1   # ELECTION ADMINISTRATION AMENDMENTS

2   ## 2023 GENERAL SESSION

3   ## STATE OF UTAH

4   **Chief Sponsor: Ken Ivory**

5   Senate Sponsor: _____

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7   **LONG TITLE**

8   **General Description:**

9   This bill addresses voting and the election process.

10   **Highlighted Provisions:**

11   This bill:

12   ▸   prohibits printing the name of an election officer, or an employee of an election

13   officer, on a ballot envelope and certain other election documents;

14   ▸   requires equipment, and establishes procedures, for a voter at a polling location to

15   scan the voter's manual ballot and provide a document to the voter of the votes cast

16   by the voter;

17   ▸   requires a voting machine to provide a document to the voter of the votes cast by the

18   voter;

19   ▸   requires all early voting and election day polling places to be open on the same

20   days, and for the same hours, as the other polling places for the jurisdiction

21   conducting an election;

22   ▸   grants rulemaking authority in relation to the handling and storage of ballots;

23   ▸   repeals the authority to adjudicate or replicate a ballot; and

24   ▸   makes technical and conforming changes.

25   **Money Appropriated in this Bill:**

26   None

27   **Other Special Clauses:**

28   None

29 **Utah Code Sections Affected:**

30 AMENDS:

31   **20A-3a-202**, as last amended by Laws of Utah 2022, Chapters 18, 121 and 156

32   **20A-3a-203**, as renumbered and amended by Laws of Utah 2020, Chapter 31

33   **20A-3a-602**, as renumbered and amended by Laws of Utah 2020, Chapter 31

34   **20A-3a-603**, as renumbered and amended by Laws of Utah 2020, Chapter 31

35   **20A-4-101**, as last amended by Laws of Utah 2022, Chapter 342

36   **20A-4-102**, as last amended by Laws of Utah 2022, Chapter 342

37   **20A-4-103**, as last amended by Laws of Utah 2020, Chapter 31

38   **20A-4-104**, as last amended by Laws of Utah 2022, Chapter 380

39   **20A-4-105**, as last amended by Laws of Utah 2022, Chapter 380

40

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

42   Section 1. Section **20A-3a-202** is amended to read:

43   **20A-3a-202.   Conducting election by mail.**

44   (1) (a) Except as otherwise provided for an election conducted entirely by mail under

45 Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in

46 accordance with this section.

47   (b) An individual who did not provide valid voter identification at the time the voter

48 registered to vote shall provide valid voter identification before voting.

49   (2) An election officer who administers an election:

50   (a) shall in accordance with Subsection (3), no sooner than 21 days before election day

51 and no later than seven days before election day, mail to each active voter within a voting

52 precinct:

53   (i) a manual ballot;

54   (ii) a return envelope;

55   (iii) instructions for returning the ballot that include an express notice about any

56 relevant deadlines that the voter must meet in order for the voter's vote to be counted;

57   (iv) for an election administered by a county clerk, information regarding the location

58 and hours of operation of any election day voting center at which the voter may vote or a

59   website address where the voter may view this information;

60   (v) for an election administered by an election officer other than a county clerk, if the

61   election officer does not operate a polling place or an election day voting center, a warning, on

62   a separate page of colored paper in bold face print, indicating that if the voter fails to follow the

63   instructions included with the ballot, the voter will be unable to vote in that election because

64   there will be no polling place for the voting precinct on the day of the election; and

65   (vi) after May 1, 2022, instructions on how a voter may sign up to receive electronic

66   ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5;

67   (b) may not mail a ballot under this section to:

68   (i) an inactive voter, unless the inactive voter requests a manual ballot; or

69   (ii) a voter whom the election officer is prohibited from sending a ballot under

70   Subsection (10)(c)(ii); and

71   (c) shall, on the outside of the envelope in which the election officer mails the ballot,

72   include instructions for returning the ballot if the individual to whom the election officer mails

73   the ballot does not live at the address to which the ballot is sent.

74   (3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail

75   the manual ballot to the address:

76   (i) provided at the time of registration; or

77   (ii) if, at or after the time of registration, the voter files an alternate address request

78   form described in Subsection (3)(b), the alternate address indicated on the form.

79   (b) The lieutenant governor shall make available to voters an alternate address request

80   form that permits a voter to request that the election officer mail the voter's ballot to a location

81   other than the voter's residence.

82   (c) A voter shall provide the completed alternate address request form to the election

83   officer no later than 11 days before the day of the election.

84   (4) The return envelope shall include:

85   (a) the name, official title, and post office address of the election officer on the front of

86   the envelope;

87   (b) a space where a voter may write an email address and phone number by which the

88   election officer may contact the voter if the voter's ballot is rejected;

89   (c) a printed affidavit in substantially the following form:

90   "County of _____ State of _____

91   I, _____, solemnly swear that: I am a qualified resident voter of the _____ voting precinct

92   in _____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon

93   currently incarcerated for commission of a felony.

94   _____

95   Signature of Voter"; and

96   (d) a warning that the affidavit must be signed by the individual to whom the ballot

97   was sent and that the ballot will not be counted if the signature on the affidavit does not match

98   the signature on file with the election officer of the individual to whom the ballot was sent.

99   (5) If the election officer determines that the voter is required to show valid voter

100 identification, the election officer may:

101   (a) mail a ballot to the voter;

102   (b) instruct the voter to include a copy of the voter's valid voter identification with the

103 return ballot; and

104   (c) provide instructions to the voter on how the voter may sign up to receive electronic

105 ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

106   (6) An election officer who administers an election shall:

107   (a) (i) before the election, obtain the signatures of each voter qualified to vote in the

108 election; or

109   (ii) obtain the signature of each voter within the voting precinct from the county clerk;

110 and

111   (b) maintain the signatures on file in the election officer's office.

112   (7) Upon receipt of a returned ballot, the election officer shall review and process the

113 ballot under Section 20A-3a-401.

114   (8) A county that administers an election:

115   (a) shall provide at least one election day voting center in accordance with Chapter 3a,

116 Part 7, Election Day Voting Center, and at least one additional election day voting center for

117 every 5,000 active voters in the county who have requested to not receive a ballot by mail;

118   (b) shall ensure that each election day voting center operated by the county has at least

119 one voting device that is accessible, in accordance with the Help America Vote Act of 2002,

120 Pub. L. No. 107-252, for individuals with disabilities;

121   (c) may reduce the early voting period described in Section 20A-3a-601, if:

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

123   (ii) the early voting days are within the period beginning on the date that is 14 days

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

125   (iii) the county clerk provides notice of the reduced early voting period in accordance

126   with Section 20A-3a-604;

127   (d) is not required to pay return postage for a ballot; and

128   (e) is subject to an audit conducted under Subsection (9).

129   (9) (a) The lieutenant governor shall:

130   (i) develop procedures for conducting an audit of affidavit signatures on ballots cast in

131   an election conducted under this section; and

132   (ii) after each primary, general, or special election conducted under this section, select

133   a number of ballots, in varying jurisdictions, to audit in accordance with the procedures

134   developed under Subsection (9)(a)(i).

135   (b) The lieutenant governor shall post the results of an audit conducted under this

136   Subsection (9) on the lieutenant governor's website.

137   (10) (a) An individual may request that the election officer not send the individual a

138   ballot by mail in the next and subsequent elections by submitting a written request to the

139   election officer.

140   (b) An individual shall submit the request described in Subsection (10)(a) to the

141   election officer before 5 p.m. no later than 60 days before an election if the individual does not

142   wish to receive a ballot by mail in that election.

143   (c) An election officer who receives a request from an individual under Subsection

144   (10)(a):

145   (i) shall remove the individual's name from the list of voters who will receive a ballot

146   by mail; and

147   (ii) may not send the individual a ballot by mail for:

148   (A) the next election, if the individual submits the request described in Subsection

149   (10)(a) before the deadline described in Subsection (10)(b); or

150   (B) an election after the election described in Subsection (10)(c)(ii)(A).

151   (d) An individual who submits a request under Subsection (10)(a) may resume the

152   individual's receipt of a ballot by mail by submitting a written request to the election officer.

153   (11) Except to the extent required by law, the name of an election officer or an

154   employee of an election officer may not be printed on:

155   (a) an envelope in which a ballot is mailed to a voter;

156   (b) a return envelope; or

157   (c) any document provided with the ballot in an envelope mailed to a voter.

158   Section 2. Section **20A-3a-203** is amended to read:

159   **20A-3a-203. Voting at a polling place.**

160   (1) (a) As used in this section, "tabulating machine" means a machine designed to

161   provide the functions described in Subsections (9)(b) through (d).

162   [(1)] (b) Except as provided in Section 20A-7-609.5, a registered voter may vote at a

163   polling place in an election in accordance with this section.

164   (c) Each polling place shall include a number of tabulating machines, each located in a

165   separate privacy booth, to adequately accommodate the voters who cast ballots at the polling

166   place.

167   (d) Each voting device at a polling place shall, after the voter casts a ballot, provide the

168   voter with a printed document:

169   (i) showing each vote cast by the voter for each race and each measure; and

170   (ii) specifying, for each race and each measure, the selection made by the voter.

171   (e) Each polling place for a jurisdiction conducting an election shall be open for the

172   same hours as each other polling place for the jurisdiction.

173   (2) (a) The voter shall give the voter's name, and, if requested, the voter's residence, to

174   one of the poll workers.

175   (b) The voter shall present valid voter identification to one of the poll workers.

176   (c) If the poll worker is not satisfied that the voter has presented valid voter

177   identification, the poll worker shall:

178   (i) indicate on the official register that the voter was not properly identified;

179   (ii) issue the voter a provisional ballot;

180   (iii) notify the voter that the voter will have until the close of normal office hours on

181   Monday after the day of the election to present valid voter identification:

182   (A) to the county clerk at the county clerk's office; or

183   (B) to an election officer who is administering the election; and

184   (iv) follow the procedures and requirements of Section 20A-3a-205.

185   (d) If the person's right to vote is challenged as provided in Section 20A-3a-803, the

186   poll worker shall follow the procedures and requirements of Section 20A-3a-205.

187   (3) A poll worker shall check the official register to determine whether:

188   (a) a voter is registered to vote; and

189   (b) if the election is a regular primary election or a presidential primary election,

190   whether a voter's party affiliation designation in the official register allows the voter to vote the

191   ballot that the voter requests.

192   (4) (a) Except as provided in Subsection (5), if the voter's name is not found on the

193   official register, the poll worker shall follow the procedures and requirements of Section

194   20A-3a-205.

195   (b) If, in a regular primary election or a presidential primary election, the official

196   register does not affirmatively identify the voter as being affiliated with a registered political

197   party or if the official register identifies the voter as being "unaffiliated," the voter shall be

198   considered to be "unaffiliated."

199   (5) In a regular primary election or a presidential primary election:

200   (a) if a voter's name is not found on the official register, and if it is not unduly

201   disruptive to the election process, the poll worker may attempt to contact the county clerk's

202   office to request oral verification of the voter's registration; and

203   (b) if oral verification is received from the county clerk's office, the poll worker shall:

204   (i) record the verification on the official register;

205   (ii) determine the voter's party affiliation and the ballot that the voter is qualified to

206   vote; and

207   (iii) except as provided in Subsection (6), comply with Subsection (3).

208   (6) (a) Except as provided in Subsection (6)(b), if, in a regular primary election or a

209   presidential primary election, the voter's political party affiliation listed in the official register

210   does not allow the voter to vote the ballot that the voter requested, the poll worker shall inform

211   the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation

212   does allow the voter to vote.

213   (b) If, in a regular primary election or a presidential primary election, the voter is listed

214   in the official register as unaffiliated, or if the official register does not affirmatively identify

215   the voter as either unaffiliated or affiliated with a registered political party, and the voter, as an

216   unaffiliated voter, is not authorized to vote the ballot that the voter requests, the poll worker

217   shall:

218   (i) ask the voter if the voter wishes to vote another registered political party ballot that

219   the voter, as unaffiliated, is authorized to vote, or remain unaffiliated; and

220   (ii) (A) if the voter wishes to vote another registered political party ballot that the

221   unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection

222   (3); or

223   (B) if the voter wishes to remain unaffiliated and does not wish to vote another ballot

224   that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the

225   voter may not vote.

226   (7) Except as provided in Subsection (6)(b)(ii)(B), and subject to the other provisions

227   of Subsection (6), if the poll worker determines that the voter is registered, a poll worker shall:

228   (a) direct the voter to sign the voter's name in the official register;

229   (b) except as provided in Subsection (8), provide to the voter the ballot that the voter is

230   qualified to vote; and

231   (c) allow the voter to enter the voting booth.

232   (8) A voter who receives a manual ballot by mail may:

233   (a) bring the ballot to the polling place; and

234   (b) (i) enter a voting booth to fill out the ballot; or

235   (ii) fill the out the ballot before arriving at the polling place.

236   (9) After a voter fills out a manual ballot under this section:

237   (a) the voter shall:

238   (i) enter a private booth; and

239   (ii) insert the voter's ballot into the tabulating machine;

240   (b) the tabulating machine shall, upon insertion of the voter's ballot under Subsection

241   (9)(a)(ii):

242   (i) collect the ballot in a manner that the voter may not retrieve the ballot;

243   (ii) scan the ballot; and

244   (iii) provide the voter with a printed document:

245   (A) showing each vote cast by the voter for each race and each measure; and

246   (B) specifying, for each race and each measure, the selection made by the voter;

247   (c) the voter shall, after reviewing the document described in Subsection (9)(b)(iii),

248 make an entry indicating whether the document correctly reflects the voter's intent; and

249   (d) (i) if, under Subsection (9)(c), the voter indicates that the document correctly

250 reflects the voter's intent, the tabulating machine shall:

251   (A) tabulate and store the voter's vote in a manner that preserves the voter's right to a

252 secret ballot; and

253   (B) retain the ballot to be stored in accordance with the requirements of law; or

254   (ii) if, under Subsection (9)(c), the voter indicates that the document does not correctly

255 reflect the voter's intent:

256   (A) the tabulating machine shall spoil the ballot; and

257   (B) the poll worker shall provide the voter with a new ballot and direct the voter to a

258 voting booth where the voter may fill out the new ballot.

259   Section 3. Section **20A-3a-602** is amended to read:

260   **20A-3a-602. Hours for early voting.**

261   (1) Except as provided in Section 20A-1-308, the election officer shall determine the

262 times for opening and closing the polls for each day of early voting provided that voting is open

263 for a minimum of four hours during each day that polls are open during the early voting period.

264   (2) Except as provided in Section 20A-1-308, each registered voter who arrives at the

265 polls before the time scheduled for closing of the polls shall be allowed to vote.

266   (3) Each early voting polling place for a jurisdiction conducting an election shall be

267 open for the same hours as each other early voting polling place for the jurisdiction.

268   Section 4. Section **20A-3a-603** is amended to read:

269   **20A-3a-603. Early voting polling places.**

270   (1) Except as provided in Section 20A-1-308 or 20A-7-609.5, the election officer shall

271 designate one or more polling places for early voting, as follows:

272   (a) at least one polling place shall be open on each day that polls are open during the

273 early voting period;

274   (b) each polling place shall comply with the requirements for polling places under

275 Chapter 5, Election Administration;

276   (c) for all elections other than local special elections, municipal primary elections, and

277   municipal general elections, at least 10% of the voting devices at a polling place shall be

278   accessible for individuals with disabilities in accordance with Public Law 107-252, the Help

279   America Vote Act of 2002; and

280   (d) each polling place shall be located in a government building or office, unless the

281   election officer determines that, in the area designated by the election officer, there is no

282   government building or office available that:

283   (i) can be scheduled for use during early voting hours;

284   (ii) has the physical facilities necessary to accommodate early voting requirements;

285   (iii) has adequate space for voting equipment, poll workers, and voters; and

286   (iv) has adequate security, public accessibility, and parking.

287   (2) (a) Except as provided in Section 20A-1-308, the election officer may, after the

288   deadline described in Section 20A-3a-604:

289   (i) if necessary, change the location of an early voting place; or

290   (ii) if the election officer determines that the number of early voting polling places is

291   insufficient due to the number of registered voters who are voting, designate additional polling

292   places during the early voting period.

293   (b) Except as provided in Section 20A-1-308, if an election officer changes the

294   location of an early voting polling place or designates an additional early voting polling place,

295   the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and

296   location of the changed early voting polling place or the additional early voting polling place:

297   (i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

298   (ii) by posting the information on the website of the election officer, if available; and

299   (iii) by posting notice:

300   (A) for a change in the location of an early voting polling place, at the new location

301   and, if possible, the old location; and

302   (B) for an additional early voting polling place, at the additional early voting polling

303   place.

304   (3) Except as provided in Section 20A-1-308, for each regular general election and

305   regular primary election, counties of the first class shall ensure that the early voting polling

306   places are approximately proportionately distributed based on population within the county.

307   (4) Each early voting polling place for a jurisdiction conducting an election shall be

308   open on the same days as each other early voting polling place for the jurisdiction.

309   Section 5. Section **20A-4-101** is amended to read:

310   **20A-4-101.   Manual ballots cast at a polling place -- Counting manual ballots at**

311   **polling place.**

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

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

314   an election, if:]

315   [(a) the ballots are cast at a polling place; and]

316   [(b) the ballots are counted at the polling place before the polls close.]

317   [(2) (a) Each county legislative body or municipal legislative body shall provide:]

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

319   judges have been appointed; and]

320   [(ii) a counting room for the use of the poll workers counting the ballots during the

321   day.]

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

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

324   [(i) close the first ballot box and deliver it to the counting judges; and]

325   [(ii) prepare and use another ballot box to receive voted ballots.]

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

327   counting judges shall:]

328   [(i) take the ballot box to the counting room;]

329   [(ii) count the votes on the regular ballots in the ballot box;]

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

331   them for return to the election officer; and]

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

333   box to the receiving judges.]

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

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

336   judges for counting; and]

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

338   provisional ballots contained in that box.]

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

340   until the polls close.]

341   [(f) (i)] (1) The director of elections within the Office of the Lieutenant Governor shall

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

343   describing the procedures that a counting judge is required to follow for:

344   (a) counting ballots at a polling place;

345   (b) counting ballots in an instant runoff voting race under Part 6, Municipal Alternate

346   Voting Methods Pilot Project[.]; and

347   (c) handling and storing ballots at a polling place.

348   [(ii)] (2) When counting ballots in an instant runoff voting race described in Part 6,

349   Municipal Alternate Voting Methods Pilot Project, a counting judge shall comply with the

350   procedures established under Subsection [(2)(f)(i)] (1)(b) and Part 6, Municipal Alternate

351   Voting Methods Pilot Project.

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

353   shall apply the standards and requirements of:]

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

355   [(b) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate

356   Voting Methods Pilot Project, Subsections 20A-4-603(3) through (5).]

357   Section 6. Section **20A-4-102** is amended to read:

358   **20A-4-102.   Actions taken at polling place on day of election after polls close.**

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

360   [(i) the ballots are cast at a polling place; and]

361   [(ii) the ballots are counted at the polling place after the polls close.]

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

363   20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted,

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

365   the order that they are specified.]

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

367   shall apply the standards and requirements of:]

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

369   [(ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate
370   Voting Methods Pilot Project, Subsections 20A-4-603(3) through (5).]
371   [(2) (a) First, the election judges shall count the number of ballots in the ballot box.]
372   [(b) (i) If there are more ballots in the ballot box than there are names entered in the
373   pollbook, the judges shall examine the official endorsements on the ballots.]
374   [(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the
375   proper official endorsement, the judges shall put those ballots in an excess ballot file and not
376   count them.]
377   [(c) (i) If, after examining the official endorsements, there are still more ballots in the
378   ballot box than there are names entered in the pollbook, the judges shall place the remaining
379   ballots back in the ballot box.]
380   [(ii) One of the judges, without looking, shall draw a number of ballots equal to the
381   excess from the ballot box.]
382   [(iii) The judges shall put those excess ballots into the excess ballot envelope and not
383   count them.]
384   [(d) When the ballots in the ballot box equal the number of names entered in the
385   pollbook, the judges shall count the votes.]
386   [(3)] (1) [The] After the polls close on election day, the judges at a polling place shall:
387   (a) place all unused ballots in the envelope or container provided for return to the
388   county clerk or city recorder[; and(b)] and seal that envelope or container[.]; and
389   [(4) The judges shall:]
390   [(a)] (b) place all of the provisional ballot envelopes in the envelope or container
391   provided for [them] provisional ballots for return to the election officer[; and (b)] and seal that
392   envelope or container.
393   [(5) (a) In counting the votes, the election judges shall read and count each ballot
394   separately.]
395   [(b) In regular primary elections the judges shall:]
396   [(i) count the number of ballots cast for each party;]
397   [(ii) place the ballots cast for each party in separate piles; and]
398   [(iii) count all the ballots for one party before beginning to count the ballots cast for
399   other parties.]

400   [(6)] (2) (a) In all elections, [the counting judges] counting shall, except as provided in
401   Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection
402   [20A-4-101(2)(f)(i)] 20A-4-101(1), entail:
403   (i) [count] counting one vote for each candidate designated by the marks in the squares
404   next to the candidate's name;
405   (ii) [count] counting each vote for each write-in candidate who has qualified by filing a
406   declaration of candidacy under Section 20A-9-601;
407   (iii) [read] reading every name marked on the ballot and [mark] marking every name
408   upon the tally sheets before another ballot is counted;
409   [(iv) evaluate each ballot and each vote based on the standards and requirements of
410   Section 20A-4-105;]
411   [(v)] (iv) [write] printing the word "spoiled" on [the back of] each ballot that lacks the
412   official endorsement and deposit [it] the ballot in the spoiled ballot envelope; and
413   [(vi)] (v) [read, count, and record] reading, counting, and recording upon the tally
414   sheets the votes that each candidate and ballot proposition received from all ballots, except
415   excess or spoiled ballots.
416   (b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or
417   persons clearly not eligible to qualify for office.
418   (c) The judges shall certify to the accuracy and completeness of the tally list in the
419   space provided on the tally list.
420   (d) When the judges have counted all of the voted ballots, they shall record the results
421   on the total votes cast form.
422   [(7)] (3) Only an election judge and a watcher may be present at the place where
423   counting is conducted until the count is completed.
424   Section 7. Section **20A-4-103** is amended to read:
425   **20A-4-103. Preparing ballots cast at a polling place for transport.**
426   (1) This section governs the preparation of ballots for [the counting center] transport
427   when the ballots are cast at a polling place.
428   (2) (a) As soon as the polls have been closed and the last qualified voter has voted, the
429   poll workers shall prepare the ballots for delivery to the [counting center] location designated
430   by the election officer as provided in this section.

431   (b) The poll workers, election officers, and other persons may not manually count any
432   votes before delivering the ballots to the counting center.
433   (3) The poll workers shall:
434   (a) complete the statement of disposition of ballots and all other forms required by the
435   election officer;
436   (b) place a copy of the forms described in Subsection (3)(a) and the voted ballots in a
437   sealed container;
438   (c) place all provisional ballots in the container provided for returning provisional
439   ballots to the [counting center] location designated by the election officer and seal the
440   container; and
441   (d) deliver to the [counting center] location designated by the election officer:
442   (i) the items described in Subsections (3)(a) through (c); and
443   (ii) any other items required by the election officer.
444   Section 8. Section **20A-4-104** is amended to read:
445   **20A-4-104.   Counting ballots electronically.**
446   (1) (a) Before beginning to count ballots using automatic tabulating equipment, the
447   election officer shall test the automatic tabulating equipment to ensure that it will accurately
448   count the votes cast for all offices and all measures.
449   (b) The election officer shall provide public notice of the time and place of the test:
450   (i) (A) by publishing notice at least 48 hours before the test in a newspaper of general
451   circulation in the county, municipality, or jurisdiction where the equipment is used;
452   (B) at least 10 days before the day of the test, by posting one notice, and at least one
453   additional notice per 2,000 population of the county, municipality, or jurisdiction, in places
454   within the county, municipality, or jurisdiction that are most likely to give notice to the voters
455   in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or
456   (C) at least 10 days before the day of the test, by mailing notice to each registered voter
457   in the county, municipality, or jurisdiction where the equipment is used;
458   (ii) by posting notice on the Utah Public Notice Website, created in Section
459   63A-16-601, for four weeks before the day of the test; and
460   (iii) if the county, municipality, or jurisdiction has a website, by posting notice on the
461   website for four weeks before the day of the test.

462   (c) The election officer shall conduct the test by processing a preaudited group of
463   ballots.
464   (d) The election officer shall ensure that:
465   (i) a predetermined number of valid votes for each candidate and measure are recorded
466   on the ballots;
467   (ii) for each office, one or more ballots have votes in excess of the number allowed by
468   law in order to test the ability of the automatic tabulating equipment to reject those votes; and
469   (iii) a different number of valid votes are assigned to each candidate for an office, and
470   for and against each measure.
471   (e) If any error is detected, the election officer shall determine the cause of the error
472   and correct it.
473   (f) The election officer shall ensure that:
474   (i) the automatic tabulating equipment produces an errorless count before beginning
475   the actual counting; and
476   (ii) the automatic tabulating equipment passes the same test at the end of the count
477   before the election returns are approved as official.
478   (2) (a) The election officer or the election officer's designee shall supervise and direct
479   all proceedings at the counting center.
480   (b) (i) Proceedings at the counting center are public and may be observed by interested
481   persons.
482   (ii) Only those persons authorized to participate in the count may touch any ballot or
483   return.
484   (c) The election officer shall deputize and administer an oath or affirmation to all
485   persons who are engaged in processing and counting the ballots that they will faithfully
486   perform their assigned duties.
487   (3) [(a)] If any ballot is damaged or defective so that it cannot properly be counted by
488   the automatic tabulating equipment, the election officer shall [ensure that two counting judges
489   jointly:] spoil the damaged or defective portions of the ballot.
490   [(i) make a true replication of the ballot with an identifying serial number;]
491   [(ii) substitute the replicated ballot for the damaged or defective ballot;]
492   [(iii) label the replicated ballot "replicated"; and]

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

494   [(b) The lieutenant governor shall provide to each election officer a standard form on

495   which the election officer shall maintain a log of all replicated ballots, that includes, for each

496   ballot:]

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

498   [(ii) the identification of the individuals who replicated the ballot;]

499   [(iii) the reason for the replication; and]

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

501   [(c) An election officer shall:]

502   [(i) maintain the log described in Subsection (3)(b) in a complete and legible manner,

503   as ballots are replicated;]

504   [(ii) at the end of each day during which one or more ballots are replicated, make an

505   electronic copy of the log; and]

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

507   months.]

508   (4) The election officer may:

509   (a) conduct an unofficial count before conducting the official count in order to provide

510   early unofficial returns to the public;

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

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

513   ballots.

514   (5) Beginning on the day after the date of the election, if an election officer releases

515   early unofficial returns or reports the progress of the count for each candidate under Subsection

516   (4), the election officer shall, with each release or report, disclose an estimate of the total

517   number of voted ballots in the election officer's custody that have not yet been counted.

518   (6) The election officer shall review and evaluate the provisional ballot envelopes and

519   prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

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

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

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

523   (b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast

524   more votes for an office than that voter is entitled to vote for that office, the poll workers shall

525   count the valid write-in vote as being the obvious intent of the voter.

526   (8) (a) The election officer shall certify the return printed by the automatic tabulating

527   equipment, to which have been added write-in and absentee votes, as the official return of each

528   voting precinct.

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

530   to the public.

531   (9) If for any reason it becomes impracticable to count all or a part of the ballots with

532   tabulating equipment, the election officer may direct that they be counted manually according

533   to the procedures and requirements of this part.

534   (10) After the count is completed, the election officer shall seal and retain the

535   programs, test materials, and ballots as provided in Section 20A-4-202.

536   Section 9. Section **20A-4-105** is amended to read:

537   **20A-4-105.   Standards and requirements for evaluating voter's ballot.**

538   [(1) (a) An election officer shall ensure that when a question arises regarding a vote

539   recorded on a manual ballot, two counting judges jointly adjudicate the ballot, except as

540   otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance

541   with the requirements of this section.]

542   [(b) If the counting judges disagree on the disposition of a vote recorded on a ballot

543   that is adjudicated under this section, the counting judges may not count the vote.]

544   [(c) An election officer shall store adjudicated ballots separately from other ballots to

545   enable a court to review the ballots if the election is challenged in court.]

546   [(2)] (1) Except as provided in Subsection [(10)] (8), Subsection 20A-3a-204(6), or

547   Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than

548   there are individuals to be elected to an office, or if the counting judges cannot determine a

549   voter's choice for an office, the counting judges may not count the voter's vote for that office.

550   [(3) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot

551   Project, the counting judges shall count a defective or incomplete mark on a manual ballot if:]

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

553   [(b) there is no other mark or cross on the ballot indicating the voter's intent to vote

554   other than as indicated by the incomplete or defective mark.]

555   [(4)] (2) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods
556   Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks
557   on the ballot other than those marks allowed by this section unless the extraneous marks on a
558   ballot show an intent by an individual to mark the individual's ballot so that the individual's
559   ballot can be identified.
560   [(5) (a) In counting the ballots, the counting judges shall give full consideration to the
561   intent of the voter.]
562   [(b)] (3) The counting judges may not invalidate a ballot because of mechanical or
563   technical defects in voting or failure on the part of the voter to follow strictly the rules for
564   balloting required by Chapter 3a, Voting.
565   [(6)] (4) The counting judges may not reject a ballot because of an error in:
566   (a) stamping or writing an official endorsement; or
567   (b) delivering the wrong ballots to a polling place.
568   [(7)] (5) The counting judges may not count a manual ballot that does not have the
569   official endorsement by an election officer.
570   [(8)] (6) The counting judges may not count a ballot proposition vote or candidate vote
571   for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.
572   [(9)] (7) If the counting judges discover that the name of a candidate is misspelled on
573   a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole
574   or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is
575   apparent that the voter intended to vote for the candidate.
576   [(10)] (8) The counting judges shall count a vote for the president and the vice
577   president of any political party as a vote for the presidential electors selected by the political
578   party.
579   [(11)] (9) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods
580   Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter
581   has cast more votes for an office than that voter is entitled to vote for that office, the counting
582   judges shall count the valid write-in vote as being the obvious intent of the voter.