

**ELECTION AMENDMENTS**

2020 THIRD SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill makes temporary changes to the Election Code and related provisions, as they relate to the 2020 regular primary election only, to conduct the election in a manner that protects the public health and safety in relation to the COVID-19 pandemic.

**Highlighted Provisions:**

This bill:

- ▶ preempts conflicts between this bill and other provisions of the Utah Code, emergency declarations, and other restrictions;
- ▶ requires the lieutenant governor to:
  - issue protocols to protect the health and safety of voters and government employees, including poll workers, in the conduct of the 2020 regular primary election; and
  - conduct a campaign to educate the public on the provisions of this bill;
- ▶ authorizes the lieutenant governor to make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular primary election to the extent the modifications are necessary to carry out the provisions of this bill;
- ▶ modifies election notice provisions to inform voters of changes applicable to the 2020 regular primary election;
- ▶ modifies multiple provisions relating to the 2020 regular primary election, including that:



- 28 • except for a mobile voting county, the election will be conducted entirely by
- 29 mail;
- 30 • except for a mobile voting county, there will be no polling places on election
- 31 day;
- 32 • there will be no in person early voting;
- 33 • there will be no in person voter registration;
- 34 • there will be no voter registration by provisional ballot;
- 35 • the voter registration deadline is 11 days before the day of the election; and
- 36 • the postmark deadline for mailing a ballot is extended to the day of the election;
- 37 ▶ lists several code provisions that are not in effect, or that are otherwise modified, for
- 38 the 2020 regular primary election; and
- 39 ▶ establishes a process for a county to qualify as a mobile voting county that provides
- 40 limited drive-up voting on election day.

41 **Money Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides a special effective date.

45 This bill provides a repeal date.

46 This bill provides revisor instructions.

47 **Utah Code Sections Affected:**

48 ENACTS:

49 **20A-1-309**, Utah Code Annotated 1953

50 **Utah Code Sections Affected by Revisor Instructions:**

51 **20A-1-309**, Utah Code Annotated 1953



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

54 Section 1. Section **20A-1-309** is enacted to read:

55 **20A-1-309. Regular primary election, 2020 -- COVID-19 measures.**

56 (1) (a) As used in this section, "mobile voting county" means a county that opts in to  
57 drive-up voting on election day in accordance with Subsection (9).

58 (b) In relation to conducting the 2020 regular primary election, the Legislature takes

59 the action described in this section to protect the public health and safety in relation to the  
60 COVID-19 pandemic.

61 (c) If any provision of the Utah Code conflicts with a provision of this section, this  
62 section prevails.

63 (2) Notwithstanding any emergency declaration issued under the authority of this state,  
64 or any other restriction imposed by the governor, the Department of Health, a local  
65 government, a local health department, or any other government entity of the state, and  
66 consistent with the requirements of this section, the conduct of the 2020 regular primary  
67 election:

68 (a) subject to the provisions of this section, is an essential service, including voting,  
69 voter registration, the mailing of ballots, the return of completed ballots, the processing of  
70 ballots, the counting and tallying of votes, and the release of election results; and

71 (b) except as expressly provided in this section, is not prohibited or affected by the  
72 emergency declaration or restriction.

73 (3) The lieutenant governor shall, in consultation with the county clerks and consistent  
74 with the provisions of this section and other applicable requirements of law, issue protocols to  
75 protect the health and safety of voters and government employees in the conduct of the 2020  
76 regular primary election, including:

77 (a) requiring poll workers to use protective gear and to wash hands regularly;

78 (b) prohibiting ill poll workers from working; and

79 (c) promoting, to the extent practicable, social distancing between poll workers.

80 (4) The lieutenant governor shall conduct a campaign to educate the public on the  
81 provisions of this section, especially provisions relating to changes in the voter registration,  
82 voting methods, and voting process.

83 (5) The lieutenant governor may make other modifications relating to deadlines,  
84 locations, and methods of conducting the 2020 regular primary election to the extent the  
85 modifications are necessary to carry out the provisions of this section.

86 (6) For the 2020 regular primary election only:

87 (a) the entire election will be conducted by mail, except that:

88 (i) a mobile voting county may provide drive-up voting, on election day only, in  
89 accordance with the requirements of this section;

90 (ii) a covered voter, as defined in Section 20A-16-102, may vote in any manner  
91 approved by the election officer;

92 (iii) a voter with a disability who is unable to vote by casting a manual ballot may,  
93 upon giving reasonable notice to the county clerk, vote by any manner approved by the election  
94 officer; and

95 (iv) a caretaker for a voter described in Subsection (6)(a)(iii) may vote at the same time  
96 and place as the voter;

97 (b) except as provided in Subsection (6)(c), the notice of election shall include the  
98 following statement: "To help prevent the spread of the coronavirus, for the 2020 regular  
99 primary election only:

- 100 ▶ the election will be conducted entirely by mail;
- 101 ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on  
102 election day;
- 103 ▶ there will be no polling places on election day;
- 104 ▶ there will be no in person voting, including no in person early voting;
- 105 ▶ there will be no in person voter registration;
- 106 ▶ there will be no voter registration by provisional ballot; and
- 107 ▶ the voter registration deadline is 11 days before the day of the election.

108 An individual with a disability who is not able to vote a manual ballot by mail shall  
109 give reasonable notice to the county clerk where the individual resides to make arrangements  
110 for reasonable accommodations for the voter to vote.";

111 (c) the notice of election for a mobile voting county shall include the following  
112 statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election  
113 only:

- 114 ▶ the election will be conducted primarily by mail;
- 115 ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on  
116 election day;
- 117 ▶ there will be no regular polling places on election day, but there will be limited  
118 drive-up voting on election day, unless the county clerk cancels drive-up voting  
119 based on public health concerns;
- 120 ▶ if drive-up voting is cancelled based on public health concerns, voters will be

121 required to vote by mail;

122       ▶ except for drive-up voting on election day only, there will be no in person

123 voting and no in person early voting;

124       ▶ there will be no in person voter registration;

125       ▶ there will be no voter registration by provisional ballot; and

126       ▶ the voter registration deadline is 11 days before the day of the election.

127 An individual with a disability who is not able to vote a manual ballot by mail shall

128 give reasonable notice to the county clerk where the individual resides to make arrangements

129 for reasonable accommodations for the voter to vote.";

130       (d) except as it relates to drive-up voting for a mobile voting county, and subject to

131 Subsection (9)(k), Section [20A-5-403](#) is not in effect;

132       (e) the election officer shall mail a manual ballot to each active voter who is eligible to

133 vote in the primary, regardless of whether the voter has requested that the election officer not

134 send a ballot by mail to the voter;

135       (f) early voting will not take place;

136       (g) registration by provisional ballot will not take place and Section [20A-2-207](#) is not

137 in effect;

138       (h) provisional ballots may only be cast:

139       (i) by mail;

140       (ii) for an individual with a disability, as otherwise authorized by the election officer;

141 or

142       (iii) for a mobile voting county, at a drive-up voting station;

143       (i) the provisions of Section [20A-3a-205](#) will only be in effect to the extent they can be

144 completed in accordance with Subsection (6)(h);

145       (j) except as it relates to drive-up voting for a mobile voting county, and subject to

146 Subsection (9)(k), Subsections [11-14-202](#)(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6) are not in

147 effect;

148       (k) except as it relates to drive-up voting for a mobile voting county, and subject to

149 Subsection (9)(k), the portion of Subsection [11-14-202](#)(4)(a)(iii) following the words "election

150 officer's website" is not in effect;

151       (l) except for a registration completed before the effective date of this bill, in person

152 voter registration is not in effect, including registration described in Section 20A-2-201 or  
153 Subsection 20A-2-304(1)(a);  
154 (m) Subsection 20A-2-307(2)(a) is not in effect;  
155 (n) except as it relates to drive-up voting for a mobile voting county, and subject to  
156 Subsection (9)(k), Sections 20A-4-101, 20A-4-102, and 20A-4-103 are not in effect;  
157 (o) Subsection 20A-4-202(2)(a) is not in effect;  
158 (p) the deadline for the canvas to be completed is 21 days after the election;  
159 (q) except as it relates to drive-up voting for a mobile voting county, and subject to  
160 Subsection (9)(k), Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii) are not in effect;  
161 (r) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(2)(m) and  
162 (2)(n) shall, instead of referring to polling places, refer to:  
163 (i) ballot drop boxes; and  
164 (ii) for a mobile voting county, drive-up voting stations;  
165 (s) except as it relates to drive-up voting for a mobile voting county, and subject to  
166 Subsection (9)(k), the portion of Subsection 20A-7-702(3)(c) following the words "upon  
167 request" are not in effect;  
168 (t) Subsection 20A-7-801(3)(c) is not in effect;  
169 (u) (i) except as provided in Subsection (6)(u)(ii), the statement described in  
170 Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the  
171 jurisdiction] on [indicate date of election]. Information relating to the election, including ballot  
172 drop box locations and qualifications of voters may be obtained from the following sources:";  
173 (ii) for a mobile voting county, the statement described in Subsection 20A-5-101(6)(b)  
174 shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date  
175 of election]. Information relating to the election, including ballot drop box locations, drive-up  
176 voting locations, and qualifications of voters may be obtained from the following sources:";  
177 (v) except as it relates to drive-up voting for a mobile voting county, and subject to  
178 Subsection (9)(k):  
179 (i) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the  
180 election" are not in effect; and  
181 (ii) Subsection 20A-5-102(2) is not in effect;  
182 (w) the election officer may modify the number of poll workers to an amount that the

183 election officer determines is appropriate and may alter or otherwise designate the duties of  
184 poll workers in general, and of each individual poll worker;

185 (x) the election officer may reduce the number of watchers and alter or otherwise  
186 regulate the placement and conduct of watchers as the election officer determines is  
187 appropriate;

188 (y) in Section 20A-6-203:

189 (i) the provisions relating to voting booths are not in effect; and

190 (ii) except as it relates to drive-up voting for a mobile voting county, and subject to  
191 Subsection (9)(k), the provisions relating to ballot boxes are not in effect; and

192 (z) an election officer may not release any ballot counts or any other election results or  
193 updates to the public before 10 p.m. on election day.

194 (7) For the 2020 regular primary election only, with respect to the version of the Utah  
195 Code otherwise in effect before May 12, 2020:

196 (a) except as it relates to drive-up voting for a mobile voting county, and subject to  
197 Subsection (9)(k), Subsection 20A-3-202.3(3)(b)(ii) is not in effect;

198 (b) except as it relates to drive-up voting for a mobile voting county, and subject to  
199 Subsection (9)(k), Subsections 20A-3-302(2)(a)(ii) and (v) and (6)(a), (b), and (c) are not in  
200 effect;

201 (c) Subsection 20A-3-306.5(3)(a) is not in effect;

202 (d) Chapter 3, Part 6, Early Voting, is not in effect;

203 (e) except as it relates to drive-up voting for a mobile voting county, and subject to  
204 Subsection (9)(k), Chapter 3, Part 7, Election Day Voting Center, is not in effect;

205 (f) Subsections 20A-5-101(4)(b), (c), and (e) are not in effect;

206 (g) the portion of Subsection 20A-5-101(4)(d) that follows the words "election officer's  
207 website" is not in effect; and

208 (h) except as it relates to drive-up voting for a mobile voting county, and subject to  
209 Subsection (9)(k), the portion of Subsection 20A-5-101(6)(b) that states "polling places,  
210 polling place hours, and" is not in effect.

211 (8) For the 2020 regular primary election only, with respect to the version of the Utah  
212 Code otherwise in effect beginning on May 12, 2020:

213 (a) Subsections 20A-2-102.5(2)(a)(i), (2)(b), and (2)(c) are not in effect;

214 (b) the portion of Subsection 20A-2-202(3)(b) following the words "pending election"  
215 is not in effect;

216 (c) the portion of Subsection 20A-2-204(6)(c)(iii) following the words "pending  
217 election" is not in effect;

218 (d) the portion of Subsection 20A-2-205(7)(b) following the words "pending election"  
219 is not in effect;

220 (e) Subsection 20A-2-206(9)(b) is not in effect;

221 (f) Section 20A-3a-105 is not in effect, except:

222 (i) as it applies to an individual with a disability; or

223 (ii) as it relates to drive-up voting for a mobile voting county, subject to Subsection  
224 (9)(k);

225 (g) except as it relates to drive-up voting for a mobile voting county, and subject to  
226 Subsection (9)(k), Subsections 20A-3a-201(1)(b) and (c) are not in effect;

227 (h) (i) except as it relates to drive-up voting for a mobile voting county, and subject to  
228 Subsection (9)(k), Subsections 20A-3a-202(2)(a)(iv) and (v), (8)(a), (b), and (c) are not in  
229 effect; and

230 (ii) Subsection 20A-3a-202(10) is not in effect;

231 (i) except as it relates to drive-up voting for a mobile voting county, and subject to  
232 Subsection (9)(k), Section 20A-3a-203 is not in effect;

233 (j) the deadline for a postmark or other mark described in Subsection  
234 20A-3a-204(2)(a)(i) is extended to on or before election day;

235 (k) the words "in line at" in Subsection 20A-3a-204(2)(d) are replaced with the words  
236 "waiting in the vicinity of";

237 (l) except as it relates to drive-up voting for a mobile voting county, and subject to  
238 Subsection (9)(k), Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9) are not in effect;

239 (m) the words "enter a polling place" in Subsection 20A-3a-208(1) are replaced with  
240 the word "vote";

241 (n) except as it relates to drive-up voting for a mobile voting county, and subject to  
242 Subsection (9)(k), Subsections 20A-3a-209(1) and (2) are not in effect;

243 (o) Section 20A-3a-301 is in effect only to the extent that the process can be  
244 completed;

- 245 (i) by mail;
- 246 (ii) for a mobile voting county, via a drive-up voting center; or
- 247 (iii) if approved by the lieutenant governor, electronic means;
- 248 (p) except as it relates to drive-up voting for a mobile voting county, and subject to
- 249 Subsection (9)(k), Section 20A-3a-402 is not in effect;
- 250 (q) Chapter 3a, Part 6, Early Voting, is not in effect;
- 251 (r) except as it relates to drive-up voting for a mobile voting county, and subject to
- 252 Subsection (9)(k), Chapter 3a, Part 7, Election Day Voting Center, is not in effect;
- 253 (s) Subsection 20A-3a-804(1)(b) shall be completed by mail;
- 254 (t) except as it relates to drive-up voting for a mobile voting county, and subject to
- 255 Subsection (9)(k), the portion of Subsection 20A-3a-804(3)(b)(ii) following the words
- 256 "provisional ballot" is not in effect;
- 257 (u) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead,
- 258 required to determine whether each challenged individual is eligible to vote before the day on
- 259 which the canvass is held;
- 260 (v) except as it relates to drive-up voting for a mobile voting county, and subject to
- 261 Subsection (9)(k), Section 20A-3a-805 is not in effect;
- 262 (w) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be
- 263 fulfilled by recording the canvass and making the recording available to the public;
- 264 (x) Subsection 20A-5-403.5(3)(b) is not in effect;
- 265 (y) except as it relates to drive-up voting for a mobile voting county, and subject to
- 266 Subsection (9)(k), Subsection 20A-5-205(2) is not in effect;
- 267 (z) except as it relates to drive-up voting for a mobile voting county, and subject to
- 268 Subsection (9)(k), Section 20A-5-404 is not in effect;
- 269 (aa) (i) Subsections 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect; and
- 270 (ii) except as it relates to drive-up voting for a mobile voting county, and subject to
- 271 Subsection (9)(k), Subsections 20A-5-405(1)(i) and (3)(b)(ii) are not in effect;
- 272 (bb) except as it relates to drive-up voting for a mobile voting county, and subject to
- 273 Subsection (9)(k), Sections 20A-5-406 and 20A-5-407 are not in effect; and
- 274 (cc) the "in person" requirement in Section 20A-7-609.5(3)(a)(i) is not in effect.
- 275 (9) (a) A county is a mobile voting county if, before 5 p.m. on May 1, 2020, the county

276 clerk notifies the lieutenant governor that the county will be a mobile voting county.

277 (b) Except as provided in Subsection (9)(j), a mobile voting county shall operate one or  
278 more drive-up voting stations during normal polling hours on election day.

279 (c) Only a mobile voting county may operate a drive-up voting station.

280 (d) A mobile voting county may not operate a drive-up voting station at any time other  
281 than during normal polling hours on election day.

282 (e) Vehicles in line at a drive-up voting station at 8 p.m. may vote at the drive-up  
283 voting station.

284 (f) A mobile voting county shall:

285 (i) establish procedures and requirements to protect the health and welfare of voters  
286 and poll workers at a drive-up voting station, including the use of protective gear;

287 (ii) operate the drive-up voting station in a manner that permits a voter to vote while  
288 remaining in a vehicle;

289 (iii) take measures to ensure that a voter's vote is secret and secure; and

290 (iv) conduct a campaign to encourage voters to vote by mail rather than at a drive-up  
291 voting station.

292 (g) Any duty of care owed by a government entity in relation to a drive-up voting  
293 station is the sole responsibility of the mobile voting county, not the state.

294 (h) This section does not impose a duty of care or other legal liability not already owed  
295 under the provisions of law.

296 (i) A drive-up voting station is a polling place.

297 (j) (i) The county clerk of a mobile voting county may cancel drive-up voting or close a  
298 drive-up voting station if the county clerk determines that cancellation is necessary to protect  
299 the public health and welfare.

300 (ii) If cancellation or closure occurs under Subsection (9)(j)(i), the county clerk shall  
301 give notice of the cancellation or closure as soon as reasonably possible, in the manner that the  
302 county clerk determines is best under the circumstances, and a voter must then vote by placing  
303 the ballot that the voter received by mail in a ballot box.

304 (iii) A voter who waits to vote until election day assumes the risk that a drive-up voting  
305 station may close at any time to protect the public health and welfare and that the voter may be  
306 required to vote by placing the ballot that the voter received by mail in a ballot box.

307           (k) A county clerk of a mobile voting county may, consistent with the provisions of  
308 this section and the other requirements of law that remain in effect for the 2020 regular primary  
309 election, alter requirements relating to a polling place to the extent necessary to address the  
310 practical differences between drive-up voting and voting in a building.

311           Section 2. **Effective date.**

312           If approved by two-thirds of all the members elected to each house, this bill takes effect  
313 upon approval by the governor, or the day following the constitutional time limit of Utah  
314 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
315 the date of veto override.

316           Section 3. **Repeal date.**

317           This bill is repealed on August 1, 2020.

318           Section 4. **Revisor instructions.**

319           The Legislature intends that the Office of Legislative Research and General Counsel, in  
320 preparing the Utah Code database for publication, replace the phrase "the effective date of this  
321 bill" with the actual effective date of this bill in Subsection [20A-1-309\(6\)\(1\)](#).