

Representative Jefferson Moss proposes the following substitute bill:

ELECTION AMENDMENTS

2020 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Wayne A. Harper

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's office 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's office 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;



- 26 ▶ modifies multiple provisions relating to the 2020 regular primary election, including
- 27 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;
- 39 ▶ establishes a process for a county to qualify as a mobile voting county that provides
- 40 limited drive-up voting on election day; and
- 41 ▶ provides for accessible voting options for a voter with a disability.

42 **Money Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 This bill provides a special effective date.

46 This bill provides a repeal date.

47 This bill provides revisor instructions.

48 **Utah Code Sections Affected:**

49 ENACTS:

50 **20A-1-309**, Utah Code Annotated 1953

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

52 **20A-1-309**, Utah Code Annotated 1953



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

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

56 **20A-1-309. Regular primary election, 2020 -- COVID-19 measures.**

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

59 (b) In relation to conducting the 2020 regular primary election, the Legislature takes
60 the action described in this section to protect the public health and safety in relation to the
61 COVID-19 pandemic.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

93 (iii) an election officer shall:

94 (A) provide a method of accessible voting to a voter with a disability who is not able to
95 vote by mail; and

96 (B) include, on the election officer's website and with each ballot mailed, instructions
97 regarding how a voter described in Subsection (6)(a)(iii)(A) may vote;

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

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

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

111 An individual with a disability who is not able to vote a manual ballot by mail may
112 obtain information on voting in an accessible manner from the county's website, by contacting
113 the county clerk, or by reviewing the information included with a ballot mailed to the voter.";

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

- 117 ▶ the election will be conducted primarily by mail;
- 118 ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on

119 election day;
120 ▶ there will be no regular polling places on election day, but there will be limited
121 drive-up voting on election day, unless the county clerk cancels drive-up voting
122 based on public health concerns;

123 ▶ if drive-up voting is cancelled based on public health concerns, voters will be
124 required to vote by mail;

125 ▶ except for drive-up voting on election day only, there will be no in person
126 voting and no in person early voting;

127 ▶ there will be no in person voter registration;

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

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

130 An individual with a disability who is not able to vote a manual ballot by mail may
131 obtain information on voting in an accessible manner from the county's website, by contacting
132 the county clerk, or by reviewing the information included with a ballot mailed to the voter.";

133 (d) except as it relates to drive-up voting for a mobile voting county, and subject to
134 Subsection (9)(k), Section 20A-5-403 is not in effect;

135 (e) the election officer shall mail to each active voter who is eligible to vote in the
136 primary, regardless of whether the voter has requested that the election officer not send a ballot
137 by mail to the voter:

138 (i) a manual ballot, if the voter is affiliated with a political party for which there is a
139 primary election;

140 (ii) a notice to each unaffiliated active voter stating that the voter may request a
141 primary election ballot; and

142 (iii) a manual ballot to each unaffiliated active voter who requests a primary election
143 ballot;

144 (f) early voting will not take place;

145 (g) registration by provisional ballot will not take place and Section 20A-2-207 is not
146 in effect;

147 (h) provisional ballots may only be cast:

148 (i) by mail;

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

150 or

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

152 (i) the provisions of Section 20A-3a-205 will only be in effect to the extent they can be
153 completed in accordance with Subsection (6)(h);

154 (j) except as it relates to drive-up voting for a mobile voting county, and subject to
155 Subsection (9)(k), Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6) are not in
156 effect;

157 (k) except as it relates to drive-up voting for a mobile voting county, and subject to
158 Subsection (9)(k), the portion of Subsection 11-14-202(4)(a)(iii) following the words "election
159 officer's website" is not in effect;

160 (l) except for a registration completed before the effective date of this bill, in person
161 voter registration is not in effect, including registration described in Section 20A-2-201 or
162 Subsection 20A-2-304(1)(a);

163 (m) Subsection 20A-2-307(2)(a) is not in effect;

164 (n) except as it relates to drive-up voting for a mobile voting county, and subject to
165 Subsection (9)(k), Sections 20A-4-101, 20A-4-102, and 20A-4-103 are not in effect;

166 (o) Subsection 20A-4-202(2)(a) is not in effect;

167 (p) the deadline for the canvas to be completed is 21 days after the election;

168 (q) except as it relates to drive-up voting for a mobile voting county, and subject to
169 Subsection (9)(k), Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii) are not in effect;

170 (r) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(2)(m) and
171 (2)(n) shall, instead of referring to polling places, refer to:

172 (i) ballot drop boxes; and

173 (ii) for a mobile voting county, drive-up voting stations;

174 (s) except as it relates to drive-up voting for a mobile voting county, and subject to
175 Subsection (9)(k), the portion of Subsection 20A-7-702(3)(c) following the words "upon
176 request" are not in effect;

177 (t) Subsection 20A-7-801(3)(c) is not in effect;

178 (u) (i) except as provided in Subsection (6)(u)(ii), the statement described in
179 Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the
180 jurisdiction] on [indicate date of election]. Information relating to the election, including ballot

181 drop box locations, accessible options for voters with a disability, and qualifications of voters
182 may be obtained from the following sources:";

183 (ii) for a mobile voting county, the statement described in Subsection 20A-5-101(6)(b)
184 shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date
185 of election]. Information relating to the election, including ballot drop box locations, drive-up
186 voting locations, accessible options for voters with a disability, and qualifications of voters
187 may be obtained from the following sources:";

188 (v) except as it relates to drive-up voting for a mobile voting county, and subject to
189 Subsection (9)(k):

190 (i) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the
191 election" are not in effect; and

192 (ii) Subsection 20A-5-102(2) is not in effect;

193 (w) the election officer may modify the number of poll workers to an amount that the
194 election officer determines is appropriate and may alter or otherwise designate the duties of
195 poll workers in general, and of each individual poll worker;

196 (x) the election officer may reduce the number of watchers and alter or otherwise
197 regulate the placement and conduct of watchers as the election officer determines is
198 appropriate;

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

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

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

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

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

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

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

- 212 (c) Subsection 20A-3-306.5(3)(a) is not in effect;
- 213 (d) Chapter 3, Part 6, Early Voting, is not in effect;
- 214 (e) except as it relates to drive-up voting for a mobile voting county, and subject to
- 215 Subsection (9)(k), Chapter 3, Part 7, Election Day Voting Center, is not in effect;
- 216 (f) Subsections 20A-5-101(4)(b), (c), and (e) are not in effect;
- 217 (g) the portion of Subsection 20A-5-101(4)(d) that follows the words "election officer's
- 218 website" is not in effect; and
- 219 (h) except as it relates to drive-up voting for a mobile voting county, and subject to
- 220 Subsection (9)(k), the portion of Subsection 20A-5-101(6)(b) that states "polling places,
- 221 polling place hours, and" is not in effect.
- 222 (8) For the 2020 regular primary election only, with respect to the version of the Utah
- 223 Code otherwise in effect beginning on May 12, 2020:
- 224 (a) Subsections 20A-2-102.5(2)(a)(i), (2)(b), and (2)(c) are not in effect;
- 225 (b) the portion of Subsection 20A-2-202(3)(b) following the words "pending election"
- 226 is not in effect;
- 227 (c) the portion of Subsection 20A-2-204(6)(c)(iii) following the words "pending
- 228 election" is not in effect;
- 229 (d) the portion of Subsection 20A-2-205(7)(b) following the words "pending election"
- 230 is not in effect;
- 231 (e) Subsection 20A-2-206(9)(b) is not in effect;
- 232 (f) Section 20A-3a-105 is not in effect, except:
- 233 (i) as it applies to an individual with a disability; or
- 234 (ii) as it relates to drive-up voting for a mobile voting county, subject to Subsection
- 235 (9)(k);
- 236 (g) except as it relates to drive-up voting for a mobile voting county, and subject to
- 237 Subsection (9)(k), Subsections 20A-3a-201(1)(b) and (c) are not in effect;
- 238 (h) (i) except as it relates to drive-up voting for a mobile voting county, and subject to
- 239 Subsection (9)(k), Subsections 20A-3a-202(2)(a)(iv) and (v), (8)(a), (b), and (c) are not in
- 240 effect; and
- 241 (ii) Subsection 20A-3a-202(10) is not in effect;
- 242 (i) except as it relates to drive-up voting for a mobile voting county, and subject to

243 Subsection (9)(k), Section 20A-3a-203 is not in effect;
244 (j) the deadline for a postmark or other mark described in Subsection
245 20A-3a-204(2)(a)(i) is extended to on or before election day;
246 (k) the words "in line at" in Subsection 20A-3a-204(2)(d) are replaced with the words
247 "waiting in the vicinity of";
248 (l) except as it relates to drive-up voting for a mobile voting county, and subject to
249 Subsection (9)(k), Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9) are not in effect;
250 (m) the words "enter a polling place" in Subsection 20A-3a-208(1) are replaced with
251 the word "vote";
252 (n) except as it relates to drive-up voting for a mobile voting county, and subject to
253 Subsection (9)(k), Subsections 20A-3a-209(1) and (2) are not in effect;
254 (o) Section 20A-3a-301 is in effect only to the extent that the process can be
255 completed:
256 (i) by mail;
257 (ii) for a mobile voting county, via a drive-up voting center; or
258 (iii) if approved by the lieutenant governor's office, electronic means;
259 (p) except as it relates to drive-up voting for a mobile voting county, and subject to
260 Subsection (9)(k), Section 20A-3a-402 is not in effect;
261 (q) Chapter 3a, Part 6, Early Voting, is not in effect;
262 (r) except as it relates to drive-up voting for a mobile voting county, and subject to
263 Subsection (9)(k), Chapter 3a, Part 7, Election Day Voting Center, is not in effect;
264 (s) Subsection 20A-3a-804(1)(b) shall be completed by mail;
265 (t) except as it relates to drive-up voting for a mobile voting county, and subject to
266 Subsection (9)(k), the portion of Subsection 20A-3a-804(3)(b)(ii) following the words
267 "provisional ballot" is not in effect;
268 (u) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead,
269 required to determine whether each challenged individual is eligible to vote before the day on
270 which the canvass is held;
271 (v) except as it relates to drive-up voting for a mobile voting county, and subject to
272 Subsection (9)(k), Section 20A-3a-805 is not in effect;
273 (w) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be

274 fulfilled by recording the canvass and making the recording available to the public;
275 (x) Subsection 20A-5-403.5(3)(b) is not in effect;
276 (y) except as it relates to drive-up voting for a mobile voting county, and subject to
277 Subsection (9)(k), Subsection 20A-5-205(2) is not in effect;
278 (z) except as it relates to drive-up voting for a mobile voting county, and subject to
279 Subsection (9)(k), Section 20A-5-404 is not in effect;
280 (aa) (i) Subsections 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect; and
281 (ii) except as it relates to drive-up voting for a mobile voting county, and subject to
282 Subsection (9)(k), Subsections 20A-5-405(1)(i) and (3)(b)(ii) are not in effect;
283 (bb) except as it relates to drive-up voting for a mobile voting county, and subject to
284 Subsection (9)(k), Sections 20A-5-406 and 20A-5-407 are not in effect; and
285 (cc) the "in person" requirement in Section 20A-7-609.5(3)(a)(i) is not in effect.
286 (9) (a) A county is a mobile voting county if, before 5 p.m. on May 1, 2020, the county
287 clerk notifies the lieutenant governor's office that the county will be a mobile voting county.
288 (b) Except as provided in Subsection (9)(j), a mobile voting county shall operate one or
289 more drive-up voting stations during normal polling hours on election day.
290 (c) Only a mobile voting county may operate a drive-up voting station.
291 (d) A mobile voting county may not operate a drive-up voting station at any time other
292 than during normal polling hours on election day.
293 (e) Vehicles in line at a drive-up voting station at 8 p.m. may vote at the drive-up
294 voting station.
295 (f) A mobile voting county shall:
296 (i) establish procedures and requirements to protect the health and welfare of voters
297 and poll workers at a drive-up voting station, including the use of protective gear;
298 (ii) operate the drive-up voting station in a manner that permits a voter to vote while
299 remaining in a vehicle;
300 (iii) take measures to ensure that a voter's vote is secret and secure; and
301 (iv) conduct a campaign to encourage voters to vote by mail rather than at a drive-up
302 voting station.
303 (g) Any duty of care owed by a government entity in relation to a drive-up voting
304 station is the sole responsibility of the mobile voting county, not the state.

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

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

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

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

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

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

322 **Section 2. Effective date.**

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

327 **Section 3. Repeal date.**

328 This bill is repealed on August 1, 2020.

329 **Section 4. Revisor instructions.**

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