Representative Jon Hawkins proposes the following substitute bill:

1 # MUNICIPAL OFFICE AND LOCAL ELECTIONS

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jon Hawkins**

5 Senate Sponsor: Luz Escamilla

6

7 **LONG TITLE**

8 **General Description:**

9   This bill amends provisions relating to municipal office and elections administered by

10 an election officer other than a county clerk.

11 **Highlighted Provisions:**

12   This bill:

13   ▸   subject to the same exceptions to requirements to reside in a municipality, requires

14 that an elected officer of a municipality reside in the district that the elected officer

15 represents;

16   ▸   provides that a municipal elected officer who fails to comply with district residency

17 requirements described in this bill has vacated the elected office;

18   ▸   requires that an individual who fills a vacancy must comply with the district

19 residency requirements described in this bill; and

20   ▸   provides that early voting registration or same day voting registration is not

21 permitted for an election administered by an election officer other than a county

22 clerk if there is not a polling location for early voting or voting on election day.

23 **Money Appropriated in this Bill:**

24   None

25 **Other Special Clauses:**

26   This bill provides a coordination clause.

27   **Utah Code Sections Affected:**

28   AMENDS:

29   **10-3-301**, as last amended by Laws of Utah 2019, Chapters 258 and 305

30   **20A-2-201**, as last amended by Laws of Utah 2018, Chapters 206 and 281

31   **20A-2-204**, as last amended by Laws of Utah 2019, Chapters 136 and 255

32   **20A-2-206**, as last amended by Laws of Utah 2018, Chapter 206

33   **20A-2-207**, as enacted by Laws of Utah 2018, Chapter 206

34   **20A-3-601**, as last amended by Laws of Utah 2018, Chapters 195, 206, and 281

35   **Utah Code Sections Affected by Coordination Clause:**

36   **20A-2-201**, as last amended by Laws of Utah 2018, Chapters 206 and 281

37   **20A-2-204**, as last amended by Laws of Utah 2019, Chapters 136 and 255

38   **20A-2-205**, as last amended by Laws of Utah 2019, Chapter 255

39   **20A-2-206**, as last amended by Laws of Utah 2018, Chapter 206

40   ═══

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

42   Section 1. Section **10-3-301** is amended to read:

43   **10-3-301.   Notice -- Eligibility and residency requirements for elected municipal**

44   **office -- Mayor and recorder limitations.**

45   (1) As used in this section:

46   (a) "Absent" means that an elected municipal officer fails to perform official duties,

47   including the officer's failure to attend each regularly scheduled meeting that the officer is

48   required to attend.

49   (b) "Principal place of residence" means the same as that term is defined in Section

50   20A-2-105.

51   (c) "Secondary residence" means a place where an individual resides other than the

52   individual's principal place of residence.

53   (2) (a) On or before May 1 in a year in which there is a municipal general election, the

54   municipal clerk shall publish a notice that identifies:

55   (i) the municipal offices to be voted on in the municipal general election; and

56   (ii) the dates for filing a declaration of candidacy for the offices identified under

57   Subsection (2)(a)(i).

58   (b) The municipal clerk shall publish the notice described in Subsection (2)(a):

59   (i) on the Utah Public Notice Website established by Section 63F-1-701; and

60   (ii) in at least one of the following ways:

61   (A) at the principal office of the municipality;

62   (B) in a newspaper of general circulation within the municipality at least once a week

63   for two successive weeks in accordance with Section 45-1-101;

64   (C) in a newsletter produced by the municipality;

65   (D) on a website operated by the municipality; or

66   (E) with a utility enterprise fund customer's bill.

67   (3) (a) An individual who files a declaration of candidacy for a municipal office shall

68   comply with the requirements described in Section 20A-9-203.

69   (b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of

70   each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in

71   Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

72   (A) Saturday or Sunday; or

73   (B) state holiday as listed in Section 63G-1-301.

74   (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that

75   is less than 40 hours per week, the city recorder or town clerk may comply with Subsection

76   (3)(b)(i) without maintaining office hours by:

77   (A) posting the recorder's or clerk's contact information, including a phone number and

78   email address, on the recorder's or clerk's office door, the main door to the municipal offices,

79   and, if available, on the municipal website; and

80   (B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i),

81   via the contact information described in Subsection [(2)](3)(b)(ii)(A).

82   (4) An individual elected to municipal office shall be a registered voter in the

83   municipality in which the individual is elected.

84   (5) (a) Each elected officer of a municipality shall maintain a principal place of

85   residence within the municipality, and within the district that the elected officer represents,

86   during the officer's term of office.

87   (b) Except as provided in Subsection (6), an elected municipal office is automatically

88   vacant if the officer elected to the municipal office, during the officer's term of office:

89   (i) establishes a principal place of residence outside the [municipality] district that the

90   elected officer represents;

91   (ii) resides at a secondary residence outside the [municipality] district that the elected

92   officer represents for a continuous period of more than 60 days while still maintaining a

93   principal place of residence within the [municipality] district;

94   (iii) is absent from the [municipality] district that the elected officer represents for a

95   continuous period of more than 60 days; or

96   (iv) fails to respond to a request, within 30 days after the day on which the elected

97   officer receives the request, from the county clerk or the lieutenant governor seeking

98   information to determine the officer's residency.

99   (6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the

100   consent of the municipal legislative body in accordance with Subsection (6)(b) before the

101   expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

102   (i) reside at a secondary residence outside the [municipality] district that the elected

103   officer represents while still maintaining a principal place of residence within the

104   [municipality] district for a continuous period of up to one year during the officer's term of

105   office; or

106   (ii) be absent from the [municipality] district that the elected officer represents for a

107   continuous period of up to one year during the officer's term of office.

108   (b) At a public meeting, the municipal legislative body may give the consent described

109   in Subsection (6)(a) by majority vote after taking public comment regarding:

110   (i) whether the legislative body should give the consent; and

111   (ii) the length of time to which the legislative body should consent.

112   (7) (a) The mayor of a municipality may not also serve as the municipal recorder or

113   treasurer.

114   (b) The recorder of a municipality may not also serve as the municipal treasurer.

115   (c) An individual who holds a county elected office may not, at the same time, hold a

116   municipal elected office.

117   (d) The restriction described in Subsection (7)(c) applies regardless of whether the

118   individual is elected to the office or appointed to fill a vacancy in the office.

119   Section 2. Section **20A-2-201** is amended to read:

120   **20A-2-201.   Registering to vote at office of county clerk.**

121   (1) Except as provided in Subsection (3), the county clerk shall register to vote each

122   individual who registers in person at the county clerk's office during designated office hours if

123   the individual will, on the date of the election, be legally eligible to vote in a voting precinct in

124   the county in accordance with Section 20A-2-101.

125   (2) If an individual who is registering to vote submits a registration form in person at

126   the office of the county clerk during designated office hours, during the period beginning on

127   the date after the voter registration deadline and ending on the date that is 15 calendar days

128   before the date of the election, the county clerk shall:

129   (a) accept the form if the individual, on the date of the election, will be legally

130   qualified and entitled to vote in a voting precinct in the county; and

131   (b) inform the individual that the individual will be registered to vote in the pending

132   election.

133   (3) If an individual who is registering to vote and who will be legally qualified and

134   entitled to vote in a voting precinct in the county on the date of an election appears in person,

135   during designated office hours, and submits a registration form on the date of the election or

136   during the 14 calendar days before an election, the county clerk shall:

137   (a) accept the registration form; and

138   (b) except as provided in Subsection 20A-2-207(6):

139   (i) if the individual submits the registration form seven or more calendar days before

140   the date of an election, inform the individual that:

141   (A) the individual is registered to vote in the pending election; and

142   (B) for the pending election, the individual must vote on the day of the election or by

143   provisional ballot, under Section 20A-2-207, during the early voting period described in

144   Section 20A-3-601, because the individual registered late; or

145   (ii) if the individual submits the registration form on the date of an election or during

146   the six calendar days before an election, inform the individual:

147   (A) of each manner still available to the individual to timely register to vote in the

148   current election; and

149   (B) that, if the individual does not timely register in a manner described in Subsection

150   (3)(b)(ii)(A), the individual will be registered to vote but may not vote in the pending election

151   because the individual registered late.

152   Section 3. Section **20A-2-204** is amended to read:

153   **20A-2-204.   Registering to vote when applying for or renewing a driver license.**

154   (1) As used in this section, "voter registration form" means, when an individual named

155   on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described

156   in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for

157   voter registration purposes.

158   (2) A citizen who is qualified to vote may register to vote, and a citizen who is

159   qualified to preregister to vote may preregister to vote, by answering "yes" to the question

160   described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

161   (3) The Driver License Division shall:

162   (a) assist an individual in completing the voter registration form unless the individual

163   refuses assistance;

164   (b) electronically transmit each address change to the lieutenant governor within five

165   days after the day on which the division receives the address change; and

166   (c) within five days after the day on which the division receives a voter registration

167   form, electronically transmit the form to the Office of the Lieutenant Governor, including the

168   following for the individual named on the form:

169   (i) the name, date of birth, driver license or state identification card number, last four

170   digits of the social security number, Utah residential address, place of birth, and signature;

171   (ii) a mailing address, if different from the individual's Utah residential address;

172   (iii) an email address and phone number, if available;

173   (iv) the desired political affiliation, if indicated; and

174   (v) an indication of whether the individual requested that the individual's voter

175   registration record be classified as a private record under Subsection 20A-2-108(2)(c).

176   (4) Upon receipt of an individual's voter registration form from the Driver License

177   Division under Subsection (3), the lieutenant governor shall:

178   (a) enter the information into the statewide voter registration database; and

179   (b) if the individual requests on the individual's voter registration form that the

180   individual's voter registration record be classified as a private record, classify the individual's

181   voter registration record as a private record.

182   (5) The county clerk of an individual whose information is entered into the statewide

183   voter registration database under Subsection (4) shall:

184   (a) ensure that the individual meets the qualifications to be registered or preregistered

185   to vote; and

186   (b) (i) if the individual meets the qualifications to be registered to vote:

187   (A) ensure that the individual is assigned to the proper voting precinct; and

188   (B) send the individual the notice described in Section 20A-2-304; or

189   (ii) if the individual meets the qualifications to be preregistered to vote, process the

190   form in accordance with the requirements of Section 20A-2-101.1.

191   (6) (a) When the county clerk receives a correctly completed voter registration form

192   under this section, the clerk shall:

193   (i) comply with the applicable provisions of this Subsection (6); or

194   (ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

195   (b) If the county clerk receives a correctly completed voter registration form under this

196   section during the period beginning on the date after the voter registration deadline and ending

197   at 5 p.m. on the date that is 15 calendar days before the date of an election, the county clerk

198   shall:

199   (i) accept the voter registration form; and

200   (ii) unless the individual is preregistering to vote, inform the individual that the

201   individual is registered to vote in the pending election.

202   (c) If the county clerk receives a correctly completed voter registration form under this

203   section during the period beginning on the date that is 14 calendar days before the election and

204   ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk

205   shall:

206   (i) accept the voter registration form; and

207   (ii) except as provided in Subsection 20A-2-207(6), and unless the individual is

208   preregistering to vote, inform the individual that:

209   (A) the individual is registered to vote in the pending election; and

210   (B) for the pending election, the individual must vote on the day of the election or by

211   provisional ballot, under Section 20A-2-207, during the early voting period described in

212   Section 20A-3-601 because the individual registered late.

213   (d) If the county clerk receives a correctly completed voter registration form under this

214   section during the six calendar days before an election, the county clerk shall:

215   (i) accept the application for registration of the individual; and

216   (ii) unless the individual is preregistering to vote, inform the individual:

217   (A) of each manner still available to the individual to timely register to vote in the

218   current election; and

219   (B) that, if the individual does not timely register in a manner described in Subsection

220   (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election

221   because the individual registered late.

222   (7) (a) If the county clerk determines that an individual's voter registration form

223   received from the Driver License Division is incorrect because of an error, because the form is

224   incomplete, or because the individual does not meet the qualifications to be registered to vote,

225   the county clerk shall mail notice to the individual stating that the individual has not been

226   registered or preregistered because of an error, because the form is incomplete, or because the

227   individual does not meet the qualifications to be registered to vote.

228   (b) If a county clerk believes, based upon a review of a voter registration form, that an

229   individual, who knows that the individual is not legally entitled to register or preregister to

230   vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer

231   the form to the county attorney for investigation and possible prosecution.

232   Section 4. Section **20A-2-206** is amended to read:

233   **20A-2-206.   Electronic registration -- Requests for absentee ballot application.**

234   (1) The lieutenant governor may create and maintain an electronic system that is

235   publicly available on the Internet for an individual to apply for voter registration or

236   preregistration and for an individual to request an absentee ballot.

237   (2) An electronic system for voter registration or preregistration shall require:

238   (a) that an applicant have a valid driver license or identification card, issued under Title

239   53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place

240   of residence;

241   (b) that the applicant provide the information required by Section 20A-2-104, except

242   that the applicant's signature may be obtained in the manner described in Subsections (2)(d)

243   and (4);

244   (c) that the applicant attest to the truth of the information provided; and

245   (d) that the applicant authorize the lieutenant governor's and county clerk's use of the

246   applicant's:

247   (i) driver license or identification card signature, obtained under Title 53, Chapter 3,

248   Uniform Driver License Act, for voter registration purposes; or

249   (ii) signature on file in the lieutenant governor's statewide voter registration database

250   developed under Section 20A-2-109.

251   (3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for

252   voter registration or preregistration created under this section is not required to complete a

253   printed registration form.

254   (4) A system created and maintained under this section shall provide the notices

255   concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

256   (5) The lieutenant governor shall:

257   (a) obtain a digital copy of the applicant's driver license or identification card signature

258   from the Driver License Division; or

259   (b) ensure that the applicant's signature is already on file in the lieutenant governor's

260   statewide voter registration database developed under Section 20A-2-109.

261   (6) The lieutenant governor shall send the information to the county clerk for the

262   county in which the applicant's principal place of residence is found for further action as

263   required by Section 20A-2-304 after:

264   (a) receiving all information from an applicant; and

265   (b) (i) receiving all information from the Driver License Division; or

266   (ii) ensuring that the applicant's signature is already on file in the lieutenant governor's

267   statewide voter registration database developed under Section 20A-2-109.

268   (7) The lieutenant governor may use additional security measures to ensure the

269   accuracy and integrity of an electronically submitted voter registration.

270   (8) If an individual applies to register under this section during the period beginning on

271   the date after the voter registration deadline and ending on the date that is 15 calendar days

272   before the date of an election, the county clerk shall, unless the individual is preregistering to

273   vote:

274   (a) accept the application for registration if the individual, on the date of the election,
275   will be legally qualified and entitled to vote in a voting precinct in the state; and
276   (b) inform the individual that the individual is registered to vote in the pending
277   election.
278   (9) If an individual applies to register under this section during the period beginning on
279   the date that is 14 calendar days before the election and ending on the date that is seven
280   calendar days before the election, the county clerk shall, unless the individual is preregistering
281   to vote:
282   (a) accept the application for registration if the individual, on the date of the election,
283   will be legally qualified and entitled to vote in a voting precinct in the state; and
284   (b) except as provided in Subsection 20A-2-207(6), inform the individual that:
285   (i) the individual is registered to vote in the pending election; and
286   (ii) for the pending election, the individual must vote on the day of the election or by
287   provisional ballot, under Section 20A-2-207, during the early voting period described in
288   Section 20A-3-601 because the individual registered late.
289   (10) If an individual applies to register under this section during the six calendar days
290   before an election, the county clerk shall:
291   (a) if the individual is preregistering to vote, comply with Section 20A-2-101.1; or
292   (b) (i) accept the application for registration if the individual, on the date of the
293   election, will be legally qualified and entitled to vote in a voting precinct in the state; and
294   (ii) unless the individual timely registers to vote in the current election in a manner that
295   permits registration after the voter registration deadline, inform the individual:
296   (A) of each manner still available to the individual to timely register to vote in the
297   current election; and
298   (B) that, if the individual does not timely register in a manner described in Subsection
299   (10)(b)(ii)(A), the individual is registered to vote but may not vote in the pending election
300   because the individual registered late.
301   (11) (a) A registered voter may file an application for an absentee ballot in accordance
302   with Section 20A-3-304 on the electronic system for voter registration established under this
303   section.
304   (b) The lieutenant governor shall provide a means by which a registered voter shall

305   sign the application form as provided in Section 20A-3-304.

306   Section 5. Section **20A-2-207** is amended to read:

307   **20A-2-207.   Registration by provisional ballot.**

308   (1) [An] Except as provided in Subsection (6), an individual who is not registered to

309   vote may register to vote, and vote, on election day or during the early voting period described

310   in Section 20A-3-601, by voting a provisional ballot, if:

311   (a) the individual is otherwise legally entitled to vote the ballot;

312   (b) the ballot is identical to the ballot for the precinct in which the individual resides;

313   (c) the information on the provisional ballot form is complete; and

314   (d) the individual provides valid voter identification and proof of residence to the poll

315   worker.

316   (2) If a provisional ballot and the individual who voted the ballot comply with the

317   requirements described in Subsection (1), the election officer shall:

318   (a) consider the provisional ballot a voter registration form;

319   (b) place the ballot with the absentee ballots, to be counted with those ballots at the

320   canvass; and

321   (c) as soon as reasonably possible, register the individual to vote.

322   (3) Except as provided in Subsection (4), the election officer shall retain a provisional

323   ballot form, uncounted, for the period specified in Section 20A-4-202, if the election officer

324   determines that the individual who voted the ballot:

325   (a) is not registered to vote and is not eligible for registration under this section; or

326   (b) is not legally entitled to vote the ballot that the individual voted.

327   (4) Subsection (3) does not apply if a court orders the election officer to produce or

328   count the provisional ballot.

329   (5) The lieutenant governor shall report to the Government Operations Interim

330   Committee on or before October 31, 2018, and on or before October 31, 2020, regarding:

331   (a) implementation of registration by provisional ballot, as described in this section, on

332   a statewide basis;

333   (b) any difficulties resulting from the implementation described in Subsection (5)(a);

334   (c) the effect of registration by provisional ballot on voter participation in Utah;

335   (d) the number of ballots cast by voters who registered by provisional ballot:

336   (i) during the early voting period described in Section 20A-3-601; and

337   (ii) on election day; and

338   (e) suggested changes in the law relating to registration by provisional ballot.

339   (6) For an election administered by an election officer other than a county clerk:

340   (a) if the election officer does not operate a polling location to allow early voting, the

341   individual may not register to vote, under this section, during an early voting period; and

342   (b) if the election officer does not operate a polling location on election day, the

343   individual may not register to vote, under this section, on election day.

344   Section 6. Section **20A-3-601** is amended to read:

345   **20A-3-601.   Early voting.**

346   (1) (a) An individual who is registered to vote may vote before the election date in

347   accordance with this section.

348   (b) [An] Except as provided in Subsection 20A-2-207(6), an individual who is not

349   registered to vote may register to vote and vote before the election date in accordance with this

350   section if the individual:

351   (i) is otherwise legally entitled to vote the ballot; and

352   (ii) casts a provisional ballot in accordance with Section 20A-2-207.

353   (2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period

354   shall:

355   (a) begin on the date that is 14 days before the date of the election; and

356   (b) continue through the Friday before the election if the election date is a Tuesday.

357   (3) (a) An election officer may extend the end of the early voting period to the day

358   before the election date if the election officer provides notice of the extension in accordance

359   with Section 20A-3-604.

360   (b) For a municipal election, the municipal clerk may reduce the early voting period

361   described in this section if:

362   (i) the municipal clerk conducts early voting on at least four days;

363   (ii) the early voting days are within the period beginning on the date that is 14 days

364   before the date of the election and ending on the day before the election; and

365   (iii) the municipal clerk provides notice of the reduced early voting period in

366   accordance with Section 20A-3-604.

367   (c) For a county election that is conducted entirely by mail, the county clerk may

368   reduce the early voting period described in this section if:

369   (i) the county clerk conducts early voting on at least four days;

370   (ii) the early voting days are within the period beginning on the date that is 14 days

371   before the date of the election and ending on the day before the election; and

372   (iii) the county clerk provides notice of the reduced early voting period in accordance

373   with Section 20A-3-604.

374   (4) Except as provided in Section 20A-1-308, during the early voting period, the

375   election officer:

376   (a) for a local special election, a municipal primary election, and a municipal general

377   election:

378   (i) shall conduct early voting on a minimum of four days during each week of the early

379   voting period; and

380   (ii) shall conduct early voting on the last day of the early voting period; and

381   (b) for all other elections:

382   (i) shall conduct early voting on each weekday; and

383   (ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

384   (5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308,

385   early voting shall be administered according to the requirements of this title.

386   Section 7. **Coordinating H.B. 221 with H.B. 36 -- substantive and technical**

387   **changes.**

388   If this H.B. 221 and H.B. 36, Election Amendments, both pass and become law, it is the

389   intent of the Legislature that the Office of Legislative Research and General Counsel shall

390   prepare the Utah Code database for publication as follows:

391   (1) by not making the changes to Section 20A-2-201 in this H.B. 221;

392   (2) amend Subsection 20A-2-201(3) in H.B. 36 by inserting ", except as provided in

393   Subsection 20A-2-207(6)," before the word "inform";

394   (3) by not making the changes to Section 20A-2-204 in this H.B. 221;

395   (4) amend Subsection 20A-2-204(6)(c)(iii) in H.B. 36 by inserting "and except as

396   provided in Subsection 20A-2-207(6)," before the word "inform";

397   (5) amend Subsection 20A-2-205(7)(b) in H.B. 36 by inserting "except as provided in

398   Subsection 20A-2-207(6)," before the words "if possible";

399   (6) by not making the changes to Section 20A-2-206 in this H.B. 221; and

400   (7) amend Subsection 20A-2-206(9)(b) in H.B. 36 by inserting "except as provided in

401   Subsection 20A-2-207(6)," before the words "if possible".