

VOTING REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

This bill addresses the certification and purchase of new voting equipment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ reorganizes existing code related to the selection of voting equipment;
- ▶ changes the requirements by which voting equipment is certified;
- ▶ modifies the authority of a Voting Equipment Selection Committee; and
- ▶ creates the Voting Equipment Grant Program.

Money Appropriated in this Bill:

This bill appropriates:

- ▶ to the Governor's Office -- Lieutenant Governor's Office, as a one-time appropriation:
 - from the General Fund, \$2,500,000, subject to intent language stating that the appropriation is non-lapsing and restricting the use of funds to a specific program.

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63I-2-220**, as last amended by Laws of Utah 2016, Chapters 28 and 348

31 ENACTS:

32 **20A-5-801**, Utah Code Annotated 1953

33 **20A-5-804**, Utah Code Annotated 1953

34 RENUMBERS AND AMENDS:

35 **20A-5-802**, (Renumbered from 20A-5-402.5, as last amended by Laws of Utah 2010,
36 Chapter 8)

37 **20A-5-803**, (Renumbered from 20A-5-402.7, as last amended by Laws of Utah 2010,
38 Chapter 286)



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

40 Section 1. Section **20A-5-801** is enacted to read:

41 **Part 8. Voting Equipment Selection and Certification**

42 **20A-5-801. Definitions.**

43 As used in this part:

44 (1) "New voting equipment system" means voting equipment that is operated in a
45 materially different way or that functions in a materially different way than the equipment
46 being replaced.

47 (2) "Voting equipment" means the following equipment used for an election:

48 (a) automatic tabulating equipment;

49 (b) an electronic voting system;

50 (c) a voting device; or

51 (d) a voting machine.

52 Section 2. Section **20A-5-802**, which is renumbered from Section 20A-5-402.5 is
53 renumbered and amended to read:

54 ~~[20A-5-402.5].~~ **20A-5-802. Certification of voting equipment.**

55 ~~[(1) As used in this section, "voting equipment" means automatic tabulating~~
56 ~~equipment, electronic voting systems, voting devices, and voting machines.]~~

57 ~~[(2) Each election officer shall ensure that:]~~

59 ~~[(a) the voting equipment used by the election officer is certified by the Election~~
60 ~~Assistance Commission; and]~~

61 (1) For the voting equipment used in the jurisdiction over which an election officer has
62 authority, the election officer shall:

63 (a) before each election, use logic and accuracy tests to ensure that the voting
64 equipment performs the voting equipment's functions accurately;

65 (b) develop and implement a procedure to protect the physical security of the voting
66 equipment; and

67 ~~[(b)]~~ (c) ensure that the voting equipment is certified by the lieutenant governor under
68 Subsection (2) as having met the requirements of this section.

69 ~~[(3)]~~ (2) (a) The lieutenant governor shall ensure that all voting equipment used
70 [complies with the requirements of this section.] in the state is independently tested using
71 security testing protocols and standards that:

72 (i) are generally accepted in the industry at the time the lieutenant governor reviews the
73 voting equipment for certification; and

74 (ii) meet the requirements of Subsection (2)(b).

75 (b) The testing protocols and standards described in Subsection (2)(a) shall require that
76 a voting system:

77 (i) is accurate and reliable;

78 (ii) possesses established and maintained access controls;

79 (iii) has not been fraudulently manipulated or tampered with;

80 (iv) is able to identify fraudulent or erroneous changes to the voting equipment; and

81 (v) protects the secrecy of a voter's ballot.

82 (c) The lieutenant governor may comply with the requirements of Subsection (2)(a) by
83 certifying voting equipment that has been certified by:

84 (i) the United States Election Assistance Commission; or

85 (ii) a laboratory that has been accredited by the United States Election Assistance
86 Commission to test voting equipment.

87 (d) Voting equipment used in the state may include technology that allows for ranked-
88 choice voting.

89 Section 3. Section **20A-5-803**, which is renumbered from Section 20A-5-402.7 is

90 renumbered and amended to read:

91 ~~[20A-5-402.7].~~ 20A-5-803. Voting Equipment Selection Committee.

92 ~~[(1) As used in this section, "new voting equipment system" means voting equipment~~
93 ~~that is operated in a materially different way or that functions in a materially different way than~~
94 ~~the equipment being replaced.]~~

95 ~~[(2)]~~ (1) Before selecting or purchasing a new voting equipment system [after January
96 1, 2007], the lieutenant governor shall:

97 (a) appoint a Voting Equipment Selection Committee; and

98 (b) ensure that the committee includes persons having experience in:

99 (i) election procedures and administration;

100 (ii) computer technology;

101 (iii) data security;

102 (iv) auditing; and

103 (v) access for persons with disabilities.

104 ~~[(3)]~~ (2) A member may not receive compensation or benefits for the member's service,
105 but may receive per diem and travel expenses in accordance with:

106 (a) Section [63A-3-106](#);

107 (b) Section [63A-3-107](#); and

108 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
109 [63A-3-107](#).

110 ~~[(4)]~~ (3) The lieutenant governor shall select a chair from the committee membership.

111 ~~[(5)]~~ (4) The lieutenant governor may fill any vacancies that occur on the committee.

112 ~~[(6) The lieutenant governor's office]~~

113 (5) The Office of the Lieutenant Governor shall provide staffing for the committee.

114 ~~[(7)]~~ (6) The Voting Equipment Selection Committee shall:

115 (a) evaluate new voting equipment systems proposed for purchase by the state; and

116 (b) provide information and recommendations to assist the lieutenant governor with the
117 purchase of new voting equipment systems.

118 ~~[(8)]~~ (7) The lieutenant governor may designate individuals, including committee
119 members, to inspect and review proprietary software as part of an evaluation of new voting
120 equipment systems under consideration for purchase.

121 (8) (a) The Voting Equipment Selection Committee may establish requirements for a
122 new voting equipment system purchased under Section 20A-5-804 through the Voting
123 Equipment Grant Program.

124 (b) A requirement established under Subsection (8)(a) is not binding unless the
125 recommendation:

126 (i) is consistent with the requirements described in Section 20A-5-804 for the Voting
127 Equipment Grant Program; and

128 (ii) specifically states that the recommendation is for voting equipment purchased
129 through the Voting Equipment Grant Program.

130 (9) Before making any selection or purchase, the lieutenant governor shall provide for a
131 period of public review and comment on new voting equipment systems under consideration
132 for purchase by the state.

133 Section 4. Section 20A-5-804 is enacted to read:

134 **20A-5-804. Voting Equipment Grant Program -- Qualifications for receipt --**

135 **Matching funds -- Acceptable uses.**

136 (1) As used in this section:

137 (a) "Program" means the Voting Equipment Grant Program created in this section.

138 (b) "Proportional reimbursement rate" means the dollar amount equal to the product of:

139 (i) the total amount of funds appropriated by the Legislature to the program; and

140 (ii) the quotient of:

141 (A) the total number of active voters in a county; and

142 (B) the total number of registered voters in the state.

143 (2) (a) There is created the Voting Equipment Grant Program as a grant program to
144 assist counties in purchasing new voting equipment systems.

145 (b) The lieutenant governor shall administer the program using funds appropriated by
146 the Legislature for the purpose of administering the program.

147 (3) (a) After January 1, 2018, a county may submit a proposal to the Office of the
148 Lieutenant Governor to participate in and receive funds from the program.

149 (b) A proposal described in Subsection (3)(a) shall:

150 (i) describe the current condition of the voting equipment used by the county;

151 (ii) describe the county's need for a new voting equipment system;

152 (iii) describe how the county plans to comply with the requirements described in
153 Subsection (4), including:
154 (A) a description of how the county plans to provide the matching funds described in
155 Subsection (4)(b) if the proposal is accepted; and
156 (B) a schedule by which the requirements will be met; and
157 (iv) contain a detailed estimate of the gross cost of procuring a new voting equipment
158 system.
159 (4) A county that receives funds through a program grant:
160 (a) shall use the funds to purchase a new voting equipment system that:
161 (i) meets the requirements of Section [20A-5-802](#);
162 (ii) creates a secure and auditable paper record of each vote; and
163 (iii) complies with any additional binding requirement made under Subsection
164 [20A-5-803](#)(8) by the Voting Equipment Selection Committee;
165 (b) shall, for the purpose of purchasing a new voting equipment system, appropriate
166 matching funds equal to or greater than the difference of:
167 (i) the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant
168 governor accepts under Subsection (6)(b); and
169 (ii) the amount the lieutenant governor is required to disburse to the county under
170 Subsection (7)(a);
171 (c) may not use funds disbursed under Subsection (6)(b)(i)(D) or appropriated under
172 Subsection (4)(b) for a purpose or in a manner that is not authorized by this section;
173 (d) except as provided in Subsection (5), may not, after using a new voting equipment
174 system in an election that was purchased under this section, use voting equipment that does not
175 meet the requirements described in Subsection (4)(a); and
176 (e) shall purchase a new voting equipment system described under Subsection (4)(a)
177 that provides the best value to the county with consideration for the new voting equipment
178 system's:
179 (i) cost of maintenance;
180 (ii) estimated operational lifetime; and
181 (iii) cost of replacement.
182 (5) A county that receives funds through the program may use voting equipment that

183 does not comply with the requirements described in Subsection (4)(a)(ii) or (iii):

184 (a) to the extent that using the voting equipment is necessary to accommodate a person
185 with a disability in accordance with the requirements described in Subsection 20A-3-302(6)(b),
186 20A-3-603(1)(c), 20A-5-303(8), or 20A-5-403(2)(b)(iii); or

187 (b) if the county purchased the voting equipment before receiving grant funds under
188 Subsection (7)(a).

189 (6) Upon receipt of a proposal described in Subsection (3), the lieutenant governor
190 shall:

191 (a) review the proposal to ensure that:

192 (i) the proposal complies with the requirements described in Subsection (3); and

193 (ii) the cost estimate described in Subsection (3)(b)(iv) appears to be reasonable; and

194 (b) (i) if the proposal complies with the requirements described in Subsection (3), the
195 cost estimate appears to be reasonably accurate, and sufficient program funds are available:

196 (A) accept the proposal;

197 (B) notify the county clerk of the county that submitted the proposal that the proposal
198 is accepted;

199 (C) notify the county clerk of the requirements described in Subsection (7); and

200 (D) disburse the funds described in Subsection (7)(a), in accordance with the
201 requirements described in Subsection (7)(b), to the county that submitted the proposal; or

202 (ii) if the proposal does not comply with the requirements described in Subsection (3),
203 the cost estimate does not appear to be reasonable, or sufficient program funds are not
204 available:

205 (A) reject the proposal; and

206 (B) notify the county clerk of the county that submitted the proposal that the proposal
207 is rejected, indicating the reason that the proposal is rejected.

208 (7) The lieutenant governor:

209 (a) shall disburse funds under Subsection (6)(b)(i)(D) equal to the lesser of:

210 (i) 50% of the amount described in Subsection (3)(b)(iv) in the proposal that the
211 lieutenant governor accepts under Subsection (6)(b); or

212 (ii) the proportional reimbursement rate; and

213 (b) may not disburse funds under Subsection (6)(b)(i)(D):

214 (i) until the county appropriates the matching funds described in Subsection (4)(b); or
 215 (ii) if the disbursement would cause the county's total receipt of funds from the
 216 program to exceed the proportional reimbursement rate.

217 Section 5. Section **63I-2-220** is amended to read:

218 **63I-2-220. Repeal dates, Title 20A.**

219 [~~On January 1, 2017:~~]

220 [~~(1) in Subsection 20A-1-102(71), the language that states "State Board of Education~~
 221 ~~and" is repealed;~~]

222 [~~(2) in Subsection 20A-9-201(4)(a), the language that states "and State Board of~~
 223 ~~Education candidates" is repealed;~~]

224 [~~(3) Subsection 20A-9-201(9) is repealed;~~]

225 [~~(4) in Subsection 20A-9-403(4)(c), the language that states "State Board of Education~~
 226 ~~and" is repealed;~~]

227 [~~(5) in Subsection 20A-9-403(5)(a), the language that states "State Board of Education~~
 228 ~~or" is repealed; and]~~

229 [~~(6) Section 20A-14-104 is repealed.~~]

230 (1) Subsection 20A-5-803(8) is repealed July 1, 2023.

231 (2) Section 20A-5-804 is repealed July 1, 2023.

232 Section 6. **Appropriation.**

233 The following sums of money are appropriated for the fiscal year beginning July 1,
 234 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for
 235 fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 236 Act, the Legislature appropriates the following sums of money from the funds or accounts
 237 indicated for the use and support of the government of the state of Utah.

238 ITEM 1

239 To the Governor's Office

240 From General Fund, One-time \$2,500,000

241 Schedule of Programs:

242 Lieutenant Governor's Office \$2,500,000

243 The Legislature intends that:

244 (1) the Office of the Lieutenant Governor expend appropriations provided under this

245 item to implement the Voting Equipment Grant Program created under Section [20A-5-804](#); and
246 (2) under Section [63J-1-603](#), appropriations provided by this item not lapse at the close
247 of fiscal year 2018.

Legislative Review Note
Office of Legislative Research and General Counsel