

SB0094S02 compared with SB0094S01

~~deleted text~~ shows text that was in SB0094S01 but was deleted in SB0094S02.

Inserted text shows text that was not in SB0094S01 but was inserted into SB0094S02.

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Representative Keven J. Stratton proposes the following substitute bill:

VOTING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill amends provisions related to voting.

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;
- ▶ removes obsolete ballot perforation and ballot stub provisions;

SB0094S02 compared with SB0094S01

- ▶ modifies requirements for using a voting center ballot;
- ▶ modifies provisions relating to curing an invalid absentee ballot; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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

Utah Code Sections Affected:

AMENDS:

- 20A-1-102, as last amended by Laws of Utah 2017, Chapter 52
- 20A-1-607, as enacted by Laws of Utah 1993, Chapter 1
- 20A-3-202, as last amended by Laws of Utah 2012, Chapter 251
- 20A-3-202.3, as last amended by Laws of Utah 2015, Chapter 19
- 20A-3-202.5, as enacted by Laws of Utah 2010, Chapter 83
- 20A-3-203, as enacted by Laws of Utah 1993, Chapter 1
- 20A-3-308, as last amended by Laws of Utah 2017, Chapter 235 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 327
- 20A-3-702, as last amended by Laws of Utah 2013, Chapter 198
- 20A-4-101, as last amended by Laws of Utah 2008, Chapter 225
- 20A-4-102, as last amended by Laws of Utah 2002, Chapter 177
- 20A-4-104, as last amended by Laws of Utah 2017, Chapter 327
- 20A-4-202, as last amended by Laws of Utah 2007, Chapters 75 and 97
- 20A-5-302, as last amended by Laws of Utah 2007, Chapters 256 and 329
- 20A-5-406, as last amended by Laws of Utah 2015, Chapter 392
- 20A-6-102, as last amended by Laws of Utah 2016, Chapter 66
- 20A-6-301, as last amended by Laws of Utah 2016, Chapter 66
- 20A-6-401, as last amended by Laws of Utah 2016, Chapter 176
- 20A-6-401.1, as last amended by Laws of Utah 2013, Chapter 320
- 20A-6-402, as last amended by Laws of Utah 2016, Chapter 176
- 20A-9-404, as last amended by Laws of Utah 2017, Chapter 91
- 20A-9-406, as last amended by Laws of Utah 2017, Chapter 91

SB0094S02 compared with SB0094S01

REPEALS AND REENACTS:

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

REPEALS:

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

Utah Code Sections Affected by Coordination Clause:

20A-3-202, as last amended by Laws of Utah 2012, Chapter 251

20A-3-202.3, as last amended by Laws of Utah 2015, Chapter 19

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

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

20A-1-102. Definitions.

As used in this title:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.
(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.
- (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
 - (a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and
 - (b) are used in conjunction with ballot sheets that do not display that information.
- (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:
 - (a) an opinion question specifically authorized by the Legislature;
 - (b) a constitutional amendment;
 - (c) an initiative;
 - (d) a referendum;
 - (e) a bond proposition;

SB0094S02 compared with SB0094S01

- (f) a judicial retention question;
 - (g) an incorporation of a city or town; or
 - (h) any other ballot question specifically authorized by the Legislature.
- (6) "Ballot sheet":
- (a) means a ballot that:
 - (i) consists of paper or a card where the voter's votes are marked or recorded; and
 - (ii) can be counted using automatic tabulating equipment; and
 - (b) includes punch card ballots and other ballots that are machine-countable.
- (7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.
- (8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.
- (9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.
- (10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.
- (11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.
- (12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.
- (13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.
- (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.
- (15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.
- (16) "Convention" means the political party convention at which party officers and delegates are selected.
- (17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

SB0094S02 compared with SB0094S01

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

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

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

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

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

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

(b) does not include:

(i) deadlines established for absentee voting; or

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

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

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

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

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

~~[(24)]~~ (23) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

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

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

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

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

SB0094S02 compared with SB0094S01

- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

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

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

(c) the municipal clerk for:

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

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

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

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

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

~~[(45)]~~ (43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

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

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

(b) the council of a metro township.

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

~~[(48)]~~ (46) "Municipal officers" means those municipal officers that are required by law to be elected.

~~[(49)]~~ (47) "Municipal primary election" means an election held to nominate candidates for municipal office.

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

~~[(51)]~~ (49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

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

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

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

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

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

(i) the poll worker's initials; and

(ii) the ballot number.

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

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

SB0094S02 compared with SB0094S01

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

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

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

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

(b) "Poll worker" includes election judges.

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

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

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

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

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

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

(a) is built into a voting machine; and

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

~~[(62)]~~ (60) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

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

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

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

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

~~[(64)]~~ (62) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide

SB0094S02 compared with SB0094S01

information to verify a person's legal right to vote.

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

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

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

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

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

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

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

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

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

~~[(74)]~~ (72) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

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

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

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

SB0094S02 compared with SB0094S01

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

which may include:

- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid social security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;
- (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- (xii) a currently valid identification card issued by:
 - (A) a local government within the state;
 - (B) an employer for an employee; or
 - (C) a college, university, technical school, or professional school located within the state; or
- (xiii) a current Utah vehicle registration.

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

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

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

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

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

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

SB0094S02 compared with SB0094S01

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

(b) a voting device that is free standing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

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

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

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

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

Part 2. Watchers and Challenges to Voters

20A-3-201. Watchers.

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

(a) the election officer; or

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

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

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

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

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

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

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee

SB0094S02 compared with SB0094S01

may certify an individual as an official watcher for the person:

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

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

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

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

(4) A watcher may:

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

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

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

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

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

(f) observe ballot duplication;

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

(h) observe ballot tabulation;

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

(j) observe a post-election audit;

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

Canvassing Returns;

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

(m) observe a recount.

(5) (a) A watcher may not:

(i) electronically record an activity described in Subsection (4) **if the recording would reveal a vote or otherwise violate a voter's privacy or a voter's right to cast a secret ballot;**

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

SB0094S02 compared with SB0094S01

individual's eligibility to vote under Section 20A-3-202; or

(iii) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public.

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

(6) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

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

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

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

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4); or

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

(b) If an administering election officer limits the number of watchers at a single location under Subsection (6)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

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

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

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

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

(a) the [voter] individual is not the [person] individual in whose name [appears in the official register or under which name the right to vote is claimed] the individual tries to vote;

(b) the [voter] individual is not a resident of Utah;

(c) the [voter] individual is not a citizen of the United States;

(d) the [voter] individual has not or will not have resided in Utah for 30 days immediately before the date of the election;

(e) the [voter's] individual's principal place of residence is not in the voting precinct [claimed] that the individual claims;

SB0094S02 compared with SB0094S01

(f) the ~~[voter's]~~ individual's principal place of residence is not in the geographic boundaries of the election area;

(g) the ~~[voter]~~ individual has already voted in the election;

(h) the ~~[voter]~~ individual is not at least 18 years of age;

(i) the ~~[voter]~~ individual has been convicted of a misdemeanor for an offense under this title and the ~~[voter's]~~ individual's right to vote in an election has not been restored under Section 20A-2-101.3;

(j) the ~~[voter]~~ individual is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or

(k) in a regular primary election or in the Western States Presidential Primary, the ~~[voter]~~ individual does not meet the political party affiliation requirements for the ballot the ~~[voter]~~ individual seeks to vote.

(2) A person who challenges ~~[another person's]~~ an individual's right to vote [at] in an election shall ~~[do so according to the procedures and requirements of]~~ make the challenge in accordance with:

(a) Section 20A-3-202.3, for ~~[challenges issued in writing more than 21 days before the day on which voting commences]~~ a challenge that is not made in person at the time an individual votes; or

(b) Section 20A-3-202.5, for challenges ~~[issued]~~ made in person at the time ~~[of voting]~~ an individual votes.

Section 5. Section **20A-3-202.3** is amended to read:

20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.

(1) (a) A person may challenge ~~[the right to vote of a person whose name appears on the official register by filing with the election officer, during regular business hours and not later than 21 days before the date that early voting commences;]~~ an individual's eligibility to vote by filing a written statement with the election officer in accordance with Subsection (1)(b) that:

(i) lists the name and address of the person filing the challenge;

(ii) for each ~~[voter]~~ individual who is challenged:

(A) identifies the name of the challenged ~~[voter]~~ individual;

SB0094S02 compared with SB0094S01

(B) lists the last known address or telephone number of the challenged [~~voter~~] individual;

(C) provides the basis for the challenge, as provided under Section 20A-3-202;

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3-202 for each challenged [~~voter~~] individual is valid.

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

(i) at least 45 days before the day of the election; or

(ii) if the challenge is to an individual who registered to vote between the day that is 45 days before the election and the day of the election:

(A) on or before the day of the election; and

(B) before the individual's ballot is removed from a ballot envelope or otherwise separated from any information that could be used to identify the ballot as the individual's ballot.

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

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

(2) ~~[(a)]~~ If the challenge is not in the proper form, is incomplete, or if the basis for the challenge does not meet the requirements of this part, the election officer [~~may~~] shall dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

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

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

SB0094S02 compared with SB0094S01

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

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

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

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

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

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

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

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

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

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

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

(i) early voting commences, if the election officer receives the challenge under Subsection (1)(b)(i); or

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

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

(ii) The election officer shall resolve the challenge based on the available facts and

SB0094S02 compared with SB0094S01

information submitted, which may include voter registration records and other documents or information available to the election officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

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

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

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

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

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

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

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

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

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

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

Section 8. Section **20A-3-308** is amended to read:

20A-3-308. Absentee ballots in the custody of poll workers -- Disposition --

Notice.

(1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots that are in their custody on election day at the polling places during the time the polls are open as provided in this Subsection (1).

(b) The poll workers shall:

(i) first, open the outer envelope only; and

(ii) compare the signature of the voter on the application with the signature on the affidavit.

(2) (a) The poll workers shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:

(i) the affidavit is sufficient;

(ii) the signatures correspond; and

SB0094S02 compared with SB0094S01

(iii) the applicant is registered to vote in that voting precinct and has not voted in that election.

(b) If, after opening the absentee voter envelope, the poll worker finds that a provisional ballot envelope is enclosed, the poll worker shall:

(i) record, in the official register, whether:

(A) the voter included valid voter identification; or

(B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;

(ii) if any type of identification was included, record the type of identification provided by the voter in the appropriate space in the official register;

(iii) record the provisional ballot number on the official register; and

(iv) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.

(c) If the absentee ballot is not a provisional ballot, the poll workers shall:

(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;

(ii) initial the stub in the same manner as for other ballots;

(iii) remove the stub from the ballot;

(iv) deposit the ballot in the ballot box; and

(v) mark the official register and pollbook to show that the voter has voted.

(3) If the poll workers determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:

(a) disallow the vote; and

(b) without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or

(ii) "Rejected as not a registered voter."

(4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.

(5) (a) If the election officer rejects an individual's absentee ballot because the election

SB0094S02 compared with SB0094S01

officer determines that the signature on the ballot does not match the individual's signature that is maintained on file, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue;

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the absentee ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the [~~canvass has not concluded~~] election officer receives the affidavit no later than 5 p.m. the day before the canvass, count the individual's ballot.

(6) An election officer who rejects an individual's absentee ballot for any reason, other than the reason described in Subsection (5)(a), shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

SB0094S02 compared with SB0094S01

- (a) if the election officer rejects the absentee ballot before election day:
 - (i) one business day after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by email or text message; or
 - (ii) two business days after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by postal mail or phone;
 - (b) seven days after election day if the election officer rejects the absentee ballot on election day; or
 - (c) seven days after the canvass if the election officer rejects the absentee ballot after election day and before the end of the canvass.
- (8) An election officer may not count the absentee ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity.
- (9) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Section 9. Section **20A-3-702** is amended to read:

20A-3-702. Election day voting center -- Hours of operation -- Compliance with Election Code.

- (1) An election officer may operate an election day voting center in one or more locations designated under Section 20A-3-703.
- (2) An election officer shall provide for voting at an election day voting center by:
 - (a) regular ballot if:
 - (i) (A) the election day voting center is designated under Section 20A-5-403 as the polling place for the voting precinct in which the voter resides; and
 - ~~[(ii)]~~ (B) the voter is eligible to vote using a regular ballot in accordance with this title;
 - or
 - (ii) (A) the voter resides within the political subdivision holding the election;
 - (B) the voter is otherwise eligible to vote using a regular ballot in accordance with this title; and
 - (C) the jurisdiction holding the election uses a method that confirms that the voter has

SB0094S02 compared with SB0094S01

not voted previously in the election:

(b) voting center ballot if:

(i) the election day voting center is not designated under Section 20A-5-403 as the polling place for the voting precinct in which the voter resides;

(ii) the voter resides within the political subdivision holding the election; and

(iii) the voter is otherwise eligible to vote using a regular ballot in accordance with this title; or

(c) provisional ballot if the voter is only eligible to vote using a provisional ballot in accordance with this title.

(3) An election officer shall ensure that an election day voting center:

(a) is open on election day during the time period specified under Section 20A-1-302;

(b) allows an eligible voter to vote if the voter:

(i) resides within the political subdivision holding an election; and

(ii) arrives at the election day voting center by the designated closing time in accordance with Section 20A-1-302; and

(c) is administered according to the requirements of this title.

(4) A person may submit a completed absentee ballot at an election day voting center for the political subdivision in which the person resides.

(5) A person may submit an incomplete absentee ballot at an election day voting center for the political subdivision in which the person resides, request that the ballot be declared spoiled, and vote in person.

Section 10. Section **20A-4-101** is amended to read:

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

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

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

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

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

(b) At any election in any voting precinct in which both receiving and counting judges

SB0094S02 compared with SB0094S01

have been appointed, when at least 20 votes have been cast, the receiving judges shall:

- (i) close the first ballot box and deliver it to the counting judges; and
- (ii) prepare and use another ballot box to receive voted ballots.
- (c) Upon receipt of the ballot box, the counting judges shall:
 - (i) take the ballot box to the counting room;
 - (ii) count the votes on the regular ballots in the ballot box;
 - (iii) place the provisional ballot envelopes in the envelope or container provided for

them for return to the election officer; and

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

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

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

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

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

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

Section 11. Section **20A-4-102** is amended to read:

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

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

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

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

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

SB0094S02 compared with SB0094S01

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

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

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

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

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

(3) The judges shall:

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

(b) seal that envelope or container.

(4) The judges shall:

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

(b) seal that envelope or container.

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

(b) In regular primary elections the judges shall:

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

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

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

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

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

(ii) count one vote for each candidate on the ticket beneath a marked circle, excluding

SB0094S02 compared with SB0094S01

any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;

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

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

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

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

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

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

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

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

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

Section 12. Section **20A-4-104** is amended to read:

20A-4-104. Counting ballots electronically.

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

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

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

SB0094S02 compared with SB0094S01

(d) The election officer shall ensure that:

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

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

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

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

(f) The election officer shall ensure that:

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

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

jointly:

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

(4) The election officer may:

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

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

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

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

(6) (a) The election officer or [his] the election officer's designee shall:

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

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

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

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

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

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

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

Section 13. Section **20A-4-202** is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of

SB0094S02 compared with SB0094S01

provisional ballots cast.

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

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

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

[(+)] (c) (i) for paper ballots, deposit and lock the ballots and election returns in a safe and secure place; or

[(+)] (ii) for punch card ballots:

[(+)] (A) count the ballots; and

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

and

[(+)] (d) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

~~[(b) Inspecting poll watchers appointed as provided in Section 20A-3-201 may be present and observe the election officer's receipt, inspection, and deposit of the ballots and election returns.]~~

(2) Each election officer shall:

(a) no later than 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

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

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

and

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

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

SB0094S02 compared with SB0094S01

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

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

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in [his] the election officer's custody without opening or examining them if the time for preserving them under this section has run.

Section 14. Section **20A-5-302** is amended to read:

20A-5-302. Automated voting system.

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

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

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

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

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

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

(ii) permit each voter at any election to:

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

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

SB0094S02 compared with SB0094S01

- (C) vote for or against any ballot proposition upon which that voter is entitled to vote;
- (iii) permit each voter, at presidential elections, by one mark or punch to vote for the candidates of that party for president, vice president, and for their presidential electors;
- (iv) permit each voter, at any regular general election, to vote for all the candidates of one registered political party by making one mark or punch;
- (v) permit each voter to scratch vote;
- (vi) at elections other than primary elections, permit each voter to vote for the nominees of one or more parties and for independent candidates;
- (vii) at primary elections:
 - (A) permit each voter to vote for candidates of the political party of [his] the voter's choice; and
 - (B) reject any votes cast for candidates of another party;
- (viii) prevent the voter from voting for the same person more than once for the same office;
- (ix) provide the opportunity for each voter to change the ballot and to correct any error before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub. L. No. 107-252;
- (x) include automatic tabulating equipment that rejects choices recorded on a voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;
- (xi) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;
- (xii) when properly operated, record correctly and count accurately each vote cast;
- (xiii) for voting equipment certified after January 1, 2005, produce a permanent paper record that:
 - (A) shall be available as an official record for any recount or election contest conducted with respect to an election where the voting equipment is used;
 - (B) (I) shall be available for the voter's inspection prior to the voter leaving the polling place; and
 - (II) shall permit the voter to inspect the record of the voter's selections independently only if reasonably practicable commercial methods permitting independent inspection are

SB0094S02 compared with SB0094S01

available at the time of certification of the voting equipment by the lieutenant governor;

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

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

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

(xiv) meet the requirements of Section 20A-5-802.

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

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

Section 15. Section **20A-5-406** is amended to read:

20A-5-406. Delivery of ballots.

(1) In elections using paper ballots or ballot sheets:

(a) Each election officer shall deliver ballots to the poll workers of each voting precinct in his jurisdiction in an amount sufficient to meet voting needs during the voting period.

(b) The election officer shall:

(i) package and deliver the ballots to the election judges;

(ii) clearly mark the outside of the package with:

(A) the voting precinct and polling place for which it is intended; and

(B) the number of each type of ballots enclosed;

(iii) ensure that each package is delivered before commencement of voting to a poll worker in each precinct; and

(iv) obtain a receipt for the ballots from the poll worker to whom they were delivered that identifies the date and time when, and the manner in which, each ballot package was sent and delivered.

SB0094S02 compared with SB0094S01

(c) The election officer shall prepare substitute ballots in the form required by this Subsection (1) if any poll worker reports that:

- (i) the ballots were not delivered on time; or
- (ii) after delivery, they were destroyed or stolen.

(d) The election officer shall:

(i) prepare the substitute ballots as nearly in the form prescribed for official ballots as practicable;

(ii) cause the word "substitute" to be printed in brackets:

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

(B) for a ballot prepared by a county clerk, immediately under the words required by Subsection 20A-6-301(1)[~~(c)~~](b)(iii);

(iii) place the ballots in two separate packages, each package containing 1/2 the ballots sent to that voting precinct; and

(iv) place a signed statement in each package certifying that the substitute ballots found in the package were prepared and furnished by the election officer, and that the original ballots were not received, were destroyed, or were stolen.

(2) In elections using electronic ballots:

(a) Each election officer shall:

(i) deliver the voting devices and electronic ballots prior to the commencement of voting;

(ii) ensure that the voting devices, equipment, and electronic ballots are properly secured before commencement of voting; and

(iii) when electronic ballots or voting devices containing electronic ballots are delivered to a poll worker, obtain a receipt from the poll worker to whom they were delivered that identifies:

(A) the name of the poll worker receiving delivery; and

(B) the date and time when the ballots or voting devices containing the electronic ballots were delivered.

(b) The election officer shall repair or provide substitute voting devices, equipment, or electronic ballots, if available, if any poll worker reports that:

SB0094S02 compared with SB0094S01

- (i) the voting devices or equipment were not delivered on time;
 - (ii) the voting devices or equipment do not contain the appropriate electronic ballot information;
 - (iii) the safety devices on the voting devices, equipment, or electronic ballots appear to have been tampered with;
 - (iv) the voting devices or equipment do not appear to be functioning properly; or
 - (v) after delivery, the voting devices, equipment, or electronic ballots were destroyed or stolen.
- (c) If the election officer is unable to prepare and provide substitute voting devices, equipment, or electronic ballots, the election officer may elect to provide paper ballots or ballot sheets according to the requirements of Subsection (1).

Section 16. Section **20A-6-102** is amended to read:

20A-6-102. General requirements for machine counted ballots.

- (1) Each election officer shall ensure that ballots and ballot labels are printed:
- (a) to a size and arrangement that fits the construction of the voting device; and
 - (b) in plain, clear type in black ink on clear white stock; or
 - (c) in plain, clear type in black ink on stock of different colors if it is necessary to:
 - (i) identify different ballots or parts of the ballot; or
 - (ii) differentiate between political parties.
- (2) Each election officer shall ensure that~~[-(a)]~~ ballot sheets are of a size, design, and stock suitable for processing by automatic data processing machines~~[-]~~.
- ~~[(b) each ballot sheet has an attached perforated stub, on which is printed the words "Official Ballot, (initial) Poll Worker"; and]~~
- ~~[(c) ballot stubs are numbered consecutively.]~~
- (3) For a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601, the election officer shall include a space on the ticket for a write-in candidate immediately following the last candidate listed on that ticket.
- (4) Notwithstanding any other provisions of this section, the election officer may authorize any ballots that are to be counted by means of electronic or electromechanical devices to be printed to a size, layout, texture, and in any type of ink or combination of inks

SB0094S02 compared with SB0094S01

that will be suitable for use in the counting devices in which they are intended to be placed.

Section 17. Section **20A-6-301** is amended to read:

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

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

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

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

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

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(e)]~~ (b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

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

(ii) the date of the election; and

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

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

~~[(e)]~~ (d) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title, and with a mark referencing the following statement at the

SB0094S02 compared with SB0094S01

bottom of the ticket: "This candidate is not affiliated with, or does not qualify to be listed on the ballot as affiliated with, a political party.";

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

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

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

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

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

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

(2) Each election officer shall ensure that:

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

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

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

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

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

(d) the ballots contain no other names.

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

(a) the designation of the office to be filled in the election and the number of

SB0094S02 compared with SB0094S01

candidates to be elected are printed in type not smaller than eight point;

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

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

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

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

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

(4) Each election officer shall ensure that:

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

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

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

Section 18. Section **20A-6-401** is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

~~[(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;~~

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

~~_____ (iii) ballot stubs are numbered consecutively;~~

~~_____ (b) immediately below the perforated ballot stub,]~~

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in

SB0094S02 compared with SB0094S01

eight point type;

~~(c)~~ (b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

~~(d)~~ (c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

~~(e)~~ (d) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

~~(f)~~ (e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

~~(g)~~ (f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

~~(h)~~ (g) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 19. Section **20A-6-401.1** is amended to read:

20A-6-401.1. Ballots for partisan municipal primary elections.

(1) If a municipality is using paper ballots, each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular primary election:

(i) ~~[are perforated to]~~ separate the candidates of one political party from those of the other political parties ~~[so that the voter may separate the part of the ballot containing the names of the political party of the voter's choice from the rest of the ballot]; and~~

~~[(ii) have sides that are perforated so that the outside sections of the ballot, when detached, are similar in appearance to the inside sections of the ballot when detached; and]~~

~~(iii)~~ (ii) contain no captions or other endorsements except as provided in this section;

(b) the names of all candidates from each party are listed on the same ballot in one or more columns under their party name and emblem;

SB0094S02 compared with SB0094S01

(c) the political parties are printed on the ballot in the order specified under Section 20A-6-305;

~~[(d) (i) the ballot contains a ballot stub that is at least one inch wide, placed across the top of the ballot;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initials ____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(e) immediately below the perforated ballot stub;]~~

(d) the following endorsements are printed in 18-point bold type:

(i) "Official Primary Ballot for ____ (name of municipality), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the municipal clerk or recorder and the words "municipal clerk" or "municipal recorder";

~~[(f)]~~ (e) after the facsimile signature, the political party emblem and the name of the political party are printed;

~~[(g)]~~ (f) after the party name and emblem, the ballot contains the following printed in not smaller than 10-point bold face, double leaded type: "Instructions to Voters: To vote for a candidate, place a cross (X) in the square immediately adjacent to the name of the person for whom you wish to vote and in no other place. Do not vote for any candidate listed under more than one party or group designation.", followed by two one-point parallel horizontal rules;

~~[(h)]~~ (g) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

~~[(i)]~~ (h) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

~~[(j)]~~ (i) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

~~[(k)]~~ (j) the candidate groups are separated from each other by one light and one heavy line or rule; and

SB0094S02 compared with SB0094S01

[~~(f)~~] (k) the nonpartisan candidates are listed as follows:

(i) immediately below the listing of the party candidates, the word "NONPARTISAN" is printed in reverse type in an 18 point solid rule that extends the full width of the type copy of the party listing above; and

(ii) below "NONPARTISAN," the office, the number of candidates to vote for, the candidate's name, the voting square, and any other necessary information is printed in the same style and manner as for party candidates.

(2) (a) If a municipality is using ballot sheets or electronic ballots, the election officer may require that:

(i) the ballot, or ballot label in the case of a punch card ballot, for a regular primary election consist of several groups of pages or display screens, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups used to list candidates for other nonpartisan offices;

(ii) the separate groups of pages or display screens are identified by color or other suitable means; and

(iii) the ballot or ballot label contain instructions that direct the voter how to vote the ballot.

(b) If a municipality is using ballot sheets or electronic ballots, each election officer shall:

(i) for municipalities using punch card ballots, ensure that the ballot label provides a means for the voter to designate the political party in whose primary the voter is voting; and

(ii) determine the order for printing the names of the political parties on the ballot label in accordance with Section 20A-6-305.

Section 20. Section **20A-6-402** is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) When using a paper ballot at municipal general elections, each election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

SB0094S02 compared with SB0094S01

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

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

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

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

(2) When using a punch card ballot at municipal general elections, each election officer shall ensure that:

~~[(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;]~~

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

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(b) immediately below the perforated ballot stub;]~~

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in

SB0094S02 compared with SB0094S01

eight-point type;

~~[(c)]~~ (b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

~~[(d)]~~ (c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

~~[(e)]~~ (d) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

~~[(f)]~~ (e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

~~[(g)]~~ (f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

~~[(h)]~~ (g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

~~[(i)]~~ (h) the candidate groups are separated from each other by one light and one heavy line or rule.

(3) When using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:

~~[(a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initial _____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(b) immediately below the perforated ballot stub;]~~

SB0094S02 compared with SB0094S01

(a) the following endorsements are printed:

(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

~~[(e)]~~ (b) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;

~~[(d)]~~ (c) immediately below the border or line, an "Instructions to Voters" section is printed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

~~[(e)]~~ (d) after the border or line, the designation of the office for which the candidates seek election is printed and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed, followed by a line or border;

~~[(f)]~~ (e) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

~~[(g)]~~ (f) an oval is printed adjacent to the names of the candidates;

~~[(h)]~~ (g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) an oval printed adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

~~[(i)]~~ (h) the candidate groups are separated from each other by a line or border.

(4) When using an electronic ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first screen of the ballot:

(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

SB0094S02 compared with SB0094S01

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(5) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.

Section 21. Section **20A-9-404** is amended to read:

20A-9-404. Municipal primary elections.

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

(b) Municipal primary elections shall be held:

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

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

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

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

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal

SB0094S02 compared with SB0094S01

election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

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

(c) (i) A convention or committee may not nominate:

(A) an individual who has not submitted a declaration of candidacy, or has not been nominated by a nomination petition, under Section 20A-9-203; or

(B) more than one group of candidates, or have placed on the ballot more than one group of candidates, for the municipal offices to be voted upon at the municipal election.

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

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

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

(ii) The certificate of nomination shall:

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

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

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

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

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

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were

SB0094S02 compared with SB0094S01

officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

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

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

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

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

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

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

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

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

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

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

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

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

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

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

SB0094S02 compared with SB0094S01

be nominated at a partisan primary election.

(d) The clerk shall ensure that:

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

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

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

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

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

(e) After marking a municipal primary ballot, the voter shall~~[:]~~ deposit the ballot in the blank ballot box.

~~[(f) detach the part of the ballot containing the names of the candidates of the party the voter has voted from the rest of the ballot;]~~

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

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

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

Section 22. Section **20A-9-406** is amended to read:

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

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on November 30 of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection

SB0094S02 compared with SB0094S01

20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

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

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)~~(g)~~(f), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

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

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

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

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

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

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

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

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

SB0094S02 compared with SB0094S01

candidate for the qualified political party;

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

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

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

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

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

Section 23. **Repealer.**

This bill repeals:

Section 20A-15-105, **Poll watchers.**

Section 24. Coordinating S.B. 94 with H.B. 141 -- Superseding substantive and technical amendments.

If this S.B. 94 and H.B. 141, Early Voting Amendments, both pass and become law, it is the intent of the Legislature that, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Subsection 20A-3-202(2)(a) in S.B. 94 supersede the amendments to Subsection 20A-3-202(2)(a) in H.B. 141;

(2) the amendments to Subsection 20A-3-202.3(1)(a) in S.B. 94 supersede the amendments to Subsection 20A-3-202.3(1)(a) in H.B. 141; and

(3) the amendments to Subsection 20A-3-202.3(4)(a) in S.B. 94 supersede the amendments to Subsection 20A-3-202.3(4)(a) in H.B. 141.