

Senator Wayne A. Harper proposes the following substitute bill:

AMENDMENTS TO ELECTIONS

2020 SIXTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

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

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 general election; and
 - conduct a campaign to educate the public on the provisions of this bill and to encourage voting by mail;
- ▶ authorizes the lieutenant governor's office to make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular general election to the extent the modifications are necessary to carry out the provisions of this bill;



- 26 ▶ modifies election notice provisions to inform voters of changes applicable to the 2020
- 27 regular general election;
- 28 ▶ modifies multiple provisions relating to the 2020 regular general election, including that:
- 29 • the election will be conducted primarily by mail; and
- 30 • a county is required to provide in-person voting, for both early voting and on
- 31 election day, by traditional voting or outdoor voting;
- 32 ▶ lists several code provisions that are not in effect, or that are otherwise modified, for
- 33 the 2020 regular general election;
- 34 ▶ provides for accessible voting options for a voter with a disability for the 2020 regular
- 35 general election;
- 36 ▶ modifies ballot harvesting provisions for all elections;
- 37 ▶ repeals all provisions of this bill, except the ballot harvesting provisions, on January 1,
- 38 2021; and
- 39 ▶ makes technical and conforming changes.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 This bill provides a special effective date.

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **20A-3a-501**, as renumbered and amended by Laws of Utah 2020, Chapter 31

47 **63I-2-220**, as last amended by Laws of Utah 2020, Chapters 31 and 49

48 ENACTS:

49 **20A-1-310**, Utah Code Annotated 1953



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

52 Section 1. Section **20A-1-310** is enacted to read:

53 **20A-1-310. Regular general election, 2020 -- COVID-19 measures.**

54 (1) As used in this section, and for the 2020 regular general election:

55 (a) (i) "Building" means, except as provided in Subsection (1)(a)(ii), a structure that is

56 completely enclosed from the exterior by walls and a roof.

57 (ii) "Building" does not include a structure approved by the election officer for voters to
58 drive through the structure.

59 (b) (i) "Outdoor voting" means a voting procedure where the voter does not enter a
60 building at any time during the voting process.

61 (ii) "Outdoor voting" includes voting by:

62 (A) walking up to, or driving up to, an exterior window of a building;

63 (B) walking up to, or driving up to, an outdoor location; or

64 (C) driving through a structure approved by the election officer for voters to drive through
65 the structure.

66 (c) "Outdoor voting station" means a location described in Subsection (1)(b)(ii) where
67 outdoor voting occurs.

68 (d) "Polling place" means:

69 (i) a building where polling is conducted; or

70 (ii) an outdoor voting station.

71 (2) In relation to conducting the 2020 regular general election, the Legislature takes the
72 action described in this section to protect the public health and safety in relation to the COVID-19
73 pandemic.

74 (3) If any provision of the Utah Code conflicts with a provision of this section, this section
75 prevails.

76 (4) Notwithstanding any emergency declaration issued under the authority of this state, or
77 any other restriction imposed by the governor, the Department of Health, a local government, a
78 local health department, or any other government entity of the state, and consistent with the
79 requirements of this section, the conduct of the 2020 regular general election:

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

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

85 (5) The lieutenant governor's office shall, in consultation with the county clerks and
86 consistent with the provisions of this section and other applicable requirements of law, issue

87 protocols to protect the health and safety of voters and government employees in the conduct of
88 the 2020 regular general election, including:

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

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

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

92 (6) The lieutenant governor's office shall conduct a campaign to:

93 (a) educate the public on the provisions of this section, especially provisions relating to
94 changes in the voter registration, voting methods, and voting process; and

95 (b) encourage voters to vote by mail rather than at an outdoor voting station.

96 (7) The lieutenant governor's office may make other modifications relating to deadlines,
97 locations, and methods of conducting the 2020 regular general election to the extent the
98 modifications are necessary to carry out the provisions of this section.

99 (8) For the 2020 regular general election only:

100 (a) a county shall:

101 (i) conduct the election primarily by mail;

102 (ii) provide in-person voting on election day and during early voting, via one or more of
103 the following in-person voting methods:

104 (A) traditional in-person voting at a polling location in a building; or

105 (B) outdoor voting;

106 (b) a covered voter, as defined in Section [20A-16-102](#), may vote in any manner approved
107 by the election officer;

108 (c) an election officer shall:

109 (i) provide a method of accessible voting to a voter with a disability who is not able to
110 vote by mail; and

111 (ii) include, on the election officer's website and with each ballot mailed, instructions
112 regarding how a voter described in Subsection (8)(c)(i) may vote;

113 (d) an individual assisting a voter described in Subsection (8)(c)(i) may vote at the same
114 time and place as the voter;

115 (e) the notice of election shall include the following statement: "To help prevent the
116 spread of the coronavirus, for the 2020 regular general election only:

117 • the election will be conducted primarily by mail;

118 • in-person voting will be available by [indicate the methods of in-person voting that will
119 be available in the county and a web address where an individual may obtain more information
120 about voting in-person];

121 • drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
122 and

123 • registration by provisional ballot will be available at a polling place.

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

127 (f) subject to Subsection (9), the following are in effect in a county to the extent in-person
128 voting occurs via the methods of in-person voting in effect in the county:

129 (i) in relation to voter registration:

130 (A) Subsections [20A-2-102.5\(2\)\(b\)](#) and [\(2\)\(c\)](#); and

131 (B) the portion of Subsections [20A-2-202\(3\)\(b\)](#), [20A-2-204\(6\)\(c\)\(iii\)](#), [20A-2-205\(7\)\(b\)](#),
132 and [20A-2-206\(9\)\(b\)](#) following the words "pending election";

133 (ii) in relation to polling places:

134 (A) Sections [20A-3a-203](#), [20A-3a-402](#), [20A-4-101](#), [20A-4-102](#), [20A-4-103](#), [20A-5-403](#),
135 [20A-5-404](#), [20A-5-406](#), [20A-5-407](#), and [20A-6-203](#);

136 (B) Subsections [20A-3a-201\(1\)\(b\)](#) and [\(c\)](#), [20A-3a-202\(2\)\(a\)\(iv\)](#), [20A-3a-209\(1\)](#) and [\(2\)](#),
137 [20A-4-202\(2\)\(a\)](#), [20A-5-102\(2\)](#), [20A-5-205\(2\)](#), and [20A-5-405\(1\)\(i\)](#) and [\(3\)\(b\)\(ii\)](#);

138 (C) Subsections [20A-5-101\(4\)\(b\)](#), [\(4\)\(c\)](#), [\(4\)\(e\)](#), and [\(6\)\(c\)\(iii\)](#);

139 (D) Subsections [20A-3a-204\(2\)\(b\)\(i\)](#), [\(3\)](#), [\(4\)](#), [\(7\)](#), [\(8\)](#), and [\(9\)](#); and

140 (E) the portion of Subsection [20A-5-102\(1\)\(c\)\(xiii\)](#) following the words "date of the
141 election";

142 (iii) in relation to an election day voting center, Chapter 3a, Part 7, Election Day Voting
143 Center, Subsection [20A-3a-202\(2\)\(a\)\(iv\)](#) and [\(v\)](#) and [\(8\)\(a\)](#) and [\(b\)](#), and Subsection
144 [20A-7-801\(3\)\(e\)](#);

145 (iv) relating to early voting, Chapter 3a, Part 6, Early Voting, and Subsection
146 [20A-3a-202\(8\)\(c\)](#);

147 (v) registration by provisional ballot, described in Section [20A-2-207](#);

148 (vi) in relation to bond elections:

- 149 (A) Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6); and
150 (B) the portion of Subsection 11-14-202(4)(a)(iii) following the words "election officer's
151 website";
152 (vii) in relation to in-person voter registration that occurs on or after the effective date of
153 this bill, Section 20A-2-201, Subsection 20A-2-304(1)(a), and Subsection 20A-2-307(2)(a);
154 (viii) in relation to a provisional ballot, the portion of Subsection 20A-3a-804(3)(b)(ii)
155 following the words "provisional ballot";
156 (ix) in relation to voting a provisional ballot in-person, Section 20A-3a-205; and
157 (x) in relation to a challenge at a polling place, Section 20A-3a-805;
158 (g) provisional ballots, described in Section 20A-3a-205, may only be cast:
159 (i) by mail;
160 (ii) at a polling location for in-person voting, to the extent the in-person voting occurs via a
161 method of in-person voting in effect in the county; or
162 (iii) for an individual with a disability, as otherwise authorized by the election officer;
163 (h) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(1)(m) and
164 (1)(n) shall refer to the following:
165 (i) polling places, to the extent the in-person voting occurs via a method of in-person
166 voting in effect in the county; and
167 (ii) ballot drop boxes;
168 (i) the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election
169 type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to
170 the election, including ballot drop box locations, polling locations, accessible options for voters with
171 a disability, and qualifications of voters may be obtained from the following sources:";
172 (j) notwithstanding Subsection 20A-3a-202(10), the election officer shall mail a manual
173 ballot to each active voter who is eligible to vote in the election, regardless of whether the voter
174 has requested that the election officer not send a ballot by mail to the voter;
175 (k) the election officer may modify the number of poll workers to an amount that the
176 election officer determines is appropriate and may alter or otherwise designate the duties of poll
177 workers in general, and of each individual poll worker;
178 (l) the election officer may reduce the number of watchers and alter or otherwise
179 regulate the placement and conduct of watchers as the election officer determines is appropriate;

180 (m) Subsection 20A-2-102.5(2)(a)(i), relating to voter registration at the office of the
181 county clerk, is in effect only if permitted, and only to the extent permitted, by the election officer;

182 (n) in relation to a ballot drop box, the words "in line at" in Subsection 20A-3a-204(2)(d)
183 are replaced with the words "waiting in the vicinity of";

184 (o) in relation to assisting a voter, the words "or otherwise vote" are inserted immediately
185 after the words "enter a polling place" in Subsection 20A-3a-208(1);

186 (p) Section 20A-3a-301, relating to emergency ballots, is in effect only to the extent that
187 the process can be completed:

188 (i) by mail;

189 (ii) if approved by the lieutenant governor's office, by electronic means; or

190 (iii) in-person, if approved by the election officer;

191 (q) Subsection 20A-3a-804(1)(b), relating to a pre-election challenge to a voter, shall be
192 completed by mail;

193 (r) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead,
194 required to determine whether each challenged individual is eligible to vote before the day on
195 which the canvass is held;

196 (s) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be
197 fulfilled by recording the canvass and making the recording available to the public;

198 (t) the posting requirements described in Subsections 20A-5-403.5(3)(b) and
199 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect;

200 (u) the "in-person" requirement in Subsection 20A-7-609.5(3)(a)(i) is not in effect;

201 (v) any duty of care owed by a government entity in relation to voting at a polling place is
202 the sole responsibility of the county, not the state, but this section does not impose a duty of care
203 or other legal liability not already owed under the provisions of law;

204 (w) in Subsection 20A-3a-202(2)(a), the words "send or" are inserted immediately before
205 the word "mail"; and

206 (x) for a county where there is a significant risk that timely-mailed ballots may be
207 postmarked too late to be counted as valid, the county shall:

208 (i) work with the local post office to arrange for the post office to separate and
209 date-stamp the ballots in a manner that accurately reflects that the ballots were timely mailed; or

210 (ii) place additional secure drop boxes in the county, starting at least two days before the

211 election, that will be emptied by poll workers at 8:00 pm on the day of the election.

212 (9) A county clerk may, consistent with the provisions of this section and the other
213 requirements of law that remain in effect for the 2020 regular general election, alter requirements
214 relating to a polling place to the extent necessary to address the practical differences between
215 outdoor voting and voting in a building.

216 (10) A county that provides outdoor voting:

217 (a) shall operate one or more outdoor voting stations:

218 (i) during early voting hours; and

219 (ii) during normal polling hours on election day;

220 (b) may not operate an outdoor voting station at any time other than a time described in
221 Subsection (10)(a);

222 (c) may permit a voter to access an outdoor voting station by walking up to the voting
223 station or driving up to the voting station;

224 (d) shall establish procedures and requirements to protect the health and welfare of
225 voters and poll workers at an outdoor voting station, including the use of protective gear;

226 (e) shall operate the outdoor voting station in a manner that permits a voter to vote in one
227 or more of the following manners:

228 (i) while remaining outside; or

229 (ii) while remaining in the voter's vehicle; and

230 (f) shall take measures to ensure that a voter's vote is secret and secure.

231 (11) An individual in line at an outdoor voting station at 8 p.m. on election day may vote at
232 the outdoor voting station.

233 (12) This section does not supersede a federal court order entered in relation to elections
234 in San Juan County.

235 Section 2. Section **20A-3a-501** is amended to read:

236 **20A-3a-501. Prohibited conduct at polling place -- Other prohibited activities.**

237 (1) As used in this section:

238 (a) "electioneering" includes any oral, printed, or written attempt to persuade persons to
239 refrain from voting or to vote for or vote against any candidate or issue; and

240 (b) "polling place" means the physical place where ballots are cast and includes the
241 physical place where a ballot drop box is located.

242 (2) (a) An individual may not, within a polling place or in any public area within 150 feet of
243 the building where a polling place is located:

244 (i) do any electioneering;

245 (ii) circulate cards or handbills of any kind;

246 (iii) solicit signatures to any kind of petition; or

247 (iv) engage in any practice that interferes with the freedom of voters to vote or disrupts
248 the administration of the polling place.

249 (b) A county, municipality, school district, or local district may not prohibit electioneering
250 that occurs more than 150 feet from the building where a polling place is located, but may regulate
251 the place and manner of that electioneering to protect the public safety.

252 (3) (a) An individual may not obstruct the doors or entries to a building in which a polling
253 place is located or prevent free access to and from any polling place.

254 (b) A sheriff, deputy sheriff, or municipal law enforcement officer shall prevent the
255 obstruction of the entrance to a polling place and may arrest an individual creating an obstruction.

256 (4) An individual may not solicit any voter to show the voter's ballot.

257 ~~[(5) An individual may not receive a voted ballot from any voter or deliver an unused
258 ballot to a voter unless that individual is a poll worker.]~~

259 (5) (a) An individual may not knowingly possess or control another individual's voted
260 manual ballot, unless:

261 (i) the individual is an election official or postal worker acting in the capacity of an
262 election official or postal worker;

263 (ii) the individual possesses or controls the voted ballot in accordance with Section
264 20A-3a-301, relating to emergency ballots;

265 (iii) the possession or control is authorized in order to deliver a military-overseas ballot in
266 accordance with Chapter 16, Uniform Military and Overseas Voting Act;

267 (iv) subject to Section 20A-3a-208, the individual is authorized by a voter to possess or
268 control the voter's voted ballot if the voter needs assistance delivering the ballot due to the voter's
269 age, illness, or disability; or

270 (v) the individual resides in the same household as the voter.

271 (b) A violation of Subsection (5)(a) does not invalidate the ballot.

272 (6) An individual who violates any provision of this section is, in addition to the penalties

273 described in Subsections 20A-1-609(2) and (3), guilty of a class A misdemeanor.

274 (7) A political subdivision may not prohibit political signs that are located more than 150
275 feet away from a polling place, but may regulate their placement to protect public safety.

276 Section 3. Section **63I-2-220** is amended to read:

277 **63I-2-220. Repeal dates -- Title 20A.**

278 (1) On January 1, 2021:

279 (a) Subsection 20A-1-201.5(1), the language that states "Except as provided in
280 Subsection (4)," is repealed.

281 (b) Subsection 20A-1-201.5(4) is repealed.

282 (c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the
283 following:

284 "(i) the fourth Tuesday in June; or

285 (ii) the first Tuesday after the first Monday in November."

286 (d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5)
287 and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection 20A-9-202(1)(b),
288 the language that states "(i) or (ii)" is repealed.

289 (e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

290 "(b) Unless expressly provided otherwise in this title, for a registered political party that is
291 not a qualified political party, the deadline for filing a declaration of candidacy for an elective
292 office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the
293 third Saturday in April.";

294 (f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

295 "(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after
296 the third Saturday in April."

297 (2) Subsection 20A-5-803(8) is repealed July 1, 2023.

298 (3) Section 20A-5-804 is repealed July 1, 2023.

299 (4) On January 1, 2026:

300 (a) In Subsection 20A-1-102(18)(a), the language that states "or [~~Title 20A,~~] Chapter 4,
301 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

302 (b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as provided
303 in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

304 (c) In Section 20A-1-304, the language that states "Except for a race conducted by
305 instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot
306 Project," is repealed.

307 (d) In Subsection 20A-3a-204(1)(a), (c), or (d), the language that states "except as
308 provided in Subsection (6)," is repealed.

309 (e) Subsection 20A-3a-204 (5)(b), the language that states "subject to Subsection (6)," is
310 repealed.

311 (f) Subsection 20A-3a-204(6) is repealed and the remaining subsections in Section
312 20A-3a-204 are renumbered accordingly.

313 (g) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in
314 Subsection (2)(f)," is repealed.

315 (h) Subsection 20A-4-101(2)(f) is repealed.

316 (i) Subsection 20A-4-101(3) is repealed and replaced with the following:

317 "(3) To resolve questions that arise during the counting of ballots, a counting judge shall
318 apply the standards and requirements of Section 20A-4-105."

319 (j) In Subsection 20A-4-102(1)(b), the language that states "or a rule made under
320 Subsection 20A-4-101(2)(f)(i)" is repealed.

321 (k) Subsection 20A-4-102(1)(c) is repealed and replaced with the following:

322 "(b) To resolve questions that arise during the counting of ballots, a counting judge shall
323 apply the standards and requirements of Section 20A-4-105."

324 (l) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in [Title
325 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under
326 Subsection 20A-4-101(2)(f)(i)" is repealed.

327 (m) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise
328 provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project," is
329 repealed.

330 (n) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3a-204(6), or
331 [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

332 (o) In Subsections 20A-4-105(3), (4), and (11), the language that states "Except as
333 otherwise provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot
334 Project," is repealed.

335 (p) In Subsection 20A-4-106(2), the language that states "or Title 20A, Chapter 4, Part 6,
336 Municipal Alternate Voting Methods Pilot Project" is repealed.

337 (q) In Subsection 20A-4-304(1)(a), the language that states "except as provided in [Title
338 ~~20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

339 (r) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:

340 "(v) from each voting precinct:

341 (A) the number of votes for each candidate; and

342 (B) the number of votes for and against each ballot proposition;"

343 (s) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1)
344 are renumbered accordingly, and the cross-references to those subsections are renumbered
345 accordingly.

346 (t) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is
347 repealed.

348 (u) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political
349 subdivision to conduct an election, is repealed.

350 (v) In Section 20A-5-802, relating to the certification of voting equipment:

351 (i) delete "Except as provided in Subsection (2)(b)(ii):" from the beginning of Subsection
352 (2); and

353 (ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered
354 accordingly.

355 (w) Section 20A-6-203.5 is repealed.

356 (x) In Subsections 20A-6-402(1) and (2), the language that states "Except as otherwise
357 required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6,
358 Municipal Alternate Voting Methods Pilot Project," is repealed.

359 (y) In Subsection 20A-9-203(3)(a)(i), the language that states "or Title 20A, Chapter 4,
360 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

361 (z) In Subsection 20A-9-203(3)(c)(i), the language that states "except as provided in Title
362 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

363 (aa) In Subsection 20A-9-404(1)(a), the language that states "or Title 20A, Chapter 4,
364 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

365 (bb) In Subsection 20A-9-404(2), the language that states "Except as otherwise provided

366 in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

367 (5) Section [20A-7-407](#) is repealed January 1, 2021.

368 (6) Section [20A-1-310](#) is repealed January 1, 2021.

369 Section 4. **Effective date.**

370 If approved by two-thirds of all the members elected to each house, this bill takes effect

371 upon approval by the governor, or the day following the constitutional time limit of Utah

372 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the

373 date of veto override.