

OPINION QUESTION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill establishes procedures for submitting a nonbinding opinion question to voters.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures for submitting a nonbinding opinion question to voters;
- ▶ describes the duties of the lieutenant governor and county clerks in submitting an opinion question to voters;
- ▶ establishes procedures for the ballot form, voter information pamphlet, public notice, manner of voting, and canvass of returns in relation to the nonbinding opinion question; and
- ▶ provides a repealer.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-6-107, as last amended by Laws of Utah 2018, Chapter 458

63I-2-220, as last amended by Laws of Utah 2018, Chapters 187 and 458



28 **63I-2-236**, as last amended by Laws of Utah 2018, Chapters 281 and 458

29 ENACTS:

30 **36-16c-101**, Utah Code Annotated 1953

31 **36-16c-102**, Utah Code Annotated 1953

32 **36-16c-103**, Utah Code Annotated 1953

33 **36-16c-201**, Utah Code Annotated 1953

34 **36-16c-202**, Utah Code Annotated 1953

35 **36-16c-203**, Utah Code Annotated 1953

36 **36-16c-301**, Utah Code Annotated 1953

37 **36-16c-302**, Utah Code Annotated 1953

38 **36-16c-303**, Utah Code Annotated 1953

39

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

41 Section 1. Section **20A-6-107** is amended to read:

42 **20A-6-107. Numbering of ballot propositions, bond propositions, and nonbinding**
43 **opinion questions -- Duties of election officer and lieutenant governor.**

44 (1) (a) Except as provided in Subsections (1)(b) and (1)(c), each ballot proposition
45 shall be listed on the ballot under the heading "Proposition #___", with the number of the ballot
46 proposition placed in the blank.

47 (b) Each proposed amendment to the Utah Constitution shall be listed on the ballot
48 under the heading "Constitutional Amendment ___", with a letter placed in the blank.

49 (c) Each bond proposition that has qualified for the ballot shall be listed on the ballot
50 under the title assigned to each bond proposition under Section **11-14-206**.

51 (2) Notwithstanding Subsection (1)(a), each nonbinding opinion question submitted to
52 a vote of the people under Title 36, Chapter 16c, Nonbinding Statewide Public Opinion
53 Questions, shall be listed on the ballot under the heading "Nonbinding Opinion Question
54 # ___." with the number of the nonbinding opinion question placed in the blank.

55 [~~2~~] (3) (a) When an election officer or other person given authority to prepare or
56 number ballot propositions receives a ballot proposition that is eligible for inclusion on the
57 ballot, they shall ask the lieutenant governor to assign a number to the ballot proposition.

58 (b) (i) Upon request from an election officer or other person given authority to prepare

59 or number ballot propositions, the lieutenant governor shall assign each ballot proposition a
60 unique number, except as provided under Subsection [~~(2)~~] (3)(b)(iii).

61 (ii) Ballot proposition numbers shall be assigned sequentially, in the order requests for
62 ballot proposition numbers are received.

63 (iii) The same ballot proposition number may be assigned to multiple ballot
64 propositions if:

65 (A) the sponsors of each ballot proposition agree, in writing, to share the number; and

66 (B) the ballot propositions sharing the same number are identical in their terms,
67 purpose, and effect, with jurisdiction being the only significant difference between the ballot
68 propositions.

69 (4) When the lieutenant governor receives a joint resolution for a nonbinding opinion
70 question under Section 36-16c-201, the lieutenant governor shall:

71 (a) assign a number to the nonbinding opinion question that is unique to the
72 nonbinding opinion question; and

73 (b) assign numbers to each nonbinding opinion question sequentially, in the order in
74 which the lieutenant governor receives the joint resolution.

75 Section 2. Section 36-16c-101 is enacted to read:

76 **CHAPTER 16c. NONBINDING STATEWIDE PUBLIC OPINION QUESTIONS**

77 **Part 1. General Provisions**

78 **36-16c-101. Title.**

79 This chapter is known as "Nonbinding Statewide Public Opinion Questions."

80 Section 3. Section 36-16c-102 is enacted to read:

81 **36-16c-102. Definitions.**

82 As used in this chapter:

83 (1) (a) "Ballot title" means a short label or heading that:

84 (i) identifies the subject matter of an opinion question; and

85 (ii) the Office of Legislative Research and General Counsel drafts in accordance with
86 Section 36-16c-301.

87 (b) "Ballot title" does not mean a description, summary, analysis, or other work product
88 characterizing or concerning the subject matter of an opinion question.

89 (2) "Opinion question" means a nonbinding question that is submitted to legal voters of

90 the state in accordance with this chapter.

91 (3) "Originating house" means:

92 (a) the Utah House of Representatives if the resolution is a House joint resolution; or

93 (b) the Utah State Senate if the resolution is a Senate joint resolution.

94 (4) "Regular general election" means the same as that term is defined in Section
95 20A-1-102.

96 (5) "State board of canvassers" means the board established under Section 20A-4-306.

97 Section 4. Section **36-16c-103** is enacted to read:

98 **36-16c-103. Exemption.**

99 Title 20A, Chapter 7, Issues Submitted to the Voters, does not apply to an opinion
100 question.

101 Section 5. Section **36-16c-201** is enacted to read:

102 **Part 2. Submission of Nonbinding Opinion Questions to Voters**

103 **36-16c-201. Resolution to submit nonbinding opinion questions to voters.**

104 (1) The Legislature may submit an opinion question to the legal voters of the state by
105 passing a joint resolution in accordance with this section.

106 (2) The Legislature shall ensure that the joint resolution described in Subsection (1)
107 includes:

108 (a) the language of the opinion question as the opinion question will appear on the
109 ballot;

110 (b) a statement directing that the lieutenant governor submit the language of the
111 opinion question to the legal voters of the state for their approval or rejection; and

112 (c) language designating the date of the regular general election in which the opinion
113 question is submitted to the voters.

114 (3) After passage by both houses of the Legislature, the originating house shall submit
115 the joint resolution to the lieutenant governor with instructions that the lieutenant governor
116 submit the opinion question specified in the joint resolution to the legal voters on the regular
117 general election date specified in the resolution.

118 Section 6. Section **36-16c-202** is enacted to read:

119 **36-16c-202. Lieutenant governor's duties.**

120 (1) After receipt of a joint resolution described in Section 36-16c-202, the lieutenant

121 governor shall:

122 (a) submit the opinion question to the legal voters of Utah as the resolution requires;

123 (b) comply with Section 36-16c-301; and

124 (c) except as provided in Section 36-16c-103, comply with all relevant provisions of

125 Title 20A, Election Code, relating to the conduct of elections.

126 (2) The lieutenant governor may establish additional requirements for county clerks to

127 facilitate the conduct of the election, including requirements for publishing the opinion

128 question in the voter information pamphlet.

129 Section 7. Section 36-16c-203 is enacted to read:

130 **36-16c-203. Duties of county clerks.**

131 Each county clerk shall, with respect to an opinion question described in this chapter,

132 comply with:

133 (1) the requirements of Title 20A, Election Code, relating to regular general elections;

134 (2) the requirements of Section 36-16c-302; and

135 (3) any other requirement that the lieutenant governor imposes.

136 Section 8. Section 36-16c-301 is enacted to read:

137 **Part 3. Voting and Canvassing**

138 **36-16c-301. Procedures -- Ballot title -- Publication of nonbinding opinion**

139 **question.**

140 (1) The lieutenant governor, the Office of Legislative Research and General Counsel,

141 and each county clerk shall comply with the procedures described in this section whenever the

142 Legislature authorizes an opinion question under Section 36-16c-201.

143 (2) If the Legislature passes a resolution described in Section 36-16c-201, the Office of

144 Legislative Research and General Counsel shall, on or before July 20:

145 (a) draft a ballot title that identifies the subject matter of the opinion question; and

146 (b) deliver the ballot title to the lieutenant governor.

147 (3) The lieutenant governor shall:

148 (a) on or before August 31, certify to each county clerk:

149 (i) the number of the opinion question that the lieutenant governor assigned in

150 accordance with Section 20A-6-107;

151 (ii) the ballot title of the opinion question; and

152 (iii) the full text of the opinion question as the text appears in the resolution described
153 in Section 36-16c-201; and

154 (b) no more than 60 days nor less than 14 days before the date of the regular general
155 election, cause the full text of the opinion question as the text appears in the resolution
156 described in Section 36-16c-201 to be published in at least one newspaper in every county of
157 the state where a newspaper is published.

158 (4) Each county clerk shall cause the elements described in Subsection (3)(a) to be:

159 (a) printed on the ballot to be used on election day;

160 (b) printed on the sample ballot; and

161 (c) otherwise published as required by law.

162 Section 9. Section **36-16c-302** is enacted to read:

163 **36-16c-302. Ballot form -- Manner of voting.**

164 The lieutenant governor shall ensure that a ballot containing an opinion question
165 includes:

166 (1) the number of the opinion question and the ballot title;

167 (2) the full text of the opinion question as the text appears in the resolution described
168 in Section 36-16c-201; and

169 (3) (a) the words "FOR" and "AGAINST," each word presented with an adjacent
170 square in which the voter may indicate the voter's vote; or

171 (b) (i) all possible responses to the opinion question, each response presented with an
172 adjacent square in which the voter may indicate the voter's vote; and

173 (ii) an instruction that the voter may only select one of the possible responses.

174 Section 10. Section **36-16c-303** is enacted to read:

175 **36-16c-303. Canvass of returns.**

176 (1) The county legislative body shall conduct a public canvass of the returns from the
177 opinion question election no later than 14 days after the day on which the regular general
178 election is held.

179 (2) Each county clerk shall:

180 (a) make a certified abstract of the record of the canvassers detailing the votes cast on
181 the opinion question; and

182 (b) seal the transcript, endorse on the transcript, "Election Returns," and transmit the

183 transcript to the lieutenant governor's office so that the lieutenant governor receives the
184 transcript on or before the fifth day before the day designated for the meeting of the state board
185 of canvassers.

186 (3) The state board of canvassers established under Section 20A-4-306 shall meet to
187 compute and determine the vote on the opinion question.

188 (4) The lieutenant governor may, in accordance with the requirements of Title 20A,
189 Election Code, establish additional requirements for county clerks to facilitate the conduct of
190 an election on an opinion question described in this chapter.

191 Section 11. Section **63I-2-220** is amended to read:

192 **63I-2-220. Repeal dates -- Title 20A.**

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

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

195 (3) On January 1, [~~2019~~] 2021, Subsections 20A-6-107(2) and (4), which address
196 nonbinding opinion questions, are repealed and the remaining subsections, and references to
197 those subsections, are renumbered accordingly.

198 (4) On July 1, 2018, in Subsection 20A-11-101(21), the language that states "
199 10-2a-302," is repealed.

200 (5) On January 1, 2026:

201 (a) In Subsection 20A-1-102(23)(a), the language that states "or Title 20A, Chapter 4,
202 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

203 (b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as
204 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is
205 repealed.

206 (c) In Section 20A-1-304, the language that states "Except for a race conducted by
207 instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods
208 Pilot Project," is repealed.

209 (d) In Subsection 20A-3-105(1)(a), the language that states "Except as provided in
210 Subsection (5)," is repealed.

211 (e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states "Except
212 as provided in Subsections (5) and (6)," is repealed.

213 (f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states

214 "Subject to Subsection (5)," is repealed.

215 (g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section
216 20A-3-105 are renumbered accordingly.

217 (h) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in
218 Subsection (2)(f)," is repealed.

219 (i) Subsection 20A-4-101(2)(f) is repealed.

220 (j) Subsection 20A-4-101(4) is repealed and replaced with the following:

221 "(4) To resolve questions that arise during the counting of ballots, a counting judge
222 shall apply the standards and requirements of Section 20A-4-105."

223 (k) In Subsection 20A-4-102(1)(a), the language that states "or a rule made under
224 Subsection 20A-4-101(2)(f)(i)" is repealed.

225 (l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

226 "(b) To resolve questions that arise during the counting of ballots, a counting judge
227 shall apply the standards and requirements of Section 20A-4-105."

228 (m) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in
229 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made
230 under Subsection 20A-4-101(2)(f)(i)" is repealed.

231 (n) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise
232 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is
233 repealed.

234 (o) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3-105(5), or
235 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

236 (p) In Subsections 20A-4-105(3), (5), and (12), the language that states "Except as
237 otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot
238 Project," is repealed.

239 (q) In Subsection 20A-4-106(1)(a)(ii), the language that states "or Title 20A, Chapter
240 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

241 (r) In Subsection 20A-4-304(1)(a), the language that states "except as provided in Title
242 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

243 (s) Subsection 20A-4-304(2)(a)(v) is repealed and replaced with the following:

244 "(v) from each voting precinct:

245 (A) the number of votes for each candidate; and

246 (B) the number of votes for and against each ballot proposition;"

247 (t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1)

248 are renumbered accordingly, and the cross-references to those subsections are renumbered

249 accordingly.

250 (u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is

251 repealed.

252 (v) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in

253 Subsection (3) are renumbered accordingly.

254 (w) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in

255 Subsection (4) are renumbered accordingly.

256 (x) Section 20A-6-203.5 is repealed.

257 (y) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states "Except as

258 otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4,

259 Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

260 (z) In Subsection 20A-9-404(1)(a), the language that states "or Title 20A, Chapter 4,

261 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

262 (aa) In Subsection 20A-9-404(2), the language that states "Except as otherwise

263 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is

264 repealed.

265 Section 12. Section 63I-2-236 is amended to read:

266 **63I-2-236. Repeal dates -- Title 36.**

267 Title 36, Chapter ~~[16b]~~ 16c, Nonbinding Statewide Public Opinion Questions, is

268 repealed on January 1, ~~[2019]~~ 2021.

269 Section 13. **Effective date.**

270 If approved by two-thirds of all the members elected to each house, this bill takes effect

271 upon approval by the governor, or the day following the constitutional time limit of Utah

272 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

273 the date of veto override.