1   **VOTING RECOUNT AMENDMENTS**

2   2013 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Craig Hall**

5   Senate Sponsor: Deidre M. Henderson

6

7   **LONG TITLE**

8   **General Description:**

9   This bill amends the Election Code by changing the formula for determining when a

10   voting recount may be requested.

11   **Highlighted Provisions:**

12   This bill:

13   ‣   changes the formula for determining when a voting recount may be requested; and

14   ‣   makes technical and conforming changes.

15   **Money Appropriated in this Bill:**

16   None

17   **Other Special Clauses:**

18   None

19   **Utah Code Sections Affected:**

20   AMENDS:

21   **20A-4-401**, as last amended by Laws of Utah 2007, Chapter 329

22

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

24   Section 1. Section **20A-4-401** is amended to read:

25   **20A-4-401. Recounts -- Procedure.**

26   [(1) (a) (i) For any regular primary, regular general, or municipal general election, or

27   the Western States Presidential primary, when any candidate loses by not more than a total of

28   one vote per voting precinct, the candidate may file a request for a recount within seven days

29   after the canvass with:]

30   (1) (a) Except as provided in Subsection (1)(b), for a race between candidates, if the

31   difference between the number of votes cast for a winning candidate in the race and a losing

32   candidate in the race is equal to or less than .25% of the total number of votes cast for all

33   candidates in the race, that losing candidate may file a request for a recount in accordance with

34   Subsection (1)(c).

35   (b) For a race between candidates where the total of all votes cast in the race is 400 or

36   less, if the difference between the number of votes cast for a winning candidate in the race and

37   a losing candidate in the race is one vote, that losing candidate may file a request for a recount

38   in accordance with Subsection (1)(c).

39   (c) A candidate who files a request for a recount under Subsection (1)(a) or (b) shall

40   file the request:

41   (i) for a municipal primary election, with the municipal clerk, within three days after

42   the canvass; or

43   (ii) for all other elections, within seven days after the canvass with:

44   (A) the municipal clerk, if the election is a municipal general election;

45   (B) the local district clerk, if the election is a local district election;

46   (C) the county clerk, for races [or ballot propositions] voted on entirely within a single

47   county; or

48   (D) the lieutenant governor, for statewide races and [ballot propositions and for]

49   multicounty races [and ballot propositions].

50   [(ii) For any municipal primary election, when any candidate loses by not more than a

51   total of one vote per voting precinct, the candidate may file a request for a recount with the

52   appropriate election officer within three days after the canvass.]

53   [(b)] (d) The election officer shall:

54   (i) supervise the recount;

55   (ii) recount all ballots cast for that [office] race;

56   (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part

57   3, Absentee Voting; [and]

58   (iv) for a race where only one candidate may win, declare elected the [person

59 receiving] candidate who receives the highest number of votes on the recount[.]; and

60   (v) for a race where multiple candidates may win, declare elected the applicable

61 number of candidates who receive the highest number of votes on the recount.

62   (2) (a) [Any] Except as provided in Subsection (2)(b), for a ballot proposition or a

63 bond proposition, if the proposition passes or fails by a margin that is equal to or less than

64 .25% of the total votes cast for or against the proposition, any 10 voters who voted in [an

65 election when any ballot proposition or bond] the election where the proposition was on the

66 ballot may file a request for a recount [with the appropriate election officer] within seven days

67 of the canvass with the person described in Subsection (2)(c).

68   (b) For a ballot proposition or a bond proposition where the total of all votes cast for or

69 against the proposition is 400 or less, if the difference between the number of votes cast for the

70 proposition and the number of votes cast against the proposition is one vote, any 10 voters who

71 voted in the election where the proposition was on the ballot may file a request for a recount

72 within seven days of the canvass with the person described in Subsection (2)(c).

73   (c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall

74 file the request with:

75   (i) the municipal clerk, if the election is a municipal election;

76   (ii) the local district clerk, if the election is a local district election;

77   (iii) the county clerk, for propositions voted on entirely within a single county; or

78   (iv) the lieutenant governor, for statewide propositions and multicounty propositions.

79   [(b)] (d) The election officer shall:

80   (i) supervise the recount;

81   (ii) recount all ballots cast for that ballot proposition or bond proposition;

82   (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part

83 3, Absentee Voting; and

84   (iv) declare the ballot proposition or bond proposition to have "passed" or "failed"

85 based upon the results of the recount.

86   [(c)] (e) Proponents and opponents of the ballot proposition or bond proposition may

87   designate representatives to witness the recount.

88   [(d)] (f) The voters requesting the recount shall pay the costs of the recount.

89   (3) Costs incurred by recount under Subsection (1) may not be assessed against the

90   person requesting the recount.

91   (4) (a) Upon completion of the recount, the election officer shall immediately convene

92   the board of canvassers.

93   (b) The board of canvassers shall:

94   (i) canvass the election returns for the race or proposition that was the subject of the

95   recount; and

96   (ii) with the assistance of the election officer, prepare and sign the report required by

97   Section 20A-4-304 or Section 20A-4-306.

98   (c) If the recount is for a statewide or multicounty race or for a statewide proposition,

99   the board of county canvassers shall prepare and transmit a separate report to the lieutenant

100 governor as required by Subsection 20A-4-304(3).

101   (d) The canvassers' report prepared as provided in this Subsection (4) is the official

102 result of the race or proposition that is the subject of the recount.