

PRIMARY ELECTION REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason Kyle

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses primary elections.

Highlighted Provisions:

This bill:

► provides that, for certain primary election races, if no candidate receives more than 50% of the votes in the race, the person who wins the nomination will be determined as follows:

• if the candidate who received the most votes in the race also received at least 60% of the delegate votes cast at convention, that candidate wins the nomination; or

• if the candidate who received the most votes in the race did not receive at least 60% of the delegate votes cast at convention, by conducting a runoff election between the two candidates who received the most votes in the initial primary election;

► describes deadlines, notice requirements, and procedures relating to a runoff election; and

► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **20A-3a-601**, as last amended by Laws of Utah 2020, Chapter 95 and renumbered and
32 amended by Laws of Utah 2020, Chapter 31

33 **20A-6-203**, as last amended by Laws of Utah 2020, Chapter 31

34 **20A-9-403**, as last amended by Laws of Utah 2022, Chapter 325

35 ENACTS:

36 **20A-9-409.1**, Utah Code Annotated 1953



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

39 Section 1. Section **20A-3a-601** is amended to read:

40 **20A-3a-601. Early voting.**

41 (1) Except as provided in Subsection 20A-9-409.1(4)(b) or Section **20A-7-609.5**:

42 (a) an individual who is registered to vote may vote at a polling place before the
43 election date in accordance with this section; and

44 (b) except as provided in Subsection **20A-2-207(6)**, an individual who is not registered
45 to vote may register to vote and vote at a polling place before the election date in accordance
46 with this section if the individual:

- 47 (i) is otherwise legally entitled to vote the ballot; and
- 48 (ii) casts a provisional ballot in accordance with Section **20A-2-207**.

49 (2) Except as provided in Section **20A-1-308** or Subsection (3), the early voting period:

- 50 (a) begins on the date that is 14 days before the date of the election; and
- 51 (b) continues through the Friday before the election if the election date is a Tuesday.

52 (3) (a) An election officer may extend the end of the early voting period to the day
53 before the election date if the election officer provides notice of the extension in accordance
54 with Section **20A-3a-604**.

55 (b) For a municipal election, the municipal clerk may reduce the early voting period
56 described in this section if:

- 57 (i) the municipal clerk conducts early voting on at least four days;
- 58 (ii) the early voting days are within the period beginning on the date that is 14 days

59 before the date of the election and ending on the day before the election; and

60 (iii) the municipal clerk provides notice of the reduced early voting period in
61 accordance with Section [20A-3a-604](#).

62 (c) For a county election, the county clerk may reduce the early voting period described
63 in this section if:

64 (i) the county clerk conducts early voting on at least four days;

65 (ii) the early voting days are within the period beginning on the date that is 14 days
66 before the date of the election and ending on the day before the election; and

67 (iii) the county clerk provides notice of the reduced early voting period in accordance
68 with Section [20A-3a-604](#).

69 (4) Except as provided in Section [20A-1-308](#), during the early voting period, the
70 election officer:

71 (a) for a local special election, a municipal primary election, and a municipal general
72 election:

73 (i) shall conduct early voting on a minimum of four days during each week of the early
74 voting period; and

75 (ii) shall conduct early voting on the last day of the early voting period; and

76 (b) for all other elections:

77 (i) shall conduct early voting on each weekday; and

78 (ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

79 (5) Except as specifically provided in this Part 6, Early Voting, or Section [20A-1-308](#),
80 early voting shall be administered in accordance with the requirements of this title.

81 Section 2. Section **20A-6-203** is amended to read:

82 **20A-6-203. Ballots for regular primary elections.**

83 (1) The lieutenant governor, together with county clerks, suppliers of election
84 materials, and representatives of registered political parties, shall:

85 (a) develop ballots to be used in Utah's regular primary election;

86 (b) except to the extent otherwise provided in Subsection [20A-9-409.1\(6\)](#), ensure that
87 the ballots comply generally, where applicable, with the requirements of [Title 20A, Chapter 6,
88 Part 1, General Requirements for All Ballots] [Part 1, General Requirements for All Ballots](#), and
89 this section; and

90 (c) provide voting booths, election records and supplies, ballot boxes, and as
91 applicable, voting devices, for each voting precinct as required by Section 20A-5-403.

92 (2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), [~~Title 20A,~~
93 ~~Chapter 6, Part 1, General Requirements for All Ballots]~~ Part 1, General Requirements for All
94 Ballots, and Sections 20A-5-403, 20A-6-401, and 20A-6-401.1, the lieutenant governor,
95 together with county clerks, suppliers of election materials, and representatives of registered
96 political parties shall ensure that the ballots, voting booths, election records and supplies, and
97 ballot boxes:

98 (i) facilitate the distribution, voting, and tallying of ballots in a primary where not all
99 voters are authorized to vote for a party's candidate;

100 (ii) simplify the task of poll workers, particularly in determining a voter's party
101 affiliation;

102 (iii) minimize the possibility of spoiled ballots due to voter confusion; and

103 (iv) protect against fraud.

104 (b) To accomplish the requirements of this Subsection (2), the lieutenant governor,
105 county clerks, suppliers of election materials, and representatives of registered political parties
106 shall:

107 (i) mark ballots as being for a particular registered political party; and

108 (ii) instruct individuals counting the ballots to count only those votes for candidates
109 from the registered political party whose ballot the voter received.

110 Section 3. Section 20A-9-403 is amended to read:

111 **20A-9-403. Regular primary elections -- Candidate nomination process for a**
112 **registered political party that is not a qualified political party -- Determining winning**
113 **nominee for any registered political party, including a qualified political party -- Election**
114 **expenses.**

115 (1) (a) The candidate nomination process described in this Subsection (1) through
116 Subsection (4) applies to a registered political party that is not a qualified political party.

117 [~~(a)~~] (b) Candidates for elective office that are to be filled at the next regular general
118 election shall be nominated in a regular primary election by direct vote of the people in the
119 manner [~~prescribed~~] described in this section and, as applicable, Section 20A-9-409.1. The
120 regular primary election is held on the date specified in Section 20A-1-201.5. Nothing in this

121 section shall affect a candidate's ability to qualify for a regular general election's ballot as an
122 unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as
123 a write-in candidate under Section 20A-9-601.

124 ~~[(b)]~~ (c) Each registered political party that chooses to have the names of the registered
125 political party's candidates for elective office featured with party affiliation on the ballot at a
126 regular general election shall comply with the requirements of this section and shall nominate
127 the registered political party's candidates for elective office in the manner described in this
128 section.

129 ~~[(c)]~~ (d) A filing officer may not permit an official ballot at a regular general election
130 to be produced or used if the ballot denotes affiliation between a registered political party or
131 any other political group and a candidate for elective office who is not nominated in the manner
132 prescribed in this section or in Subsection 20A-9-202(4).

133 ~~[(d)]~~ (e) Unless noted otherwise, the dates in this section refer to those that occur in
134 each even-numbered year in which a regular general election will be held.

135 (2) (a) Each registered political party, in a statement filed with the lieutenant governor,
136 shall:

137 (i) either declare the registered political party's intent to participate in the next regular
138 primary election or declare that the registered political party chooses not to have the names of
139 the registered political party's candidates for elective office featured on the ballot at the next
140 regular general election; and

141 (ii) if the registered political party participates in the upcoming regular primary
142 election, identify one or more registered political parties whose members may vote for the
143 registered political party's candidates and whether individuals identified as unaffiliated with a
144 political party may vote for the registered political party's candidates.

145 (b) (i) A registered political party that is a continuing political party shall file the
146 statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on
147 November 30 of each odd-numbered year.

148 (ii) An organization that is seeking to become a registered political party under Section
149 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered
150 political party files the petition described in Section 20A-8-103.

151 (3) (a) Except as provided in Subsection (3)(e), an individual who submits a

152 declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective
153 office on the regular primary ballot of the registered political party listed on the declaration of
154 candidacy only if the individual is certified by the appropriate filing officer as having submitted
155 a nomination petition that was:

156 (i) circulated and completed in accordance with Section 20A-9-405; and
157 (ii) signed by at least 2% of the registered political party's members who reside in the
158 political division of the office that the individual seeks.

159 (b) (i) A candidate for elective office shall submit signatures for a nomination petition
160 to the appropriate filing officer for verification and certification no later than 5 p.m. on the final
161 day in March.

162 (ii) A candidate may supplement the candidate's submissions at any time on or before
163 the filing deadline.

164 (c) (i) The lieutenant governor shall determine for each elective office the total number
165 of signatures that must be submitted under Subsection (3)(a)(ii) or 20A-9-408(8) by counting
166 the aggregate number of individuals residing in each elective office's political division who
167 have designated a particular registered political party on the individuals' voter registration
168 forms on or before November 15 of each odd-numbered year.

169 (ii) The lieutenant governor shall publish the determination for each elective office no
170 later than November 30 of each odd-numbered year.

171 (d) The filing officer shall:

172 (i) except as otherwise provided in Section 20A-21-201, verify signatures on
173 nomination petitions in a transparent and orderly manner, no later than 14 days after the day on
174 which a candidate submits the signatures to the filing officer;

175 (ii) for all qualifying candidates for elective office who submit nomination petitions to
176 the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline
177 described in Subsection 20A-9-202(1)(b);

178 (iii) consider active and inactive voters eligible to sign nomination petitions;

179 (iv) consider an individual who signs a nomination petition a member of a registered
180 political party for purposes of Subsection (3)(a)(ii) if the individual has designated that
181 registered political party as the individual's party membership on the individual's voter
182 registration form; and

183 (v) except as otherwise provided in Section 20A-21-201, utilize procedures described
184 in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical
185 sampling procedures to verify submitted nomination petition signatures in accordance with
186 rules made under Subsection (3)(f).

187 (e) Notwithstanding any other provision in this Subsection (3), a candidate for
188 lieutenant governor may appear on the regular primary ballot of a registered political party
189 without submitting nomination petitions if the candidate files a declaration of candidacy and
190 complies with Subsection 20A-9-202(3).

191 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
192 director of elections, within the Office of the Lieutenant Governor, may make rules that:

193 (i) provide for the use of statistical sampling procedures that:

194 (A) filing officers are required to use to verify signatures under Subsection (3)(d); and

195 (B) reflect a bona fide effort to determine the validity of a candidate's entire
196 submission, using widely recognized statistical sampling techniques; and

197 (ii) provide for the transparent, orderly, and timely submission, verification, and
198 certification of nomination petition signatures.

199 (g) The county clerk shall:

200 (i) review the declarations of candidacy filed by candidates for local boards of
201 education to determine if more than two candidates have filed for the same seat;

202 (ii) place the names of all candidates who have filed a declaration of candidacy for a
203 local board of education seat on the nonpartisan section of the ballot if more than two
204 candidates have filed for the same seat; and

205 (iii) determine the order of the local board of education candidates' names on the ballot
206 in accordance with Section 20A-6-305.

207 (4) (a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant
208 governor shall provide to the county clerks:

209 (i) a list of the names of all candidates for federal, constitutional, multi-county, single
210 county, and county offices who have received certifications under Subsection (3), along with
211 instructions on how those names shall appear on the primary election ballot in accordance with
212 Section 20A-6-305; and

213 (ii) a list of unopposed candidates for elective office who have been nominated by a

214 registered political party under Subsection (5)(c) and instruct the county clerks to exclude the
215 unopposed candidates from the primary election ballot.

216 (b) A candidate for lieutenant governor and a candidate for governor campaigning as
217 joint-ticket running mates shall appear jointly on the primary election ballot.

218 (c) After the county clerk receives the certified list from the lieutenant governor under
219 Subsection (4)(a), the county clerk shall post or publish a primary election notice in
220 substantially the following form:

221 "Notice is given that a primary election will be held Tuesday, June ____,
222 ____ (year), to nominate party candidates for the parties and candidates for nonpartisan
223 local school board positions listed on the primary ballot. The polling place for voting precinct
224 ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day.
225 Attest: county clerk."

226 (5) (a) A candidate who, at the regular primary election, receives the highest number of
227 votes cast for the office sought by the candidate is:

228 (i) except as otherwise provided in Section 20A-9-409.1, nominated for that office by
229 the candidate's registered political party; or

230 (ii) for a nonpartisan local school board position, nominated for that office.

231 (b) If two or more candidates are to be elected to the office at the regular general
232 election, those party candidates equal in number to positions to be filled who receive the
233 highest number of votes at the regular primary election are the nominees of the candidates'
234 party for those positions.

235 (c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

236 (A) no individual other than the candidate receives a certification under Subsection (3)
237 for the regular primary election ballot of the candidate's registered political party for a
238 particular elective office; or

239 (B) for an office where more than one individual is to be elected or nominated, the
240 number of candidates who receive certification under Subsection (3) for the regular primary
241 election of the candidate's registered political party does not exceed the total number of
242 candidates to be elected or nominated for that office.

243 (ii) A candidate who is unopposed for an elective office in the regular primary election
244 of a registered political party is nominated by the party for that office without appearing on the

245 primary election ballot.

246 (6) Except as otherwise provided in Section 20A-9-409.1:

247 (a) [~~When~~] when a tie vote occurs in any primary election for any national, state, or
 248 other office that represents more than one county, the governor, lieutenant governor, and
 249 attorney general shall, at a public meeting called by the governor and in the presence of the
 250 candidates involved, select the nominee by lot cast in whatever manner the governor
 251 determines[-]; and

252 (b) [~~When~~] when a tie vote occurs in any primary election for any county office, the
 253 district court judges of the district in which the county is located shall, at a public meeting
 254 called by the judges and in the presence of the candidates involved, select the nominee by lot
 255 cast in whatever manner the judges determine.

256 (7) The expense of providing all ballots, blanks, or other supplies to be used at any
 257 primary election provided for by this section, and all expenses necessarily incurred in the
 258 preparation for or the conduct of that primary election shall be paid out of the treasury of the
 259 county or state, in the same manner as for the regular general elections.

260 (8) An individual may not file a declaration of candidacy for a registered political party
 261 of which the individual is not a member, except to the extent that the registered political party
 262 permits otherwise under the registered political party's bylaws.

263 Section 4. Section **20A-9-409.1** is enacted to read:

264 **20A-9-409.1. Determining winner of certain primary election races where a**
 265 **candidate does not receive a majority of the votes cast -- Runoff primary election for**
 266 **certain races -- Election requirements and notice.**

267 (1) In a regular primary election race for a qualified political party, the election officer
 268 shall determine the winning nominee in accordance with Subsection (2) if:

269 (a) the race is to nominate a qualified political party candidate for United States
 270 senator, United States representative, governor, attorney general, state treasurer, state auditor,
 271 state senator, or state representative; and

272 (b) the candidate who receives the most votes in the initial primary election race does
 273 not receive more than 50% of the votes in the race.

274 (2) To determine the winning nominee for a race described in Subsection (1), the
 275 election officer shall:

276 (a) if the candidate who received the most votes in the race also received at least 60%
277 of the delegate votes cast at the convention to qualify for the primary election for that race,
278 declare that candidate the winning nominee; or

279 (b) if the candidate who received the most votes in the race did not receive at least 60%
280 of the delegate votes cast at the convention to qualify for the primary election for that race,
281 declare as the nominee for that race the candidate who wins the runoff election, described in
282 Subsection (4), between the two candidates who received the highest number of votes in the
283 initial primary race.

284 (3) (a) If a tie in the number of votes received in the initial primary election race makes
285 it impossible to determine, under Subsection (2)(a), the candidate who received the most votes
286 in the race, the tie shall be broken, by lot, in the presence of the tied candidates or
287 representatives of the tied candidates, by:

288 (i) the election officer; or

289 (ii) if the election officer is the lieutenant governor and the race is for governor, one of
290 the following, as designated by the lieutenant governor:

291 (A) the attorney general;

292 (B) the state treasurer; or

293 (C) the state auditor.

294 (b) If a tie in the number of votes received in the initial primary election race makes it
295 impossible to determine, under Subsection (2)(b), the two candidates who received the highest
296 number of votes in the initial primary race, the tie shall be broken, by lot, in the presence of the
297 tied candidates or representatives of the tied candidates, by the individual described in
298 Subsection (3)(a)(i) or (ii), as applicable.

299 (4) To conduct a runoff election described in Subsection (2)(b), the election officer
300 shall:

301 (a) 35 days after the day of the regular primary election, hold a runoff election between
302 the two candidates identified under Subsection (2)(b);

303 (b) conduct the election in accordance with Section [20A-3a-202](#), except that the
304 election officer may not provide early voting for the runoff election;

305 (c) provide notice of the runoff election by:

306 (i) (A) at least two days before the day of the election, publishing the notice in a

307 newspaper of general circulation in the jurisdiction to which the election pertains;

308 (B) at least two days before the day of the election, posting one copy of the notice, and

309 at least one additional copy per 2,000 population of the jurisdiction, in places within the

310 jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction,

311 subject to a maximum of 10 notices; or

312 (C) at least five days before the day of the election, mailing the notice to each

313 registered voter who resides in the jurisdiction to which the election pertains;

314 (i) for 14 days before the day of the election, posting the notice on the Utah Public

315 Notice Website, created in Section [63A-16-601](#); and

316 (iii) for 14 days before the day of the election, posting notice on the jurisdiction's

317 website;

318 (d) except as provided in Subsection (5), include in the notice described in Subsection

319 (4)(c):

320 (i) at the top of the notice, the following statement:

321 "NOTICE OF RUNOFF ELECTION

322 Notice is given that a runoff election will be held at the date and times indicated below

323 to nominate the candidate for the [name of registered political party] to run for [name of office]

324 in the upcoming regular general election. The candidates in the runoff election are:

325 [list the names of the two candidates participating in the runoff election, in the same

326 order as the candidates will appear on the ballot]

327 A voter who is eligible to vote in the primary election for the [insert the name of the

328 applicable political party] may cast a vote in the runoff election";

329 (ii) the hours during which the polls will be open;

330 (iii) the polling places for each voting precinct and election day voting center;

331 (iv) the address of the Statewide Electronic Voter Information Website and the election

332 officer's website, with a statement indicating that the election officer will post on the websites

333 any changes to the location of a polling place and the location of any additional polling place;

334 (v) a phone number that a voter may call to obtain information regarding the location

335 of a polling place; and

336 (vi) the qualifications for an individual to vote in the election; and

337 (e) no later than 14 days after the day of the election, declaring nominated by the

338 applicable party:

339 (i) the candidate who receives the highest number of votes in the runoff election; or

340 (ii) in the case of a tie, the candidate selected by lot, in the presence of the tied

341 candidates or representatives of the tied candidates, by the individual described in Subsection

342 (3).

343 (5) Instead of including the information described in Subsection (4)(d) in the notice
344 described in Subsection (4)(c), the election officer may include the following in the notice:

345 (a) the statement described in Subsection (4)(d)(i);

346 (b) the following statement: "The election will be held in [indicate the jurisdiction] on
347 [indicate date of election]. Information relating to the election, including polling places, polling
348 place hours, and qualifications of voters may be obtained from the following sources:"; and

349 (c) a list of the following sources where an individual may view or obtain the
350 information described in Subsections (4)(d)(ii) through (vi):

351 (i) the jurisdiction's website;

352 (ii) the physical address of the jurisdiction offices; and

353 (iii) a mailing address and telephone number.

354 (6) (a) In order to comply with Chapter 16, Uniform Military and Overseas Voters Act,
355 the election officer shall, when sending or providing a ballot under that chapter, provide the
356 ability to rank the candidates in a regular primary election race, in the order the voter prefers
357 the candidates, if the race may result in a runoff election under this section.

358 (b) To count a vote cast in a race described in Subsection (6)(a), where the voter
359 ranked at least two of the candidates, the election officer shall:

360 (i) initially, only count a vote for the candidate the voter ranked highest; and

361 (ii) if the race results in a runoff election under this section, count a vote in the runoff
362 election for the remaining candidate ranked highest by the voter.