1   **MUNICIPAL INSTANT RUNOFF VOTING AMENDMENTS**

2   2021 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Adam Robertson**

5   Senate Sponsor: _____

6 ═══

7   **LONG TITLE**

8   **General Description:**

9   This bill amends provisions relating to municipal instant runoff voting.

10 **Highlighted Provisions:**

11   This bill:

12   ▸ defines terms;

13   ▸ amends provisions relating to marking a ballot for instant runoff voting;

14   ▸ gives a participating municipality the option of selecting different methods of

15 conducting an election by instant runoff voting;

16   ▸ describes the process of voting and of determining winners in an instant runoff

17 election, depending on the voting method selected by a participating municipality;

18 and

19   ▸ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21   None

22 **Other Special Clauses:**

23   None

24 **Utah Code Sections Affected:**

25 AMENDS:

26   **20A-3a-204**, as enacted by Laws of Utah 2020, Chapter 31

27   **20A-4-101**, as last amended by Laws of Utah 2020, Chapter 31

33   ENACTS:

36

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

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

39   **20A-3a-204.   Marking and depositing ballots.**

40   (1) To vote by mail:

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

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

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

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

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

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

47 accordance with Subsection 20A-3a-206(4);

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

49 write-in candidate; and

50   (e) the voter shall:

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

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

53   (iii) securely seal the return envelope; and

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

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

56 for the precinct where the voter resides.

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

58 mailed must be:

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

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

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

62 canvass following the election.

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

64 close on election day, be deposited in:

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

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

67 ballot relates.

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

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

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

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

72 deposit the ballot in the ballot drop box.

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

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

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

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

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

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

79 provisional ballot envelope in the provisional ballot box.

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

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

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

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

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

85 and

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

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

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

89 the voter wishes to vote.

90   (6) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6,

91   Municipal Alternate Voting Methods Pilot Project[, a voter]:

92   (a) for a municipality using the candidate elimination voting method described in

93   Sections 20A-4-603 and 20A-4-604, a voter:

94   (i) shall indicate, as directed on the ballot, the name of the candidate who is the voter's

95   first preference for the office; and

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

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

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

99   20A-4-605, a voter shall, as directed on the ballot, indicate one or more names of candidates

100   whom the voter approves for the office, without stating an order of preference; or

101   (c) for a municipality using the star voting method described in Section 20A-4-606, a

102   voter shall, as directed on the ballot, rate each candidate by giving the candidate a rating of

103   zero, one, two, three, four, or five, with five being the highest rating.

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

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

106   area after voting; and

107   (b) may not:

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

109   20A-3a-208;

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

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

112   voters are waiting to occupy a voting booth.

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

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

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

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

117   (a) election officials;

118   (b) watchers; or

119   (c) assisting voters with a disability.

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

121   **20A-4-101. Manual ballots cast at a polling place -- Counting manual ballots at**

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

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

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

125   an election, if:

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

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

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

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

130   judges have been appointed; and

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

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

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

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

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

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

137   judges shall:

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

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

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

141   them for return to the election officer; and

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

143   box to the receiving judges.

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

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

146   judges for counting; and

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

148   provisional ballots contained in that box.

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

150   until the polls close.

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

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

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

154   instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting

155   Methods Pilot Project.

156   (ii) When counting ballots in an instant runoff voting race described in Title 20A,

157   Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a counting judge shall

158   comply with the procedures established under Subsection (2)(f)(i) and Title 20A, Chapter 4,

159   Part 6, Municipal Alternate Voting Methods Pilot Project.

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

161   apply the standards and requirements of:

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

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

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

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

166   **20A-4-102.   Manual ballots cast at a polling place -- Counting manual ballots at**

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

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

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

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

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

172   20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted,

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

174   the order that they are specified.

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

176   apply the standards and requirements of:

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

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

179   Voting Methods Pilot Project, Subsection 20A-4-603[(3)](4).

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

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

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

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

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

185   them.

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

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

188   ballots back in the ballot box.

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

190   excess from the ballot box.

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

192   count them.

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

194   pollbook, the judges shall count the votes.

195   (3) The judges shall:

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

197   county clerk or city recorder; and

198   (b) seal that envelope or container.

199   (4) The judges shall:

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

201   return to the election officer; and

202   (b) seal that envelope or container.

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

204   separately.

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

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

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

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

209   other parties.

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

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

212   20A-4-101(2)(f)(i):

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

214   candidate's name;

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

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

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

218   before another ballot is counted;

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

220   Section 20A-4-105;

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

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

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

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

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

226   persons clearly not eligible to qualify for office.

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

228   space provided on the tally list.

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

230   on the total votes cast form.

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

232   conducted until the count is completed.

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

234   **20A-4-601.   Definitions.**

235   As used in this part:

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

237   (a) two less than the total number of candidates in a given canvassing phase of a

238   multi-candidate race; and

239   (b) .02%.

240   (2) "Multi-candidate race" means a nonpartisan municipal race where:

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

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

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

244   candidates qualify to run for one office.

245   (3) "Participating municipality" means a municipality that is participating in the pilot

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

247   (4) "Pilot project" means the Municipal Alternate Voting Methods Pilot Project created

248   in Section 20A-4-602.

249   (5) "Recount threshold" means the sum of the candidate amplifier and the following:

250   (a) for a canvassing phase in which fewer than 100 valid votes are counted, 0.21%;

251   (b) for a canvassing phase in which at least 100, but fewer than 500, valid votes are

252   counted, 0.19%;

253   (c) for a canvassing phase in which at least 500, but fewer than 1,000, valid votes are

254   counted, 0.17%;

255   (d) for a canvassing phase in which at least 1,000, but fewer than 5,000, valid votes are

256   counted, 0.15%;

257   (e) for a canvassing phase in which at least 5,000, but fewer than 10,000, valid votes

258   are counted, 0.13%; and

259   (f) for a canvassing phase in which 10,000 or more valid votes are counted, 0.11%.

260   (6) "Valid" means that the ballot is marked in a manner that permits the vote to be

261   counted during the applicable ballot-counting phase.

262   (7) "Voting method" means:

263   (a) the candidate elimination voting method described in Sections 20A-4-603 and

264   20A-4-604;

265   (b) the approval voting method described in Section 20A-4-605; or

266   (c) the star voting method described in Section 20A-4-606.

267   Section 5. Section **20A-4-602** is amended to read:

268   **20A-4-602.   Municipal Alternate Voting Methods Pilot Project -- Creation --**

269   **Participation.**

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

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

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

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

274   odd-numbered year that the pilot project is in effect, if, before April 15 of the odd-numbered

275   year, the municipality provides written notice to the lieutenant governor:

276   (i) stating that the municipality intends to participate in the pilot project for the year
277   specified in the notice; [and]
278   (ii) specifying the voting method that the municipality will use; and
279   [(ii)] (iii) that includes a document, signed by the election officer of the municipality,
280   stating that the municipality has the resources and capability necessary to participate in the
281   pilot project.
282   (b) A municipality that provides the notice of intent described in Subsection (3)(a)
283   may:
284   (i) withdraw the notice of intent, and not participate in the pilot project, if the
285   municipality provides written notice of withdrawal to the lieutenant governor before April
286   15[.]; or
287   (ii) change the voting method specified under Subsection (3)(a)(ii) to another voting
288   method, if the municipality provides written notice of the change to the lieutenant governor
289   before April 15.
290   (4) The lieutenant governor shall maintain, in a prominent place on the lieutenant
291   governor's website, a current list of the municipalities that are participating in the pilot project.
292   (5) (a) An election officer of a participating municipality shall, in accordance with the
293   provisions of this part, conduct a multi-candidate race during the municipal general election
294   using the voting method of instant runoff voting most recently specified in accordance with
295   Subsection (3).
296   (b) Except as provided in Subsection 20A-4-603[(9)](10) or 20A-4-605(6), an election
297   officer of a participating municipality that will conduct a multi-candidate race under
298   Subsection (5)(a) may not conduct a municipal primary election relating to that race.
299   (c) A municipality that has in effect an ordinance described in Subsection
300   20A-9-404(3) or (4) may not participate in the pilot project.
301   (6) Except for an election described in Subsection 20A-4-603[(9)](10) or
302   20A-4-605(6), an individual who files a declaration of candidacy or a nomination petition, for a
303   candidate who will run in an election described in this part, shall file the declaration of
304   candidacy or nomination petition during the office hours described in Section 10-3-301 and not
305   later than the close of those office hours, no sooner than the second Tuesday in August and no
306   later than the third Tuesday in August of an odd-numbered year.

307   Section 6. Section **20A-4-603** is amended to read:

308   **20A-4-603. Instant runoff voting -- Candidate elimination voting method.**

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

310   20A-4-602(3), specifies the candidate elimination voting method as the method that the

311   municipality will use.

312   [(1)] (2) In a multi-candidate race, the election officer [for a participating municipality]

313   shall:

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

315   votes for each candidate; and

316   (ii) if, after complying with Subsection [(5)] (6), one of the candidates receives more

317   than 50% of the valid first preference votes counted, declare that candidate elected;

318   (b) if, after counting the valid first preference votes for each candidate, and complying

319   with Subsection [(5)] (6), no candidate receives more than 50% of the valid first preference

320   votes counted, conduct the second ballot-counting phase by:

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

322   (A) the candidate who received the fewest valid first preference votes counted; or

323   (B) in the event of a tie for the fewest valid first preference votes counted, one of the

324   tied candidates, determined by the tied election officer by lot, in accordance with Subsection

325   [(6)] (7);

326   (ii) adding, to the valid first preference votes counted for the remaining candidates, the

327   valid second preference votes cast for the remaining candidates by the voters who cast a valid

328   first preference vote for the excluded candidate; and

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

330   complying with Subsection [(5)] (6), one candidate receives more than 50% of the valid votes

331   counted, declaring that candidate elected; and

332   (c) if, after adding the valid second preference votes in accordance with Subsection

333   [(1)] (2)(b)(ii) and complying with Subsection [(5)] (6), no candidate receives more than 50%

334   of the valid votes counted, conduct subsequent ballot-counting phases by continuing the

335   process described in Subsection [(1)] (2)(b) until a candidate receives more than 50% of the

336   valid votes counted, as follows:

337   (i) after complying with Subsection [(5)] (6), excluding from consideration the

338   candidate who has the fewest valid votes counted or, in the event of a tie for the fewest valid

339   votes counted, excluding one of the tied candidates, by lot, in accordance with Subsection [(6)]

340   (7); and

341   (ii) adding the next valid preference vote cast by each voter whose vote was counted

342   for the last excluded candidate to one of the remaining candidates, in the order of the next

343   preference indicated by the voter.

344   [(2)] (3) The election officer shall declare elected the first candidate who receives more

345   than 50% of the valid votes counted under the process described in Subsection [(1)] (2).

346   [(3)] (4) (a) A vote is valid for a particular phase of a multi-candidate race only if the

347   voter indicates the voter's preference for that phase and all previous phases.

348   (b) A vote is not valid for a particular phase of a multi-candidate race, and for all

349   subsequent phases, if the voter indicates the same rank for more than one candidate for that

350   phase.

351   [(4)] (5) The election officer shall, before declaring a candidate elected, order a recount

352   of the valid votes in the applicable ballot-counting phase if one candidate appears to have

353   received at least 50% of the vote, and the difference between the number of votes counted for

354   the candidate who received the most valid votes for the applicable ballot-counting phase and

355   any other candidate in the race is equal to or less than the product of the following, rounded up

356   to the nearest whole number:

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

358   ballot-counting phase of the race; and

359   (b) the recount threshold.

360   [(5)] (6) Before excluding a candidate from a multi-candidate race under Subsection

361   [(1)] (2), the election officer shall order a recount of the valid votes counted in the applicable

362   ballot-counting phase if the difference between the number of votes counted for the candidate

363   who received the fewest valid votes in the applicable ballot-counting phase of the race and any

364   other candidate in the race is equal to or less than the product of the following, rounded up to

365   the nearest whole number:

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

367   phase; and

368   (b) the recount threshold.

369   [(6)] (7) For each ballot-counting phase after the first phase, if, after a recount is

370   completed under Subsection [(5)] (6), two or more candidates tie as having received the fewest

371   valid votes counted at that point in the ballot count, the election officer shall eliminate one of

372   those candidates from consideration, by lot, in the following manner:

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

374   votes for that ballot-counting phase;

375   (b) cast or draw the lot in the presence of at least two election officials and any

376   counting poll watchers who are present and desire to witness the casting or drawing of the lot;

377   and

378   (c) sign a public document that:

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

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

381   lot.

382   [(7)] (8) In a multi-candidate race for an at-large office, [where the number of

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

384   the office,] the election officer shall count the votes by:

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

386   described in Subsections [(1)] (2) through [(6)] (7), until a candidate is declared elected;

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

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

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

390   the race are filled.

391   [(8)] (9) After a candidate is declared elected under Subsection [(7)] (8), the election

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

393   declare the next candidate elected, add to the vote totals the next valid preference vote of each

394   voter whose vote was counted for a candidate already declared elected.

395   [(9)] (10) An election officer for a participating municipality may choose to conduct a

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

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

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

399   preference votes for a particular ballot-counting phase, the election officer shall proceed to a

400   subsequent ballot-counting stage, and exclude the candidate who receives the fewest valid

401   preference votes in that phase, until twice the number of seats to be filled in the race remain;

402   and

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

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

405   Section 7. Section **20A-4-604** is amended to read:

406   **20A-4-604.   Batch elimination for candidate elimination voting method.**

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

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

409   ballot-counting phase, excluding each candidate:

410   (a) for which the number of remaining candidates with more valid votes than that

411   candidate is greater than or equal to the number of offices to be filled; and

412   (b) (i) for which the number of valid votes counted for the candidate in the phase plus

413   the number of votes counting for all candidates with fewer valid votes in the phase is less than

414   the number of valid votes for the candidate with the next highest amount of valid votes in the

415   phase; or

416   (ii) who has fewer valid votes in the phase than a candidate who is excluded under

417   Subsection (1)(b)(i).

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

419   20A-4-603[(5)](6) do not apply to candidates who are excluded through batch elimination.

420   Section 8. Section **20A-4-605** is enacted to read:

421   **20A-4-605. Instant runoff voting -- Approval voting method.**

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

423   20A-4-602(3), specifies the approval voting method as the method that the municipality will

424   use.

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

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

427   marked as approved; and

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

429   number of approvals.

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

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

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

433   number:

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

435   (b) the recount threshold.

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

437   number of approvals, the election officer shall:

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

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

440   the lot; and

441   (b) sign a public document that:

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

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

444   lot.

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

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

447   marked as approved;

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

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

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

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

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

453   rounded up to the nearest whole number:

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

455   (ii) the recount threshold; and

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

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

458   primary election by using instant runoff voting in the manner described in Subsections (1)

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

460   election officer shall declare the top two candidates nominated to participate in the municipal

461   general election.

462   Section 9. Section **20A-4-606** is enacted to read:

463   **20A-4-606. Instant runoff voting -- Star voting method.**

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

465   20A-4-602(3), specifies the star voting method as the method that the municipality will use.

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

467   (a) for the first ballot-counting phase:

468   (i) determine the sum of the ratings given to each candidate on all valid ballots; and

469   (ii) subject to Subsection (3), exclude from the multi-candidate race all candidates

470   other than the candidates who receive the two highest rating sums; and

471   (b) subject to Subsection (4), for the second ballot-counting phase, of the two

472   candidates described in Subsection (2)(a)(ii), declare elected the candidate who receives a

473   higher rating on the greater number of valid ballots.

474   (3) The election officer shall order a recount of the valid ballots in the first

475   ballot-counting phase, under Subsection (2)(a), if the difference between the rating sum for the

476   candidate who receives the highest rating sum and any other candidate in the race is equal to or

477   less than the product of the following, rounded up to the nearest whole number:

478   (a) the combined rating sum of the two candidates; and

479   (b) the recount threshold.

480   (4) The election officer shall order a recount of the valid votes in the second

481   ballot-counting phase, under Subsection (2)(b), if the difference between the number of ballots

482   on which one candidate receives a higher rating and the number of ballots on which the other

483   candidate receives a higher rating is equal to or less than the product of the following, rounded

484   up to the nearest whole number:

485   (a) the combined rating sum of the two candidates; and

486   (b) the recount threshold.

487   (5) If, after complying with Subsection (2)(a) and Subsection (3), if applicable, a tie

488   occurs for the highest or second-highest rating sum, the tie shall be broken by lot, in

489   accordance with Subsection (7).

490   (6) If, after complying with Subsection (2)(b) and Subsection (4), if applicable, a tie

491   occurs between the two remaining candidates, the tie shall be broken:

492   (a) by declaring elected, out of the two remaining candidates, the candidate who

493   receives the highest rating sum; or

494   (b) if the two candidates receive the same rating sum, by lot, in accordance with

495   Subsection (7).

496   (7) If a tie that is required to be broken by lot under Subsection (5), (6)(b), or (8), the

497   election officer shall:

498   (a) cast or draw the lot in the presence of at least two election officials and any

499   counting poll watchers who are present and desire to witness the casting or drawing of the lot;

500   and

501   (b) sign a public document that:

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

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

504   lot.

505   (8) Subject to Subsection (9), in a multi-candidate race for an at-large office, the

506   election officer shall:

507   (a) for the first ballot-counting phase:

508   (i) determine the sum of the rating given to each candidate on all valid ballots; and

509   (ii) (A) declare the candidate with the highest rating sum elected;

510   (B) if more than one candidate ties with the highest rating sum and the number of tied

511   candidates does not exceed the number of positions to be filled, declare each of the candidates

512   who tied with the highest rating sum elected; or

513   (C) if more than one candidate ties with the highest rating sum and the number of tied

514   candidates exceeds the number of positions to be filled, break the tie by lot in accordance with

515   Subsection (7) and, after breaking the tie so that the number of remaining candidates equals the

516   number of positions to be filled, declaring the remaining candidates elected;

517   (b) if, at the end of the first ballot-counting phase, all positions have not been filled, for

518   the second ballot-counting phase:

519   (i) declare the remaining candidate with the highest rating sum elected;

520   (ii) if more than one remaining candidate ties with the highest rating sum and the

521   number of tied remaining candidates does not exceed the number of remaining positions to be

522   filled, declare each of the remaining candidates who tied with the highest rating sum elected; or

523   (iii) if more than one remaining candidate ties with the highest rating sum and the

524   number of tied remaining candidates exceeds the number of positions to be filled, break the tie

525   by lot in accordance with Subsection (7) and, after breaking the tie so that the number of

526   remaining candidates equals the number of remaining positions to be filled, declare the

527   remaining candidates elected; and

528   (c) conduct subsequent ballot counting phases in accordance with Subsection (8)(b)

529   until all remaining positions are filled.

530   (9) The election officer shall order a recount of the valid ballots in a ballot-counting

531   phase described in Subsection (8) if the difference between the rating sum for the candidate

532   who will be eliminated and the candidate with the next highest rating sum is equal to or less

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

534   (a) the combined rating sum of the two candidates; and

535   (b) the recount threshold.

536   (10) (a) If the voter leaves the space next to a candidate's name blank or enters a

537   number other than zero, one, two, three, four, or five for the candidate, the candidate receives a

538   score of zero for that ballot.

539   (b) A voter is not required to enter a different score for each candidate and may award

540   the same score for more than one candidate.