{deleted text} shows text that was in HB0387 but was deleted in HB0387S01.

inserted text shows text that was not in HB0387 but was inserted into HB0387S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Mark A. Strong proposes the following substitute bill:

ELECTION INTEGRITY AMENDMENTS
2022 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Mark A. Strong
Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the administration and security of the election process.

Highlighted Provisions:

This bill:

▸ defines terms;

{ ▸ modifies the day by which a ballot must be postmarked to be valid;

} ▸ requires the posting of certain statistics relating to ballots and the schedule for processing ballots;

▸ modifies the qualifications for, and the access provided to, a poll watcher;

▸ requires the logging of certain information relating to replicated ballots;

▸ requires the separate storage of adjudicated ballots;{

‣ requires imaging of election equipment;} and

    ‣ makes technical and conforming changes.

Money Appropriated in this Bill:

    None

Other Special Clauses:

    None

Utah Code Sections Affected:

AMENDS:

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

    20A-3a-401, as renumbered and amended by Laws of Utah 2020, Chapter 31

}   **20A-3a-402**, as last amended by Laws of Utah 2021, Chapter 62

    20A-3a-801, as renumbered and amended by Laws of Utah 2020, Chapter 31

    20A-4-104, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

    20A-4-105, as last amended by Laws of Utah 2020, Chapters 31 and 49

ENACTS:

    20A-3a-404, Utah Code Annotated 1953

    20A-3a-807, Utah Code Annotated 1953

{   **20A-5-901**, Utah Code Annotated 1953

}

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

    Section 1. Section {**20A-3a-204**}**20A-3a-402** is amended to read:

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

    (1) To vote by mail:

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

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

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

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

write-in candidate; and

(e) the voter shall:

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

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

(iii) securely seal the return envelope; and

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

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

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

(i) clearly postmarked no later than the Friday before election day, or otherwise clearly marked by the post office as received by the post office no later than the Friday before election day; and

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

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

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

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

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

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

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

(a) sign the official register or pollbook; and

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

(ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot envelope, complete the information printed on the provisional ballot envelope, and deposit the

provisional ballot envelope in the provisional ballot box.

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

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

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

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

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

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

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

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

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

(b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference.

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

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

(b) may not:

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

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

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

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

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

(a) election officials;

(b) watchers; or

(c) assisting voters with a disability.

Section 2. Section **20A-3a-401** is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with Subsection (2)(b).

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine that:

(i) the signatures correspond;

(ii) the affidavit is sufficient;

(iii) the voter is registered to vote in the correct precinct;

(iv) the voter's right to vote the ballot has not been challenged;

(v) the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not

destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, mark across the face of the return envelope:

(A) "Rejected as defective"; or

(B) "Rejected as not a registered voter"; and

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine that the signature on the return envelope does not match the individual's signature in the voter registration records, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue;

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the election officer receives the affidavit no later than 5 p.m. the day before the canvass, count the individual's ballot.

(6) If the poll workers reject an individual's ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the ballot before election day:

(i) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;

(b) seven days after election day if the election officer rejects the ballot on election day; or

(c) seven days after the canvass if the election officer rejects the ballot after election day and before the end of the canvass.

(8) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity.

(9) The election officer shall retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election.

(10) An election officer shall, no later than three days after the day of the election, process, tabulate, and post on the election officer's website, the tabulation for all ballots that:

(a) are received by the election officer before the close of polls on election day; and

(b) are not rejected.

Section 3. Section 20A-3a-402 is amended to read:

} **20A-3a-402. Custody of ballots voted at a polling place -- Disposition -- Counting ballots -- Release of {number of ballots cast}tally.**

[(1) This section governs ballots voted at a polling place.{

(2) (a) The}]

(1) (a) For ballots voted at a polling place:

[(2) (a)] (b) [The] the election officer shall deliver all return envelopes containing valid ballots and valid provisional ballots that are in the election officer's custody to the counting center before noon on the day of the official canvass following the election[.];

[(b)] (c) [Valid] valid ballots, including valid provisional ballots, may be processed and counted:

(i) by the election officer, or poll workers acting under the supervision of the election officer, before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election[.];

[(c)] (d) [When] when processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section 20A-3a-401 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing ballots in preparation for counting[.]; and

[(3) (a) After] (e) all valid ballots, including valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.

[(b)] (2) (a) After the polls close on the date of the election, the election officer shall publicly release the results of [those] all ballots, including provisional ballots, that have been counted on or before the date of the election.

[(c)] (b) Except as provided in Subsection [(3)(d)] (2)(c), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release[.{

} (i)] the results of all ballots, including provisional ballots, counted on that day[; and].

[(ii) an estimate of the total number of voted ballots in the custody of the election officer that have not yet been counted.]

[(d)] (c) (i) If complying with Subsection [(3)(c)] (2)(b) on a particular day will likely

result in disclosing a vote cast by an individual voter, the election officer shall request

permission from the lieutenant governor to delay compliance for the minimum number of days

necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection [(3)(d)(i)] (2)(c)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure

of a voter's vote.

[(e)] (d) On the date of the canvass, the election officer shall provide a tally of all

ballots, including provisional ballots, counted, and the resulting tally shall be added to the

official canvass of the election.

[(4) (a) On the day after the date of the election, the election officer shall determine the

number of ballots received by the election officer at that time and shall make that number

available to the public.]

[(b) The election officer may elect to publicly release updated totals for the number of

ballots received by the election officer up through the date of the canvass.{

(5) An election officer shall, no later than three days after the day of the election,

process, tabulate, and post on the election officer's website, the tabulation for all ballots that:

(a) are received by the election officer before the close of polls on election day; and

(b) are not rejected.

Section 4}]

Section 2. Section **20A-3a-404** is enacted to read:

20A-3a-404. Ballot statistics.

(1) Beginning on the day on which a county clerk begins mailing ballots, and ending on

the {first}day before the day of the {canvass}election, the county clerk shall post on the county

clerk's website the following daily totals:

({(1)}a) the number of ballots in the county clerk's possession;{

(2)} and

(b) of the number of ballots in the county clerk's possession:

(i) the number of ballots {tabulated}that have not yet begun processing;

({(3)}ii) the number of ballots {rejected; and

(4)}in process; and

(iii) the number of ballots processed.

(2) Except as provided in Subsection (4), an election officer shall post and update the data described in Subsection (3) on the election officer's website at 5 p.m. on the following days:

(a) the day after the day of the election;

(b) until the day described in Subsection (2)(c), each Monday, Wednesday, and Friday after the day described in Subsection (2)(a); and

(c) on the last day of the canvass.

(3) The data that an election officer is required to post under Subsection (2) includes:

(a) the number of ballots, to date, received by the election officer;

(b) the number of ballots in possession of the election officer that have been rejected and are not yet cured;

(c) the number of provisional ballots in the {clerk's possession cast by challenged voters for which the challenges have not been resolved.

Section 5}possession of the election officer that have not been processed;

(d) the number of ballots that need to be adjudicated, but have not yet been adjudicated;

(e) the number of ballots awaiting duplication; and

(f) the number of ballots that have been duplicated.

(4) An election officer is not required to update the data described in Subsection (3) on a Monday if the election officer does not process any ballots the preceding Saturday or Sunday.

Section 3. Section **20A-3a-801** is amended to read:

20A-3a-801. Watchers.

(1) As used in this section, "administering election officer" means:

(a) the election officer; or

(b) if the election officer is the lieutenant governor, the county clerk of the county in which an individual will act as a watcher.

(2) (a) Any individual who is {a resident of}registered or preregistered to vote in Utah may become a watcher in an election at any time by registering as a watcher with the administering election officer.

(b) An individual who registers under Subsection (2)(a) is not required to be certified by a person under Subsection (3) in order to act as a watcher.

(c) An individual who registers as a watcher shall notify the administering election officer of the dates, times, and locations that the individual intends to act as a watcher.

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

(e) An administering election officer shall provide a copy of this section, or instructions on how to access an electronic copy of this section, to a watcher at the time the watcher registers under this Subsection (2).

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee may certify an individual as an official watcher for the person:

(i) by filing an affidavit with the administering election officer responsible to designate an individual as an official watcher for the certifying person; and

(ii) if the individual registers as a watcher under Subsection (2)(a).

(b) A watcher who is certified by a person under Subsection (3)(a) may not perform the same function described in Subsection (4) at the same time and in the same location as another watcher who is certified by that person.

(c) A watcher who is certified by a person under Subsection (3)(a) may designate another individual to serve in the watcher's stead during the watcher's temporary absence by filing with a poll worker an affidavit that designates the individual as a temporary replacement.

(4) A watcher may:

(a) observe the setup or takedown of a polling location;

(b) observe a voter checking in at a polling location;

(c) observe the collection, receipt, and processing of a ballot, including a provisional ballot or a ballot cast by a covered voter as defined in Section 20A-16-102;

(d) observe the transport or transmission of a ballot that is in an election official's custody;

(e) observe the opening and inspection of a manual ballot;

(f) observe ballot duplication;

(g) observe the conduct of logic and accuracy testing described in Section 20A-5-802;

(h) observe ballot tabulation;

(i) observe the process of storing and securing a ballot;

(j) observe a post-election audit;

(k) observe a canvassing board meeting described in Title 20A, Chapter 4, Part 3, Canvassing Returns;

(l) observe the certification of the results of an election; or

(m) observe a recount.

(5) An administering election officer shall:

(a) permit uniform, nondiscriminatory access for a watcher to observe each stage of an election process;

(b) establish locations for a watcher to observe an event described in Subsection (4) from no further than six feet away; and

(c) for any {visual activity}ballot adjudication, or upload of votes from a voting machine or scanner, that is conducted on a computer screen, project the activity onto a screen that is large enough to be viewed by each watcher.

[(5)] (6) (a) A watcher may not:

(i) [electronically] record an activity described in Subsection (4) if the recording would reveal a vote or otherwise violate a voter's privacy or a voter's right to cast a secret ballot;

(ii) interfere with an activity described in Subsection (4), except to challenge an individual's eligibility to vote under Section 20A-3a-803; or

(iii) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public.

(b) A person who violates Subsection [(5)] (6)(a)(iii) is guilty of a third degree felony.

[(6)] (7) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

(i) limit the number of watchers at a single location;

(ii) remove a watcher for violating a provision of this section;

(iii) remove a watcher for interfering with an activity described in Subsection (4);

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4); or

(v) ensure that a voter's ballot secrecy is protected throughout the watching process.

(b) If an administering election officer limits the number of watchers at a single location under Subsection (6)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

Section {6}4. Section **20A-3a-807** is enacted to read:

20A-3a-807. Notification of ballot processes.

(1) As used in this section, "ballot process" includes:

(a) signature verification;

(b) opening ballots;

(c) scanning ballots;

(d) adjudicating ballots;

(e) replicating damaged or defective ballots; or

(f) tabulating votes.

(2) A county clerk shall:

(a) beginning at least three days before the day on which the county clerk begins mailing ballots for an election, and ending on the first day of the canvass, post on the county clerk's website a schedule of the hours, over the next three days, during which the county clerk plans to conduct one or more ballot processes; and

(b) update any changes to the schedule at least 24 hours before the clerk modifies the hours.

Section {7}5. Section **20A-4-104** is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test:

(i) (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places

within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and

(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all

persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

[(a)] (i) make a true replication of the ballot with an identifying serial number;

[(b)] (ii) substitute the replicated ballot for the damaged or defective ballot;

[(c)] (iii) label the replicated ballot "replicated"; and

[(d)] (iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) {An}The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain {an electronic}a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;{ and}

(iii) the reason for the replication{.}; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection

(4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section {8}6. Section **20A-4-105** is amended to read:

20A-4-105. Standards and requirements for evaluating voter's ballot choice.

(1) (a) An election officer shall ensure that when a question arises regarding a vote recorded on a manual ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.

(b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.

(c) An election officer shall store adjudicated ballots separately from other ballots to enable a court to review the ballots if the election is challenged in court.

(2) Except as provided in Subsection (10), Subsection 20A-3a-204(6), or Part 6,

Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.

(3) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a manual ballot if:

(a) the defective or incomplete mark is in the proper place; and

(b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.

(4) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.

(5) (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.

(b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3a, Voting.

(6) The counting judges may not reject a ballot because of an error in:

(a) stamping or writing an official endorsement; or

(b) delivering the wrong ballots to a polling place.

(7) The counting judges may not count a manual ballot that does not have the official endorsement by an election officer.

(8) The counting judges may not count a ballot proposition vote or candidate vote for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.

(9) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.

(10) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(11) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.

{   Section 9. Section **20A-5-901** is enacted to read:

          20A-5-901. Imaging of election equipment.

          (1) As used in this section, "election equipment" means the following equipment used in relation to processing ballots, counting ballots, or tabulating votes:

          (a) computers;

          (b) tabulating equipment;

          (c) voting devices;

          (d) voting machines;

          (e) routers; or

          (f) other computer equipment.

          (2) A county clerk shall take an image of the software, the data, and the software settings on election equipment:

          (a) immediately before, and immediately after, servicing that changes the equipment's software configuration;

          (b) immediately after the equipment is tested for logic and accuracy; and

          (c) immediately after the election results are tabulated for the canvass.

          (3) A county clerk shall store an image described in Subsection (2) for at least two years.

}