

**Representative Adam Robertson** proposes the following substitute bill:

**MUNICIPAL INSTANT RUNOFF VOTING AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Adam Robertson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to municipal instant runoff voting.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
  - ▶ amends provisions relating to marking a ballot for instant runoff voting;
  - ▶ gives a participating municipality the option of selecting different methods of conducting an election by instant runoff voting;
  - ▶ describes the process of voting and of determining winners in an instant runoff election, depending on the voting method selected by a participating municipality;
- and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 26            **20A-3a-204**, as enacted by Laws of Utah 2020, Chapter 31
- 27            **20A-4-101**, as last amended by Laws of Utah 2020, Chapter 31
- 28            **20A-4-102**, as last amended by Laws of Utah 2020, Chapters 31 and 49
- 29            **20A-4-601**, as enacted by Laws of Utah 2018, Chapter 187
- 30            **20A-4-602**, as last amended by Laws of Utah 2019, Chapter 305
- 31            **20A-4-603**, as last amended by Laws of Utah 2019, Chapter 305
- 32            **20A-4-604**, as enacted by Laws of Utah 2018, Chapter 187

33 ENACTS:

34            **20A-4-605**, Utah Code Annotated 1953



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

37            Section 1. Section **20A-3a-204** is amended to read:

38            **20A-3a-204. Marking and depositing ballots.**

39            (1) To vote by mail:

40            (a) except as provided in Subsection (6), the voter shall prepare the voter's manual  
41 ballot by marking the appropriate space with a mark opposite the name of each candidate of the  
42 voter's choice for each office to be filled;

43            (b) if a ballot proposition is submitted to a vote of the people, the voter shall mark the  
44 appropriate space with a mark opposite the answer the voter intends to make;

45            (c) except as provided in Subsection (6), the voter shall record a write-in vote in  
46 accordance with Subsection **20A-3a-206**~~(1)~~(4);

47            (d) except as provided in Subsection (6), a mark is not required opposite the name of a  
48 write-in candidate; and

49            (e) the voter shall:

50            (i) complete and sign the affidavit on the return envelope;

51            (ii) place the voted ballot in the return envelope;

52            (iii) securely seal the return envelope; and

53            (iv) (A) attach postage, if necessary, and deposit the return envelope in the mail; or

54            (B) place the return envelope in a ballot drop box, designated by the election officer,  
55 for the precinct where the voter resides.

56            (2) (a) Except as otherwise provided in Section **20A-16-404**, to be valid, a ballot that is

57 mailed must be:

58 (i) clearly postmarked before election day, or otherwise clearly marked by the post  
59 office as received by the post office before election day; and

60 (ii) received in the office of the election officer before noon on the day of the official  
61 canvass following the election.

62 (b) Except as provided in Subsection (2)(c), to be valid, a ballot shall, before the polls  
63 close on election day, be deposited in:

64 (i) a ballot box at a polling place; or

65 (ii) a ballot drop box designated by an election officer for the jurisdiction to which the  
66 ballot relates.

67 (c) An election officer may, but is not required to, forward a ballot deposited in a ballot  
68 drop box in the wrong jurisdiction to the correct jurisdiction.

69 (d) An election officer shall ensure that a voter who is, at or before 8 p.m., in line at a  
70 ballot drop box, with a sealed return envelope containing a ballot in the voter's possession, to  
71 deposit the ballot in the ballot drop box.

72 (3) Except as provided in Subsection (4), to vote at a polling place the voter shall, after  
73 complying with Subsections (1)(a) through (d):

74 (a) sign the official register or pollbook; and

75 (b) (i) place the ballot in the ballot box; or

76 (ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot  
77 envelope, complete the information printed on the provisional ballot envelope, and deposit the  
78 provisional ballot envelope in the provisional ballot box.

79 (4) (a) An individual with a disability may vote a mechanical ballot at a polling place.

80 (b) An individual other than an individual with a disability may vote a mechanical  
81 ballot at a polling place if permitted by the election officer.

82 (5) To vote a mechanical ballot, the voter shall:

83 (a) make the selections according to the instructions provided for the voting device;

84 and

85 (b) subject to Subsection (6), record a write-in vote by:

86 (i) selecting the appropriate position for entering a write-in candidate; and

87 (ii) using the voting device to enter the name of the valid write-in candidate for whom

88 the voter wishes to vote.

89 (6) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6,  
90 Municipal Alternate Voting Methods Pilot Project~~[-, a voter]~~:

91 (a) for a municipality using the candidate elimination voting method described in  
92 Sections 20A-4-603 and 20A-4-604, a voter:

93 (i) shall indicate, as directed on the ballot, the name of the candidate who is the voter's  
94 first preference for the office; and

95 ~~[(b)]~~ (ii) may indicate, as directed on the ballot, the names of the remaining candidates  
96 in order of the voter's preference~~[-]; or~~

97 (b) for a municipality using the approval voting method described in Section  
98 20A-4-605, a voter shall, as directed on the ballot, indicate one or more names of candidates  
99 whom the voter approves for the office, without stating an order of preference.

100 (7) A voter who votes at a polling place:

101 (a) shall mark and cast or deposit the ballot without delay and shall leave the voting  
102 area after voting; and

103 (b) may not:

104 (i) occupy a voting booth occupied by another, except as provided in Section  
105 20A-3a-208;

106 (ii) remain within the voting area more than 10 minutes; or

107 (iii) occupy a voting booth for more than five minutes if all booths are in use and other  
108 voters are waiting to occupy a voting booth.

109 (8) If the official register shows any voter as having voted, that voter may not reenter  
110 the voting area during that election unless that voter is an election official or watcher.

111 (9) A poll worker may not, at a polling place, allow more than four voters more than  
112 the number of voting booths into the voting area at one time unless those excess voters are:

113 (a) election officials;

114 (b) watchers; or

115 (c) assisting voters with a disability.

116 Section 2. Section 20A-4-101 is amended to read:

117 **20A-4-101. Manual ballots cast at a polling place -- Counting manual ballots at**  
118 **polling place on day of election before polls close.**

119 (1) Each county legislative body, municipal legislative body, and each poll worker  
120 shall comply with the requirements of this section when counting manual ballots on the day of  
121 an election, if:

122 (a) the ballots are cast at a polling place; and

123 (b) the ballots are counted at the polling place before the polls close.

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

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

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

128 (b) At any election in any voting precinct in which both receiving and counting judges  
129 have been appointed, when at least 20 votes have been cast, the receiving judges shall:

130 (i) close the first ballot box and deliver it to the counting judges; and

131 (ii) prepare and use another ballot box to receive voted ballots.

132 (c) Except as provided in Subsection (2)(f), upon receipt of the ballot box, the counting  
133 judges shall:

134 (i) take the ballot box to the counting room;

135 (ii) count the votes on the regular ballots in the ballot box;

136 (iii) place the provisional ballot envelopes in the envelope or container provided for  
137 them for return to the election officer; and

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

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

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

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

147 (f) (i) The director of elections within the Office of the Lieutenant Governor shall make  
148 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
149 describing the procedures that a counting judge is required to follow for counting ballots in an

150 instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting  
151 Methods Pilot Project.

152 (ii) When counting ballots in an instant runoff voting race described in Title 20A,  
153 Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a counting judge shall  
154 comply with the procedures established under Subsection (2)(f)(i) and Title 20A, Chapter 4,  
155 Part 6, Municipal Alternate Voting Methods Pilot Project.

156 (3) To resolve questions that arise during the counting of ballots, a counting judge shall  
157 apply the standards and requirements of:

158 (a) to the extent applicable, Section 20A-4-105; and

159 (b) as applicable, for an instant runoff voting race under Title 20A, Chapter 4, Part 6,  
160 Municipal Alternate Voting Methods Pilot Project, Subsection 20A-4-603[~~(3)~~](4).

161 Section 3. Section 20A-4-102 is amended to read:

162 **20A-4-102. Manual ballots cast at a polling place -- Counting manual ballots at**  
163 **polling place on day of election after polls close.**

164 (1) (a) This section governs counting manual ballots on the day of an election, if:

165 (i) the ballots are cast at a polling place; and

166 (ii) the ballots are counted at the polling place after the polls close.

167 (b) Except as provided in Subsection (2) or a rule made under Subsection  
168 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted,  
169 the election judges shall count the ballots by performing the tasks specified in this section in  
170 the order that they are specified.

171 (c) To resolve questions that arise during the counting of ballots, a counting judge shall  
172 apply the standards and requirements of:

173 (i) to the extent applicable, Section 20A-4-105; and

174 (ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate  
175 Voting Methods Pilot Project, Subsection 20A-4-603[~~(3)~~](4).

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

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

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

181 them.

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

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

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

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

191 (3) The judges shall:

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

194 (b) seal that envelope or container.

195 (4) The judges shall:

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

198 (b) seal that envelope or container.

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

201 (b) In regular primary elections the judges shall:

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

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

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

206 (6) (a) In all elections, the counting judges shall, except as provided in Part 6,  
207 Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection  
208 [20A-4-101\(2\)\(f\)\(i\)](#):

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

211 (ii) count each vote for each write-in candidate who has qualified by filing a

212 declaration of candidacy under Section 20A-9-601;

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

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

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

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

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

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

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

227 (7) Only an election judge and a watcher may be present at the place where counting is  
228 conducted until the count is completed.

229 Section 4. Section 20A-4-601 is amended to read:

230 **20A-4-601. Definitions.**

231 As used in this part:

232 (1) "Candidate amplifier" means the product of:

233 (a) two less than the total number of candidates in a given canvassing phase of a  
234 multi-candidate race; and

235 (b) .02%.

236 (2) "Multi-candidate race" means a nonpartisan municipal race where:

237 (a) for the election of at-large officers, the number of candidates who qualify for the  
238 race exceeds the total number of seats to be filled; or

239 (b) for the election of an officer other than an at-large officer, more than two  
240 candidates qualify to run for one office.

241 (3) "Participating municipality" means a municipality that is participating in the pilot  
242 project, in accordance with Subsection 20A-4-602(3).

243 (4) "Pilot project" means the Municipal Alternate Voting Methods Pilot Project created  
244 in Section [20A-4-602](#).

245 (5) "Recount threshold" means the sum of the candidate amplifier and the following:

246 (a) for a canvassing phase in which fewer than 100 valid votes are counted, 0.21%;

247 (b) for a canvassing phase in which at least 100, but fewer than 500, valid votes are  
248 counted, 0.19%;

249 (c) for a canvassing phase in which at least 500, but fewer than 1,000, valid votes are  
250 counted, 0.17%;

251 (d) for a canvassing phase in which at least 1,000, but fewer than 5,000, valid votes are  
252 counted, 0.15%;

253 (e) for a canvassing phase in which at least 5,000, but fewer than 10,000, valid votes  
254 are counted, 0.13%; and

255 (f) for a canvassing phase in which 10,000 or more valid votes are counted, 0.11%.

256 (6) "Valid" means that the ballot is marked in a manner that permits the vote to be  
257 counted during the applicable ballot-counting phase.

258 (7) "Voting method" means:

259 (a) the candidate elimination voting method described in Sections [20A-4-603](#) and  
260 [20A-4-604](#); or

261 (b) the approval voting method described in Section [20A-4-605](#).

262 Section 5. Section **20A-4-602** is amended to read:

263 **20A-4-602. Municipal Alternate Voting Methods Pilot Project -- Creation --**  
264 **Participation.**

265 (1) There is created the Municipal Alternate Voting Methods Pilot Project.

266 (2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.

267 (3) (a) A municipality may participate in the pilot project, in accordance with the  
268 requirements of this section and all other applicable provisions of law, during any  
269 odd-numbered year that the pilot project is in effect, if, before April 15 of the odd-numbered  
270 year, the municipality provides written notice to the lieutenant governor:

271 (i) stating that the municipality intends to participate in the pilot project for the year  
272 specified in the notice; [~~and~~]

273 (ii) specifying the voting method that the municipality will use; and

274 ~~[(it)]~~ (iii) that includes a document, signed by the election officer of the municipality,  
275 stating that the municipality has the resources and capability necessary to participate in the  
276 pilot project.

277 (b) A municipality that provides the notice of intent described in Subsection (3)(a)  
278 may:

279 (i) withdraw the notice of intent, and not participate in the pilot project, if the  
280 municipality provides written notice of withdrawal to the lieutenant governor before April  
281 15[-]; or

282 (ii) change the voting method specified under Subsection (3)(a)(ii) to another voting  
283 method, if the municipality provides written notice of the change to the lieutenant governor  
284 before April 15.

285 (4) The lieutenant governor shall maintain, in a prominent place on the lieutenant  
286 governor's website, a current list of the municipalities that are participating in the pilot project.

287 (5) (a) An election officer of a participating municipality shall, in accordance with the  
288 provisions of this part, conduct a multi-candidate race during the municipal general election  
289 using the voting method of instant runoff voting most recently specified in accordance with  
290 Subsection (3).

291 (b) Except as provided in Subsection [20A-4-603~~\(9\)~~\(10\)](#) or [20A-4-605\(6\)](#), an election  
292 officer of a participating municipality that will conduct a multi-candidate race under  
293 Subsection (5)(a) may not conduct a municipal primary election relating to that race.

294 (c) A municipality that has in effect an ordinance described in Subsection  
295 [20A-9-404\(3\)](#) or (4) may not participate in the pilot project.

296 (6) Except for an election described in Subsection [20A-4-603~~\(9\)~~\(10\)](#) or  
297 [20A-4-605\(6\)](#), an individual who files a declaration of candidacy or a nomination petition, for a  
298 candidate who will run in an election described in this part, shall file the declaration of  
299 candidacy or nomination petition during the office hours described in Section [10-3-301](#) and not  
300 later than the close of those office hours, no sooner than the second Tuesday in August and no  
301 later than the third Tuesday in August of an odd-numbered year.

302 Section 6. Section **20A-4-603** is amended to read:

303 **20A-4-603. Instant runoff voting -- Candidate elimination voting method.**

304 (1) This section applies to a participating municipality that, under Subsection

305 20A-4-602(3), specifies the candidate elimination voting method as the method that the  
306 municipality will use.

307 ~~[(1)]~~ (2) In a multi-candidate race, the election officer ~~[for a participating municipality]~~  
308 shall:

309 (a) (i) conduct the first ballot-counting phase by counting the valid first preference  
310 votes for each candidate; and

311 (ii) if, after complying with Subsection ~~[(5)]~~ (6), one of the candidates receives more  
312 than 50% of the valid first preference votes counted, declare that candidate elected;

313 (b) if, after counting the valid first preference votes for each candidate, and complying  
314 with Subsection ~~[(5)]~~ (6), no candidate receives more than 50% of the valid first preference  
315 votes counted, conduct the second ballot-counting phase by:

316 (i) excluding from the multi-candidate race:

317 (A) the candidate who received the fewest valid first preference votes counted; or

318 (B) in the event of a tie for the fewest valid first preference votes counted, one of the  
319 tied candidates, determined by the tied election officer by lot, in accordance with Subsection  
320 ~~[(6)]~~ (7);

321 (ii) adding, to the valid first preference votes counted for the remaining candidates, the  
322 valid second preference votes cast for the remaining candidates by the voters who cast a valid  
323 first preference vote for the excluded candidate; and

324 (iii) if, after adding the votes in accordance with Subsection ~~[(1)]~~ (2)(b)(ii) and  
325 complying with Subsection ~~[(5)]~~ (6), one candidate receives more than 50% of the valid votes  
326 counted, declaring that candidate elected; and

327 (c) if, after adding the valid second preference votes in accordance with Subsection  
328 ~~[(1)]~~ (2)(b)(ii) and complying with Subsection ~~[(5)]~~ (6), no candidate receives more than 50%  
329 of the valid votes counted, conduct subsequent ballot-counting phases by continuing the  
330 process described in Subsection ~~[(1)]~~ (2)(b) until a candidate receives more than 50% of the  
331 valid votes counted, as follows:

332 (i) after complying with Subsection ~~[(5)]~~ (6), excluding from consideration the  
333 candidate who has the fewest valid votes counted or, in the event of a tie for the fewest valid  
334 votes counted, excluding one of the tied candidates, by lot, in accordance with Subsection ~~[(6)]~~  
335 (7); and

336 (ii) adding the next valid preference vote cast by each voter whose vote was counted  
337 for the last excluded candidate to one of the remaining candidates, in the order of the next  
338 preference indicated by the voter.

339 ~~[(2)]~~ (3) The election officer shall declare elected the first candidate who receives more  
340 than 50% of the valid votes counted under the process described in Subsection ~~[(1)]~~ (2).

341 ~~[(3)]~~ (4) (a) A vote is valid for a particular phase of a multi-candidate race only if the  
342 voter indicates the voter's preference for that phase and all previous phases.

343 (b) A vote is not valid for a particular phase of a multi-candidate race, and for all  
344 subsequent phases, if the voter indicates the same rank for more than one candidate for that  
345 phase.

346 ~~[(4)]~~ (5) The election officer shall, before declaring a candidate elected, order a recount  
347 of the valid votes in the applicable ballot-counting phase if one candidate appears to have  
348 received at least 50% of the vote, and the difference between the number of votes counted for  
349 the candidate who received the most valid votes for the applicable ballot-counting phase and  
350 any other candidate in the race is equal to or less than the product of the following, rounded up  
351 to the nearest whole number:

352 (a) the total number of voters who cast a valid vote that is counted in the applicable  
353 ballot-counting phase of the race; and

354 (b) the recount threshold.

355 ~~[(5)]~~ (6) Before excluding a candidate from a multi-candidate race under Subsection  
356 ~~[(1)]~~ (2), the election officer shall order a recount of the valid votes counted in the applicable  
357 ballot-counting phase if the difference between the number of votes counted for the candidate  
358 who received the fewest valid votes in the applicable ballot-counting phase of the race and any  
359 other candidate in the race is equal to or less than the product of the following, rounded up to  
360 the nearest whole number:

361 (a) the total number of voters who cast a valid vote counted in that ballot-counting  
362 phase; and

363 (b) the recount threshold.

364 ~~[(6)]~~ (7) For each ballot-counting phase after the first phase, if, after a recount is  
365 completed under Subsection ~~[(5)]~~ (6), two or more candidates tie as having received the fewest  
366 valid votes counted at that point in the ballot count, the election officer shall eliminate one of

367 those candidates from consideration, by lot, in the following manner:

368 (a) determine the names of the candidates who tie as having received the fewest valid  
369 votes for that ballot-counting phase;

370 (b) cast or draw the lot in the presence of at least two election officials and any  
371 counting poll watchers who are present and desire to witness the casting or drawing of the lot;  
372 and

373 (c) sign a public document that:

374 (i) certifies the method used for casting or drawing the lot and the result of the lot; and

375 (ii) includes the name of each individual who witnessed the casting or drawing of the  
376 lot.

377 [~~(7)~~] (8) In a multi-candidate race for an at-large office, [~~where the number of~~  
378 ~~candidates who qualify for the race exceeds the total number of at-large seats to be filled for~~  
379 ~~the office,]~~ the election officer shall count the votes by:

380 (a) except as provided in Subsection [~~(8)~~] (9), counting votes in the same manner as  
381 described in Subsections [~~(1)~~] (2) through [~~(6)~~] (7), until a candidate is declared elected;

382 (b) repeating the process described in Subsection [~~(7)~~] (8)(a) for all candidates that are  
383 not declared elected until another candidate is declared elected; and

384 (c) continuing the process described in Subsection [~~(7)~~] (8)(b) until all at-large seats in  
385 the race are filled.

386 [~~(8)~~] (9) After a candidate is declared elected under Subsection [~~(7)~~] (8), the election  
387 officer shall, in repeating the process described in Subsections [~~(1)~~] (2) through [~~(6)~~] (7) to  
388 declare the next candidate elected, add to the vote totals the next valid preference vote of each  
389 voter whose vote was counted for a candidate already declared elected.

390 [~~(9)~~] (10) An election officer for a participating municipality may choose to conduct a  
391 primary election by using instant runoff voting in the manner described in Subsections [~~(1)~~] (2)  
392 through [~~(6)~~] (7), except that:

393 (a) instead of determining whether a candidate receives more than 50% of the valid  
394 preference votes for a particular ballot-counting phase, the election officer shall proceed to a  
395 subsequent ballot-counting stage, and exclude the candidate who receives the fewest valid  
396 preference votes in that phase, until twice the number of seats to be filled in the race remain;  
397 and

398 (b) after complying with Subsection [~~(9)~~] (10)(a), the election officer shall declare the  
399 remaining candidates nominated to participate in the municipal general election.

400 Section 7. Section **20A-4-604** is amended to read:

401 **20A-4-604. Batch elimination for candidate elimination voting method.**

402 (1) In any ballot count conducted under Section **20A-4-603**, the election officer may  
403 exclude candidates through batch elimination by, instead of excluding only one candidate in a  
404 ballot-counting phase, excluding each candidate:

405 (a) for which the number of remaining candidates with more valid votes than that  
406 candidate is greater than or equal to the number of offices to be filled; and

407 (b) (i) for which the number of valid votes counted for the candidate in the phase plus  
408 the number of votes counting for all candidates with fewer valid votes in the phase is less than  
409 the number of valid votes for the candidate with the next highest amount of valid votes in the  
410 phase; or

411 (ii) who has fewer valid votes in the phase than a candidate who is excluded under  
412 Subsection (1)(b)(i).

413 (2) The requirements for a recount before excluding a candidate under Subsection  
414 **20A-4-603**~~(5)~~(6) do not apply to candidates who are excluded through batch elimination.

415 Section 8. Section **20A-4-605** is enacted to read:

416 **20A-4-605. Instant runoff voting -- Approval voting method.**

417 (1) This section applies to a participating municipality that, under Subsection  
418 20A-4-602(3), specifies the approval voting method as the method that the municipality will  
419 use.

420 (2) In a multi-candidate race, the election officer shall:

421 (a) for each candidate, calculate the number of valid ballots on which the candidate is  
422 marked as approved; and

423 (b) subject to Subsection (3), declare elected the candidate who receives the highest  
424 number of approvals.

425 (3) The election officer shall order a recount of the valid ballots if the difference  
426 between the candidate who receives the highest number of approvals and any other candidate in  
427 the race is equal to or less than the product of the following, rounded up to the nearest whole  
428 number:

- 429 (a) the combined number of approvals for the two candidates; and  
430 (b) the recount threshold.  
431 (4) If, after complying with Subsection (3), two or more candidates tie with the highest  
432 number of approvals, the election officer shall:  
433 (a) break the tie by lot, cast or drawn in the presence of at least two election officials  
434 and any counting poll watchers who are present and desire to witness the casting or drawing of  
435 the lot; and  
436 (b) sign a public document that:  
437 (i) certifies the method used for casting or drawing the lot and the result of the lot; and  
438 (ii) includes the name of each individual who witnessed the casting or drawing of the  
439 lot.  
440 (5) In a multi-candidate race for an at-large office, the election officer shall:  
441 (a) for each candidate, calculate the number of valid ballots on which the candidate is  
442 marked as approved;  
443 (b) subject to Subsection (5)(c), declare elected the number of candidates, equal to the  
444 number of positions to be filled, who receive the highest number of approvals;  
445 (c) order a recount of the valid ballots if the difference between the number of  
446 approvals received by the candidate to be declared elected with the fewest number of approvals  
447 and any candidate with fewer approvals is equal to or less than the product of the following,  
448 rounded up to the nearest whole number:  
449 (i) the combined number of approvals for the two candidates; and  
450 (ii) the recount threshold; and  
451 (d) break a tie, if necessary, in accordance with Subsection (4).  
452 (6) An election officer for a participating municipality may choose to conduct a  
453 primary election by using instant runoff voting in the manner described in Subsections (1)  
454 through (4), except that, after complying with Subsections (3) and (4), if applicable, the  
455 election officer shall declare the top two candidates nominated to participate in the municipal  
456 general election.