Senator **Daniel W. Thatcher** proposes the following substitute bill:

1 # MUNICIPAL ALTERNATE VOTING METHODS AMENDMENTS
2 ## 2022 GENERAL SESSION
3 ## STATE OF UTAH
4 ## Chief Sponsor: Douglas R. Welton
5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9   This bill amends provisions relating to the Municipal Alternate Voting Methods Pilot

10 Project.

11 **Highlighted Provisions:**

12   This bill:

13   ‣   defines terms;

14   ‣   replaces references to the "canvassing phase" with the term "ballot-counting phase";

15   ‣   modifies provisions for determining a voter's intent on an instant runoff voting

16 ballot;

17   ‣   modifies provisions for determining when a vote is valid in an instant runoff race;

18   ‣   modifies and clarifies recount procedures and requirements;

19   ‣   permits a canvassing deadline extension, when necessary, to conduct a recount;

20   ‣   gives a participating municipality the option of selecting different methods of

21 conducting an election as part of the Municipal Alternate Voting Methods Pilot

22 Project;

23   ‣   describes the process of voting and of determining winners in an alternate voting

24 methods race, depending on the voting method selected by a participating

25 municipality; and

3rd Sub. H.B. 264

26   ▸   makes technical and conforming changes.

27   **Money Appropriated in this Bill:**

28   None

29   **Other Special Clauses:**

30   None

31   **Utah Code Sections Affected:**

32   AMENDS:

33   **20A-3a-204**, as enacted by Laws of Utah 2020, Chapter 31

34   **20A-4-101**, as last amended by Laws of Utah 2020, Chapter 31

35   **20A-4-102**, as last amended by Laws of Utah 2020, Chapters 31 and 49

36   **20A-4-304**, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

37   **20A-4-401**, as last amended by Laws of Utah 2020, Chapter 31

38   **20A-4-601**, as enacted by Laws of Utah 2018, Chapter 187

39   **20A-4-602**, as last amended by Laws of Utah 2021, Chapter 101

40   **20A-4-603**, as last amended by Laws of Utah 2019, Chapter 305

41   **20A-4-604**, as enacted by Laws of Utah 2018, Chapter 187

42   ENACTS:

43   **20A-4-605**, Utah Code Annotated 1953

44   ═══

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

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

47   **20A-3a-204.   Marking and depositing ballots.**

48   (1) To vote by mail:

49   (a) except as provided in Subsection (6), the voter shall prepare the voter's manual

50   ballot by marking the appropriate space with a mark opposite the name of each candidate of the

51   voter's choice for each office to be filled;

52   (b) if a ballot proposition is submitted to a vote of the people, the voter shall mark the

53   appropriate space with a mark opposite the answer the voter intends to make;

54   (c) except as provided in Subsection (6), the voter shall record a write-in vote in

55   accordance with Subsection 20A-3a-206(1);

56   (d) except as provided in Subsection (6), a mark is not required opposite the name of a

57   write-in candidate; and

58   (e) the voter shall:

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

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

61   (iii) securely seal the return envelope; and

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

63   (B) place the return envelope in a ballot drop box, designated by the election officer,

64   for the precinct where the voter resides.

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

66   mailed must be:

67   (i) clearly postmarked before election day, or otherwise clearly marked by the post

68   office as received by the post office before election day; and

69   (ii) received in the office of the election officer before noon on the day of the official

70   canvass following the election.

71   (b) Except as provided in Subsection (2)(c), to be valid, a ballot shall, before the polls

72   close on election day, be deposited in:

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

74   (ii) a ballot drop box designated by an election officer for the jurisdiction to which the

75   ballot relates.

76   (c) An election officer may, but is not required to, forward a ballot deposited in a ballot

77   drop box in the wrong jurisdiction to the correct jurisdiction.

78   (d) An election officer shall ensure that a voter who is, at or before 8 p.m., in line at a

79   ballot drop box, with a sealed return envelope containing a ballot in the voter's possession, to

80   deposit the ballot in the ballot drop box.

81   (3) Except as provided in Subsection (4), to vote at a polling place the voter shall, after

82   complying with Subsections (1)(a) through (d):

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

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

85   (ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot

86   envelope, complete the information printed on the provisional ballot envelope, and deposit the

87   provisional ballot envelope in the provisional ballot box.

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

89   (b) An individual other than an individual with a disability may vote a mechanical

90 ballot at a polling place if permitted by the election officer.

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

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

93 and

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

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

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

97 the voter wishes to vote.

98   (6) To vote in an [instant runoff voting] alternate voting methods race under [Title

99 20A,] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project[, a voter]:

100   (a) for a municipality using the instant runoff voting method described in Sections

101 20A-4-603 and 20A-4-604, a voter:

102   [(a)] (i) shall indicate, as directed on the ballot, the name of the candidate who is the

103 voter's first preference for the office; and

104   [(b)] (ii) may indicate, as directed on the ballot, the names of the remaining candidates

105 in order of the voter's preference[.]; or

106   (b) for a municipality using the approval voting method described in Section

107 20A-4-605, a voter shall, as directed on the ballot, indicate one or more names of candidates

108 whom the voter approves for the office, without stating an order of preference.

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

110   (a) shall mark and cast or deposit the ballot without delay and shall leave the voting

111 area after voting; and

112   (b) may not:

113   (i) occupy a voting booth occupied by another, except as provided in Section

114 20A-3a-208;

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

116   (iii) occupy a voting booth for more than five minutes if all booths are in use and other

117 voters are waiting to occupy a voting booth.

118   (8) If the official register shows any voter as having voted, that voter may not reenter

119   the voting area during that election unless that voter is an election official or watcher.

120   (9) A poll worker may not, at a polling place, allow more than four voters more than

121   the number of voting booths into the voting area at one time unless those excess voters are:

122   (a) election officials;

123   (b) watchers; or

124   (c) assisting voters with a disability.

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

126   **20A-4-101.   Manual ballots cast at a polling place -- Counting manual ballots at**

127   **polling place on day of election before polls close.**

128   (1) Each county legislative body, municipal legislative body, and each poll worker

129   shall comply with the requirements of this section when counting manual ballots on the day of

130   an election, if:

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

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

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

134   (i) two sets of ballot boxes for all voting precincts where both receiving and counting

135   judges have been appointed; and

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

137   (b) At any election in any voting precinct in which both receiving and counting judges

138   have been appointed, when at least 20 votes have been cast, the receiving judges shall:

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

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

141   (c) Except as provided in Subsection (2)(f), upon receipt of the ballot box, the counting

142   judges shall:

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

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

145   (iii) place the provisional ballot envelopes in the envelope or container provided for

146   them for return to the election officer; and

147   (iv) when they have finished counting the votes in the ballot box, return the emptied

148   box to the receiving judges.

149   (d) (i) During the course of election day, whenever there are at least 20 ballots

150   contained in a ballot box, the receiving judges shall deliver that ballot box to the counting

151   judges for counting; and

152   (ii) the counting judges shall immediately count the regular ballots and segregate the

153   provisional ballots contained in that box.

154   (e) The counting judges shall continue to exchange the ballot boxes and count ballots

155   until the polls close.

156   (f) (i) The director of elections within the Office of the Lieutenant Governor shall make

157   rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

158   describing the procedures that a counting judge is required to follow for counting ballots in an

159   [instant runoff voting] alternate voting method race under [Title 20A, Chapter 4,] Part 6,

160   Municipal Alternate Voting Methods Pilot Project.

161   (ii) When counting ballots in an [instant runoff voting] alternate voting method race

162   described in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project,

163   a counting judge shall comply with the procedures established under Subsection (2)(f)(i) and

164   [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project.

165   (3) To resolve questions that arise during the counting of ballots, a counting judge shall

166   apply the standards and requirements of:

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

168   (b) as applicable, for an instant runoff voting race under [Title 20A, Chapter 4,] Part 6,

169   Municipal Alternate Voting Methods Pilot Project, [Subsection 20A-4-603(3)] Subsections

170   20A-4-603(4) through (6).

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

172   **20A-4-102.   Manual ballots cast at a polling place -- Counting manual ballots at**

173   **polling place on day of election after polls close.**

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

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

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

177   (b) Except as provided in Subsection (2) or a rule made under Subsection

178   20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted,

179   the election judges shall count the ballots by performing the tasks specified in this section in

180   the order that they are specified.

181   (c) To resolve questions that arise during the counting of ballots, a counting judge shall

182   apply the standards and requirements of:

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

184   (ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate

185   Voting Methods Pilot Project,[Subsection 20A-4-603(3)] Subsections 20A-4-603(4) through

186   (6).

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

188   (b) (i) If there are more ballots in the ballot box than there are names entered in the

189   pollbook, the judges shall examine the official endorsements on the ballots.

190   (ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper

191   official endorsement, the judges shall put those ballots in an excess ballot file and not count

192   them.

193   (c) (i) If, after examining the official endorsements, there are still more ballots in the

194   ballot box than there are names entered in the pollbook, the judges shall place the remaining

195   ballots back in the ballot box.

196   (ii) One of the judges, without looking, shall draw a number of ballots equal to the

197   excess from the ballot box.

198   (iii) The judges shall put those excess ballots into the excess ballot envelope and not

199   count them.

200   (d) When the ballots in the ballot box equal the number of names entered in the

201   pollbook, the judges shall count the votes.

202   (3) The judges shall:

203   (a) place all unused ballots in the envelope or container provided for return to the

204   county clerk or city recorder; and

205   (b) seal that envelope or container.

206   (4) The judges shall:

207   (a) place all of the provisional ballot envelopes in the envelope provided for them for

208   return to the election officer; and

209   (b) seal that envelope or container.

210   (5) (a) In counting the votes, the election judges shall read and count each ballot

211   separately.

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

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

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

215   (iii) count all the ballots for one party before beginning to count the ballots cast for

216   other parties.

217   (6) (a) In all elections, the counting judges shall, except as provided in Part 6,

218   Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection

219   20A-4-101(2)(f)(i):

220   (i) count one vote for each candidate designated by the marks in the squares next to the

221   candidate's name;

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

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

224   (iii) read every name marked on the ballot and mark every name upon the tally sheets

225   before another ballot is counted;

226   (iv) evaluate each ballot and each vote based on the standards and requirements of

227   Section 20A-4-105;

228   (v) write the word "spoiled" on the back of each ballot that lacks the official

229   endorsement and deposit it in the spoiled ballot envelope; and

230   (vi) read, count, and record upon the tally sheets the votes that each candidate and

231   ballot proposition received from all ballots, except excess or spoiled ballots.

232   (b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or

233   persons clearly not eligible to qualify for office.

234   (c) The judges shall certify to the accuracy and completeness of the tally list in the

235   space provided on the tally list.

236   (d) When the judges have counted all of the voted ballots, they shall record the results

237   on the total votes cast form.

238   (7) Only an election judge and a watcher may be present at the place where counting is

239   conducted until the count is completed.

240   Section 4. Section **20A-4-304** is amended to read:

241   **20A-4-304. Declaration of results -- Canvassers' report.**

242   (1) Each board of canvassers shall:

243   (a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project,

244   declare "elected" or "nominated" those persons who:

245   (i) had the highest number of votes; and

246   (ii) sought election or nomination to an office completely within the board's

247   jurisdiction;

248   (b) declare:

249   (i) "approved" those ballot propositions that:

250   (A) had more "yes" votes than "no" votes; and

251   (B) were submitted only to the voters within the board's jurisdiction; or

252   (ii) "rejected" those ballot propositions that:

253   (A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes"

254   votes; and

255   (B) were submitted only to the voters within the board's jurisdiction;

256   (c) certify the vote totals for persons and for and against ballot propositions that were

257   submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to

258   the lieutenant governor; and

259   (d) if applicable, certify the results of each local district election to the local district

260   clerk.

261   (2) As soon as the result is declared, the election officer shall prepare a report of the

262   result, which shall contain:

263   (a) the total number of votes cast in the board's jurisdiction;

264   (b) the names of each candidate whose name appeared on the ballot;

265   (c) the title of each ballot proposition that appeared on the ballot;

266   (d) each office that appeared on the ballot;

267   (e) from each voting precinct:

268   (i) the number of votes for each candidate;

269   (ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate

270   Voting Methods Pilot Project, the number of valid votes cast for each candidate for each

271   potential ballot-counting phase and the name of the candidate excluded in each [canvassing]

272   ballot-counting phase; and

273   (iii) the number of votes for and against each ballot proposition;

274   (f) the total number of votes given in the board's jurisdiction to each candidate, and for

275   and against each ballot proposition;

276   (g) the number of ballots that were rejected; and

277   (h) a statement certifying that the information contained in the report is accurate.

278   (3) The election officer and the board of canvassers shall:

279   (a) review the report to ensure that it is correct; and

280   (b) sign the report.

281   (4) The election officer shall:

282   (a) record or file the certified report in a book kept for that purpose;

283   (b) prepare and transmit a certificate of nomination or election under the officer's seal

284   to each nominated or elected candidate;

285   (c) publish a copy of the certified report in accordance with Subsection (5); and

286   (d) file a copy of the certified report with the lieutenant governor.

287   (5) Except as provided in Subsection (6), the election officer shall, no later than seven

288   days after the day on which the board of canvassers declares the election results, publicize the

289   certified report described in Subsection (2):

290   (a) (i) by publishing notice at least once in a newspaper of general circulation within

291   the jurisdiction;

292   (ii) by posting one notice, and at least one additional notice per 2,000 population of the

293   jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents

294   of the jurisdiction, subject to a maximum of 10 notices; or

295   (iii) by mailing notice to each residence within the jurisdiction;

296   (b) by posting notice on the Utah Public Notice Website, created in Section

297   63A-16-601, for one week; and

298   (c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for

299   one week.

300   (6) Instead of including a copy of the entire certified report, a notice required under

301   Subsection (5) may contain a statement that:

302   (a) includes the following: "The Board of Canvassers for [indicate name of

303   jurisdiction] has prepared a report of the election results for the [indicate type and date of

304   election]."; and

305   (b) specifies the following sources where an individual may view or obtain a copy of
306   the entire certified report:
307   (i) if the jurisdiction has a website, the jurisdiction's website;
308   (ii) the physical address for the jurisdiction; and
309   (iii) a mailing address and telephone number.
310   (7) When there has been a regular general or a statewide special election for statewide
311   officers, for officers that appear on the ballot in more than one county, or for a statewide or two
312   or more county ballot proposition, each board of canvassers shall:
313   (a) prepare a separate report detailing the number of votes for each candidate and the
314   number of votes for and against each ballot proposition; and
315   (b) transmit the separate report by registered mail to the lieutenant governor.
316   (8) In each county election, municipal election, school election, local district election,
317   and local special election, the election officer shall transmit the reports to the lieutenant
318   governor within 14 days after the date of the election.
319   (9) In a regular primary election and in a presidential primary election, the board shall
320   transmit to the lieutenant governor:
321   (a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant
322   governor not later than the second Tuesday after the election; and
323   (b) a complete tabulation showing voting totals for all primary races, precinct by
324   precinct, to be mailed to the lieutenant governor on or before the third Friday following the
325   primary election.
326   Section 5. Section **20A-4-401** is amended to read:
327   **20A-4-401.   Recounts -- Procedure.**
328   (1) (a) This section does not apply to [a] an alternate voting method race conducted [by
329   instant runoff voting under Chapter 4,] under Part 6, Municipal Alternate Voting Methods Pilot
330   Project.
331   (b) Except as provided in Subsection (1)(c), for a race between candidates, if the
332   difference between the number of votes cast for a winning candidate in the race and a losing
333   candidate in the race is equal to or less than .25% of the total number of votes cast for all
334   candidates in the race, that losing candidate may file a request for a recount in accordance with
335   Subsection (1)(d).

336   (c) For a race between candidates where the total of all votes cast in the race is 400 or

337   less, if the difference between the number of votes cast for a winning candidate in the race and

338   a losing candidate in the race is one vote, that losing candidate may file a request for a recount

339   in accordance with Subsection (1)(d).

340   (d) A candidate who files a request for a recount under Subsection (1) (b) or (c) shall

341   file the request:

342   (i) for a municipal primary election, with the municipal clerk, before 5 p.m. within

343   three days after the canvass; or

344   (ii) for all other elections, before 5 p.m. within seven days after the canvass with:

345   (A) the municipal clerk, if the election is a municipal general election;

346   (B) the local district clerk, if the election is a local district election;

347   (C) the county clerk, for races voted on entirely within a single county; or

348   (D) the lieutenant governor, for statewide races and multicounty races.

349   (e) The election officer shall:

350   (i) supervise the recount;

351   (ii) recount all ballots cast for that race;

352   (iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4,

353   Disposition of Ballots;

354   (iv) for a race where only one candidate may win, declare elected the candidate who

355   receives the highest number of votes on the recount; and

356   (v) for a race where multiple candidates may win, declare elected the applicable

357   number of candidates who receive the highest number of votes on the recount.

358   (2) (a) Except as provided in Subsection (2)(b), for a ballot proposition or a bond

359   proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of

360   the total votes cast for or against the proposition, any 10 voters who voted in the election where

361   the proposition was on the ballot may file a request for a recount before 5 p.m. within seven

362   days after the day of the canvass with the person described in Subsection (2)(c).

363   (b) For a ballot proposition or a bond proposition where the total of all votes cast for or

364   against the proposition is 400 or less, if the difference between the number of votes cast for the

365   proposition and the number of votes cast against the proposition is one vote, any 10 voters who

366   voted in the election where the proposition was on the ballot may file a request for a recount

367   before 5 p.m. within seven days after the day of the canvass with the person described in

368   Subsection (2)(c).

369   (c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall

370   file the request with:

371   (i) the municipal clerk, if the election is a municipal election;

372   (ii) the local district clerk, if the election is a local district election;

373   (iii) the county clerk, for propositions voted on entirely within a single county; or

374   (iv) the lieutenant governor, for statewide propositions and multicounty propositions.

375   (d) The election officer shall:

376   (i) supervise the recount;

377   (ii) recount all ballots cast for that ballot proposition or bond proposition;

378   (iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4,

379   Disposition of Ballots; and

380   (iv) declare the ballot proposition or bond proposition to have "passed" or "failed"

381   based upon the results of the recount.

382   (e) Proponents and opponents of the ballot proposition or bond proposition may

383   designate representatives to witness the recount.

384   (f) The voters requesting the recount shall pay the costs of the recount.

385   (3) Costs incurred by recount under Subsection (1) may not be assessed against the

386   person requesting the recount.

387   (4) (a) Upon completion of the recount, the election officer shall immediately convene

388   the board of canvassers.

389   (b) The board of canvassers shall:

390   (i) canvass the election returns for the race or proposition that was the subject of the

391   recount; and

392   (ii) with the assistance of the election officer, prepare and sign the report required by

393   Section 20A-4-304 or 20A-4-306.

394   (c) If the recount is for a statewide or multicounty race or for a statewide proposition,

395   the board of county canvassers shall prepare and transmit a separate report to the lieutenant

396   governor as required by Subsection 20A-4-304 (7).

397   (d) The canvassers' report prepared as provided in this Subsection (4) is the official

398   result of the race or proposition that is the subject of the recount.

399   Section 6. Section **20A-4-601** is amended to read:

400   **20A-4-601.   Definitions.**

401   As used in this part:

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

403   (a) two less than the total number of candidates in a given [canvassing] ballot-counting

404   phase of a multi-candidate race; and

405   (b) .02%.

406   (2) "First preference ranking" means the candidate selected as the candidate most

407   preferred by a voter, as indicated by:

408   (a) the number one; or

409   (b) if the voter does not assign the number one to any candidate, the number two.

410   [(2)] (3) "Multi-candidate race" means a nonpartisan municipal race where:

411   (a) for the election of at-large officers, the number of candidates who qualify for the

412   race exceeds the total number of seats to be filled; or

413   (b) for the election of an officer other than an at-large officer, more than two

414   candidates qualify to run for one office.

415   [(3)] (4) "Participating municipality" means a municipality that is participating in the

416   pilot project, in accordance with Subsection 20A-4-602(3).

417   [(4)] (5) "Pilot project" means the Municipal Alternate Voting Methods Pilot Project

418   created in Section 20A-4-602.

419   [(5)] (6) "Recount threshold" means the sum of the candidate amplifier and the

420   following:

421   (a) for a [canvassing] ballot-counting phase in which fewer than 100 valid [votes]

422   rankings are counted, 0.21%;

423   (b) for a [canvassing] ballot-counting phase in which at least 100, but fewer than 500,

424   valid [votes] rankings are counted, 0.19%;

425   (c) for a [canvassing] ballot-counting phase in which at least 500, but fewer than 1,000,

426   valid [votes] rankings are counted, 0.17%;

427   (d) for a [canvassing] ballot-counting phase in which at least 1,000, but fewer than

428   5,000, valid [votes] rankings are counted, 0.15%;

429   (e) for a [canvassing] ballot-counting phase in which at least 5,000, but fewer than

430   10,000, valid [votes] rankings are counted, 0.13%; and

431   (f) for a [canvassing] ballot-counting phase in which 10,000 or more valid [votes]

432   rankings are counted, 0.11%.

433   [(6)] (7) "Valid" means that the ballot is marked in a manner that permits the [vote]

434   ranking to be counted during the applicable ballot-counting phase.

435   (8) "Voting method" means:

436   (a) the instant runoff voting method described in Sections 20A-4-603 and 20A-4-604;

437   or

438   (b) the approval voting method described in Section 20A-4-605.

439   Section 7. Section **20A-4-602** is amended to read:

440   **20A-4-602.   Municipal Alternate Voting Methods Pilot Project -- Creation --**

441   **Participation.**

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

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

444   (3) (a) A municipality may participate in the pilot project, in accordance with the

445   requirements of this section and all other applicable provisions of law, during any

446   odd-numbered year that the pilot project is in effect, if, before the second Monday in May of

447   the odd-numbered year, the legislative body of the municipality:

448   (i) votes to participate; and

449   (ii) provides written notice to the lieutenant governor and the county clerk:

450   (A) stating that the municipality intends to participate in the pilot project for the year

451   specified in the notice[.]; and

452   (B) specifying the voting method that the municipality will use.

453   (b) The legislative body of a municipality that provides the notice of intent described in

454   Subsection (3)(a) may:

455   (i) withdraw the notice of intent, and not participate in the pilot project, if the

456   legislative body of the municipality provides written notice of withdrawal to the lieutenant

457   governor and the county clerk before the second Monday in May[.]; or

458   (ii) change the voting method specified under Subsection (3)(a)(ii)(B) to another voting

459   method, if the municipality provides written notice of the change to the lieutenant governor and

460   the county clerk before the second Monday in May.

461   (4) The lieutenant governor shall maintain, in a prominent place on the lieutenant

462   governor's website, a current list of the municipalities that are participating in the pilot project.

463   (5) (a) An election officer of a participating municipality shall, in accordance with the

464   provisions of this part, conduct a multi-candidate race during the municipal general election

465   using [instant runoff voting] the voting method most recently specified in accordance with

466   Subsection (3).

467   (b) Except as provided in Subsection 20A-4-603[(9)](10) or 20A-4-605(6), an election

468   officer of a participating municipality that will conduct a multi-candidate race under

469   Subsection (5)(a) may not conduct a municipal primary election relating to that race.

470   (c) A municipality that has in effect an ordinance described in Subsection

471   20A-9-404(3) or (4) may not participate in the pilot project.

472   (6) Except for an election described in Subsection 20A-4-603[(9)](10) or

473   20A-4-605(6), an individual who files a declaration of candidacy or a nomination petition, for a

474   candidate who will run in an election described in this part, shall file the declaration of

475   candidacy or nomination petition during the office hours described in Section 10-3-301 and not

476   later than the close of those office hours, no sooner than the second Tuesday in August and no

477   later than the third Tuesday in August of an odd-numbered year.

478   Section 8. Section **20A-4-603** is amended to read:

479   **20A-4-603.   Instant runoff voting.**

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

481   20A-4-602(3), specifies the candidate elimination voting method as the method that the

482   municipality will use.

483   [(1)] (2) In a multi-candidate race, the election officer [for a participating municipality]

484   shall:

485   (a) (i) conduct the first ballot-counting phase by counting the valid first preference

486   [votes] rankings for each candidate; and

487   (ii) if[, after complying with Subsection (5),] one of the candidates receives more than

488   50% of the valid first preference [votes] rankings counted, declare that candidate elected;

489   (b) if, after counting the valid first preference [votes] rankings for each candidate, [and

490   complying with Subsection (5),] no candidate receives more than 50% of the valid first

491   preference [votes] rankings counted, conduct the second ballot-counting phase by:

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

493   (A) the candidate who received the fewest valid first preference [votes] rankings

494   counted; or

495   (B) in the event of a tie for the fewest valid first preference [votes] rankings counted,

496   one of the tied candidates, determined by the [tied] election officer by lot, in accordance with

497   Subsection [(6)] (7);

498   (ii) adding, to the valid first preference [votes] rankings counted for the remaining

499   candidates, the next valid [second] preference [votes] rankings cast for the remaining

500   candidates by the voters who cast a valid first preference [vote] ranking for the excluded

501   candidate; and

502   (iii) if, after adding the [votes] rankings in accordance with Subsection [(1)] (2)(b)(ii)

503   [and complying with Subsection (5)], one candidate receives more than 50% of the valid

504   [votes] rankings counted, declaring that candidate elected; and

505   (c) if, after adding the next valid [second] preference [votes] rankings in accordance

506   with Subsection [(1)] (2)(b)(ii) [and complying with Subsection (5)], no candidate receives

507   more than 50% of the valid [votes] rankings counted, conduct subsequent ballot-counting

508   phases by continuing the process described in Subsection [(1)] (2)(b) until a candidate receives

509   more than 50% of the valid [votes] rankings counted, as follows:

510   (i) [after complying with Subsection (5),] excluding from consideration the candidate

511   who has the fewest valid [votes] rankings counted or, in the event of a tie for the fewest valid

512   [votes] rankings counted, excluding one of the tied candidates, by lot, in accordance with

513   Subsection [(6)] (7); and

514   (ii) adding the next valid preference [vote] ranking cast by each voter whose [vote]

515   ranking was counted for the last excluded candidate to one of the remaining candidates, in the

516   order of the next preference indicated by the voter.

517   [(2)] (3) The election officer shall declare elected the first candidate who receives more

518   than 50% of the valid [votes] rankings counted under the process described in Subsection [(1)]

519   (2).

520   [(3) (a)] (4) A [vote] ranking is valid for a particular ballot-counting phase of a

521   multi-candidate race [only] if:

522   (a)   the voter indicates the voter's preference for that <u>ballot-counting</u> phase and all

523   previous <u>ballot-counting</u> phases[-]<u>; or</u>

524   <u>(b) in the event that the voter skips a number in filling out the rankings on a ballot:</u>

525   <u>(i)   the voter clearly indicates an order of preference for the candidates;</u>

526   <u>(ii) the voter does not skip two or more consecutive numbers at any point before the</u>

527   <u>preference ranking that would otherwise be counted for the current ballot-counting phase;</u>

528   <u>(iii) the candidate next preferred by the voter is clearly indicated by a subsequent</u>

529   <u>number that most closely follows the number assigned by the voter for the previously-ranked</u>

530   <u>candidate; and</u>

531   <u>(iv) the voter did not give the same rank to more than one candidate for the applicable</u>

532   <u>ballot-counting phase or a previous ballot-counting phase.</u>

533   [(b)] <u>(5)</u> A [vote] <u>ranking</u> is not valid for a particular <u>ballot-counting</u> phase of a

534   multi-candidate race, and for all subsequent <u>ballot-counting</u> phases, if<u>:</u>

535   <u>(a)</u>   the voter indicates the same rank for more than one candidate for that

536   <u>ballot-counting</u> phase[-]<u>; or</u>

537   [(4) The election officer shall order a recount of the valid votes in the applicable

538   ballot-counting phase if one candidate appears to have received at least 50% of the vote, and

539   the difference between the number of votes counted for the candidate who received the most

540   valid votes for the applicable ballot-counting phase and any other candidate in the race is equal

541   to or less than the product of the following, rounded up to the nearest whole number:]

542   [(a) the total number of voters who cast a valid vote that is counted in the applicable

543   ballot-counting phase of the race; and]

544   [(b) the recount threshold. (5) Before excluding a candidate from a multi-candidate

545   race under Subsection (1), the election officer shall order a recount of the valid votes counted

546   in the applicable ballot-counting phase if the difference between the number of votes counted

547   for the candidate who received the fewest valid votes in the applicable ballot-counting phase of

548   the race and any other candidate in the race is equal to or less than the product of the following,

549   rounded up to the nearest whole number:]

550   [(a) the total number of voters who cast a valid vote counted in that ballot-counting

551   phase; and]

552   [(b) the recount threshold.]

553   (b) the voter skips two or more consecutive numbers before ranking another candidate.

554   (6) If, for a ballot-counting phase, a voter ranks a candidate who has withdrawn from

555   the race, the next-ranked candidate who has not withdrawn from the race will be counted for

556   that ballot-counting phase.

557   [(6)] (7) For each ballot-counting phase after the first phase, if[, after a recount is

558   completed under Subsection (5),] two or more candidates tie as having received the fewest

559   valid [votes] rankings counted at that point in the ballot count, the election officer shall

560   eliminate one of those candidates from consideration, by lot, in the following manner:

561   (a) determine the names of the candidates who tie as having received the fewest valid

562   [votes] rankings for that ballot-counting phase;

563   (b) cast the lot in the presence of at least two election officials and any counting poll

564   watchers who are present and desire to witness the casting of the lot; and

565   (c) sign a public document that:

566   (i) certifies the method used for casting the lot and the result of the lot; and

567   (ii) includes the name of each individual who witnessed the casting of the lot.

568   [(7)] (8) In a multi-candidate race for an at-large office, where the number of

569   candidates who qualify for the race exceeds the total number of at-large seats to be filled for

570   the office, the election officer shall count the [votes] rankings by:

571   (a) except as provided in Subsection [(8)] (9), counting [votes] rankings in the same

572   manner as described in Subsections [(1)] (2) through [(6)] (7), until a candidate is declared

573   elected;

574   (b) repeating the process described in Subsection [(7)] (8)(a) for all candidates that are

575   not declared elected until another candidate is declared elected; and

576   (c) continuing the process described in Subsection [(7)] (8)(b) until all at-large seats in

577   the race are filled.

578   [(8)] (9) After a candidate is declared elected under Subsection [(7)] (8), the election

579   officer shall, in repeating the process described in Subsections [(1)] (2) through [(6)] (7) to

580   declare the next candidate elected, add to the [vote] ranking totals the next valid preference

581   vote of each voter whose [vote] ranking was counted for a candidate already declared elected.

582   [(9)] (10) An election officer for a participating municipality may choose to conduct a

583   primary election by using instant runoff voting in the manner described in Subsections [(1)] (2)

584   through [(6)] (7), except that:

585   (a) instead of determining whether a candidate receives more than 50% of the valid

586   preference [votes] rankings for a particular ballot-counting phase, the election officer shall

587   proceed to a subsequent ballot-counting stage, and exclude the candidate who receives the

588   fewest valid preference [votes] rankings in that phase, until twice the number of seats to be

589   filled in the race remain; and

590   (b) after complying with Subsection [(9)] (10)(a), the election officer shall declare the

591   remaining candidates nominated to participate in the municipal general election.

592   (11) After completing all ballot-counting phases in a multi-candidate race, the election

593   officer shall order a full recount of the ballots cast for that race if, in one or more of the

594   ballot-counting phases:

595   (a) the difference between the number of rankings counted for a candidate who is

596   declared elected and the number of rankings counted for any other candidate in the same

597   ballot-counting phase is equal to or less than the product of the following, rounded up to the

598   nearest whole number:

599   (i) the total number of voters who cast a valid ranking counted in that ballot-counting

600   phase; and

601   (ii) the recount threshold; or

602   (b) the difference between the number of rankings counted for the candidate who

603   received the fewest valid rankings in a ballot-counting phase and the number of rankings

604   counted for any other candidate in the same ballot-counting phase is equal to or less than the

605   product of the following, rounded up to the nearest whole number:

606   (i) the total number of voters who cast a valid ranking counted in that ballot-counting

607   phase; and

608   (ii) the recount threshold.

609   (12) A recount described in Subsection (11):

610   (a) requires rescanning and tabulating all valid ballots; and

611   (b) provides for only one recount.

612   (13) Notwithstanding Section 20A-4-301, a board of municipal canvassers may extend

613   the canvass deadline by up to seven additional days, if necessary, to conduct a recount required

614   under Subsection (11).

615   Section 9. Section **20A-4-604** is amended to read:

616   **20A-4-604.   Batch elimination.**

617   [(1)] In any ballot count conducted under Section 20A-4-603, the election officer may

618   exclude candidates through batch elimination by, instead of excluding only one candidate in a

619   ballot-counting phase, excluding each candidate:

620   [(a)] (1) for which the number of remaining candidates with more valid [votes]

621   rankings than that candidate is greater than or equal to the number of offices to be filled; and

622   [(b) (i)] (2) (a) for which the number of valid [votes] rankings counted for the candidate

623   in the ballot-counting phase plus the number of [votes counting] rankings counted for all

624   candidates with fewer valid [votes] rankings in the ballot-counting phase is less than the

625   number of valid [votes] rankings for the candidate with the next highest amount of valid

626   [votes] rankings in the ballot-counting phase; or

627   [(ii)] (b) who has fewer valid [votes] rankings in the ballot-counting phase than a

628   candidate who is excluded under Subsection [(1)(b)(i)] (2)(a).

629   [(2) The requirements for a recount before excluding a candidate under Subsection

630   20A-4-603(5) do not apply to candidates who are excluded through batch elimination.]

631   Section 10. Section **20A-4-605** is enacted to read:

632   **20A-4-605. Approval voting method.**

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

634   20A-4-602(3), specifies the approval voting method as the method that the municipality will

635   use.

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

637   (a) for each candidate, calculate the number of valid ballots on which the candidate is

638   marked as approved; and

639   (b) subject to Subsection (3), declare elected the candidate who receives the highest

640   number of approvals.

641   (3) The election officer shall order a recount of the valid ballots if the difference

642   between the candidate who receives the highest number of approvals and any other candidate in

643   the race is equal to or less than the product of the following, rounded up to the nearest whole

644   number:

645   (a) the combined number of approvals for the two candidates; and

646   (b) the recount threshold.

647   (4) If, after complying with Subsection (3), two or more candidates tie with the highest

648 number of approvals, the election officer shall:

649   (a) break the tie by lot, cast or drawn in the presence of at least two election officials

650 and any counting poll watchers who are present and desire to witness the casting or drawing of

651 the lot; and

652   (b) sign a public document that:

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

654   (ii) includes the name of each individual who witnessed the casting or drawing of the

655 lot.

656   (5) In a multi-candidate race for an at-large office, the election officer shall:

657   (a) for each candidate, calculate the number of valid ballots on which the candidate is

658 marked as approved;

659   (b) subject to Subsection (5)(c), declare elected the number of candidates, equal to the

660 number of positions to be filled, who receive the highest number of approvals;

661   (c) order a recount of the valid ballots if the difference between the number of

662 approvals received by the candidate to be declared elected with the fewest number of approvals

663 and any candidate with fewer approvals is equal to or less than the product of the following

664 rounded up to the nearest whole number:

665   (i) the combined number of approvals for the two candidates; and

666   (ii) the recount threshold; and

667   (d) break a tie, if necessary, in accordance with Subsection (4).

668   (6) An election officer for a participating municipality may choose to conduct a

669 primary election by using the approval voting method in the manner described in Subsections

670 (1) through (4), except that, after complying with Subsections (3) and (4), if applicable, the

671 election officer shall declare the top two candidates nominated to participate in the general

672 election.