

1 **ELECTION LAW AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: R. Curt Webb**

5 Senate Sponsor: Peter C. Knudson

7 **LONG TITLE**

8 **Committee Note:**

9 The Government Operations and Political Subdivisions Interim Committee
10 recommended this bill.

11 **General Description:**

12 This bill amends provisions relating to elections.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ amends definitions;
- 16 ▶ changes certain deadlines related to a municipal election;
- 17 ▶ requires a municipality to give notice of the declaration of candidacy filing period;
- 18 ▶ changes the time in which a person's right to vote may be challenged; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **10-3-301**, as last amended by Laws of Utah 2008, Chapter 19

27 **20A-1-102**, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335



- 28 **20A-2-205**, as last amended by Laws of Utah 2006, Chapters 264 and 326
- 29 **20A-3-202**, as last amended by Laws of Utah 2011, Chapter 395
- 30 **20A-4-106**, as last amended by Laws of Utah 2002, Chapter 177
- 31 **20A-5-206**, as last amended by Laws of Utah 1994, Chapter 21
- 32 **20A-9-404**, as last amended by Laws of Utah 2011, Chapters 17 and 327

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

35 Section 1. Section **10-3-301** is amended to read:

36 **10-3-301. Notice -- Eligibility and residency requirements for elected municipal**
37 **office -- Mayor and recorder limitations.**

38 (1) ~~§~~ **(a)** ~~←§~~ On or before February 1 in a year in which there is a municipal general
38a election, the

39 municipal clerk shall publish a notice ~~§~~ **→** :

40 ~~—— (a) (i) in a newspaper of general circulation within the municipality at least once a~~
41 ~~week for two successive weeks; and~~

42 ~~—— (ii) in accordance with Section 45-1-101 for two weeks; and~~

43 ~~—— (b)]~~ ~~←§~~ that identifies:

44 (i) the municipal offices to be voted on in the municipal general election; and

45 (ii) the dates for filing a declaration of candidacy for the offices identified under

46 Subsection (1)(b)(i).

46a **§** **→** **(b) The municipal clerk shall publish the notice described in Subsection (1)(a):**

46b **(i) on the Utah Public Notice Website established by Section 63F-1-701; and**

46c **(ii) in at least one of the following ways:**

46d **(A) at the principal office of the municipality;**

46e **(B) in a newspaper of general circulation within the municipality at least once a week**
46f **for two successive weeks in accordance with Section 45-1-101;**

46g **(C) in a newsletter produced by the municipality;**

46h **(D) on a website operated by the municipality; or**

46i **(E) with a utility enterprise fund customer's bill.** ~~←§~~

47 ~~[(+)]~~ (2) A person filing a declaration of candidacy for a municipal office shall meet the
48 requirements of Section 20A-9-203.

49 ~~[(2)]~~ (3) Any person elected to municipal office shall be a registered voter in the
50 municipality in which the person was elected.

51 ~~[(3)]~~ (4) (a) Each elected officer of a municipality shall maintain residency within the

52 boundaries of the municipality during the officer's term of office.

53 (b) If an elected officer of a municipality establishes a principal place of residence as
54 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the
55 office is automatically vacant.

56 [~~4~~] (5) If an elected municipal officer is absent from the municipality any time during
57 the officer's term of office for a continuous period of more than 60 days without the consent of
58 the municipal legislative body, the municipal office is automatically vacant.

59 [~~(5)~~] (6) (a) A mayor of a municipality may not also serve as the municipal recorder or
60 treasurer.

61 (b) The recorder of a municipality may not also serve as the municipal treasurer.

62 Section 2. Section **20A-1-102** is amended to read:

63 **20A-1-102. Definitions.**

64 As used in this title:

65 (1) "Active voter" means a registered voter who has not been classified as an inactive
66 voter by the county clerk.

67 (2) "Automatic tabulating equipment" means apparatus that automatically examines
68 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

69 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
70 upon which a voter records the voter's votes.

71 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
72 envelopes.

73 (4) "Ballot sheet":

74 (a) means a ballot that:

75 (i) consists of paper or a card where the voter's votes are marked or recorded; and

76 (ii) can be counted using automatic tabulating equipment; and

77 (b) includes punch card ballots and other ballots that are machine-countable.

78 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

79 (a) contain the names of offices and candidates and statements of ballot propositions to
80 be voted on; and

81 (b) are used in conjunction with ballot sheets that do not display that information.

82 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
83 on the ballot for their approval or rejection including:

84 (a) an opinion question specifically authorized by the Legislature;

85 (b) a constitutional amendment;

86 (c) an initiative;

87 (d) a referendum;

88 (e) a bond proposition;

89 (f) a judicial retention question; or

90 (g) any other ballot question specifically authorized by the Legislature.

91 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
92 20A-4-306 to canvass election returns.

93 (8) "Bond election" means an election held for the purpose of approving or rejecting
94 the proposed issuance of bonds by a government entity.

95 (9) "Book voter registration form" means voter registration forms contained in a bound
96 book that are used by election officers and registration agents to register persons to vote.

97 (10) "By-mail voter registration form" means a voter registration form designed to be
98 completed by the voter and mailed to the election officer.

99 (11) "Canvass" means the review of election returns and the official declaration of
100 election results by the board of canvassers.

101 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
102 the canvass.

103 (13) "Contracting election officer" means an election officer who enters into a contract
104 or interlocal agreement with a provider election officer.

105 (14) "Convention" means the political party convention at which party officers and
106 delegates are selected.

107 (15) "Counting center" means one or more locations selected by the election officer in
108 charge of the election for the automatic counting of ballots.

109 (16) "Counting judge" means a poll worker designated to count the ballots during
110 election day.

111 (17) "Counting poll watcher" means a person selected as provided in Section
112 20A-3-201 to witness the counting of ballots.

113 (18) "Counting room" means a suitable and convenient private place or room,
114 immediately adjoining the place where the election is being held, for use by the poll workers
115 and counting judges to count ballots during election day.

116 (19) "County officers" means those county officers that are required by law to be
117 elected.

118 (20) "Date of the election" or "election day" or "day of the election":

119 (a) means the day that is specified in the calendar year as the day that the election
120 occurs; and

- 121 (b) does not include:
- 122 (i) deadlines established for absentee voting; or
- 123 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
- 124 Voting.
- 125 (21) "Elected official" means:
- 126 (a) a person elected to an office under Section 20A-1-303;
- 127 (b) a person who is considered to be elected to a municipal office in accordance with
- 128 Subsection 20A-1-206(1)(c)(ii); or
- 129 (c) a person who is considered to be elected to a local district office in accordance with
- 130 Subsection 20A-1-206(3)(c)(ii).
- 131 (22) "Election" means a regular general election, a municipal general election, a
- 132 statewide special election, a local special election, a regular primary election, a municipal
- 133 primary election, and a local district election.
- 134 (23) "Election Assistance Commission" means the commission established by Public
- 135 Law 107-252, the Help America Vote Act of 2002.
- 136 (24) "Election cycle" means the period beginning on the first day persons are eligible to
- 137 file declarations of candidacy and ending when the canvass is completed.
- 138 (25) "Election judge" means a poll worker that is assigned to:
- 139 (a) preside over other poll workers at a polling place;
- 140 (b) act as the presiding election judge; or
- 141 (c) serve as a canvassing judge, counting judge, or receiving judge.
- 142 (26) "Election officer" means:
- 143 (a) the lieutenant governor, for all statewide ballots and elections;
- 144 (b) the county clerk for:
- 145 (i) a county ballot and election; and
- 146 (ii) a ballot and election as a provider election officer as provided in Section
- 147 20A-5-400.1 or 20A-5-400.5;
- 148 (c) the municipal clerk for:
- 149 (i) a municipal ballot and election; and
- 150 (ii) a ballot and election as a provider election officer as provided in Section
- 151 20A-5-400.1 or 20A-5-400.5;

- 152 (d) the local district clerk or chief executive officer for:
- 153 (i) a local district ballot and election; and
- 154 (ii) a ballot and election as a provider election officer as provided in Section
- 155 20A-5-400.1 or 20A-5-400.5; or
- 156 (e) the business administrator or superintendent of a school district for:
- 157 (i) a school district ballot and election; and
- 158 (ii) a ballot and election as a provider election officer as provided in Section
- 159 20A-5-400.1 or 20A-5-400.5.
- 160 (27) "Election official" means:
- 161 (a) for an election other than a bond election, the count of votes cast in the election and
- 162 the election returns requested by the board of canvassers; or
- 163 (b) any election officer, election judge, or poll worker.
- 164 (28) "Election results" means:
- 165 (a) for an election other than a bond election, the count of votes cast in the election and
- 166 the election returns requested by the board of canvassers; or
- 167 (b) for bond elections, the count of those votes cast for and against the bond
- 168 proposition plus any or all of the election returns that the board of canvassers may request.
- 169 (29) "Election returns" includes the pollbook, [~~all affidavits of registration,~~] the
- 170 military and overseas absentee voter registration and voting certificates, one of the tally sheets,
- 171 any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
- 172 spoiled ballots, the ballot disposition form, and the total votes cast form.
- 173 (30) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
- 174 device or other voting device that records and stores ballot information by electronic means.
- 175 (31) "Electronic signature" means an electronic sound, symbol, or process attached to
- 176 or logically associated with a record and executed or adopted by a person with the intent to sign
- 177 the record.
- 178 (32) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- 179 (b) "Electronic voting device" includes a direct recording electronic voting device.
- 180 (33) "Inactive voter" means a registered voter who has:
- 181 (a) been sent the notice required by Section 20A-2-306; and
- 182 (b) failed to respond to that notice.

183 (34) "Inspecting poll watcher" means a person selected as provided in this title to
184 witness the receipt and safe deposit of voted and counted ballots.

185 (35) "Judicial office" means the office filled by any judicial officer.

186 (36) "Judicial officer" means any justice or judge of a court of record or any county
187 court judge.

188 (37) "Local district" means a local government entity under Title 17B, Limited Purpose
189 Local Government Entities - Local Districts, and includes a special service district under Title
190 17D, Chapter 1, Special Service District Act.

191 (38) "Local district officers" means those local district officers that are required by law
192 to be elected.

193 (39) "Local election" means a regular municipal election, a local special election, a
194 local district election, and a bond election.

195 (40) "Local political subdivision" means a county, a municipality, a local district, or a
196 local school district.

197 (41) "Local special election" means a special election called by the governing body of a
198 local political subdivision in which all registered voters of the local political subdivision may
199 vote.

200 (42) "Municipal executive" means:

201 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;
202 or

203 (b) the mayor in the council-manager form of government defined in Subsection
204 10-3b-103(6).

205 (43) "Municipal general election" means the election held in municipalities and local
206 districts on the first Tuesday after the first Monday in November of each odd-numbered year
207 for the purposes established in Section 20A-1-202.

208 (44) "Municipal legislative body" means the council of the city or town in any form of
209 municipal government.

210 (45) "Municipal office" means an elective office in a municipality.

211 (46) "Municipal officers" means those municipal officers that are required by law to be
212 elected.

213 (47) "Municipal primary election" means an election held to nominate candidates for

214 municipal office.

215 (48) "Official ballot" means the ballots distributed by the election officer to the poll
216 workers to be given to voters to record their votes.

217 (49) "Official endorsement" means:

218 (a) the information on the ballot that identifies:

219 (i) the ballot as an official ballot;

220 (ii) the date of the election; and

221 (iii) the facsimile signature of the election officer; and

222 (b) the information on the ballot stub that identifies:

223 (i) the poll worker's initials; and

224 (ii) the ballot number.

225 (50) "Official register" means the official record furnished to election officials by the
226 election officer that contains the information required by Section 20A-5-401.

227 (51) "Paper ballot" means a paper that contains:

228 (a) the names of offices and candidates and statements of ballot propositions to be
229 voted on; and

230 (b) spaces for the voter to record the voter's vote for each office and for or against each
231 ballot proposition.

232 (52) "Political party" means an organization of registered voters that has qualified to
233 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
234 and Procedures.

235 (53) (a) "Poll worker" means a person assigned by an election official to assist with an
236 election, voting, or counting votes.

237 (b) "Poll worker" includes election judges.

238 (c) "Poll worker" does not include a watcher.

239 (54) "Pollbook" means a record of the names of voters in the order that they appear to
240 cast votes.

241 (55) "Polling place" means the building where voting is conducted.

242 (56) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
243 in which the voter marks the voter's choice.

244 (57) "Provider election officer" means an election officer who enters into a contract or

245 interlocal agreement with a contracting election officer to conduct an election for the
246 contracting election officer's local political subdivision in accordance with Section
247 20A-5-400.1.

248 (58) "Provisional ballot" means a ballot voted provisionally by a person:

- 249 (a) whose name is not listed on the official register at the polling place;
- 250 (b) whose legal right to vote is challenged as provided in this title; or
- 251 (c) whose identity was not sufficiently established by a poll worker.

252 (59) "Provisional ballot envelope" means an envelope printed in the form required by
253 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
254 verify a person's legal right to vote.

255 (60) "Primary convention" means the political party conventions at which nominees for
256 the regular primary election are selected.

257 (61) "Protective counter" means a separate counter, which cannot be reset, that:

- 258 (a) is built into a voting machine; and
- 259 (b) records the total number of movements of the operating lever.

260 (62) "Qualify" or "qualified" means to take the oath of office and begin performing the
261 duties of the position for which the person was elected.

262 (63) "Receiving judge" means the poll worker that checks the voter's name in the
263 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
264 after the voter has voted.

265 (64) "Registration form" means a book voter registration form and a by-mail voter
266 registration form.

267 (65) "Regular ballot" means a ballot that is not a provisional ballot.

268 (66) "Regular general election" means the election held throughout the state on the first
269 Tuesday after the first Monday in November of each even-numbered year for the purposes
270 established in Section 20A-1-201.

271 (67) "Regular primary election" means the election on the fourth Tuesday of June of
272 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to
273 advance to the regular general election.

274 (68) "Resident" means a person who resides within a specific voting precinct in Utah.

275 (69) "Sample ballot" means a mock ballot similar in form to the official ballot printed

276 and distributed as provided in Section 20A-5-405.

277 (70) "Scratch vote" means to mark or punch the straight party ticket and then mark or
278 punch the ballot for one or more candidates who are members of different political parties.

279 (71) "Secrecy envelope" means the envelope given to a voter along with the ballot into
280 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of
281 the voter's vote.

282 (72) "Special election" means an election held as authorized by Section 20A-1-204.

283 (73) "Spoiled ballot" means each ballot that:

284 (a) is spoiled by the voter;

285 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

286 (c) lacks the official endorsement.

287 (74) "Statewide special election" means a special election called by the governor or the
288 Legislature in which all registered voters in Utah may vote.

289 (75) "Stub" means the detachable part of each ballot.

290 (76) "Substitute ballots" means replacement ballots provided by an election officer to
291 the poll workers when the official ballots are lost or stolen.

292 (77) "Ticket" means each list of candidates for each political party or for each group of
293 petitioners.

294 (78) "Transfer case" means the sealed box used to transport voted ballots to the
295 counting center.

296 (79) "Vacancy" means the absence of a person to serve in any position created by
297 statute, whether that absence occurs because of death, disability, disqualification, resignation,
298 or other cause.

299 (80) "Valid voter identification" means:

300 (a) a form of identification that bears the name and photograph of the voter which may
301 include:

302 (i) a currently valid Utah driver license;

303 (ii) a currently valid identification card that is issued by:

304 (A) the state; or

305 (B) a branch, department, or agency of the United States;

306 (iii) a currently valid Utah permit to carry a concealed weapon;

- 307 (iv) a currently valid United States passport; or
- 308 (v) a currently valid United States military identification card;
- 309 (b) one of the following identification cards, whether or not the card includes a
- 310 photograph of the voter:
 - 311 (i) a valid tribal identification card;
 - 312 (ii) a Bureau of Indian Affairs card; or
 - 313 (iii) a tribal treaty card; or
 - 314 (c) two forms of identification not listed under Subsection (80)(a) or (b) but that bear
 - 315 the name of the voter and provide evidence that the voter resides in the voting precinct, which
 - 316 may include:
 - 317 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
 - 318 election;
 - 319 (ii) a bank or other financial account statement, or a legible copy thereof;
 - 320 (iii) a certified birth certificate;
 - 321 (iv) a valid Social Security card;
 - 322 (v) a check issued by the state or the federal government or a legible copy thereof;
 - 323 (vi) a paycheck from the voter's employer, or a legible copy thereof;
 - 324 (vii) a currently valid Utah hunting or fishing license;
 - 325 (viii) certified naturalization documentation;
 - 326 (ix) a currently valid license issued by an authorized agency of the United States;
 - 327 (x) a certified copy of court records showing the voter's adoption or name change;
 - 328 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - 329 (xii) a currently valid identification card issued by:
 - 330 (A) a local government within the state;
 - 331 (B) an employer for an employee; or
 - 332 (C) a college, university, technical school, or professional school located within the
 - 333 state; or
 - 334 (xiii) a current Utah vehicle registration.
 - 335 (81) "Valid write-in candidate" means a candidate who has qualified as a write-in
 - 336 candidate by following the procedures and requirements of this title.
 - 337 (82) "Voter" means a person who:

- 338 (a) meets the requirements for voting in an election;
- 339 (b) meets the requirements of election registration;
- 340 (c) is registered to vote; and
- 341 (d) is listed in the official register book.
- 342 (83) "Voter registration deadline" means the registration deadline provided in Section
- 343 20A-2-102.5.
- 344 (84) "Voting area" means the area within six feet of the voting booths, voting
- 345 machines, and ballot box.
- 346 (85) "Voting booth" means:
- 347 (a) the space or compartment within a polling place that is provided for the preparation
- 348 of ballots, including the voting machine enclosure or curtain; or
- 349 (b) a voting device that is free standing.
- 350 (86) "Voting device" means:
- 351 (a) an apparatus in which ballot sheets are used in connection with a punch device for
- 352 piercing the ballots by the voter;
- 353 (b) a device for marking the ballots with ink or another substance;
- 354 (c) an electronic voting device or other device used to make selections and cast a ballot
- 355 electronically, or any component thereof;
- 356 (d) an automated voting system under Section 20A-5-302; or
- 357 (e) any other method for recording votes on ballots so that the ballot may be tabulated
- 358 by means of automatic tabulating equipment.
- 359 (87) "Voting machine" means a machine designed for the sole purpose of recording
- 360 and tabulating votes cast by voters at an election.
- 361 (88) "Voting poll watcher" means a person appointed as provided in this title to
- 362 witness the distribution of ballots and the voting process.
- 363 (89) "Voting precinct" means the smallest voting unit established as provided by law
- 364 within which qualified voters vote at one polling place.
- 365 (90) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
- 366 poll watcher, and a testing watcher.
- 367 (91) "Western States Presidential Primary" means the election established in Chapter 9,
- 368 Part 8, Western States Presidential Primary.

369 (92) "Write-in ballot" means a ballot containing any write-in votes.

370 (93) "Write-in vote" means a vote cast for a person whose name is not printed on the
371 ballot according to the procedures established in this title.

372 Section 3. Section **20A-2-205** is amended to read:

373 **20A-2-205. Registration at voter registration agencies.**

374 (1) As used in this section:

375 (a) "Discretionary voter registration agency" means each office designated by the
376 county clerk under Part 3, County Clerk's Voter Registration Responsibilities, to provide
377 by-mail voter registration forms to the public.

378 (b) "Public assistance agency" means each office in Utah that provides:

379 (i) public assistance; or

380 (ii) state funded programs primarily engaged in providing services to people with
381 disabilities.

382 (2) Any person may obtain and complete a by-mail registration form at a public
383 assistance agency or discretionary voter registration agency.

384 (3) Each public assistance agency and discretionary voter registration agency shall
385 provide, either as part of existing forms or on a separate form, the following information in
386 substantially the following form:

387 "REGISTERING TO VOTE

388 If you are not registered to vote where you live now, would you like to apply to register
389 to vote here today? (Applying to register to vote or declining to register to vote will not affect
390 the amount of assistance that you will be provided by this agency.) Yes___ No___ IF YOU
391 DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED
392 NOT TO REGISTER TO VOTE AT THIS TIME. If you would like help in filling out the
393 voter registration application form, we will help you. The decision about whether or not to
394 seek or accept help is yours. You may fill out the application form in private. If you believe
395 that someone has interfered with your right to register or to decline to register to vote, your
396 right to privacy in deciding whether or not to register, or in applying to register to vote, or your
397 right to choose your own political party or other political preference, you may file a complaint
398 with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah
399 84114. [(801) 538-1040.]" The phone number of the Office of the Lieutenant Governor."

400 (4) Unless a person applying for service or assistance from a public assistance agency
401 or discretionary voter registration agency declines, in writing, to register to vote, each public
402 assistance agency and discretionary voter registration agency shall:

403 (a) distribute a by-mail voter registration form with each application for service or
404 assistance provided by the agency or office;

405 (b) assist applicants in completing the voter registration form unless the applicant
406 refuses assistance;

407 (c) accept completed forms for transmittal to the appropriate election official; and

408 (d) transmit a copy of each voter registration form to the appropriate election official
409 within five days after it is received by the division.

410 (5) A person in a public assistance agency or a discretionary voter registration agency
411 that helps a person complete the voter registration form may not:

412 (a) seek to influence an applicant's political preference or party registration;

413 (b) display any political preference or party allegiance;

414 (c) make any statement to an applicant or take any action that has the purpose or effect
415 of discouraging the applicant from registering to vote; or

416 (d) make any statement to an applicant or take any action that has the purpose or effect
417 of leading the applicant to believe that a decision to register or not to register has any bearing
418 upon the availability of services or benefits.

419 (6) Upon receipt of a correctly completed voter registration form, the county clerk
420 shall:

421 (a) enter the applicant's name on the list of registered voters for the voting precinct in
422 which the applicant resides; and

423 (b) notify the applicant of registration.

424 (7) (a) If the county clerk receives a correctly completed voter registration form that is
425 dated after the voter registration deadline, the county clerk shall:

426 (i) register the applicant after the next election; and

427 (ii) if possible, promptly phone or mail a notice to the applicant before the election,
428 informing the applicant that his registration will not be effective until after the election.

429 (b) When the county clerk receives a correctly completed voter registration form at
430 least seven days before an election that is dated on or before the voter registration deadline, the

431 county clerk shall:

432 (i) process the voter registration form; and

433 (ii) record the new voter in the official register.

434 (8) If the county clerk determines that a voter registration form received from a public
435 assistance agency or discretionary voter registration agency is incorrect because of an error or
436 because it is incomplete, the county clerk shall mail notice to the person attempting to register,
437 informing him that he has not been registered because of an error or because the form is
438 incomplete.

439 Section 4. Section **20A-3-202** is amended to read:

440 **20A-3-202. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.**

441 (1) A person's right to vote may be challenged because:

442 (a) the voter is not the person whose name appears in the official register or under
443 which name the right to vote is claimed;

444 (b) the voter is not a resident of Utah;

445 (c) the voter is not a citizen of the United States;

446 (d) the voter has not or will not have resided in Utah for 30 days immediately before
447 the date of the election;

448 (e) the voter's principal place of residence is not in the voting precinct claimed;

449 (f) the voter's principal place of residence is not in the geographic boundaries of the
450 election area;

451 (g) the voter has already voted in the election;

452 (h) the voter is not at least 18 years of age;

453 (i) the voter has been convicted of a misdemeanor for an offense under this title and the
454 voter's right to vote in an election has not been restored under Section 20A-2-101.3;

455 (j) the voter is a convicted felon and the voter's right to vote in an election has not been
456 restored under Section 20A-2-101.5; or

457 (k) in a regular primary election or in the Western States Presidential Primary, the voter
458 does not meet the political party affiliation requirements for the ballot the voter seeks to vote.

459 (2) A person who challenges another person's right to vote at an election shall do so
460 according to the procedures and requirements of:

461 (a) Section 20A-3-202.3, for challenges issued in writing more than 21 days before the

462 day on which [early] voting commences; or

463 (b) Section 20A-3-202.5, for challenges issued in person at the time of voting.

464 Section 5. Section **20A-4-106** is amended to read:

465 **20A-4-106. Paper ballots -- Sealing.**

466 (1) (a) (i) At all elections using paper ballots, as soon as the counting judges have read
467 and tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate
468 strings.

469 (ii) After the ballots are strung, they may not be examined by anyone, except when
470 examined during a recount conducted under the authority of Section 20A-4-401.

471 (b) The judges shall carefully seal all of the strung ballots in a strong envelope.

472 (2) (a) For regular primary elections, after all the ballots have been counted, certified
473 to, and strung by the judges, they shall seal the ballots cast for each of the parties in separate
474 envelopes.

475 (b) The judges shall:

476 (i) seal each of the envelopes containing the votes of each of the political parties in one
477 large envelope; and

478 (ii) return that envelope to the county clerk.

479 (c) The judges shall:

480 (i) destroy the ballots in the blank ballot box; or

481 (ii) if directed to do so by the election officer, return them to the election officer for
482 destruction.

483 (3) As soon as the judges have counted all the votes and sealed the ballots they shall
484 sign and certify the pollbooks.

485 (4) (a) The judges, before they adjourn, shall:

486 (i) enclose and seal the official register, the posting book, the pollbook, [~~all affidavits~~
487 ~~of registration received by them,~~] the ballot disposition form, the military and overseas
488 absentee voter registration and voting certificates, one of the tally sheets, and any unprocessed
489 absentee ballots in a strong envelope or pouch;

490 (ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been
491 strung and placed in a separate envelope or pouch as required by Subsection (1);

492 (iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the ballot

493 disposition form in a separate envelope or pouch;

494 (iv) place all provisional ballots in a separate envelope or pouch; and

495 (v) place the total votes cast form and the judges' vouchers requesting compensation
496 for services rendered in a separate pouch.

497 (b) Before enclosing the official register in the envelope or pouch, the election judges
498 shall certify it substantially as follows:

499 "We, the undersigned, judges of election for precinct _____, (jurisdiction) _____,
500 Utah, certify that the required entries have been made for the election held

501 _____(month\day\year), including:

502 a list of the ballot numbers for each voter;

503 the voters' signatures, except where a judge has signed for the absentee voters;

504 a list of information surrounding a voter who is challenged,

505 including any affidavits; and

506 a notation for each time a voter was assisted with a ballot."

507 (5) Each judge shall:

508 (a) write his name across the seal of each envelope or pouch;

509 (b) mark on the exterior of the envelope or pouch:

510 (i) the word "ballots" or "returns" or "unused ballots," or "provisional ballots" or other
511 words plainly indicating the contents of the packages; and

512 (ii) the number of the voting precinct.

513 Section 6. Section **20A-5-206** is amended to read:

514 **20A-5-206. Change of precinct boundaries -- Revising list.**

515 (1) Whenever the boundaries of any voting precinct are changed, or a new voting
516 precinct is created, the county clerk shall ensure that the names of all voters residing within the
517 territory affected by the change are transferred from one official register to the other.

518 (2) Any registered voter whose name has been erroneously transferred from one
519 official register to another, or erroneously allowed to remain on any official register, may vote
520 in the voting precinct in which ~~[he]~~ the voter resides if ~~[he:]~~ the voter uses a provisional ballot.

521 ~~[(a) signs the registration affidavit; and]~~

522 ~~[(b) presents sufficient proof to the election judges that his name does not appear on
523 the official register because of an error.]~~

524 Section 7. Section **20A-9-404** is amended to read:

525 **20A-9-404. Municipal primary elections.**

526 (1) (a) Except as otherwise provided in this section, candidates for municipal office in
527 all municipalities shall be nominated at a municipal primary election.

528 (b) Municipal primary elections shall be held:

529 (i) consistent with Section 20A-1-201.5, on the second Tuesday following the first
530 Monday in the August before the regular municipal election; and

531 (ii) whenever possible, at the same polling places as the regular municipal election.

532 (2) If the number of candidates for a particular municipal office does not exceed twice
533 the number of persons needed to fill that office, a primary election for that office may not be
534 held and the candidates are considered nominated.

535 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly
536 of voters or delegates.

537 (b) (i) By ordinance adopted before the May 1 that falls before a regular municipal
538 election, any third, fourth, or fifth class city or town may exempt itself from a primary election
539 by providing that the nomination of candidates for municipal office to be voted upon at a
540 municipal election be nominated by a political party convention or committee.

541 (ii) Any primary election exemption ordinance adopted under the authority of this
542 subsection remains in effect until repealed by ordinance.

543 (c) (i) A convention or committee may not nominate more than one group of
544 candidates or have placed on the ballot more than one group of candidates for the municipal
545 offices to be voted upon at the municipal election.

546 (ii) A convention or committee may nominate a person who has been nominated by a
547 different convention or committee.

548 (iii) A political party may not have more than one group of candidates placed upon the
549 ballot and may not group the same candidates on different tickets by the same party under a
550 different name or emblem.

551 (d) (i) The convention or committee shall prepare a certificate of nomination for each
552 person nominated.

553 (ii) The certificate of nomination shall:

554 (A) contain the name of the office for which each person is nominated, the name, post

555 office address, and, if in a city, the street number of residence and place of business, if any, of
556 each person nominated;

557 (B) designate in not more than five words the political party that the convention or
558 committee represents;

559 (C) contain a copy of the resolution passed at the convention that authorized the
560 committee to make the nomination;

561 (D) contain a statement certifying that the name of the candidate nominated by the
562 political party will not appear on the ballot as a candidate for any other political party;

563 (E) be signed by the presiding officer and secretary of the convention or committee;
564 and

565 (F) contain a statement identifying the residence and post office address of the
566 presiding officer and secretary and certifying that the presiding officer and secretary were
567 officers of the convention or committee and that the certificates are true to the best of their
568 knowledge and belief.

569 (iii) Certificates of nomination shall be filed with the clerk not later than [~~the sixth~~
570 ~~Tuesday~~] 80 days before the [~~November~~] municipal general election.

571 (e) A committee appointed at a convention, if authorized by an enabling resolution,
572 may also make nominations or fill vacancies in nominations made at a convention.

573 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,
574 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall
575 be included with the candidate's name.

576 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1
577 that falls before the regular municipal election that:

578 (i) exempts the city from the other methods of nominating candidates to municipal
579 office provided in this section; and

580 (ii) provides for a partisan primary election method of nominating candidates as
581 provided in this Subsection (4).

582 (b) (i) Any party that was a registered political party at the last regular general election
583 or regular municipal election is a municipal political party under this section.

584 (ii) Any political party may qualify as a municipal political party by presenting a
585 petition to the city recorder that:

586 (A) is signed, with a holographic signature, by registered voters within the municipality
587 equal to at least 20% of the number of votes cast for all candidates for mayor in the last
588 municipal election at which a mayor was elected;

589 (B) is filed with the city recorder [~~by the seventh Tuesday~~] at least 55 days before the
590 date of the municipal primary election;

591 (C) is substantially similar to the form of the signature sheets described in Section
592 20A-7-303; and

593 (D) contains the name of the municipal political party using not more than five words.

594 (c) (i) If the number of candidates for a particular office does not exceed twice the
595 number of offices to be filled at the regular municipal election, no partisan primary election for
596 that office shall be held and the candidates are considered to be nominated.

597 (ii) If the number of candidates for a particular office exceeds twice the number of
598 offices to be filled at the regular municipal election, those candidates for municipal office shall
599 be nominated at a partisan primary election.

600 (d) The clerk shall ensure that:

601 (i) the partisan municipal primary ballot is similar to the ballot forms required by
602 Sections 20A-6-401 and 20A-6-401.1;

603 (ii) the candidates for each municipal political party are listed in one or more columns
604 under their party name and emblem;

605 (iii) the names of candidates of all parties are printed on the same ballot, but under
606 their party designation;

607 (iv) every ballot is folded and perforated so as to separate the candidates of one party
608 from those of the other parties and so as to enable the elector to separate the part of the ballot
609 containing the names of the party of his choice from the remainder of the ballot; and

610 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,
611 when detached, are similar in appearance to inside sections when detached.

612 (e) After marking a municipal primary ballot, the voter shall:

613 (i) detach the part of the ballot containing the names of the candidates of the party he
614 has voted from the rest of the ballot;

615 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;

616 and

617 (iii) fold the remainder of the ballot containing the names of the candidates of the
618 parties for whom the elector did not vote and deposit it in the blank ballot box.

619 (f) Immediately after the canvass, the election judges shall, without examination,
620 destroy the tickets deposited in the blank ballot box.

Legislative Review Note
as of 11-17-11 8:46 AM

Office of Legislative Research and General Counsel