ballot containing any write-in votes.

369           ~~[(96)]~~ (93) "Write-in vote" means a vote cast for a person whose name is not printed on  
370 the ballot according to the procedures established in this title.

371           Section 2. Section **20A-1-607** is amended to read:

372           **20A-1-607. Inducing attendance at polls -- Payment of workers.**

373           (1) (a) It is unlawful for ~~[any]~~ a person to pay another for ~~[any]~~ a loss ~~[due to~~  
374 ~~attendance at the polls or to registering]~~ incurred because an individual voted or registered to  
375 vote.

376           (b) ~~[This subsection]~~ Subsection (1)(a) does not permit an employer to make [any] a  
377 deduction from the usual salary or wages of [any] an employee who takes a leave of absence as  
378 authorized under Section 20A-3-103 for the purpose of voting.

379           (2) (a) A person may not pay for personal services performed or to be performed on the  
380 day of a caucus, primary, convention, or election, or for any purpose connected with a caucus,  
381 primary, convention, or election that directly or indirectly affect the result of the caucus,  
382 primary, convention, or election.

383           (b) Subsection (2)(a) does not prohibit [the hiring of persons whose sole duty it is to  
384 act as challengers and watch the count of official ballots] a person from hiring a person to act  
385 as a watcher.

386           Section 3. Section **20A-3-201** is repealed and reenacted to read:

387                               **Part 2. Watchers and Challenges to Voters**

388           **20A-3-201. Watchers.**

389           (1) As used in this section, "administering election officer" means:

390           (a) the election officer; or

391           (b) if the election officer is the lieutenant governor, the county clerk of the county in  
392 which an individual will act as a watcher.

393           (2) (a) Any individual may become a watcher in an election at any time by registering  
394 as a watcher with the administering election officer.

395           (b) An individual who registers under Subsection (2)(a) is not required to be certified  
396 by a person under Subsection (3) in order to act as a watcher.

397           (c) An individual who registers as a watcher shall notify the administering election  
398 officer of the dates, times, and locations that the individual intends to act as a watcher.

399           (d) An election official may not prohibit a watcher from performing a function

400 described in Subsection (4) because the watcher did not provide the notice described in  
401 Subsection (2)(c).

402 (e) An administering election officer shall provide a copy of this section, or  
403 instructions on how to access an electronic copy of this section, to a watcher at the time the  
404 watcher registers under this Subsection (2).

405 (3) (a) A person that is a candidate whose name will appear on the ballot, a qualified  
406 write-in candidate for the election, a registered political party, or a political issues committee  
407 may certify an individual as an official watcher for the person:

408 (i) by filing an affidavit with the administering election officer responsible to designate  
409 an individual as an official watcher for the certifying person; and

410 (ii) if the individual registers as a watcher under Subsection (2)(a).

411 (b) A watcher who is certified by a person under Subsection (3)(a) may not perform the  
412 same function described in Subsection (4) at the same time and in the same location as another  
413 watcher who is certified by that person.

414 (c) A watcher who is certified by a person under Subsection (3)(a) may designate  
415 another individual to serve in the watcher's stead during the watcher's temporary absence by  
416 filing with a poll worker an affidavit that designates the individual as a temporary replacement.

417 (4) A watcher may:

418 (a) observe the setup or takedown of a polling location;

419 (b) observe a voter checking in at a polling location;

420 (c) observe the collection, receipt, and processing of a ballot, including a provisional  
421 ballot or a ballot cast by a covered voter as defined in Section [20A-16-102](#);

422 (d) observe the transport or transmission of a ballot that is in an election official's  
423 custody;

424 (e) observe the opening and inspection of a by-mail ballot;

425 (f) observe ballot duplication;

426 (g) observe the conduct of logic and accuracy testing described in Section [20A-5-802](#);

427 (h) observe ballot tabulation;

428 (i) observe the process of storing and securing a ballot;

429 (j) observe a post-election audit;

430 (k) observe a canvassing board meeting described in Title 20A, Chapter 4, Part 3,

431 Canvassing Returns;

432 (l) observe the certification of the results of an election; or

433 (m) observe a recount.

434 (5) (a) A watcher may not:

435 (i) electronically record an activity described in Subsection (4);

436 (ii) interfere with an activity described in Subsection (4), except to challenge an

437 individual's eligibility to vote under Section [20A-3-202](#); or

438 (iii) divulge information related to the number of votes counted, tabulated, or cast for a

439 candidate or ballot proposition until after the election officer makes the information public.

440 (b) A person who violates Subsection (5)(a)(iii) is guilty of a third degree felony.

441 (6) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working

442 environment for an election official or to protect the safety or security of a ballot, an

443 administering election officer may take reasonable action to:

444 (i) limit the number of watchers at a single location;

445 (ii) remove a watcher for violating a provision of this section;

446 (iii) remove a watcher for interfering with an activity described in Subsection (4);

447 (iv) designate areas for a watcher to reasonably observe the activities described in

448 Subsection (4); or

449 (v) ensure that a voter's ballot secrecy is protected throughout the watching process.

450 (b) If an administering election officer limits the number of watchers at a single

451 location under Subsection (6)(a)(i), the administering election officer shall give preferential

452 access to the location to a watcher designated under Subsection (3).

453 (c) An administering election officer may provide a watcher a badge that identifies the

454 watcher and require the watcher to wear the badge while acting as a watcher.

455 Section 4. Section **20A-3-202** is amended to read:

456 **20A-3-202. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.**

457 ~~[(1) A person's right to vote may be challenged because:]~~

458 (1) A person may challenge an individual's eligibility to vote on any of the following

459 grounds:

460 (a) the [voter] individual is not the [person] individual in whose name [appears in the

461 official register or under which name the right to vote is claimed] the individual tries to vote;

- 462 (b) the ~~[voter]~~ individual is not a resident of Utah;
- 463 (c) the ~~[voter]~~ individual is not a citizen of the United States;
- 464 (d) the ~~[voter]~~ individual has not or will not have resided in Utah for 30 days  
465 immediately before the date of the election;
- 466 (e) the ~~[voter's]~~ individual's principal place of residence is not in the voting precinct  
467 ~~[claimed]~~ that the individual claims;
- 468 (f) the ~~[voter's]~~ individual's principal place of residence is not in the geographic  
469 boundaries of the election area;
- 470 (g) the ~~[voter]~~ individual has already voted in the election;
- 471 (h) the ~~[voter]~~ individual is not at least 18 years of age;
- 472 (i) the ~~[voter]~~ individual has been convicted of a misdemeanor for an offense under this  
473 title and the ~~[voter's]~~ individual's right to vote in an election has not been restored under  
474 Section [20A-2-101.3](#);
- 475 (j) the ~~[voter]~~ individual is a convicted felon and the voter's right to vote in an election  
476 has not been restored under Section [20A-2-101.5](#); or
- 477 (k) in a regular primary election or in the Western States Presidential Primary, the  
478 ~~[voter]~~ individual does not meet the political party affiliation requirements for the ballot the  
479 ~~[voter]~~ individual seeks to vote.
- 480 (2) A person who challenges ~~[another person's]~~ an individual's right to vote ~~[at]~~ in an  
481 election shall ~~[do so according to the procedures and requirements of]~~ make the challenge in  
482 accordance with:
- 483 (a) Section [20A-3-202.3](#), for ~~[challenges issued in writing more than 21 days before the~~  
484 ~~day on which voting commences]~~ a challenge that is not made in person at the time an  
485 individual votes; or
- 486 (b) Section [20A-3-202.5](#), for challenges ~~[issued]~~ made in person at the time ~~[of voting]~~  
487 an individual votes.
- 488 Section 5. Section [20A-3-202.3](#) is amended to read:
- 489 **20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure**  
490 **-- Form of challenge.**
- 491 (1) (a) A person may challenge ~~[the right to vote of a person whose name appears on~~  
492 ~~the official register by filing with the election officer, during regular business hours and not~~



493 ~~later than 21 days before the date that early voting commences,]~~ an individual's eligibility to  
 494 vote by filing a written statement with the election officer in accordance with Subsection (1)(b)  
 495 that:

- 496 (i) lists the name and address of the person filing the challenge;
- 497 (ii) for each ~~[voter]~~ individual who is challenged:
  - 498 (A) identifies the name of the challenged ~~[voter]~~ individual;
  - 499 (B) lists the last known address or telephone number of the challenged ~~[voter]~~  
 500 individual;
  - 501 (C) provides the basis for the challenge, as provided under Section [20A-3-202](#);
  - 502 (D) provides facts and circumstances supporting the basis provided; and
  - 503 (E) may include supporting documents, affidavits, or other evidence; and
  - 504 (iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:
    - 505 (A) the filer exercised due diligence to personally verify the facts and circumstances  
 506 establishing the basis for the challenge; and
    - 507 (B) according to the filer's personal knowledge and belief, the basis for the challenge  
 508 under Section [20A-3-202](#) for each challenged ~~[voter]~~ individual is valid.

509 (b) A person that files a written statement under Subsection (1)(a) shall file the written  
 510 statement during the election officer's regular business hours:

- 511 (i) at least 45 days before the day of the election; or
- 512 (ii) if the challenge is to an individual who registered to vote between the day that is 45  
 513 days before the election and the day of the election:
  - 514 (A) on or before the day of the election; and
  - 515 (B) before the individual's ballot is removed from a ballot envelope or otherwise  
 516 separated from any information that could be used to identify the ballot as the individual's  
 517 ballot.

518 ~~[(b)]~~ (c) The challenge may not be based on unsupported allegations or allegations by  
 519 an anonymous person.

520 ~~[(c) The]~~ (d) An election officer may ~~[provide]~~ require a person that files a challenge  
 521 under this section to file the challenge on a form provided by the election officer that meets the  
 522 requirements of this section [for challenges filed under this section].

523 (2) [(a)] If the challenge is not in the proper form, is incomplete, or if the basis for the

524 challenge does not meet the requirements of this part, the election officer ~~[may]~~ shall dismiss  
525 the challenge and notify the filer in writing of the reasons for the dismissal.

526 ~~[(b) A challenge is not in the proper form if the challenge form is incomplete.]~~

527 (3) (a) Upon receipt of a challenge that meets the requirements for filing under this  
528 section, the election officer shall~~[-]~~ attempt to notify each challenged individual in accordance  
529 with Subsection (3)(b):

530 (i) at least 14 days before the day on which early voting commences, if the election  
531 officer receives the challenge under Subsection (1)(b)(i); or

532 (ii) within one business day, if the election officer receives the challenge under  
533 Subsection (1)(b)(ii).

534 (b) The election officer shall attempt to notify each challenged ~~[voter]~~ individual:

535 ~~[(a)]~~ (i) that a challenge has been filed against the challenged ~~[voter and]~~ individual;

536 (ii) that the challenged ~~[voter]~~ individual may be required to cast a provisional ballot at  
537 the time ~~[of voting]~~ the individual votes if the individual votes in person;

538 (iii) if the election is being conducted entirely by absentee ballot or if the individual is  
539 otherwise registered to vote by absentee ballot, that if the individual votes by absentee ballot,  
540 the individual's ballot will be treated as a provisional ballot unless the challenge is resolved;

541 ~~[(b)]~~ (iv) of the basis for the challenge, which may include providing a copy of the  
542 ~~[written statement to the challenged voter]~~ challenge the filer filed with the election officer;  
543 and

544 ~~[(c)]~~ (v) that the challenged ~~[voter]~~ individual may submit information, a sworn  
545 statement, supporting documents, affidavits, or other evidence supporting the challenged  
546 ~~[voter's right]~~ individual's eligibility to vote in the election to the election officer no later than:

547 (A) seven days before the day on which early voting commences~~[-]~~, if the election  
548 officer receives the challenge under Subsection (1)(b)(i); or

549 (B) five days before the day on which the canvass is held, if the election officer  
550 receives the challenge under Subsection (1)(b)(ii).

551 (4) (a) ~~[Before the day on which early voting commences, the]~~ The election officer  
552 shall determine whether each challenged [voter] individual is eligible to vote[-] before the day  
553 on which:

554 (i) early voting commences, if the election officer receives the challenge under

555 Subsection (1)(b)(i); or

556 (ii) the canvass is held, if the election officer receives the challenge under Subsection  
557 (2)(b)(ii).

558 (b) (i) The filer [~~of the challenge~~] has the burden to prove, by clear and convincing  
559 evidence, that the basis for challenging the [~~voter's right~~] individual's eligibility to vote is valid.

560 (ii) The election officer shall resolve the challenge based on the available facts and  
561 information submitted, which may include voter registration records and other documents or  
562 information available to the election officer.

563 (5) A person who files a challenge [~~under~~] in accordance with the requirements of this  
564 section is subject to criminal penalties for false statements as provided under Sections ~~76-8-503~~  
565 and ~~76-8-504~~ and any other applicable criminal provision.

566 (6) (a) [~~A decision of the election officer regarding a person's~~] A challenged individual  
567 may appeal an election officer's decision regarding the individual's eligibility to vote [~~may be~~  
568 ~~appealed~~] to the district court having jurisdiction over the location where the challenge was  
569 filed.

570 (b) The district court shall uphold the decision of the election officer unless the district  
571 court determines that the decision was arbitrary, capricious, or unlawful.

572 (c) In making the district court's determination, the district court's review is limited to:

573 (i) the information [~~submitted~~] filed under Subsection (1)(a) by the [~~person challenging~~  
574 ~~the voter's eligibility~~] filer;

575 (ii) the information submitted under Subsection (3)(c) by the challenged [~~voter~~]  
576 individual; and

577 (iii) any additional facts and information used by the election official to determine  
578 whether the challenged [~~voter~~] individual is eligible to vote, as indicated by the election  
579 official.

580 (7) A challenged [~~voter~~] individual may register to vote or change the location of the  
581 [~~voter's~~] individual's voter registration if otherwise [~~legally entitled to do so~~] permitted by law.

582 (8) [~~All documents~~] A document pertaining to a [~~voter~~] challenge [~~are public records~~]  
583 filed under this section is a public record.

584 Section 6. Section **20A-3-202.5** is amended to read:

585 **20A-3-202.5. Challenges to a voter's eligibility at time of voting -- Procedure.**

586 (1) (a) A poll worker [~~or a person~~], a watcher, or an individual who lives in the voting  
 587 precinct may challenge [~~a voter's right~~] an individual's eligibility to vote in that voting precinct  
 588 or in that election if:

589 (i) the [~~person~~] individual making the challenge and the challenged [~~voter~~] individual  
 590 are both present at the polling place at the time the challenge is made; and

591 (ii) the challenge is made when the challenged [~~voter~~] individual applies for a ballot.

592 (b) [~~A person~~] An individual may make a challenge by orally stating the challenged  
 593 [~~voter's~~] individual's name and the basis for the challenge, as provided under Section  
 594 20A-3-202.

595 (2) The poll worker shall record a challenge in the official register and on the challenge  
 596 sheets in the pollbook, including:

597 (a) the name of the challenged [~~voter~~] individual;

598 (b) the name of the [~~person~~] individual making the challenge; and

599 (c) the basis [~~asserted for the challenge~~] upon which the challenge is made.

600 (3) If [~~a voter's right~~] an individual's eligibility to vote is challenged under this section,  
 601 the poll worker shall follow the procedures and requirements of Section 20A-3-105.5.

602 Section 7. Section 20A-3-203 is amended to read:

603 **20A-3-203. Election official or watcher revealing vote.**

604 (1) It is unlawful for [~~any~~] an election official or watcher to reveal to [~~any other~~]  
 605 another person the name of [~~any~~] a candidate or ballot proposition for whom a voter has voted  
 606 or to communicate to another [~~his~~] person the election official or watcher's opinion, belief, or  
 607 impression [~~as to how or~~] regarding for whom or what a voter has voted.

608 (2) [~~Any~~] A person who violates this section is guilty of a class A misdemeanor.

609 Section 8. Section 20A-4-101 is amended to read:

610 **20A-4-101. Counting paper ballots during election day.**

611 (1) Each county legislative body or municipal legislative body that has voting precincts  
 612 that use paper ballots and each poll worker in those voting precincts shall comply with the  
 613 requirements of this section.

614 (2) (a) Each county legislative body or municipal legislative body shall provide:

615 (i) two sets of ballot boxes for all voting precincts where both receiving and counting  
 616 judges have been appointed; and

617 (ii) a counting room for the use of the poll workers counting the ballots during the day.

618 (b) At any election in any voting precinct in which both receiving and counting judges  
619 have been appointed, when at least 20 votes have been cast, the receiving judges shall:

620 (i) close the first ballot box and deliver it to the counting judges; and

621 (ii) prepare and use another ballot box to receive voted ballots.

622 (c) Upon receipt of the ballot box, the counting judges shall:

623 (i) take the ballot box to the counting room;

624 (ii) count the votes on the regular ballots in the ballot box;

625 (iii) place the provisional ballot envelopes in the envelope or container provided for  
626 them for return to the election officer; and

627 (iv) when they have finished counting the votes in the ballot box, return the emptied  
628 box to the receiving judges.

629 (d) (i) During the course of election day, whenever there are at least 20 ballots  
630 contained in a ballot box, the receiving judges shall deliver that ballot box to the counting  
631 judges for counting; and

632 (ii) the counting judges shall immediately count the regular ballots and segregate the  
633 provisional ballots contained in that box.

634 (e) The counting judges shall continue to exchange the ballot boxes and count ballots  
635 until the polls close.

636 [~~(3) Counting poll watchers appointed as provided in Section 20A-3-201 may observe~~  
637 ~~the count.~~]

638 [~~(4)~~] (3) The counting judges shall apply the standards and requirements of Section  
639 20A-4-105 to resolve any questions that arise as they count the ballots.

640 Section 9. Section 20A-4-102 is amended to read:

641 **20A-4-102. Counting paper ballots after the polls close.**

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

645 (b) The election judges shall apply the standards and requirements of Section  
646 20A-4-105 to resolve any questions that arise as they count the ballots.

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

648 (b) (i) If there are more ballots in the ballot box than there are names entered in the  
649 pollbook, the judges shall examine the official endorsements on the ballots.

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

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

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

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

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

662 (3) The judges shall:

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

665 (b) seal that envelope or container.

666 (4) The judges shall:

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

669 (b) seal that envelope or container.

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

672 (b) In regular primary elections the judges shall:

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

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

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

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

678 (i) count one vote for each candidate designated by the marks in the squares next to the

679 candidate's name;

680 (ii) count one vote for each candidate on the ticket beneath a marked circle, excluding  
681 any candidate for an office for which a vote has been cast for a candidate for the same office  
682 upon another ticket by the placing of a mark in the square opposite the name of that candidate  
683 on the other ticket;

684 (iii) count each vote for each write-in candidate who has qualified by filing a  
685 declaration of candidacy under Section 20A-9-601;

686 (iv) read every name marked on the ballot and mark every name upon the tally sheets  
687 before another ballot is counted;

688 (v) evaluate each ballot and each vote based on the standards and requirements of  
689 Section 20A-4-105;

690 (vi) write the word "spoiled" on the back of each ballot that lacks the official  
691 endorsement and deposit it in the spoiled ballot envelope; and

692 (vii) read, count, and record upon the tally sheets the votes that each candidate and  
693 ballot proposition received from all ballots, except excess or spoiled ballots.

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

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

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

700 (7) Only ~~[election judges and counting poll watchers]~~ an election judge and a watcher  
701 may be present at the place where counting is conducted until the count is completed.

702 Section 10. Section 20A-4-104 is amended to read:

703 **20A-4-104. Counting ballots electronically.**

704 (1) (a) Before beginning to count ballots using automatic tabulating equipment, the  
705 election officer shall test the automatic tabulating equipment to ensure that it will accurately  
706 count the votes cast for all offices and all measures.

707 (b) The election officer shall publish public notice of the time and place of the test at  
708 least 48 hours before the test in one or more daily or weekly newspapers of general circulation  
709 published in the county, municipality, or jurisdiction where the equipment is used.

710 (c) The election officer shall conduct the test by processing a preaudited group of  
711 ballots.

712 (d) The election officer shall ensure that:

713 (i) a predetermined number of valid votes for each candidate and measure are recorded  
714 on the ballots;

715 (ii) for each office, one or more ballot sheets have votes in excess of the number  
716 allowed by law in order to test the ability of the automatic tabulating equipment to reject those  
717 votes; and

718 (iii) a different number of valid votes are assigned to each candidate for an office, and  
719 for and against each measure.

720 (e) If any error is detected, the election officer shall determine the cause of the error  
721 and correct it.

722 (f) The election officer shall ensure that:

723 (i) the automatic tabulating equipment produces an errorless count before beginning  
724 the actual counting; and

725 (ii) the automatic tabulating equipment passes the same test at the end of the count  
726 before the election returns are approved as official.

727 (2) (a) The election officer or ~~his~~ the election officer's designee shall supervise and  
728 direct all proceedings at the counting center.

729 (b) (i) Proceedings at the counting center are public and may be observed by interested  
730 persons.

731 (ii) Only those persons authorized to participate in the count may touch any ballot or  
732 return.

733 (c) The election officer shall deputize and administer an oath or affirmation to all  
734 persons who are engaged in processing and counting the ballots that they will faithfully  
735 perform their assigned duties.

736 ~~[(d) (i) Counting poll watchers appointed as provided in Section 20A-3-201 may  
737 observe the testing of equipment and actual counting of the ballots.]~~

738 ~~[(ii) Those counting poll watchers may make independent tests of the equipment before  
739 or after the vote count as long as the testing does not interfere in any way with the official  
740 tabulation of the ballots.]~~



741 (3) If any ballot is damaged or defective so that it cannot properly be counted by the  
742 automatic tabulating equipment, the election officer shall ensure that two counting judges  
743 jointly:

- 744 (a) create a true duplicate copy of the ballot with an identifying serial number;
- 745 (b) substitute the duplicate ballot for the damaged or defective ballot;
- 746 (c) label the duplicate ballot "duplicate"; and
- 747 (d) record the duplicate ballot's serial number on the damaged or defective ballot.

748 (4) The election officer may:

749 (a) conduct an unofficial count before conducting the official count in order to provide  
750 early unofficial returns to the public;

751 (b) release unofficial returns from time to time after the polls close; and

752 (c) report the progress of the count for each candidate during the actual counting of  
753 ballots.

754 (5) The election officer shall review and evaluate the provisional ballot envelopes and  
755 prepare any valid provisional ballots for counting as provided in Section [20A-4-107](#).

756 (6) (a) The election officer or ~~his~~ the election officer's designee shall:

757 (i) separate, count, and tabulate any ballots containing valid write-in votes; and

758 (ii) complete the standard form provided by the clerk for recording valid write-in votes.

759 (b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast  
760 more votes for an office than that voter is entitled to vote for that office, the poll workers shall  
761 count the valid write-in vote as being the obvious intent of the voter.

762 (7) (a) The election officer shall certify the return printed by the automatic tabulating  
763 equipment, to which have been added write-in and absentee votes, as the official return of each  
764 voting precinct.

765 (b) Upon completion of the count, the election officer shall make official returns open  
766 to the public.

767 (8) If for any reason it becomes impracticable to count all or a part of the ballots with  
768 tabulating equipment, the election officer may direct that they be counted manually according  
769 to the procedures and requirements of this part.

770 (9) After the count is completed, the election officer shall seal and retain the programs,  
771 test materials, and ballots as provided in Section [20A-4-202](#).

772 Section 11. Section **20A-4-202** is amended to read:

773 **20A-4-202. Election officers -- Disposition of ballots -- Release of number of**  
774 **provisional ballots cast.**

775 (1) ~~[(a)]~~ Upon receipt of the election returns from a poll worker, the election officer  
776 shall:

777 ~~[(i)]~~ (a) ensure that the poll worker has provided all of the ballots and election returns;

778 ~~[(ii)]~~ (b) inspect the ballots and election returns to ensure that they are sealed;

779 ~~[(iii)-(A)]~~ (c) (i) for paper ballots, deposit and lock the ballots and election returns in a

780 safe and secure place; or

781 ~~[(B)]~~ (ii) for punch card ballots:

782 ~~[(F)]~~ (A) count the ballots; and

783 ~~[(H)]~~ (B) deposit and lock the ballots and election returns in a safe and secure place;

784 and

785 ~~[(iv)]~~ (d) for bond elections, provide a copy of the election results to the board of

786 canvassers of the local political subdivision that called the bond election.

787 ~~[(b) Inspecting poll watchers appointed as provided in Section 20A-3-201 may be~~

788 ~~present and observe the election officer's receipt, inspection, and deposit of the ballots and~~

789 ~~election returns.]~~

790 (2) Each election officer shall:

791 (a) no later than 5 p.m. on the day after the date of the election, determine the number

792 of provisional ballots cast within the election officer's jurisdiction and make that number

793 available to the public;

794 (b) preserve ballots for 22 months after the election or until the time has expired during

795 which the ballots could be used in an election contest;

796 (c) package and seal a true copy of the ballot label used in each voting precinct;

797 (d) preserve all other official election returns for at least 22 months after an election;

798 and

799 (e) after that time, destroy them without opening or examining them.

800 (3) (a) The election officer shall package and retain all tabulating cards and other

801 materials used in the programming of the automatic tabulating equipment.

802 (b) The election officer:

- 803 (i) may access these tabulating cards and other materials;
- 804 (ii) may make copies of these materials and make changes to the copies;
- 805 (iii) may not alter or make changes to the materials themselves; and
- 806 (iv) within 22 months after the election in which they were used, may dispose of those
- 807 materials or retain them.

808 (4) (a) If an election contest is begun within 12 months, the election officer shall:

809 (i) keep the ballots and election returns unopened and unaltered until the contest is

810 complete; or

811 (ii) surrender the ballots and election returns to the custody of the court having

812 jurisdiction of the contest when ordered or subpoenaed to do so by that court.

813 (b) When all election contests arising from an election are complete, the election

814 officer shall either:

815 (i) retain the ballots and election returns until the time for preserving them under this

816 section has run; or

817 (ii) destroy the ballots and election returns remaining in [~~his~~] the election officer's

818 custody without opening or examining them if the time for preserving them under this section

819 has run.

820 Section 12. Section **20A-5-302** is amended to read:

821 **20A-5-302. Automated voting system.**

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

823 (i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any

824 automated voting system that meets the requirements of this section; and

825 (ii) use that system in any election, in all or a part of the voting precincts within its

826 boundaries, or in combination with paper ballots.

827 (b) Nothing in this title shall be construed to require the use of electronic voting

828 devices in local special elections, municipal primary elections, or municipal general elections.

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

830 (i) provide for voting in secrecy, except in the case of voters who have received

831 assistance as authorized by Section [20A-3-108](#);

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

833 (A) vote for all persons and offices for whom and for which that voter is lawfully

834 entitled to vote;

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

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

837 (iii) permit each voter, at presidential elections, by one mark or punch to vote for the

838 candidates of that party for president, vice president, and for their presidential electors;

839 (iv) permit each voter, at any regular general election, to vote for all the candidates of

840 one registered political party by making one mark or punch;

841 (v) permit each voter to scratch vote;

842 (vi) at elections other than primary elections, permit each voter to vote for the

843 nominees of one or more parties and for independent candidates;

844 (vii) at primary elections:

845 (A) permit each voter to vote for candidates of the political party of [~~his~~] the voter's

846 choice; and

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

848 (viii) prevent the voter from voting for the same person more than once for the same

849 office;

850 (ix) provide the opportunity for each voter to change the ballot and to correct any error

851 before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub.

852 L. No. 107-252;

853 (x) include automatic tabulating equipment that rejects choices recorded on a voter's

854 ballot if the number of the voter's recorded choices is greater than the number which the voter

855 is entitled to vote for the office or on the measure;

856 (xi) be of durable construction, suitably designed so that it may be used safely,

857 efficiently, and accurately in the conduct of elections and counting ballots;

858 (xii) when properly operated, record correctly and count accurately each vote cast;

859 (xiii) for voting equipment certified after January 1, 2005, produce a permanent paper

860 record that:

861 (A) shall be available as an official record for any recount or election contest

862 conducted with respect to an election where the voting equipment is used;

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

864 place; and

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

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

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

872 (E) allows [~~voting poll watchers and counting poll watchers~~] a watcher to observe the  
873 election process to ensure [~~its integrity~~] the integrity of the election process; and

874 (xiv) meet the requirements of Section [20A-5-802](#).

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

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

883 Section 13. **Repealer.**

884 This bill repeals:

885 Section [20A-15-105](#), **Poll watchers.**

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**