



ASSURING VOTER CONFIDENCE

An Analysis of Election Irregularities in the
2007 Ogden Mayoral Election

ACLU of Utah

ABOUT THE ACLU OF UTAH

The American Civil Liberties Union (ACLU) is a nationwide, nonpartisan, membership organization dedicated to working in the courts, legislatures, and communities to defend and preserve the individual rights and liberties guaranteed to all people in this country by both the Constitution and the laws of the United States. Founded in 1920, the ACLU now has over 550,000 members (more than 2,500 live in Utah) as well as affiliate or national chapter offices in all fifty states and Puerto Rico.

Chartered in 1958 and located in Salt Lake City, the ACLU of Utah is the Utah affiliate of the national ACLU. Through public education, legal advocacy, litigation, and lobbying at both the state and local levels, the ACLU of Utah seeks to protect the constitutional rights of all Utahns.

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INTRODUCTION

The right to vote is in many ways the most fundamental right that Americans enjoy. Our right to freely choose who governs us, and on what terms, is at the heart of democratic governance. When this right is compromised, so too is our freedom. Thus, the ACLU of Utah remains dedicated to protecting the right of all Utahns to exercise their right to vote.

In November 2007, the ACLU of Utah began receiving complaints from Ogden voters, alleging that their voting rights had been violated in the Ogden city mayoral election. The ACLU of Utah received more than 20 individual complaints, ranging from concerns over electioneering to voter disenfranchisement.

In particular, we received complaints of “signs posted within 50 feet of the polling place” as well as “documents displaying a candidate’s name visible at the poll worker table.” Other complaints alleged that voters felt intimidated when challenged, “apologizing repeatedly and profusely for having made it to the challenged list,” and then ultimately not casting a vote at all. Finally, many voters contacted us because of fears that their provisional ballots would not be counted due to the way in which they were instructed to fill them out.

Based on the number of complaints and the seriousness of the violations alleged, the ACLU of Utah commenced an investigation into the irregularities associated with the Ogden mayoral race. As part of its investigation, the ACLU of Utah:

- Interviewed voters who experienced voting difficulties;
- Met with election officials in Ogden, including Weber County Clerk Alan McEwan;
- Interviewed mayoral candidates Susan Van Hooser and sitting mayor Matthew Godfrey;
- Requested and reviewed documents related to the election; and

- Worked with legislators, election officials and coalition partners to draft legislation aimed at curing many of the voting ills that led to voting irregularities.

This report is the result of several months of investigation. Our findings highlight the ways in which our voting laws are vulnerable to manipulation for the purpose of disenfranchising voters. By bringing attention to these vulnerabilities, we hope public officials and legislators will work with us to strengthen our laws so that every Utahn's vote will count.

SELECTED EXPERIENCES OF VOTERS IN OGDEN'S 2007 MUNICIPAL ELECTION

The ACLU of Utah took complaints from voters related to issues arising on Election Day. Here are some of the experiences voters shared with us. Each of these experiences highlights the fact that many voters in Ogden experienced barriers towards having their votes count.

Certain voters whose eligibility to vote was challenged reported that election officials required a utility bill in their name and a picture ID in order to vote. Voters who instead presented two forms of identification, a current and valid drivers license and a voter registration card, were not allowed to vote, provisionally or otherwise.

Voters reported that campaign signs were posted less than 50 feet from the entrance to the polls at Carl H. Taylor Elementary School.

At the polling place located at the Dee Event Center, voters reported that a poll watcher had documents in her possession that visibly displayed a candidate's name. Voters noted that they had to "step over her in order to get to the judges."

Voters reported that election staff gave pencils to those voters voting provisionally, even when the provisional ballot envelopes clearly indicated that ballots cast in pencil would not be counted.

One voter reported that it took her three trips and seven hours to vote. When finally given a provisional ballot, she was denied the opportunity to sign the voting register and was directed to vote outside of the poll booth in such a way that her vote was clearly visible to the poll worker.

VOTER PROBLEMS

The problems experienced by voters in Ogden in 2007 fall into the following categories:

1: Electioneering/Voter Intimidation

The ACLU of Utah received a number of complaints related to incidents of electioneering. Electioneering refers to “any oral, printed or written attempt to persuade persons to refrain from voting or to vote for or against any candidate or issue” and is punishable as a class A misdemeanor under Utah law.¹ For example, several Ogden voters complained that poll watchers present in polling locations were visibly displaying campaign materials for then-incumbent mayoral candidate Matthew Godfrey. Voters also reported that posters and other election materials, again supporting Mayor Godfrey, were present in polling locations and were visible to voters.

Complaints also alleged that Mayor Godfrey’s family members were present in at least one polling location and greeted voters by name. While not a direct violation of Utah election law², voters stated that the presence of these individuals made them feel uncomfortable.³ Voters indicated that this presence gave the impression that the Mayor and his family were inappropriately involved in the election process itself.

When asked about these incidents, Mayor Godfrey asserted that he did not believe that voters felt they had witnessed electioneering or that these actions may have disconcerted voters.⁴ Nevertheless, the complaints we received evidence that some Ogden voters did in fact feel uncomfortable.

This experience of voter discomfort was set against a background of previous allegations. Prior to the 2007 primary election in Ogden, the press reported numerous incidents of Godfrey supporters removing campaign signs of Godfrey opponents.⁵ There were also reports of Godfrey backers making supposedly intimidating phone calls to individuals and businesses that chose to display signs supporting candidates other than Godfrey. One of Godfrey’s key supporters, Bob Geiger, ultimately accepted a plea bargain after being

charged with trespassing, associated with the removal of signs in support of mayoral candidate Neil Hansen.⁶ While Godfrey disclaims any personal involvement with these incidents, his lack of public condemnation of these tactics leaves him vulnerable to speculation about his involvement in (or at the least, tolerance of) these actions.

Under Utah law, voter intimidation is prohibited and is punishable as a class B misdemeanor.⁷ While the incidents described above may fall short of the technical definition of “voter intimidation,” they seem inconsistent with the values underlying voter protection laws: to ensure that voters feel comfortable casting a ballot for whomever they choose.

2: Voter Challenges

In the weeks leading up to the 2007 election in Ogden, a seemingly high number of voter challenges were submitted to the Weber County Clerk.⁸ Utah law currently provides that voter eligibility may be challenged prior to an election or at the polling location.⁹ A voter may be challenged either orally at the polling location or by written statement, filed with the county clerk no later than two business days before an election.¹⁰ Current Utah law does not require that the challenger provide the basis for challenging a voter, nor does it provide an opportunity for the challenged voter to demonstrate that he or she is entitled to vote.

While the rationale underlying Utah’s challenger statute is to prevent voter fraud, this type of challenge law, when misused, can lead to voter suppression and confusion in polling places. Indeed, this is not the first report of voter challenge abuse in Utah; in recent years, Salt Lake County reported use of Utah’s challenge statute as an attempt to intentionally disenfranchise large numbers of voters associated with a particular political party.¹¹ In other parts of the country, challenge statutes have similarly been abused to disenfranchise whole categories of voters, including many minority groups. Set against the backdrop of voter insecurity following the 2000 presidential election, fears about disenfranchisement are still very real and present in the mind of many voters.

Finally, abuse of challenge procedures leads to additional and unnecessary work for poll workers, distracting them from resolving legitimate voting issues that arise in the course of an election.

Our examination of the voting records from the Weber County Clerk demonstrate that many of the challenges filed prior to the election were based on residency and were without merit.¹² Many of these challenged voters had voted in the same location in previous elections without incident. Others had simply moved down the street, and thus remained in the same voting precinct, but were nonetheless challenged as ineligible to vote.

It is difficult to ascertain from the voting records we examined the exact number of legitimate voters who were inappropriately challenged and as a result lost their right to vote.¹³ It is apparent, however, that voter disenfranchisement did occur. We received reports of challenged voters who did not have the necessary identification at the polling location to satisfy poll workers that they were eligible to vote. Many of these voters may not have had the time to return home and gather this documentation and then return to the polling location. Some voters' response to being challenged was one of embarrassment; these individuals left polling places and refrained from voting altogether. Other challenged voters were given provisional ballots, which were rejected for a variety of technical reasons (see **Provisional Ballot Issues**, below). That even a single legitimate vote was lost due to abuse of Utah's challenge law is cause for great concern and evidences the need for election law reform.

3: Provisional Ballot Issues

In addition to a high number of voter challenges, Weber County experienced a large number of provisional ballots. According to the Weber County Clerk, 1646 provisional ballots were issued during the 2007 election.¹⁴ Of these, 478 were rejected.¹⁵ While 180 of those 478 votes were rejected because the voters were not registered,¹⁶ the remaining 298 votes were not counted due to a host of problems, many avoidable.

For example, several voters documented that they were instructed by poll workers to complete provisional ballots in pencil. The ACLU of Utah

received reports that poll workers provided voters with pencils in order to fill out ballots, even when the ballot itself expressly stated that it must be completed in ink to be counted.¹⁷

The ACLU of Utah received reports that challenged voters were turned away from polls because poll workers claimed they were unable to establish voter identity, even where voters were able to provide a current drivers license and a voter identification card. Utah law provides that in order to cast a vote, voters need only present identification sufficient to establish identity and residency.¹⁸ Even when poll workers are not satisfied that a voter has provided sufficient voter identification, voters are still entitled to fill out a provisional ballot.¹⁹

Voters also reported to the ACLU of Utah that votes were rejected because voters did not sign ballots where required and failed to provide a date of birth, deficiencies which with proper oversight and guidance from poll workers, are generally avoidable. Finally, citing “separation of duties” as the error, Weber County did not count several provisional ballots.²⁰ In following up with the Weber County clerk, we concluded that this refers to some form of poll worker error.

In all, the inescapable conclusion that can be drawn from the experience of many voters forced to vote provisionally is that their votes were at greater risk of not being counted than their counterparts who voted by regular ballot. The ACLU of Utah attempted to meet with Weber County Clerk Alan McEwan immediately following the election to discuss this and other issues. Mr. McEwan was unwilling to meet with us until several weeks later, but we did ultimately address with him our concerns about provisional ballot and the need for proper poll worker training. In our discussions, Mr. McEwan expressed a general willingness to discuss ways to improve the voting process and the experience of voters, provisional and otherwise, in Weber County.

The Ogden 2007 municipal election demonstrates that additional training for poll workers, including comprehensive instruction with regard to provisional ballots, is essential. While many states have varying degrees of statewide involvement in poll worker training, Utah is currently one of only a few states

in which both training materials and training sessions are developed at the local level.²¹ The ACLU of Utah believes that standardization of training for election workers across the state is necessary to reduce disenfranchisement due to poll worker error.

4: Voter Registration Form Issues

Compounding the challenges faced by poll workers due to high numbers of voter challenges was the fact that many voters believed that they were registered to vote when in fact they were not. As mentioned above, 180 voters were issued provisional ballots that were subsequently rejected because the voter was not registered.²² The ACLU of Utah believes that many of these unregistered voters may have been under the mistaken belief that they were in fact registered to vote.

One explanation for the large volume of provisional ballots in Ogden could be a result of voter roll purges. Utah law, in accordance with the provisions mandated by passage of the National Voter Registration Act of 1993, provides that voters may be removed from the voting rolls if a “county clerk has obtained evidence that the voter’s residence has changed, has mailed notice to the voter . . . and received no response from the voter, and the voter has failed to vote or appear to vote in either of the next two regular general elections following the date of the notice.”²³

In addition to mayoral candidates, the 2007 election ballot also featured the hotly contested school voucher referendum, which likely brought more voters to the polls. Many of these voters may not have responded to notice from a county clerk and may not have voted in the past several general elections, but were interested in weighing in on the voucher issue. Having not voted in recent elections, these voters may have been purged from voter rolls.

Additionally, according to reports from the Weber County Clerk and Mayor Godfrey, among others, the campaign to elect Godfrey sought to assist new voters in registering to vote by mail. With apparently no concern for the appearance of impropriety that it might raise, Mayor Godfrey’s campaign altered these voter registration forms so that they would be sent back to the

campaign (at his campaign's expense), instead of directly to the Weber County Clerk.²⁴ The Weber County Clerk and the Utah Lieutenant Governor were concerned that the voter registration forms had been altered by Godfrey's campaign, and thus determined that the forms were unacceptable under Utah law. Although Mayor Godfrey claims his campaign attempted to reregister these would-be voters, he acknowledged that some may not have been reached in time.²⁵

CONCLUSIONS AND RECOMMENDATIONS

Our examination of the Ogden 2007 mayoral election reveals several factors that weakened the integrity of the process. With respect to this election, the letter of the law may not have been abridged, but many voters unquestionably felt that the spirit was violated. This election has demonstrated the importance of maintaining the integrity of the election process, for when voters begin to doubt that the process is executed with integrity, they question the legitimacy of the outcome.

It is essential that election officials and candidates assure that election processes are conducted in a manner that strictly maintains the integrity of the process. In order to win the confidence of their constituents, candidates should avoid any appearance of impropriety, even if their conduct is “technically” in accordance with the law. Without the confidence that their votes are heard, voters will question the results of any election, regardless of which candidate prevails.

In meeting with Mayor Godfrey, he asserted that that neither he nor his campaign was involved in any wrongdoing.²⁶ Mayor Godfrey seemed unconcerned that his actions or those of individuals associated with his campaign created even the appearance of impropriety. Instead, he dismissed most of the complaints we brought to his attention as merely responses from people who bore him a grudge.²⁷ Our review of the complaints reveals a different story. We find that Ogden voters had legitimate concerns that their right to vote was inappropriately compromised and general voting experience was unsatisfactory.

In a time when voters are particularly skeptical of the integrity of the voting process in general, it is incumbent upon political figures to conduct themselves in a manner that is beyond reproach. Otherwise the legitimacy of their political gains will be forever doubted.

Any questionable activity by candidates or their supporters was exacerbated by an inability to assure a smooth election process at the polls. Voters rely on election officials and poll workers to guide them through the process of

voting, and have a legitimate expectation that officials will help and not hinder their ability to vote.

To this end, there are concrete measures which, if put in place, would improve upon the experience of Ogden voters in future elections and would reduce voter disenfranchisement across the state.

The ACLU of Utah initially contemplated legal action in the wake of reports of election irregularities in Ogden. However, under Utah law election contests can be brought only if the election outcome would change. The number of affected voters was not enough to affect the election results, thus legal action was foreclosed.

Instead, the ACLU of Utah focused on legislative efforts to strengthen voter protection. In particular, the ACLU of Utah worked with legislators, the Lieutenant Governor's office, county clerks and coalition partners to research and draft legislation, which sought to rectify two of the major problems experienced by Ogden voters: incomplete provisional ballots and voter eligibility challenges.

The first bill, House Bill 175, was drafted in part by the ACLU and allowed for incomplete provisional ballots to be corrected within 48 hours of being cast.²⁸ The bill also limited the ability for voter challenges to be manipulated by requiring the challenges by non-election officials to be filed well in advance of the election, and by allowing the challenged voter to demonstrate eligibility before Election Day.²⁹ Resolving questions of voter eligibility before an election prevents voter intimidation and reduces unnecessary confusion and effort on the part of poll workers.

The second bill supported by the ACLU of Utah is House Bill 317, "Election Day Registration." If enacted, Utah would join Idaho, Wyoming, Maine, Minnesota, Wisconsin, New Hampshire, Iowa, Montana and North Carolina in allowing voters to register to vote and cast a ballot on Election Day. Election Day Registration would encourage voter participation and would eliminate the need for provisional ballots and the accompanying difficulties associated with their administration. Likewise, Election Day Registration would allow voters who were inaccurately purged from voter rolls, or who were otherwise

under the impression that they were eligible to vote, to re-register and cast a vote on Election Day.

In order to build a coalition in support of these bills, and to get local input from county clerks, election officials and voting rights advocates, the ACLU of Utah arranged for out of state experts to come to Utah. In January 2008, prior to the legislative session, an Idaho election official and a representative from Demos, a non-profit organization based in New York City, flew to Utah to participate in a round table discussion on election day registration and voter challenge laws.

Unfortunately this proposed legislation did not pass during the 2008 legislative session. The ACLU of Utah remains dedicated to seeing these changes implemented in order to protect all Utah voters. We will work with legislators and coalition partners in 2009 to support this legislation.

Poor poll worker training also undoubtedly played a role in the unsatisfactory voter experience in Ogden. The ACLU of Utah believes that standardized and thorough training for election officials is critical to ensuring that the voting experience is free from unnecessary error.

Finally, the ACLU of Utah sees a great need for enhanced election oversight and standardized training for election officials. Former Supreme Court Justice Sandra Day O'Connor articulated the need for oversight of state election schemes stating, "although the State has a legitimate—and indeed critical—role to play in regulating elections, it must be recognized that it is not a wholly independent or neutral arbiter. Rather, the State is itself controlled by the political party or parties in power, which presumably have an incentive to shape the rules of the electoral game to their own benefit."³⁰

The ACLU of Utah calls for the creation of a truly independent election oversight body to develop election standards and monitor their implementation. We also encourage civic groups to participate in this process in order to assure transparency and voter confidence.

ENDNOTES

¹ Utah Code §§ 20A-3-501(1) and (2)(a)(i) “A person may not, within a polling place or in any public area within 150 feet of the building where a polling place is located: (i) do any electioneering.”

² Utah law only prohibits family members of candidates from acting as poll workers or election judges, but not from serving as poll watchers. See Utah Code Ann. §§ 20A-3-201 and 20A-5-602(2).

³ Complaints received by the ACLU of Utah.

⁴ Interview with Mayor Godfrey on February 25, 2008.

⁵ Kristen Moulton, *Ogden mayoral candidate wants campaign sign switcher prosecuted*, S.L. Tribune, August 30, 2007; Kristen Moulton, *Prosecutor chips in to pay fine in Ogden sign tampering incident*, S.L. Tribune, February 28, 2008.

⁶ *Id.*

⁷ Utah Code Ann. § 20 A-3-502(1)(a): It is unlawful for any person, directly or indirectly, by himself or by any other person on his behalf, to make use of any force, violence or restraint, or to inflict or threaten the infliction of, by himself or through any other person, any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person in order to induce or compel that person to: (i) vote or refrain from voting for any particular person or measure at any election provided by law; or (ii) vote or refrain from voting at any election.

⁸ A GRAMA (Utah Government Records Access and Management Act) request submitted by the ACLU of Utah to the Weber County Clerk revealed that two supporters of Mayor Godfrey challenged the eligibility of 146 Ogden voters prior to the election.

⁹ Utah Code Ann. § 20A-3-202.

¹⁰ *Id.*

¹¹ Interview with Sherri Swenson regarding incident in 2004 in which a Republican running against Utah House member Carol Spackman Moss challenged more than 1000 voters, all of whom were Democrats.

¹² Review of the Weber County Clerk Provisional Ballot List and the list of challenged voters submitted to the Weber County Clerk (obtained pursuant to GRAMA) demonstrate that many of the voter challenges were meritless.

¹³ Weber County Clerk Provisional Ballot List, obtained pursuant to GRAMA. Unfortunately, it is difficult to ascertain with any degree of certainty the number of voters who were unable to cast a vote because they were inappropriately challenged, as not all challenged voters attempted to vote, provisionally or otherwise.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Weber County records indicate that these 180 votes were rejected because they were cast by people who were not registered to vote.

¹⁷ Complaints received by the ACLU of Utah.

¹⁸ Utah Code Ann. § 20A-3-101.

¹⁹ Utah Code Ann. § 20A-3-105.5.

²⁰ Weber County Clerk Provisional Ballot List, obtained pursuant to GRAMA indicates that at least two votes were rejected because of “separation of duties.”

²¹ Electiononline.org Briefing: Helping Americans Vote: Poll Workers, September 2007, at pp. 4, 25, available at http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Election_reform/ERIPBrief19_final.pdf

²² *See infra*, note 8.

²³ Utah Code Ann. § 20A-2-305.

²⁴ Voter registration forms, obtained pursuant to GRAMA.

²⁵ Interview with Mayor Godfrey on February 25, 2008.

²⁶ *Id.*

²⁷ *Id.*

²⁸ House Bill 175, Election Law Reforms, available at <http://le.utah.gov/~2008/htmdoc/hbillhtm/hb0175.htm>

²⁹ *Id.*

³⁰ *Clingman v. Beaver*, 544 U.S. 581, 603 (2005).

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ELECTION LAW REFORMS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Election Code relating to the procedures for conducting an election.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires the Department of Health's Office of Vital Records and Statistics to provide the county clerk with a monthly list of those county residents that have died in order to assist the county clerk with removing invalid names from the voter registration list;
- ▶ requires that voters who vote by provisional ballot be given notice that they may provide additional identity information to the election officer within two business days;
- ▶ requires each election watcher to wear an identification badge;
- ▶ defines permitted conduct for persons serving as election watchers;
- ▶ permits an election official to have a watcher removed from the premises if a watcher interferes with the voting process or violates a provision of the Election Code and fails to respond to a warning from the election official;
- ▶ provides the grounds upon which a person's right to vote in an election may be challenged during or before an election;



- 28 ▶ requires that written challenges to a person's right to vote in an election must be
- 29 filed in advance of the election and provides procedures for filing and resolving the
- 30 challenges before the date of the election;
- 31 ▶ requires the election officer to notify each person whose right to vote in the election
- 32 has been challenged in writing and permits the person who has been challenged to
- 33 provide information in response to the challenge;
- 34 ▶ requires that written challenges be submitted under oath and be subject to criminal
- 35 penalties for false statements;
- 36 ▶ provides that an election officer's determination regarding a challenge to a person's
- 37 right to vote is subject to judicial appeal;
- 38 ▶ requires all documents filed in relation to a written challenge to be public records;
- 39 ▶ clarifies language relating to challenges to a person's right to vote at the polling
- 40 place;
- 41 ▶ clarifies that absentee ballots must comply with delivery requirements in order to be
- 42 valid;
- 43 ▶ requires election returns to be delivered to the county seat within 12 hours after the
- 44 polls close;
- 45 ▶ requires certain election materials to be retained for a minimum of 24 months,
- 46 rather than a minimum of 22 months;
- 47 ▶ requires each voting booth to have a shield, curtain, or other enclosure that
- 48 preserves the voter's privacy;
- 49 ▶ requires poll workers to wear identification badges; and
- 50 ▶ makes technical changes.

51 **Monies Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 None

55 **Utah Code Sections Affected:**

56 **AMENDS:**

57 **20A-1-102**, as last amended by Laws of Utah 2007, Chapters 75, 256, 285, and 329

58 **20A-2-305**, as last amended by Laws of Utah 1997, Chapter 183

- 59 **20A-3-105.5**, as last amended by Laws of Utah 2007, Chapter 75
- 60 **20A-3-201**, as last amended by Laws of Utah 2006, Chapter 326
- 61 **20A-3-306**, as last amended by Laws of Utah 1997, Chapter 24
- 62 **20A-3-408.5**, as enacted by Laws of Utah 2006, Chapter 273
- 63 **20A-4-107**, as last amended by Laws of Utah 2007, Chapters 75 and 285
- 64 **20A-4-201**, as last amended by Laws of Utah 2006, Chapter 326
- 65 **20A-4-202**, as last amended by Laws of Utah 2007, Chapters 75 and 97
- 66 **20A-5-403**, as last amended by Laws of Utah 2007, Chapter 329
- 67 **20A-5-605**, as last amended by Laws of Utah 2007, Chapter 75

68 ENACTS:

- 69 **20A-3-202.3**, Utah Code Annotated 1953
- 70 **20A-3-202.5**, Utah Code Annotated 1953

71 REPEALS AND REENACTS:

- 72 **20A-3-202**, as last amended by Laws of Utah 2007, Chapter 75



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

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

76 **20A-1-102. Definitions.**

77 As used in this title:

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

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

82 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon
83 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and
84 secrecy envelopes.

85 (4) "Ballot sheet":

86 (a) means a ballot that:

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

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

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

90 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that
91 contain the names of offices and candidates and statements of ballot propositions to be voted
92 on and which are used in conjunction with ballot sheets that do not display that information.

93 (6) "Ballot proposition" means opinion questions specifically authorized by the
94 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions
95 that are submitted to the voters for their approval or rejection.

96 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
97 20A-4-306 to canvass election returns.

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

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

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

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

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

108 (13) "Convention" means the political party convention at which party officers and
109 delegates are selected.

110 (14) "Counting center" means one or more locations selected by the election officer in
111 charge of the election for the automatic counting of ballots.

112 (15) "Counting judge" means a poll worker designated to count the ballots during
113 election day.

114 (16) "Counting poll watcher" means a person selected as provided in Section
115 20A-3-201 to witness the counting of ballots.

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

119 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

120 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

121 (20) "County officers" means those county officers that are required by law to be
122 elected.

123 (21) "Election" means a regular general election, a municipal general election, a
124 statewide special election, a local special election, a regular primary election, a municipal
125 primary election, and a local district election.

126 (22) "Election Assistance Commission" means the commission established by Public
127 Law 107-252, the Help America Vote Act of 2002.

128 (23) "Election cycle" means the period beginning on the first day persons are eligible to
129 file declarations of candidacy and ending when the canvass is completed.

130 (24) "Election judge" means a poll worker that is assigned to:

- 131 (a) preside over other poll workers at a polling place;
- 132 (b) act as the presiding election judge; or
- 133 (c) serve as a canvassing judge, counting judge, or receiving judge.

134 (25) "Election officer" means:

- 135 (a) the lieutenant governor, for all statewide ballots;
- 136 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
137 as provided in Section 20A-5-400.5;
- 138 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
139 provided in Section 20A-5-400.5;
- 140 (d) the local district clerk or chief executive officer for certain ballots and elections as
141 provided in Section 20A-5-400.5; and
- 142 (e) the business administrator or superintendent of a school district for certain ballots
143 or elections as provided in Section 20A-5-400.5.

144 (26) "Election official" means any election officer, election judge, or poll worker.

145 (27) "Election results" means, for bond elections, the count of those votes cast for and
146 against the bond proposition plus any or all of the election returns that the board of canvassers
147 may request.

148 (28) "Election returns" includes the pollbook, all affidavits of registration, the military
149 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
150 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
151 spoiled ballots, the ballot disposition form, and the total votes cast form.

152 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
153 device or other voting device that records and stores ballot information by electronic means.

154 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.

155 (b) "Electronic voting device" includes a direct recording electronic voting device.

156 (31) "Inactive voter" means a registered voter who has been sent the notice required by
157 Section 20A-2-306 and who has failed to respond to that notice.

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

160 (33) "Judicial office" means the office filled by any judicial officer.

161 (34) "Judicial officer" means any justice or judge of a court of record or any county
162 court judge.

163 (35) "Local district" means a local government entity under Title 17B, Limited Purpose
164 Local Government Entities - Local Districts, and includes a special service district under Title
165 17A, Chapter 2, Part 13, Utah Special Service District Act.

166 (36) "Local district officers" means those local district officers that are required by law
167 to be elected.

168 (37) "Local election" means a regular municipal election, a local special election, a
169 local district election, and a bond election.

170 (38) "Local political subdivision" means a county, a municipality, a local district, or a
171 local school district.

172 (39) "Local special election" means a special election called by the governing body of a
173 local political subdivision in which all registered voters of the local political subdivision may
174 vote.

175 (40) "Municipal executive" means:

176 (a) the city council or town council in the traditional management arrangement
177 established by Title 10, Chapter 3, Part 1, Governing Body;

178 (b) the mayor in the council-mayor optional form of government defined in Section
179 10-3-101; and

180 (c) the manager in the council-manager optional form of government defined in
181 Section 10-3-101.

182 (41) "Municipal general election" means the election held in municipalities and local

183 districts on the first Tuesday after the first Monday in November of each odd-numbered year
184 for the purposes established in Section 20A-1-202.

185 (42) "Municipal legislative body" means:

186 (a) the city council or town council in the traditional management arrangement

187 established by Title 10, Chapter 3, Part 1, Governing Body;

188 (b) the municipal council in the council-mayor optional form of government defined in

189 Section 10-3-101; and

190 (c) the municipal council in the council-manager optional form of government defined

191 in Section 10-3-101.

192 (43) "Municipal officers" means those municipal officers that are required by law to be
193 elected.

194 (44) "Municipal primary election" means an election held to nominate candidates for
195 municipal office.

196 (45) "Official ballot" means the ballots distributed by the election officer to the poll
197 workers to be given to voters to record their votes.

198 (46) "Official endorsement" means:

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

200 (i) the ballot as an official ballot;

201 (ii) the date of the election; and

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

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

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

205 (ii) the ballot number.

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

208 (48) "Paper ballot" means a paper that contains:

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

211 (b) spaces for the voter to record his vote for each office and for or against each ballot
212 proposition.

213 (49) "Political party" means an organization of registered voters that has qualified to

214 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party
215 Formation and Procedures.

216 (50) (a) "Poll worker" means a person assigned by an election official to assist with an
217 election, voting, or counting votes.

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

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

220 (51) "Pollbook" means a record of the names of voters in the order that they appear to
221 cast votes.

222 (52) "Polling place" means the building where voting is conducted.

223 (53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
224 in which the voter marks his choice.

225 (54) "Provisional ballot" means a ballot voted provisionally by a person:

226 (a) whose name is not listed on the official register at the polling place;

227 (b) whose legal right to vote is challenged as provided in this title; or

228 (c) whose identity was not sufficiently established by a poll worker.

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

232 (56) "Primary convention" means the political party conventions at which nominees for
233 the regular primary election are selected.

234 (57) "Protective counter" means a separate counter, which cannot be reset, that is built
235 into a voting machine and records the total number of movements of the operating lever.

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

238 (59) "Receiving judge" means the poll worker that checks the voter's name in the
239 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
240 after the voter has voted.

241 (60) "Registration form" means a book voter registration form and a by-mail voter
242 registration form.

243 (61) "Regular ballot" means a ballot that is not a provisional ballot.

244 (62) "Regular general election" means the election held throughout the state on the first

245 Tuesday after the first Monday in November of each even-numbered year for the purposes
246 established in Section 20A-1-201.

247 (63) "Regular primary election" means the election on the fourth Tuesday of June of
248 each even-numbered year, at which candidates of political parties and nonpolitical groups are
249 voted for nomination.

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

251 (65) "Sample ballot" means a mock ballot similar in form to the official ballot printed
252 and distributed as provided in Section 20A-5-405.

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

255 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into
256 which the voter places the ballot after he has voted it in order to preserve the secrecy of the
257 voter's vote.

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

259 (69) "Spoiled ballot" means each ballot that:

260 (a) is spoiled by the voter;

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

262 (c) lacks the official endorsement.

263 (70) "Statewide special election" means a special election called by the governor or the
264 Legislature in which all registered voters in Utah may vote.

265 (71) "Stub" means the detachable part of each ballot.

266 (72) "Substitute ballots" means replacement ballots provided by an election officer to
267 the poll workers when the official ballots are lost or stolen.

268 (73) "Ticket" means each list of candidates for each political party or for each group of
269 petitioners.

270 (74) "Transfer case" means the sealed box used to transport voted ballots to the
271 counting center.

272 (75) "Vacancy" means the absence of a person to serve in any position created by
273 statute, whether that absence occurs because of death, disability, disqualification, resignation,
274 or other cause.

275 (76) "Valid voter identification" means:

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

- 278 (i) a currently valid Utah driver license;
- 279 (ii) a currently valid identification card that is issued by:
 - 280 (A) the state;
 - 281 (B) a local government within the state; or
 - 282 (C) a branch, department, or agency of the United States;
- 283 (iii) an identification card that is issued by an employer for an employee;
- 284 (iv) a currently valid identification card that is issued by a college, university, technical
285 school, or professional school that is located within the state;
- 286 (v) a currently valid Utah permit to carry a concealed weapon;
- 287 (vi) a currently valid United States passport; or
- 288 (vii) a valid tribal identification card; or

289 (b) two forms of identification that bear the name of the voter and provide evidence
290 that the voter resides in the voting precinct, which may include:

- 291 (i) a voter identification card;
- 292 (ii) a current utility bill or a legible copy thereof;
- 293 (iii) a bank or other financial account statement, or a legible copy thereof;
- 294 (iv) a certified birth certificate;
- 295 (v) a valid Social Security card;
- 296 (vi) a check issued by the state or the federal government or a legible copy thereof;
- 297 (vii) a paycheck from the voter's employer, or a legible copy thereof;
- 298 (viii) a currently valid Utah hunting or fishing license;
- 299 (ix) a currently valid United States military identification card;
- 300 (x) certified naturalization documentation;
- 301 (xi) a currently valid license issued by an authorized agency of the United States;
- 302 (xii) a certified copy of court records showing the voter's adoption or name change;
- 303 (xiii) a Bureau of Indian Affairs card;
- 304 (xiv) a tribal treaty card;
- 305 (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
- 306 (xvi) a form of identification listed in Subsection (76)(a) that does not contain a

307 photograph, but establishes the name of the voter and provides evidence that the voter resides
308 in the voting precinct.

309 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in
310 candidate by following the procedures and requirements of this title.

311 (78) "Voter" means a person who meets the requirements for voting in an election,
312 meets the requirements of election registration, is registered to vote, and is listed in the official
313 register book.

314 (79) "Voter registration deadline" means the registration deadline provided in Section
315 20A-2-102.5.

316 (80) "Voting area" means the area within six feet of the voting booths, voting
317 machines, and ballot box.

318 (81) "Voting booth" means:

319 (a) the space or compartment within a polling place that is provided for the preparation
320 of ballots, including the voting machine enclosure or curtain; or

321 (b) a voting device that is free standing.

322 (82) "Voting device" means:

323 (a) an apparatus in which ballot sheets are used in connection with a punch device for
324 piercing the ballots by the voter;

325 (b) a device for marking the ballots with ink or another substance;

326 (c) an electronic voting device or other device used to make selections and cast a ballot
327 electronically, or any component thereof;

328 (d) an automated voting system under Section 20A-5-302; or

329 (e) any other method for recording votes on ballots so that the ballot may be tabulated
330 by means of automatic tabulating equipment.

331 (83) "Voting machine" means a machine designed for the sole purpose of recording
332 and tabulating votes cast by voters at an election.

333 (84) "Voting poll watcher" means a person appointed as provided in this title to
334 witness the distribution of ballots and the voting process.

335 (85) "Voting precinct" means the smallest voting unit established as provided by law
336 within which qualified voters vote at one polling place.

337 (86) "Watcher" means a person appointed or designated under Section 20A-3-201 to

338 observe one or more aspects of an election and includes a party poll watcher, an issue poll
339 watcher, a candidate poll watcher, a voting poll watcher, a counting poll watcher, an inspecting
340 poll watcher, and a testing watcher.

341 (87) "Western States Presidential Primary" means the election established in Title 20A,
342 Chapter 9, Part 8.

343 (88) "Write-in ballot" means a ballot containing any write-in votes.

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

346 Section 2. Section **20A-2-305** is amended to read:

347 **20A-2-305. Removing names from the official register -- General requirements.**

348 (1) The county clerk may not remove a voter's name from the official register because
349 the voter has failed to vote in an election.

350 (2) The county clerk may remove a voter's name from the official register only when:

351 (a) the voter dies and the requirements of Subsection (3) are met;

352 (b) the county clerk, after complying with the requirements of Section 20A-2-306,
353 receives written confirmation from the voter that the voter no longer resides within the county
354 clerk's county;

355 (c) the county clerk has obtained evidence that the voter's residence has changed, has
356 mailed notice to the voter as required by Section 20A-2-306 and received no response from the
357 voter, and the voter has failed to vote or appear to vote in either of the next two regular general
358 elections following the date of the notice;

359 (d) the voter requests, in writing, that his name be removed from the official register;

360 or

361 (e) the county clerk receives a returned voter identification card, determines that there
362 was no clerical error causing the card to be returned, and has no further information to contact
363 the voter.

364 (3) (a) The county clerk may remove a voter's name from the registration list upon the
365 [annual] receipt of a listing of [all] deceased residents from the Department of Health's
366 [Bureau] Office of Vital Records and Statistics.

367 (b) In order to assist the county clerk in identifying names that should be removed from
368 the voter registration list, the Department of Health's Office of Vital Records and Statistics

369 shall, on a monthly basis, provide each county clerk with a listing of all county residents that
370 have died since the previous list was provided.

371 Section 3. Section **20A-3-105.5** is amended to read:

372 **20A-3-105.5. Manner of voting -- Provisional ballot.**

373 (1) The poll workers shall follow the procedures and requirements of this section
374 when:

- 375 (a) the person's right to vote is challenged as provided in Section 20A-3-202;
376 (b) the person's name is not found on the official register; or
377 (c) the poll worker is not satisfied that the voter has provided valid voter identification.

378 (2) When faced with one of the circumstances outlined in Subsection (1)(a) or (1)(b),
379 the poll worker shall:

380 (a) request that the person provide valid voter identification; and

381 (b) review the identification provided by the person.

382 (3) If the poll worker is satisfied that the person has provided valid voter identification
383 that establishes the person's identity and residence in the voting precinct:

384 (a) the poll worker in charge of the official register shall:

385 (i) record in the official register the type of identification that established the person's
386 identity and place of residence;

387 (ii) write the provisional ballot envelope number opposite the name of the voter in the
388 official register; and

389 (iii) direct the voter to sign his name in the election column in the official register;

390 (b) another poll worker shall list the ballot number and voter's name in the pollbook;

391 and

392 (c) the poll worker having charge of the ballots shall:

393 (i) endorse his initials on the stub;

394 (ii) check the name of the voter on the pollbook list with the number of the stub;

395 (iii) give the voter a ballot and a provisional ballot envelope; and

396 (iv) allow the voter to enter the voting booth.

397 (4) If the poll worker is not satisfied that the voter has provided valid voter

398 identification that establishes the person's identity and residence in the voting precinct:

399 (a) the poll worker in charge of the official register shall:

400 (i) record in the official register that the voter did not provide valid voter identification;

401 (ii) record in the official register the type of identification that was provided by the

402 voter, if any;

403 (iii) write the provisional ballot envelope number opposite the name of the voter in the

404 official register; and

405 (iv) direct the voter to sign his name in the election column in the official register;

406 (b) another poll worker shall list the ballot number and voter's name in the pollbook;

407 and

408 (c) the poll worker having charge of the ballots shall:

409 (i) endorse his initials on the stub;

410 (ii) check the name of the voter on the pollbook list with the number of the stub;

411 (iii) give the voter a ballot and a provisional ballot envelope; and

412 (iv) allow the voter to enter the voting booth.

413 (5) Whenever the election officer is required to furnish more than one kind of official

414 ballot to a voting precinct, the poll workers of that voting precinct shall give the registered

415 voter the kind of ballot that the voter is qualified to vote.

416 (6) A poll worker shall provide each voter who votes a provisional ballot under the
417 requirements of this section with written notice that provides:

418 (a) notice that the voter may provide additional information or identification to the
419 election officer that will be used in determining the voter's eligibility to vote at the time the
420 provisional ballots are counted;

421 (b) a listing of the address and phone number for each location where the additional
422 information or identification may be provided, which location shall, at a minimum, include the
423 office of the election officer;

424 (c) notice that any additional information or identification must be provided to the
425 election officer within two business days after the date of the election;

426 (d) a listing of the types of identification that are acceptable under the requirements of
427 this title; and

428 (e) notice that the voter may determine if the voter's vote was counted according to the
429 procedures in Section 20A-6-105.5.

430 Section 4. Section **20A-3-201** is amended to read:

431 **20A-3-201. Watchers -- Appointment -- Requirements -- Restrictions -- Criminal**
432 **penalties.**

433 (1) (a) (i) For each regular general election or statewide special election, and for each
434 regular primary and Western States Presidential Primary, each registered political party and any
435 person interested in a ballot proposition appearing on the ballot may appoint one person to act
436 as a voting poll watcher to observe the casting of ballots, another person to act as a counting
437 poll watcher to observe the counting of ballots, and another person to act as an inspecting poll
438 watcher to inspect the condition and observe the securing of ballot packages.

439 (ii) Each party poll watcher shall be designated, and his selection made known to the
440 poll workers, by an affidavit made by the county chair of each of the parties.

441 (iii) Each issue poll watcher shall be designated, and his selection made known to the
442 poll workers, by an affidavit made by the individual appointing him.

443 (b) (i) For each municipal general election, municipal primary, local special election, or
444 bond election that uses paper ballots, each candidate and any person interested in an issue
445 appearing on the ballot may appoint one person to act as a voting poll watcher to observe the
446 casting of ballots, another person to act as a counting poll watcher to observe the counting of
447 ballots, and another person to act as an inspecting poll watcher to inspect the condition and
448 observe the securing of ballot packages.

449 (ii) For each municipal general election, municipal primary, local special election, or
450 bond election that uses ballot sheets, each candidate and any person interested in an issue
451 appearing on the ballot may appoint one person to act as a voting poll watcher to observe the
452 casting of ballots, another person to act as a counting poll watcher to observe the counting of
453 ballots, and another person to act as an inspecting poll watcher to inspect the condition and
454 observe the securing of ballot packages.

455 (iii) Each candidate poll watcher shall be designated, and his selection made known to
456 the poll workers, by an affidavit made by the candidate appointing him.

457 (iv) Each issue poll watcher shall be designated, and his selection made known to the
458 poll workers, by an affidavit made by the individual appointing him.

459 (2) If an appointed poll watcher is temporarily absent for meals, or is sick or otherwise
460 absent, that poll watcher may substitute some other watcher of similar political beliefs by
461 informing the poll workers of the substitution by affidavit.

462 (3) (a) The election officer shall provide each watcher with a badge that displays:
463 (i) the words "Official Election Watcher";
464 (ii) the name of the watcher;
465 (iii) the name and date of the election at which the watcher is serving; and
466 (iv) the voting precinct or jurisdiction at which the watcher is serving.
467 (b) Each watcher shall wear the badge in plain sight at all times while serving as a
468 watcher.

469 ~~[(3)]~~ (4) (a) [Voting] A voting poll [watchers] watcher may watch and observe the
470 voting process, and may make a written memorandum[; but they].

471 (b) A voting poll watcher may not interfere in any way with the process of voting
472 [except to challenge a voter as provided in this part.], which interference includes:

473 (i) talking to voters, except for the purpose of stating a challenge to the voter's
474 eligibility to vote as provided under Section 20A-3-202.5;
475 (ii) using a photographic or other electronic monitoring or recording device;
476 (iii) using a telephone or other communication device at the polling location; or
477 (iv) participating in any form of electioneering.

478 ~~[(4)]~~ (5) [The] A counting poll watcher shall remain in the counting room, except in
479 the case of necessity, until the close of the polls [and may not divulge the progress of the count
480 until the count is completed].

481 ~~[(5)]~~ (6) (a) [It is unlawful for a] Until the count is complete, a counting poll watcher
482 [to] may not communicate in any manner, directly or indirectly, by word or sign[;]:

483 (i) the progress of the count[;];
484 (ii) the result so far[;]; or
485 (iii) any other information about the count.

486 (b) Any person who violates this Subsection (6) is guilty of a third degree felony.

487 ~~[(6)]~~ (7) The inspecting poll watcher may be present in the office of the clerk or
488 recorder to whom ballots are delivered after elections to:

489 (a) inspect the condition of the packages containing the ballots upon their arrival; and
490 (b) observe the placement of these packages in a safe and secure place.

491 ~~[(7)]~~ (8) (a) Prior to each election in which a ballot sheet or electronic ballot is used,
492 any interested person may act as a testing watcher to observe a demonstration of logic and

493 accuracy testing of the voting devices prior to the commencement of voting.

494 (b) The election officer shall give prior notice of the logic and accuracy testing
495 demonstration at least two days prior to the date of the demonstration by publishing notice of
496 the date, time, and location of the demonstration in at least one newspaper of general
497 circulation in the jurisdiction holding the election.

498 (c) An election official shall provide, upon request, a copy of testing results to a testing
499 watcher.

500 (9) An election official may remove from the premises any watcher who interferes with
501 the conduct of the election or violates any provision of this title if the watcher persists in the
502 prohibited conduct after receiving a warning from the election official.

503 Section 5. Section 20A-3-202 is repealed and reenacted to read:

504 **20A-3-202. Challenges to a voter's eligibility -- Grounds for challenge --**

505 **Procedures.**

506 (1) A person's right to vote may be challenged on any of the following grounds:

507 (a) the voter is not the person whose name appears in the official register and under
508 which name the right to vote is claimed;

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

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

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

513 (e) the voter does not live in the voting precinct;

514 (f) the voter does not live within the geographic boundaries of the entity holding the
515 election;

516 (g) the voter's principal place of residence is not in the voting precinct;

517 (h) the voter's principal place of residence is not in the geographic boundaries of the
518 election area;

519 (i) the voter has already voted in the election;

520 (j) the voter is not at least 18 years of age;

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

523 (l) in a regular primary election or in the Western States Presidential Primary, the voter

524 does not meet the political party affiliation requirements for the ballot the voter seeks to vote.

525 (2) A person who challenges a person's eligibility to vote at an election shall do so

526 according to the procedures and requirements of:

527 (a) Section 20A-3-202.3, for challenges issued in writing before the date of an election;

528 or

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

530 Section 6. Section **20A-3-202.3** is enacted to read:

531 **20A-3-202.3. Challenges to a voter's eligibility in writing -- Procedure -- Form of**

532 **challenge.**

533 (1) (a) A person may challenge the right to vote of any person whose name appears on

534 the official register by filing with the election officer, during regular business hours and not

535 later than 30 days before the date that early voting commences, a written statement that:

536 (i) lists the name and address of the person filing the challenge;

537 (ii) for each voter who is challenged:

538 (A) identifies the name of the challenged voter;

539 (B) lists the last known address or telephone number of the challenged voter;

540 (C) provides the basis for the challenge, as provided under Section 20A-3-202; and

541 (D) provides facts and circumstances supporting the factual basis provided; and

542 (iii) includes a signed affidavit, subject to penalties of perjury, swearing that, to the

543 filer's personal knowledge and belief, having exercised due diligence to personally verify the

544 evidence presented, each challenged voter either is not qualified to vote or does not reside at

545 the address listed on the challenged voter's registration record.

546 (b) The challenge may not be based on unsupported allegations or allegations by

547 anonymous third parties.

548 (c) The election officer may provide a form for challenges filed under this section,

549 provided that the form meets the requirements of this section.

550 (2) (a) If the challenge is not in the proper form or the factual basis for the challenge

551 does not meet the standards for a challenge as provided in this section, the election officer may

552 dismiss the challenge and notify the filer of the reasons for the dismissal in writing.

553 (b) A challenge is not in the proper form if it is incomplete on its face.

554 (3) Upon receipt of a challenge that meets the requirements for filing under this

555 section, the election officer shall, within 72 hours of receipt of the challenge:

556 (a) publish a copy of the challenge and the affidavit on the election officer's web site;

557 and

558 (b) attempt to notify each challenged voter:

559 (i) that a challenge has been filed against the challenged voter;

560 (ii) of the bases for the challenge, which may include providing a copy of the challenge

561 and affidavit to the challenged voter; and

562 (iii) that the challenged voter may submit information, a sworn statement, or other

563 evidence supporting the challenged voter's right to vote in the election to the election officer no

564 later than 15 days before the date that early voting commences.

565 (4) (a) Prior to the date that voting commences, the election officer shall determine

566 whether each challenged voter is eligible to vote.

567 (b) (i) The filer of the challenge has the burden to prove, by clear and convincing

568 evidence, that the basis for challenging the voter's right to vote is valid.

569 (ii) The election officer shall resolve the challenge based on the available facts and

570 information submitted, which may include voter registration records and other documents or

571 information available to the election officer.

572 (5) A person who files a challenge under the requirements of this section is subject to

573 criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and

574 any other applicable criminal provision.

575 (6) A decision of the election officer regarding a person's eligibility to vote or

576 regarding the issuance of an administrative fine may be appealed to the district court having

577 jurisdiction over the location where the challenge was filed.

578 (7) A challenged voter may register to vote or change the location of the voter's voter

579 registration, if otherwise entitled to do so under the law.

580 (8) All documents pertaining to a voter challenge are public records.

581 Section 7. Section **20A-3-202.5** is enacted to read:

582 **20A-3-202.5. Challenges to a voter's eligibility at time of voting -- Procedure.**

583 (1) When any voter applies for a ballot or when a voter offers a ballot for deposit in the

584 ballot box, a poll worker or any other person may challenge the voter's right to vote in that

585 voting precinct or in that election by orally stating the challenged voter's name and the grounds

586 for the challenge, as provided under Section 20A-3-202.

587 (2) The poll worker shall record any challenge in the official register and on the
588 challenge sheets in the pollbook, including:

589 (a) the name of the challenged voter;

590 (b) the name of the person making the challenge; and

591 (c) the grounds asserted for the challenge.

592 (3) If a voter's right to vote is challenged under this section, the poll worker shall
593 follow the procedures and requirements of Section 20A-3-105.5.

594 Section 8. Section **20A-3-306** is amended to read:

595 **20A-3-306. Voting ballot -- Returning ballot.**

596 (1) (a) To vote a mail-in absentee ballot, the absentee voter shall:

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

598 (ii) mark his votes on the absentee ballot;

599 (iii) place the voted absentee ballot in the envelope;

600 (iv) securely seal the envelope; and

601 (v) attach postage and deposit the envelope in the mail or deliver it in person to the
602 election officer from whom the ballot was obtained.

603 (b) To vote an absentee ballot in the office of the election officer, the absent voter
604 shall:

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

606 (ii) mark his votes on the absent-voter ballot;

607 (iii) place the voted absent-voter ballot in the envelope;

608 (iv) securely seal the envelope; and

609 (v) give the ballot and envelope to the election officer.

610 (2) An absentee ballot is not valid unless it is:

611 (a) voted according to the requirements of this section; and

612 ~~[(a)]~~ (b) (i) received at the office of the appropriate election officer before the closing
613 of polls on election day; or

614 ~~[(b)]~~ (ii) clearly postmarked before election day and received in the office of the
615 election officer before noon on the day of the official canvass following the election.

616 Section 9. Section **20A-3-408.5** is amended to read:

617 **20A-3-408.5. Electronic registration and voting by military and overseas citizen**
618 **voters in a hostile fire zone -- Procedures for accepting and processing a federal postcard**
619 **application form -- Returned ballot.**

620 (1) A military voter, an overseas citizen voter, or other voter covered under the federal
621 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) shall be allowed to
622 transmit their federal postcard application form electronically to the county clerk in their
623 county of residence if the voter is currently deployed in:

624 (a) a hostile fire zone; or

625 (b) other area where the mail service is unreliable and not sufficient to accommodate
626 timely mail service.

627 (2) A voter covered under Subsection (1), shall file the federal postcard application
628 form no later than 20 days before the day of the election in accordance with Subsection
629 20A-3-304(3)(a)(ii).

630 (3) Upon receiving a federal postcard application form under this section a county clerk
631 shall review the federal postcard application form to verify:

632 (a) compliance with this section; and

633 (b) that the form has been properly completed and signed.

634 (4) Upon a determination of compliance under Subsection (3), a county clerk shall:

635 (a) register the voter, unless the voter is already registered;

636 (b) process the absentee ballot request; and

637 (c) electronically transmit a ballot to the voter who filed the federal postcard
638 application form.

639 (5) A voter who receives a ballot under this section may transmit the ballot
640 electronically to the county clerk in their county of residence if the voter:

641 (a) agrees to waive the right to a secret ballot in accordance with this section; and

642 (b) affirms in writing that the voter is currently deployed in:

643 (i) a hostile fire zone; or

644 (ii) other area where the mail service is unreliable and not sufficient to accommodate
645 timely mail service.

646 (6) The electronically transmitted ballot shall be accompanied by the following
647 statements: "I understand that by electronically transmitting my voted ballot I am voluntarily

648 waiving my right to a secret ballot. Signature of voter _____ Date _____"; and

649 "I affirm that I am currently deployed in a hostile fire zone" or

650 "I affirm that I am currently deployed in an area where mail service is unreliable and not
651 sufficient to accommodate timely mail service."

652 (7) Notwithstanding the provisions of Subsections (5) and (6), the completed ballot
653 transmitted under this section is considered a private record under Title 63, Chapter 2,
654 Government Records Access and Management Act.

655 (8) A ballot transmitted under Subsection (5) shall be:

656 (a) transmitted no later than the date that is one day before the election day in
657 accordance with Section 20A-3-406; and

658 (b) received by the ~~[county clerk]~~ election officer before noon on the [date] day of the
659 official canvass in accordance with Subsection 20A-3-306(2)(b)(i).

660 (9) Upon the receipt of an electronically transmitted ballot under this section, a county
661 clerk shall:

662 (a) verify the voter's signature from the federal postcard application form and ensure
663 that it matches the voter's signature on the return ballot;

664 (b) duplicate the electronically transmitted ballot onto a regular ballot used by the
665 county for resident voters; and

666 (c) maintain the electronically transmitted ballot [~~for 22 months~~] in accordance with
667 [~~Subsection~~] the requirements of Section 20A-4-202~~[(2)]~~.

668 Section 10. Section ~~20A-4-107~~ is amended to read:

669 **20A-4-107. Review and disposition of provisional ballot envelopes.**

670 (1) As used in this section, a voter is "legally entitled to vote" if:

671 (a) the voter:

672 (i) is registered to vote in the state;

673 (ii) resides within the voting precinct where the voter seeks to vote; and

674 (iii) provided valid voter identification to the poll worker as indicated by a notation in
675 the official register;

676 (b) the voter:

677 (i) is registered to vote in the state; and

678 (ii) did not vote in the voter's precinct of residence, but the ballot that the voter voted is

679 identical to the ballot voted in the voter's precinct of residence; or

680 (c) the voter:

681 (i) is registered to vote in the state;

682 (ii) the poll worker recorded in the official register that the voter either failed to
683 provide valid voter identification or the documents provided as valid voter identification were
684 inadequate; and

685 (iii) the county clerk verifies the voter's identity and residence through some other
686 means.

687 (2) (a) Upon receipt of provisional ballot envelopes and any supplemental information
688 provided by a voter in accordance with Subsection 20A-3-105.5(6), the election officer shall
689 review the affirmation on the face of each provisional ballot envelope and determine if the
690 person signing the affirmation is a registered voter and legally entitled to vote the ballot that the
691 voter voted.

692 (b) If the election officer determines that the person is not a registered voter or is not
693 legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot
694 envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to
695 produce or count it.

696 (c) If the election officer determines that the person is a registered voter and is legally
697 entitled to vote the ballot that the voter voted, the election officer shall remove the ballot from
698 the provisional ballot envelope and place the ballot with the absentee ballots to be counted with
699 those ballots at the canvass.

700 (d) The election officer may not count, or allow to be counted a provisional ballot
701 unless the voter's identity and residence is established by a preponderance of the evidence.

702 (3) If the election officer determines that the person is a registered voter, the election
703 officer shall ensure that the voter registration records are updated to reflect the information
704 provided on the provisional ballot envelope.

705 (4) If the election officer determines that the person is not a registered voter and the
706 information on the provisional ballot envelope is complete, the election officer shall:

707 (a) consider the provisional ballot envelope a voter registration form; and

708 (b) register the voter.

709 Section 11. Section **20A-4-201** is amended to read:

710 **20A-4-201. Delivery of election returns.**

711 (1) One poll worker shall deliver the ballot box, the lock, and the key to:

712 (a) the election officer; or

713 (b) the location directed by the election officer.

714 (2) (a) Before they adjourn, the poll workers shall choose one or more of their number
715 to deliver the election returns to the election officer.

716 (b) That poll worker or those poll workers shall:

717 (i) deliver the unopened envelopes or pouches to the election officer or counting center
718 immediately but no later than ~~[24]~~ 12 hours after the polls close; or719 (ii) if the polling place is 15 miles or more from the county seat, mail the election
720 returns to the election officer by registered mail from the post office most convenient to the
721 polling place within 24 hours after the polls close.722 (3) The election officer shall pay each poll worker reasonable compensation for travel
723 that is necessary to deliver the election returns and to return to the polling place.724 (4) The requirements of this section shall not prohibit transmission of the unofficial
725 vote count to the counting center via electronic means, provided that reasonable security
726 measures are taken to preserve the integrity and privacy of the transmission.727 Section 12. Section **20A-4-202** is amended to read:728 **20A-4-202. Election officers -- Disposition of ballots -- Release of number of**
729 **provisional ballots cast.**730 (1) (a) Upon receipt of the election returns from a poll worker, the election officer
731 shall:

732 (i) ensure that the poll worker has provided all of the ballots and election returns;

733 (ii) inspect the ballots and election returns to ensure that they are sealed;

734 (iii) (A) for paper ballots, deposit and lock the ballots and election returns in a safe and
735 secure place; or

736 (B) for punch card ballots:

737 (I) count the ballots; and

738 (II) deposit and lock the ballots and election returns in a safe and secure place; and

739 (iv) for bond elections, provide a copy of the election results to the board of canvassers
740 of the local political subdivision that called the bond election.

741 (b) Inspecting poll watchers appointed as provided in Section 20A-3-201 may be
742 present and observe the election officer's receipt, inspection, and deposit of the ballots and
743 election returns.

744 (2) Each election officer shall:

745 (a) no later than 5 p.m. on the day after the date of the election, determine the number
746 of provisional ballots cast within the election officer's jurisdiction and make that number
747 available to the public;

748 (b) preserve ballots for [~~22~~] 24 months after the election or until the time has expired
749 during which the ballots could be used in an election contest;

750 (c) package and seal a true copy of the ballot label used in each voting precinct;

751 (d) preserve all other official election returns for at least [~~22~~] 24 months after an
752 election; and

753 (e) after that time, destroy them without opening or examining them.

754 (3) (a) The election officer shall package and retain all tabulating cards and other
755 materials used in the programming of the automatic tabulating equipment.

756 (b) The election officer:

757 (i) may access these tabulating cards and other materials;

758 (ii) may make copies of these materials and make changes to the copies;

759 (iii) may not alter or make changes to the materials themselves; and

760 (iv) within [~~22~~] 24 months after the election in which they were used, may dispose of
761 those materials or retain them.

762 (4) (a) If an election contest is begun within 12 months, the election officer shall:

763 (i) keep the ballots and election returns unopened and unaltered until the contest is
764 complete; or

765 (ii) surrender the ballots and election returns to the custody of the court having
766 jurisdiction of the contest when ordered or subpoenaed to do so by that court.

767 (b) When all election contests arising from an election are complete, the election
768 officer shall either:

769 (i) retain the ballots and election returns until the time for preserving them under this
770 section has run; or

771 (ii) destroy the ballots and election returns remaining in his custody without opening or

772 examining them if the time for preserving them under this section has run.

773 Section 13. Section **20A-5-403** is amended to read:

774 **20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Provisions --**
775 **Arrangements.**

776 (1) Each election officer shall:

777 (a) designate polling places for each voting precinct in the jurisdiction; and

778 (b) obtain the approval of the county or municipal legislative body or local district
779 governing board for those polling places.

780 (2) (a) For each polling place, the election officer shall provide:

781 (i) an American flag;

782 (ii) a sufficient number of voting booths or compartments;

783 (iii) the voting devices, voting booths, ballots, ballot boxes, ballot labels, ballot sheets,
784 write-in ballots, and any other records and supplies necessary to enable a voter to vote;

785 (iv) the constitutional amendment cards required by Part 1, Election Notices and
786 Instructions;

787 (v) voter information pamphlets required by Title 20A, Chapter 7, Part 7, Voter
788 Information Pamphlet; and

789 (vi) the instruction cards required by Section 20A-5-102.

790 (b) Each election officer shall ensure that:

791 (i) each voting booth is at a convenient height [~~for writing, and is arranged so that the~~
792 ~~voter can prepare his~~] and is equipped with a shield, enclosure, or curtain, or otherwise
793 positioned in a manner that preserves the voter's right to a secret ballot and allows the voter to
794 prepare the voter's ballot screened from observation;

795 (ii) there are a sufficient number of voting booths or voting devices to accommodate
796 the voters at that polling place; and

797 (iii) there is at least one voting booth or voting device that is configured to
798 accommodate persons with disabilities.

799 (c) Each county clerk shall provide a ballot box for each polling place that is large
800 enough to properly receive and hold the ballots to be cast.

801 (3) (a) All polling places shall be physically inspected by each county clerk to ensure
802 access by a person with a disability.

803 (b) Any issues concerning inaccessibility to polling places by a person with a disability
804 discovered during the inspections referred to in Subsection (3)(a) or reported to the county
805 clerk shall be:

806 (i) forwarded to the Office of the Lieutenant Governor; and
807 (ii) within six months of the time of the complaint, the issue of inaccessibility shall be
808 either:

809 (A) remedied at the particular location by the county clerk;

810 (B) the county clerk shall designate an alternative accessible location for the particular
811 precinct; or

812 (C) if no practical solution can be identified, file with the Office of the Lieutenant
813 Governor a written explanation identifying the reasons compliance cannot reasonably be met.

814 (4) The municipality in which the election is held shall pay the cost of conducting each
815 municipal election, including the cost of printing and supplies.

816 (5) The county clerk shall make detailed entries of all proceedings had under this
817 chapter.

818 Section 14. Section **20A-5-605** is amended to read:

819 **20A-5-605. Duties of poll workers.**

820 (1) Poll workers shall:

821 (a) arrive at the polling place at a time determined by the election officer; [~~and~~]

822 (b) remain until the official election returns are prepared for delivery[~~;~~]; and

823 (c) while serving as a poll worker, wear, in plain sight, a badge that is provided by the
824 election officer and that displays:

825 (i) the words "Official Poll Worker";

826 (ii) the name of the poll worker;

827 (iii) the name and date of the election at which the poll worker is serving; and

828 (iv) the voting precinct or jurisdiction at which the poll worker is serving.

829 (2) The election officer may designate:

830 (a) certain poll workers to act as election judges;

831 (b) an election judge to act as the presiding election judge; and

832 (c) certain poll workers to act as clerks.

833 (3) Upon their arrival to open the polls, the poll workers shall:

- 834 (a) if the election officer has not designated which poll workers at a polling place are
835 assigned to act as election judges, as presiding election judge, or as clerks:
- 836 (i) designate two poll workers to act as election judges as necessary;
 - 837 (ii) determine which election judge shall preside as necessary; and
 - 838 (iii) determine which poll workers shall act as clerks as necessary;
- 839 (b) select one or more of their number to deliver the election returns to the election
840 officer or to the place that the election officer designates;
- 841 (c) display the United States flag;
- 842 (d) examine the voting devices to see that they are in proper working order and that
843 security devices have not been tampered with;
- 844 (e) place the voting devices, voting booths, and the ballot box in plain view of those
845 poll workers and watchers that are present;
- 846 (f) for paper ballots and ballot sheets, open the ballot packages in the presence of all
847 the poll workers;
- 848 (g) check the ballots, supplies, records, and forms;
- 849 (h) if directed to do so by the election officer:
- 850 (i) make any necessary corrections to the official ballots before they are distributed at
851 the polls; and
 - 852 (ii) post any necessary notice of errors in electronic ballots before voting commences;
- 853 (i) post the sample ballots, instructions to voters, and constitutional amendments, if
854 any; and
- 855 (j) open the ballot box in the presence of those assembled, turn it upside down to empty
856 it of anything, and then, immediately before polls open, lock it, or if locks and keys are not
857 available, tape it securely.
- 858 (4) (a) If any poll worker fails to appear on the morning of the election, or fails or
859 refuses to act:
- 860 (i) at least six qualified electors from the voting precinct who are present at the polling
861 place at the hour designated by law for the opening of the polls shall fill the vacancy by
862 appointing another qualified person from the voting precinct who is a member of the same
863 political party as the poll worker who is being replaced to act as a poll worker; or
 - 864 (ii) the election officer shall appoint a qualified person to act as a poll worker.

865 (b) If a majority of the poll workers are present, they shall open the polls, even though
866 a poll worker has not arrived.

867 (5) (a) If it is impossible or inconvenient to hold an election at the polling place
868 designated, the poll workers, after having assembled at or as near as practicable to the
869 designated place, and before receiving any vote, may move to the nearest convenient place for
870 holding the election.

871 (b) If the poll workers move to a new polling place, they shall display a proclamation
872 of the change and station a peace officer or some other proper person at the original polling
873 place to notify voters of the location of the new polling place.

874 (6) If the poll worker who received delivery of the ballots produces packages of
875 substitute ballots accompanied by a written and sworn statement of the election officer that the
876 ballots are substitute ballots because the original ballots were not received, were destroyed, or
877 were stolen, the poll workers shall use those substitute ballots as the official election ballots.

878 (7) If, for any reason, none of the official or substitute ballots are ready for distribution
879 at a polling place or, if the supply of ballots is exhausted before the polls are closed, the poll
880 workers may use unofficial ballots, made as nearly as possible in the form of the official ballot,
881 until substitutes prepared by the election officer are printed and delivered.

882 (8) When it is time to open the polls, one of the poll workers shall announce that the
883 polls are open as required by Section 20A-1-302, or in the case of early voting, Section
884 20A-3-602.

885 (9) (a) The poll workers shall comply with the voting procedures and requirements of
886 Title 20A, Chapter 3, Voting, in allowing people to vote.

887 (b) The poll workers may not allow any person, other than election officials and those
888 admitted to vote, within six feet of voting devices, voting booths, and the ballot box.

889 (c) Besides the poll workers and watchers, the poll workers may not allow more than
890 four voters in excess of the number of voting booths provided within six feet of voting devices,
891 voting booths, and the ballot box.

892 (d) If necessary, the poll workers shall instruct each voter about how to operate the
893 voting device before the voter enters the voting booth.

894 (e) (i) If the voter requests additional instructions after entering the voting booth, two
895 poll workers may, if necessary, enter the booth and give the voter additional instructions.

896 (ii) In regular general elections and regular primary elections, the two poll workers who
897 enter the voting booth to assist the voter shall be of different political parties.

Legislative Review Note
as of 1-25-08 6:55 PM

Office of Legislative Research and General Counsel

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ELECTION DAY VOTER REGISTRATION

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Election Code to permit voters to register to vote on the date of the election.

Highlighted Provisions:

This bill:

- ▶ allows individuals to register to vote at their voting precinct's polling place on the date of the election;
- ▶ provides definitions;
- ▶ allows voters to change their party affiliation at their voting precinct's polling place on the date of the election, with certain exceptions for primary elections;
- ▶ requires county clerks to provide election day registration information to any individual that seeks to register in person at the county clerk's office after the voter registration deadline has passed;
- ▶ requires county clerks to provide registration information to individuals that submit an untimely or incomplete voter registration form by mail, with a driver license form, or through a voter registration agency, and requires the clerk to notify the individual that the individual was not registered; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **20A-2-107**, as last amended by Laws of Utah 2006, Chapter 264

33 **20A-2-201**, as last amended by Laws of Utah 2007, Chapter 285

34 **20A-2-202**, as last amended by Laws of Utah 2006, Chapters 264 and 326

35 **20A-2-204**, as last amended by Laws of Utah 2006, Chapters 264 and 326

36 **20A-2-205**, as last amended by Laws of Utah 2006, Chapters 264 and 326

37 **20A-2-304**, as last amended by Laws of Utah 2006, Chapter 264

38 **20A-3-104**, as last amended by Laws of Utah 2006, Chapters 264 and 326

39 **20A-3-104.5**, as last amended by Laws of Utah 2006, Chapters 15, 264, and 326

40 **20A-9-808**, as last amended by Laws of Utah 2006, Chapters 264 and 326

41 ENACTS:

42 **20A-2-201.5**, Utah Code Annotated 1953



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

45 Section 1. Section **20A-2-107** is amended to read:

46 **20A-2-107. Designating or changing party affiliation.**

47 (1) The county clerk shall:

48 (a) record the party affiliation designated by the voter on the voter registration form as
49 the voter's party affiliation; or

50 (b) if no political party affiliation is designated by the voter on the voter registration
51 form, record the voter's party affiliation as "unaffiliated."

52 (2) ~~[(a) Any]~~ Subject to the provisions of Subsection (3), any registered voter may
53 designate or change the voter's political party affiliation by ~~[complying with the procedures and~~
54 ~~requirements of this Subsection (2).~~ (b) ~~Except for the period beginning on the day after the~~
55 ~~voter registration deadline and continuing through the date of the regular primary election, any~~
56 ~~registered voter may designate or change the voter's political party affiliation by]~~ filing a signed
57 form with the county clerk that identifies the registered political party with which the voter
58 chooses to affiliate~~[-]~~ with the:

- 59 (a) county clerk; or
- 60 (b) poll worker at the polling place for the voter's voting precinct on the date of the
- 61 election, as defined under Section 20A-2-201.5.

62 (3) A registered voter may designate, but may not change, the voter's political party
63 affiliation during the period that commences 20 days before a regular primary election and
64 continues through the date of the regular primary election.

65 Section 2. Section **20A-2-201** is amended to read:

66 **20A-2-201. Registering to vote at office of county clerk.**

67 (1) Except as provided in Subsection (3), the county clerk shall register to vote all
68 persons who present themselves for registration at the county clerk's office during designated
69 office hours if those persons, on voting day, will be legally qualified [~~and entitled~~] to vote in a
70 voting precinct in the county.

71 (2) If a registration form is submitted in person at the office of the county clerk during
72 the period beginning on the date after the voter registration deadline and ending on the date that
73 is 15 calendar days before the date of the election, the county clerk shall:

74 (a) accept registration forms from all persons who present themselves for registration at
75 the clerk's office during designated office hours if those persons, on voting day, will be legally
76 qualified and entitled to vote in a voting precinct in the county; and

77 (b) inform them that:

78 (i) they will be registered to vote in the pending election; and

79 (ii) for the pending election, they must vote on the day of the election and will not be
80 eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because they
81 registered too late.

82 (3) [~~Except as provided in Subsection (3), if~~] If a registration form is submitted to the
83 county clerk on the date of the election or during the 14 calendar days before an election, the
84 county clerk shall:

85 (a) [~~accept registration forms from~~] notify all persons who present themselves for
86 registration at the clerk's office during designated office hours [~~if those persons, on voting day,~~
87 ~~will be legally qualified and entitled to vote in a voting precinct in the county]~~ that if they wish
88 to register for the pending election, they will be required to register to vote at their assigned
89 voting precinct on election day; and

90 (b) inform them that if they would like to register on the current date, they will be
91 registered to vote in later elections, but may not vote in the pending election [~~because they~~
92 ~~registered too late~~].

93 Section 3. Section **20A-2-201.5** is enacted to read:

94 **20A-2-201.5. Registration on election day.**

95 (1) As used in this section:

96 (a) "Date of the election" means that date that is scheduled for the conducting of:

97 (i) an election, as defined under Section 20A-1-102;

98 (ii) a bond election; or

99 (iii) the Western States Presidential Primary.

100 (b) "Date of the election" does not mean the early voting period provided according to
101 the requirements of Section 20A-3-601.

102 (2) The poll workers for each voting precinct shall register to vote all persons who
103 present themselves for registration during the hours that the polls are open on the date of the
104 election if:

105 (a) the person is legally qualified to vote as of the date of the election;

106 (b) the person appears, in person and during the hours that the polls are open, at the
107 polling place for the voting precinct in which the person has the person's principal place of
108 residence; and

109 (c) the person completes a voter registration form according to the procedures and
110 requirements of Section 20A-2-104.

111 Section 4. Section **20A-2-202** is amended to read:

112 **20A-2-202. Registration by mail.**

113 (1) (a) A citizen who will be qualified to vote at the next election may register by mail.

114 (b) To register by mail, a citizen shall complete and sign the by-mail registration form
115 and mail or deliver it to the county clerk of the county in which the citizen resides.

116 (c) (i) In order to register to vote in a particular election, the citizen shall:

117 (A) address the by-mail voter registration form to the county clerk; and

118 (B) ensure that it is postmarked on or before the voter registration deadline.

119 (ii) If the voter is registering for the first time in the county, the citizen shall either:

120 (A) submit a copy of the voter's valid voter identification with the by-mail voter

121 registration form; or

122 (B) submit valid voter identification to the poll worker at the time the citizen votes.

123 (d) The citizen has effectively registered to vote under this section only when the
124 county clerk's office has received a correctly completed by-mail voter registration form.

125 (2) Upon receipt of a correctly completed by-mail voter registration form, the county
126 clerk shall:

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

129 (b) mail confirmation of registration to the newly registered voter after entering the
130 applicant's voting precinct number on that copy.

131 (3) (a) If the county clerk receives a correctly completed by-mail voter registration
132 form that is postmarked after the voter registration deadline~~[-the county clerk shall: (i) register~~
133 ~~the applicant after the next election; and (ii) if possible, promptly phone or mail a notice to the~~
134 ~~applicant before the election, informing the applicant that his registration will not be effective~~
135 ~~until after the election.] or that is postmarked before the registration deadline, but is not~~
136 received at least seven days before the election, the county clerk shall promptly mail a notice to
137 the applicant and, if possible, promptly attempt to phone the applicant to provide the applicant
138 with:

139 (i) notice that the registration form was either not timely mailed or not timely received;

140 (ii) notice that the person may register to vote on the day of the election by appearing,
141 in person and during the hours that the polls are open, at the polling place for the voting
142 precinct in which the person has the person's principal place of residence;

143 (iii) the number of the person's local voting precinct and the voting location for that
144 precinct; and

145 (iv) notice that the person will be required to meet the requirements of Section
146 20A-2-201.5 in order to register to vote on election day.

147 (b) When the county clerk receives a correctly completed by-mail voter registration
148 form at least seven days before an election that is postmarked on or before the date of the voter
149 registration deadline, the county clerk shall:

150 (i) process the by-mail voter registration form; and

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

152 (4) If the county clerk determines that a registration form received by mail or otherwise
153 is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to
154 the person attempting to register~~[-, informing him that he]~~ to provide the person with:

155 (a) notice that the person has not been registered because of an error or because the
156 form is incomplete[-];

157 (b) notice that the person may register to vote:

158 (i) on the day of the election by appearing, in person and during the hours that the polls
159 are open, at the polling place for the voting precinct in which the person has the person's
160 principal place of residence; or

161 (ii) if the associated deadlines have not passed, by mail, at a voter registration agency,
162 or at the office of the county clerk;

163 (c) the number of the person's local voting precinct and the voting location for that
164 precinct, if the voting precinct may be determined from the information provided on the
165 registration form; and

166 (d) notice that the person will be required to meet the requirements of Section
167 20A-2-201.5 in order to register to vote.

168 Section 5. Section **20A-2-204** is amended to read:

169 **20A-2-204. Registering to vote when applying for or renewing a driver license.**

170 (1) As used in this section, "voter registration form" means the driver license
171 application/voter registration form and the driver license renewal/voter registration form
172 required by Section 20A-2-108.

173 (2) Any citizen who is qualified to vote may register to vote by completing the voter
174 registration form.

175 (3) The Driver License Division shall:

176 (a) assist applicants in completing the voter registration form unless the applicant
177 refuses assistance;

178 (b) accept completed forms for transmittal to the appropriate election official;

179 (c) transmit a copy of each voter registration form to the appropriate election official
180 within five days after it is received by the division;

181 (d) transmit each address change within five days after it is received by the division;

182 and

183 (e) transmit electronically to the lieutenant governor's office the name, address, birth
184 date, and driver license number of each person who answers "yes" to the question on the driver
185 license form about registering to vote.

186 (4) Upon receipt of a correctly completed voter registration form, the county clerk
187 shall:

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

190 (b) notify the applicant of registration.

191 (5) (a) If the county clerk receives a correctly completed voter registration form from
192 the Driver License Division that is dated after the voter registration deadline~~[- the county clerk~~
193 ~~shall: (i) register the applicant after the next election; and (ii) if possible, promptly phone or~~
194 ~~mail a notice to the applicant before the election, informing the applicant that his registration~~
195 ~~will not be effective until after the election.]~~ or that is received during the six calendar days
196 before an election, the county clerk shall promptly mail a notice to the applicant and, if
197 possible, promptly attempt to phone the applicant to provide the applicant with:

198 (i) notice that the registration form was either not timely mailed or not timely received;

199 (ii) notice that the person may register to vote on the day of the election by appearing,
200 in person and during the hours that the polls are open, at the polling place for the voting
201 precinct in which the person has the person's principal place of residence;

202 (iii) the number of the person's local voting precinct and the voting location for that
203 precinct; and

204 (iv) notice that the person will be required to meet the requirements of Section
205 20A-2-201.5 in order to register to vote on election day.

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

209 (i) process the voter registration form; and

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

211 (6) If the county clerk determines that a voter registration form received from the
212 Driver License Division is incorrect because of an error or because it is incomplete, the county
213 clerk shall mail notice to the person attempting to register~~[- informing him]~~ to provide the

214 person with:

215 (a) notice that [he] the person has not been registered because of an error or because
216 the form is incomplete[-];

217 (b) notice that the person may register to vote:

218 (i) on the day of the election by appearing, in person and during the hours that the polls
219 are open, at the polling place for the voting precinct in which the person has the person's
220 principal place of residence; or

221 (ii) if the associated deadlines have not passed, by mail, at a voter registration agency,
222 or at the office of the county clerk;

223 (c) the number of the person's local voting precinct and the voting location for that
224 precinct, if the voting precinct may be determined from the information provided on the
225 registration form; and

226 (d) notice that the person will be required to meet the requirements of Section
227 20A-2-201.5 in order to register to vote.

228 Section 6. Section **20A-2-205** is amended to read:

229 **20A-2-205. Registration at voter registration agencies.**

230 (1) As used in this section:

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

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

235 (i) public assistance; or

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

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

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

243 "REGISTERING TO VOTE

244 If you are not registered to vote where you live now, would you like to apply to register

245 to vote here today? (Applying to register to vote or declining to register to vote will not affect
246 the amount of assistance that you will be provided by this agency.) Yes ___ No ___ IF YOU
247 DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED
248 NOT TO REGISTER TO VOTE AT THIS TIME. If you would like help in filling out the
249 voter registration application form, we will help you. The decision about whether or not to
250 seek or accept help is yours. You may fill out the application form in private. If you believe
251 that someone has interfered with your right to register or to decline to register to vote, your
252 right to privacy in deciding whether or not to register, or in applying to register to vote, or your
253 right to choose your own political party or other political preference, you may file a complaint
254 with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah
255 84114. (801) 538-1040."

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

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

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

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

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

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

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

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

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

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

275 (6) Upon receipt of a correctly completed voter registration form, the county clerk

276 shall:

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

279 (b) notify the applicant of registration.

280 (7) (a) If the county clerk receives a correctly completed voter registration form from a
281 public assistance agency or discretionary voter registration agency that is dated after the voter
282 registration deadline~~], the county clerk shall: (i) register the applicant after the next election;~~
283 ~~and (ii) if possible, promptly phone or mail a notice to the applicant before the election;~~
284 ~~informing the applicant that his registration will not be effective until after the election.]~~ or that
285 is received during the six calendar days before an election, the county clerk shall promptly mail
286 a notice to the applicant and, if possible, promptly attempt to phone the applicant to provide the
287 applicant with:

288 (i) notice that the registration form was either not timely mailed or not timely received;

289 (ii) notice that the person may register to vote on the day of the election by appearing,
290 in person and during the hours that the polls are open, at the polling place for the voting
291 precinct in which the person has the person's principal place of residence;

292 (iii) the number of the person's local voting precinct and the voting location for that
293 precinct; and

294 (iv) notice that the person will be required to meet the requirements of Section
295 20A-2-201.5 in order to register to vote on election day.

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

299 (i) process the voter registration form; and

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

301 (8) If the county clerk determines that a voter registration form received from a public
302 assistance agency or discretionary voter registration agency is incorrect because of an error or
303 because it is incomplete, the county clerk shall mail notice to the person attempting to register~~;~~
304 ~~informing him]~~ to provide the person with:

305 (a) notice that [he] the person has not been registered because of an error or because
306 the form is incomplete~~[-];~~

307 (b) notice that the person may register to vote:

308 (i) on the day of the election by appearing, in person and during the hours that the polls
 309 are open, at the polling place for the voting precinct in which the person has the person's
 310 principal place of residence; or

311 (ii) if the associated deadlines have not passed, by mail, at a voter registration agency,
 312 or at the office of the county clerk;

313 (c) the number of the person's local voting precinct and the voting location for that
 314 precinct, if the voting precinct may be determined from the information provided on the
 315 registration form; and

316 (d) notice that the person will be required to meet the requirements of Section
 317 20A-2-201.5 in order to register to vote.

318 Section 7. Section **20A-2-304** is amended to read:

319 **20A-2-304. County clerk's responsibilities -- Notice of disposition.**

320 Each county clerk shall:

321 (1) register to vote each applicant for registration who meets the requirements for
 322 registration and who:

323 (a) submits a completed voter registration form to the county clerk on or before the
 324 voter registration deadline;

325 (b) submits a completed voter registration form to the Driver License Division, a
 326 public assistance agency, or a discretionary voter registration agency on or before the voter
 327 registration deadline; [~~or~~]

328 (c) mails a completed by-mail voter registration form to the county clerk on or before
 329 the voter registration deadline; [~~and~~] or

330 (d) submits a completed voter registration form to a poll worker on election day
 331 according to the requirements of Section 20A-2-201.5; and

332 (2) send a notice to the voter informing the voter that:

333 (a) the voter's application for voter registration has been accepted and that the voter is
 334 registered to vote;

335 (b) the voter's application for voter registration has been rejected and the reason for the
 336 rejection; or

337 (c) the application for voter registration is being returned to the voter for further action

338 because the application is incomplete and giving instructions to the voter about how to properly
339 complete the application.

340 Section 8. Section **20A-3-104** is amended to read:

341 **20A-3-104. Manner of voting.**

342 (1) (a) Any registered voter desiring to vote shall give his name, and, if requested, his
343 residence, to one of the poll workers.

344 (b) The voter shall present valid voter identification to one of the poll workers if the
345 voter is:

346 (i) required to present valid voter identification as indicated by a notation in the official
347 register;

348 (ii) voting in person by absentee ballot; or

349 (iii) voting during the early voting period.

350 (c) If a voter is not required to present valid voter identification under Subsection
351 (1)(b), and the poll worker does not know the voter requesting a ballot and has reason to doubt
352 that voter's identity, the poll worker shall:

353 (i) request that the voter present valid voter identification; or

354 (ii) have the voter identified by a known registered voter of the district.

355 (d) If the poll worker is satisfied that the voter has been properly identified, the poll
356 worker shall:

357 (i) record the type of identification provided by the voter in the appropriate space in the
358 official register; and

359 (ii) follow the procedures of Subsection (2).

360 (e) If the poll worker is not satisfied that the voter has been properly identified, the poll
361 worker shall:

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

363 (ii) issue the voter a provisional ballot; and

364 (iii) follow the procedures and requirements of Section 20A-3-105.5.

365 (f) If the person's right to vote is challenged as provided in Section 20A-3-202, the poll
366 worker shall follow the procedures and requirements of Section 20A-3-105.5.

367 (2) (a) The poll worker in charge of the official register shall check the official register
368 to determine whether or not the voter is registered to vote.

369 (b) If the voter's name is not found on the official register and the voter has not
370 registered to vote on election day, the poll worker shall follow the procedures and
371 requirements of Section 20A-3-105.5.

372 (3) If the poll worker determines that the voter is registered and:

373 (a) if the ballot is a paper ballot or a ballot sheet:

374 (i) the poll worker in charge of the official register shall:

375 (A) write the ballot number opposite the name of the voter in the official register; and

376 (B) direct the voter to sign his name in the election column in the official register;

377 (ii) another poll worker shall list the ballot number and voter's name in the pollbook;

378 and

379 (iii) the poll worker having charge of the ballots shall:

380 (A) endorse his initials on the stub;

381 (B) check the name of the voter on the pollbook list with the number of the stub;

382 (C) hand the voter a ballot; and

383 (D) allow the voter to enter the voting booth; or

384 (b) if the ballot is an electronic ballot:

385 (i) the poll worker in charge of the official register shall direct the voter to sign the
386 voter's name in the official register;

387 (ii) another poll worker shall list the voter's name in the pollbook; and

388 (iii) the poll worker having charge of the ballots shall:

389 (A) provide the voter access to the electronic ballot; and

390 (B) allow the voter to vote the electronic ballot.

391 (4) Whenever the election officer is required to furnish more than one kind of official
392 ballot to the voting precinct, the poll workers of that voting precinct shall give the registered
393 voter the kind of ballot that the voter is qualified to vote.

394 Section 9. Section **20A-3-104.5** is amended to read:

395 **20A-3-104.5. Voting -- Regular primary election.**

396 (1) (a) Any registered voter desiring to vote at the regular primary election shall give
397 his name, the name of the registered political party whose ballot the voter wishes to vote, and,
398 if requested, his residence, to one of the poll workers.

399 (b) The voter shall present valid voter identification to one of the poll workers if the

400 voter is:

401 (i) required to present valid voter identification as indicated by a notation in the official
402 register;

403 (ii) voting in person by absentee ballot; or

404 (iii) voting during the early voting period.

405 (c) If a voter is not required to present valid voter identification under Subsection
406 (1)(b), and the poll worker does not know the voter requesting a ballot and has reason to doubt
407 that voter's identity, the poll worker shall:

408 (i) request that the voter present valid voter identification; or

409 (ii) have the voter identified by a known registered voter of the district.

410 (d) The poll worker shall follow the procedures and requirements of Section
411 20A-3-105.5 if:

412 (i) the poll worker is not satisfied that the voter has been properly identified; or

413 (ii) the voter's right to vote is challenged under Section 20A-3-202.

414 (2) (a) (i) If the voter is properly identified, the poll worker in charge of the official
415 register shall [~~check the official register to~~] determine:

416 (A) whether or not the voter is registered to vote by checking the official register or
417 confirming that the person has registered to vote on election day; and

418 (B) whether or not the voter's party affiliation designation [~~in the official register~~]
419 allows the voter to vote the ballot that the voter requested[:] by checking:

420 (I) the official register; or

421 (II) if the voter has registered on election day, the voter's registration form.

422 (ii) If the official register or registration form does not affirmatively identify the voter
423 as being affiliated with a registered political party, or if the official register or voter registration
424 form identifies the voter as being "unaffiliated," the voter shall be considered to be
425 "unaffiliated."

426 (b) [~~(i) Except as provided in Subsection (2)(b)(ii), if~~] If the voter's name is not found
427 on the official register and the voter has not registered to vote on election day, the poll worker
428 shall follow the procedures and requirements of Section 20A-3-105.5.

429 [~~(ii) (A) If it is not unduly disruptive of the election process, the poll worker shall~~
430 ~~attempt to contact the county clerk's office to request oral verification of the voter's~~

431 registration.]

432 [~~(B) If oral verification is received from the county clerk's office, the poll worker~~

433 shall:]

434 [~~(F) record the verification on the official register;~~

435 [~~(H) determine the voter's party affiliation and the ballot that the voter is qualified to~~
436 vote; and]

437 [~~(HH) perform the other administrative steps required by Subsection (3).]~~

438 (c) (i) Except as provided in Subsection (2)(c)(ii), if the voter's political party
439 affiliation listed in the official register or on the election day voter registration form does not
440 allow the voter to vote the ballot that the voter requested, the poll worker shall inform the voter
441 of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does
442 allow the voter to vote.

443 (ii) (A) If the voter is listed in the official register or on the election day voter
444 registration form as "unaffiliated," or if the official register or voter registration form does not
445 affirmatively identify the voter as either "unaffiliated" or affiliated with a registered political
446 party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the voter
447 requests, the poll worker shall ask the voter if the voter wishes to:

448 (I) vote another registered political party ballot that the voter, as "unaffiliated," is
449 authorized to vote[;]; or

450 (II) remain "unaffiliated."

451 (B) If the voter wishes to vote another registered political party ballot that the
452 unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection
453 (3).

454 (C) If the voter wishes to remain unaffiliated and does not wish to vote another ballot
455 that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the
456 voter may not vote.

457 (iii) For the primary elections held in [~~2004, 2006, and~~] 2008 only:

458 (A) If the voter is listed in the official register or on the election day voter registration
459 form as "unaffiliated," or if the official register or voter registration form does not affirmatively
460 identify the voter as either "unaffiliated" or "affiliated" with a registered political party, the poll
461 worker shall ask the voter if the voter wishes to:

462 (I) affiliate with a registered political party[-]; or

463 (II) remain "unaffiliated."

464 (B) If the voter wishes to affiliate with the registered political party whose ballot the
465 voter requested, the poll worker shall direct the voter to complete the change of party affiliation
466 form and proceed as required by Subsection (3).

467 (C) If the voter wishes to remain unaffiliated and wishes to vote another registered
468 political party ballot that the unaffiliated voter is authorized to vote, the poll worker shall
469 proceed as required by Subsection (3).

470 (D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot
471 that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the
472 voter may not vote.

473 (3) If the poll worker determines that the voter is registered and eligible, under
474 Subsection (2), to vote the ballot that the voter requested and:

475 (a) if the ballot is a paper ballot or a ballot sheet:

476 (i) the poll worker in charge of the official register shall:

477 (A) write the ballot number and the name of the registered political party whose ballot
478 the voter voted opposite the name of the voter in the official register; and

479 (B) direct the voter to sign his name in the election column in the official register;

480 (ii) another poll worker shall list the ballot number and voter's name in the pollbook;
481 and

482 (iii) the poll worker having charge of the ballots shall:

483 (A) endorse his initials on the stub;

484 (B) check the name of the voter on the pollbook list with the number of the stub;

485 (C) hand the voter the ballot for the registered political party that the voter requested
486 and for which the voter is authorized to vote; and

487 (D) allow the voter to enter the voting booth; or

488 (b) if the ballot is an electronic ballot:

489 (i) the poll worker in charge of the official register shall direct the voter to sign his
490 name in the official register;

491 (ii) another poll worker shall list the voter's name in the pollbook; and

492 (iii) the poll worker having charge of the ballots shall:

493 (A) provide the voter access to the electronic ballot for the registered political party
494 that the voter requested and for which the voter is authorized to vote; and

495 (B) allow the voter to vote the electronic ballot.

496 (4) Whenever the election officer is required to furnish more than one kind of official
497 ballot to the voting precinct, the poll workers of that voting precinct shall give the registered
498 voter the kind of ballot that the voter is qualified to vote.

499 Section 10. Section **20A-9-808** is amended to read:

500 **20A-9-808. Voting.**

501 (1) (a) Any registered voter desiring to vote at the Western States Presidential Primary
502 shall give his name, the name of the registered political party whose ballot the voter wishes to
503 vote, and, if requested, his residence, to one of the poll workers.

504 (b) The voter shall present valid voter identification to one of the poll workers if the
505 voter is:

506 (i) required to present valid voter identification as indicated by a notation in the official
507 register;

508 (ii) voting in person by absentee ballot; or

509 (iii) voting during the early voting period prior to the date of the election.

510 (c) If a voter is not required to present valid voter identification under Subsection
511 (1)(b), and the poll worker does not know the voter requesting a ballot and has reason to doubt
512 that voter's identity, the poll worker shall:

513 (i) request that the voter present valid voter identification; or

514 (ii) have the voter identified by a known registered voter of the district.

515 (d) The poll worker shall follow the procedures and requirements of Section
516 20A-3-105.5 if:

517 (i) the voter's right to vote is challenged under Section 20A-3-202; or

518 (ii) the poll worker is not satisfied that the voter has been properly identified.

519 (2) (a) (i) When the voter is properly identified, the poll worker in charge of the official
520 register shall [~~check the official register to~~] determine:

521 (A) whether or not the voter is registered to vote by checking the official register or, if
522 the voter has registered to vote on election day, the voter's registration form; and

523 (B) whether or not the voter's party affiliation designation [~~in the official~~] register

524 allows the voter to vote the ballot that the voter requested by checking the official register or, if
525 the voter has registered to vote on election day, the voter's registration form.

526 (ii) If the official register or voter registration form does not affirmatively identify the
527 voter as being affiliated with a registered political party or if the official register or voter
528 registration form identifies the voter as being "unaffiliated," the voter shall be considered to be
529 "unaffiliated."

530 (b) If the voter's name is not found on the official register and the voter has not
531 registered to vote on election day, the poll worker shall follow the procedures and requirements
532 of Section 20A-3-105.5.

533 (c) (i) Except as provided in Subsection (2)(c)(ii), if the voter's political party
534 affiliation listed in the official register or on the election day voter registration form does not
535 allow the voter to vote the ballot that the voter requested, the poll worker shall inform the voter
536 of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does
537 allow the voter to vote.

538 (ii) (A) If the voter is listed in the official register or on the election day voter
539 registration form as "unaffiliated," or if the official register or voter registration form does not
540 affirmatively identify the voter as either "unaffiliated" or affiliated with a registered political
541 party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the voter
542 requests, the poll worker shall ask the voter if the voter wishes to:

543 (I) affiliate with the registered political party whose ballot the voter requested[;];

544 (II) vote another registered political party ballot that the voter, as "unaffiliated," is
545 authorized to vote[;]; or

546 (III) remain "unaffiliated."

547 (B) If the voter wishes to affiliate with the registered political party whose ballot the
548 voter requested, the poll worker shall enter in the official register the voter's new party
549 affiliation and proceed as required by Subsection (3).

550 (C) If the voter wishes to vote another registered political party ballot that the
551 unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection
552 (3).

553 (D) If the voter wishes to remain unaffiliated and does not wish to vote another ballot
554 that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the

555 voter may not vote.

556 (3) If the poll worker determines that the voter is registered and eligible, under

557 Subsection (2), to vote the ballot that the voter requested and:

558 (a) if the ballot is a paper ballot or a ballot sheet:

559 (i) the poll worker in charge of the official register shall:

560 (A) write the ballot number and the name of the registered political party whose ballot

561 the voter voted opposite the name of the voter in the official register; and

562 (B) direct the voter to sign his name in the election column in the official register;

563 (ii) another poll worker shall list the ballot number and voter's name in the pollbook;

564 and

565 (iii) the poll worker having charge of the ballots shall:

566 (A) endorse his initials on the stub;

567 (B) check the name of the voter on the pollbook list with the number of the stub;

568 (C) hand the voter the ballot for the registered political party that the voter requested

569 and for which the voter is authorized to vote; and

570 (D) allow the voter to enter the voting booth; or

571 (b) if the ballot is an electronic ballot:

572 (i) the poll worker in charge of the official register shall direct the voter to sign the

573 voter's name in the official register;

574 (ii) another poll worker shall list the voter's name in the pollbook; and

575 (iii) the poll worker having charge of the ballots shall:

576 (A) provide the voter access to the electronic ballot for the registered political party

577 that the voter requested and for which the voter is authorized to vote; and

578 (B) allow the voter to vote the electronic ballot.

579 (4) Whenever the election officer is required to furnish more than one kind of official

580 ballot to the voting precinct, the poll workers of that voting precinct shall give the registered

581 voter the kind of ballot that the voter is qualified to vote.

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