

# Proposals to Address Plurality

A Selection of Recent Draft Legislation in Utah | May 15, 2019

## Party Choice

### 2015 General Session H.B. 313 – Original Bill Draft:

#### 20A-4-303.5. Determining nominee in multi-candidate primary race.

- (1) Except as provided in Subsection (2), in a multi-candidate primary race the candidate who receives the highest number of votes is nominated.
- (2) If the candidate who receives the highest number of votes in a multi-candidate primary race does not receive more than 50% of the total votes cast in that race, the party shall, within 30 days after the day on which the board of canvassers certifies the vote totals:
  - (a) in accordance with the party's bylaws, choose, from among the candidates whose names appeared on the ballot for the multi-candidate primary race, the candidate who will be the party's nominee; and
  - (b) provide to the election officer for the next general election a certificate of nomination stating the name of the candidate chosen.

### 2015 General Session H.B. 313 – 2<sup>nd</sup> Substitute (as amended):

#### 20A-4-303.5. Determining nominee in multi-candidate primary race.

- (1) Except as provided in Subsection (2), in a multi-candidate primary race the candidate who receives the highest number of votes is nominated.
- (2) If the candidate who receives the highest number of votes in a multi-candidate primary race does not receive more than 40% of the total votes cast in that race, the party shall, within 30 days after the day on which the board of canvassers certifies the vote totals:
  - (a) in accordance with the party's bylaws, choose, as the party's nominee, one of the two candidates who received the highest number of votes; and
  - (b) provide to the election officer for the next general election a certificate of nomination stating the name of the candidate chosen.

## Ranked-Choice Voting

### 2018 General Session H.B. 35 – Enrolled Version (Pilot Project Only)

#### 20A-3-105. Marking and depositing ballots.

- ... (5) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a voter:
- (a) shall indicate, as directed on the ballot, the name of the candidate who is the voter's first preference for the office; and
  - (b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference. . .

#### 20A-4-603. Instant runoff voting.

- (1) In a multi-candidate race, the election officer shall:
  - (a)(i) conduct the first ballot-counting phase by counting the valid first preference votes for each candidate; and
    - (ii) if, after complying with Subsection (5), one of the candidates receives more than 50% of the valid first preference votes counted, declare that candidate elected;
  - (b) if, after counting the valid first preference votes for each candidate, and complying with Subsection (5), no candidate receives more than 50% of the valid first preference votes counted, conduct the second ballot-counting phase by:
    - (i) excluding from the multi-candidate race:
      - (A) the candidate who received the fewest valid first preference votes counted; or
      - (B) in the event of a tie for the fewest valid first preference votes counted, one of the tied candidates, determined by the tied election officer by lot, in accordance with Subsection (6);
    - (ii) adding, to the valid first preference votes counted for the remaining candidates, the valid second preference votes cast for the remaining candidates by the voters who cast a valid first preference vote for the excluded candidate; and

- (iii) if, after adding the votes in accordance with Subsection (1)(b)(ii) and complying with Subsection (5), one candidate receives more than 50% of the valid votes counted, declaring that candidate elected; and
  - (c) if, after adding the valid second preference votes in accordance with Subsection (1)(b)(ii) and complying with Subsection (5), no candidate receives more than 50% of the valid votes counted, conduct subsequent ballot-counting phases by continuing the process described in Subsection (1)(b) until a candidate receives more than 50% of the valid votes counted, as follows:
    - (i) after complying with Subsection (5), excluding from consideration the candidate who has the fewest valid votes counted or, in the event of a tie for the fewest valid votes counted, excluding one of the tied candidates, by lot, in accordance with Subsection (6); and
    - (ii) adding the next valid preference vote cast by each voter whose vote was counted for the last excluded candidate to one of the remaining candidates, in the order of the next preference indicated by the voter.
- (2) The election officer shall declare elected the first candidate who receives more than 50% of the valid votes counted under the process described in Subsection (1).
- (3)(a) A vote is valid for a particular phase of a multi-candidate race only if the voter indicates the voter's preference for that phase and all previous phases.
  - (b) A vote is not valid for a particular phase of a multi-candidate race, and for all subsequent phases, if the voter indicates the same rank for more than one candidate for that phase.
- (4) The election officer shall order a recount of the valid votes in the applicable ballot-counting phase if one candidate appears to have received at least 50% of the vote, and the difference between the number of votes counted for the candidate who received the most valid votes for the applicable ballot-counting phase and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:
  - (a) the total number of voters who cast a valid vote that is counted in the applicable ballot-counting phase of the race;
  - and
  - (b) the recount threshold.
- (5) Before excluding a candidate from a multi-candidate race under Subsection (1), the election officer shall order a recount of the valid votes counted in the applicable ballot-counting phase if the difference between the number of votes counted for the candidate who received the fewest valid votes in the applicable ballot-counting phase of the race and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:
  - (a) the total number of voters who cast a valid vote counted in that ballot-counting phase; and
  - (b) the recount threshold.
- (6) For each ballot-counting phase after the first phase, if, after a recount is completed under Subsection (5), two or more candidates tie as having received the fewest valid votes counted at that point in the ballot count, the election officer shall eliminate one of those candidates from consideration, by lot, in the following manner:
  - (a) determine the names of the candidates who tie as having received the fewest valid votes for that ballot-counting phase;
  - (b) cast the lot in the presence of at least two election officials and any counting poll watchers who are present and desire to witness the casting of the lot; and
  - (c) sign a public document that:
    - (i) certifies the method used for casting the lot and the result of the lot; and
    - (ii) includes the name of each individual who witnessed the casting of the lot.
- (7) In a multi-candidate race for an at-large office, where the number of candidates who qualify for the race exceeds the total number of at-large seats to be filled for the office, the election officer shall count the votes by:
  - (a) except as provided in Subsection (8), counting votes in the same manner as described in Subsections (1) through (6), until a candidate is declared elected;
  - (b) repeating the process described in Subsection (7)(a) for all candidates that are not declared elected until another candidate is declared elected; and
  - (c) continuing the process described in Subsection (7)(b) until all at-large seats in the race are filled.
- (8) After a candidate is declared elected under Subsection (7), the election officer shall, in repeating the process described in Subsections (1) through (6) to declare the next candidate elected, add to the vote totals the next valid preference vote of each voter whose vote was counted for a candidate already declared elected.

## Runoff Elections

### 2017 General Session S.B. 114 – Original Bill Draft:

#### 20A-9-409.5. Regular primary runoff elections.

- (1) An election officer shall conduct a runoff election for any race where:
  - (a) only one candidate may win;
  - (b) more than three candidates appeared on the regular primary election ballot for the same qualified political party and the same office; and
  - (c) none of the candidates described in Subsection (1)(a) received more than 35% of the votes cast for that party for that office.
- (2)(a) The runoff election described in Subsection (1) is between the two candidates in the same qualified political party who received the highest number of votes in the race.
  - (b) If a tie makes it impossible to identify two candidates who received the highest number of votes for purposes of holding a runoff election, the election officer shall resolve the tie, and eliminate the excess number of candidates, by lot cast in the presence of the candidates who tied or in the presence of the candidates appointed representatives.
- (3) For a runoff election described in this section:
  - (a) the election officer shall:
    - (i) give notice of the runoff election in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor;
    - (ii) deliver runoff election ballots to military and overseas voters no later than 45 days before the day of the runoff election;
    - (iii) hold the runoff election on the last Tuesday in August; and
    - (iv) conduct the election entirely by absentee ballot, in accordance with Section 20A-3-302;
  - (b) the county canvass is seven days after the day of the runoff election; and
  - (c) the lieutenant governor's canvass of statewide and multicounty elections is nine days after the day of the runoff election.
- (4) For a runoff election described in this section that is held entirely within a single county:
  - (a) the county shall pay 70% of the total cost of the runoff election, as determined by the lieutenant governor; and
  - (b) the state shall pay 30% of the total cost of the runoff election, as determined by the lieutenant governor.
- (5) For a multicounty runoff election described in this section:
  - (a) the counties where the election is held shall pay 70% of the total cost of the runoff election, as determined by the lieutenant governor, prorated based on the eligible voting population that resides within the district to which the election relates; and
  - (b) the state shall pay 30% of the total cost of the runoff election, as determined by the lieutenant governor.

### 2017 General Session S.B. 114 – 3<sup>rd</sup> Substitute (not adopted)

#### 20A-9-409.5. Regular primary runoff elections.

- (1) An election officer shall conduct a runoff election for any race where:
  - (a) only one candidate may win;
  - (b) more than three candidates appeared on the regular primary election ballot for the same qualified political party and the same office; and
  - (c) none of the candidates described in Subsection (1)(a) received more than 35% of the votes cast for that party for that office in the regular primary election.
- (2)(a) The runoff election described in Subsection (1) is between the two candidates in the same qualified political party who received the highest number of votes in the race.
  - (b) If a tie makes it impossible to identify two candidates who received the highest number of votes for purposes of holding a runoff election, the election officer shall resolve the tie, and eliminate the excess number of candidates, by lot cast in the presence of the candidates who tied or in the presence of the candidates appointed representatives.
- (3) For a runoff election described in this section:

- (a) the election officer shall:
  - (i) give notice of the runoff election in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor;
  - (ii) hold the runoff election on the third Tuesday in August; and
  - (iii) conduct the election entirely by absentee ballot, in accordance with Section 20A-3-302;
- (b) the county canvass is no later than seven days after the day of the runoff election; and
- (c) the lieutenant governor's canvass of statewide and multicounty elections is nine days after the day of the runoff election.
- (4) Within funds appropriated by the Legislature for this purpose, the lieutenant governor shall reimburse each county for the expense, as determined by the lieutenant governor, of conducting a runoff election under this section.

## **Top-Two Primary**

(no in-state examples)