



Received

SEP 27 2017

Spencer J. Cox  
Lieutenant Governor

September 27, 2017

The Honorable Spencer Cox  
Utah Lieutenant Governor's Office  
Utah State Capitol Building, Suite 220  
Salt Lake City, UT 84114

RE: Count My Vote citizens' initiative petition application

Lieutenant Governor Cox,

We, the sponsors of the new Count My Vote citizens' initiative petition, herewith deliver our application for an initiative as required by Utah law.

This initiative's purpose is to institute direct primary elections that will improve voter participation, enhance candidates' access to the ballot, require nominees to show a sufficiently broad level of support, and ensure the integrity and reliability of the election process.

While Utah's political parties should always remain free to hold caucuses and conventions, direct primary elections should serve as the only mechanism through which a candidate for elective office may appear with political party affiliation on the general-election ballot. This issue has been debated publicly for many years, but now is the time for the People of Utah to decide.

We appreciate your service and look forward to your response.

Thank you,

Michael O. Leavitt  
Norma W. Matheson  
Gail Miller  
Ben McAdams  
Rich McKeown

# Application for an Initiative or Referendum

Utah Code 20A-7-202



**PLEASE NOTE:** A copy of the proposed law must be attached to this application along with a statement indicating whether or not signature gatherers will be paid for their services.

Please type or print

Application must be completed by five sponsors

## Sponsor Statement

I, Michael O. Leavitt affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

Name of Sponsor (please type or print)

1441 East Fairfax Road

Residence Address

Salt Lake City, UT 84103

City, State, Zip

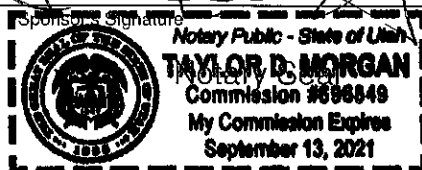
(801) 538-5082

Phone Number

Subscribed and affirmed before me this 17 day of Sept. 20 17

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13 2021



## Sponsor Statement

I, Norma W. Matheson affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

Name of Sponsor (please type or print)

2253 East Hubbard Ave

Residence Address

Salt Lake City, UT 84108

City, State, Zip

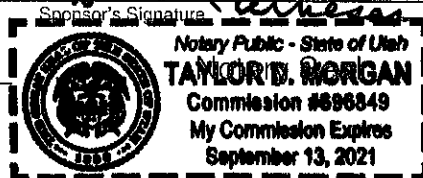
(801) 582-4451

Phone Number

Subscribed and affirmed before me this 18 day of Sept. 20 17

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13 2021



### To File this Form

Mail or deliver to  
Lieutenant Governor's Office  
Utah State Capitol  
Suite 220  
Salt Lake City, UT 84114-2325  
Fax (801) 538-1133  
For More Information call  
(801) 538-1041  
1-800-995-VOTE (8683)  
[elections@utah.gov](mailto:elections@utah.gov)

### For Office Use Only

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Received

SEP 27 2017

Spencer J. Cox  
Lieutenant Governor

Date Received

# Application for an Initiative or Referendum

Utah Code 20A-7-202

Name of Organization

## Sponsor Statement

I, Ben McAdams affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

2205 South 1000 East

Residence Address

Salt Lake City, UT 84106

City, State, Zip

(801) 618-1946

Phone Number

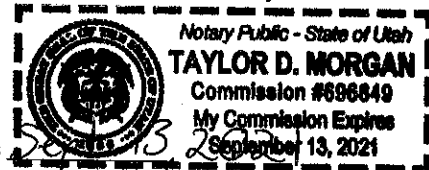
Subscribed and affirmed before me this 15 day of Sept. 2017

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13, 2021

Ben McAdams  
Sponsor's Signature

Notary Seal



## Sponsor Statement

I, Rich McKeown affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

560 East South Temple Street, #501

Residence Address

Salt Lake City, UT 84102

City, State, Zip

(801) 538-5082

Phone Number

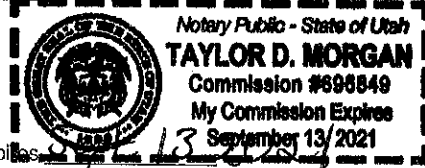
Subscribed and affirmed before me this 15 day of Sept. 2017

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13, 2021

Rich McKeown  
Sponsor's Signature

Notary Seal



## Sponsor Statement

I, Gail Miller affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

99 West South Temple Street, #2800

Residence Address

Salt Lake City, UT 84101

City, State, Zip

(801) 563-4100

Phone Number

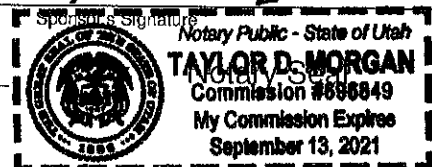
Subscribed and affirmed before me this 18 day of Sept. 2017

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13, 2021

Gail Miller  
Sponsor's Signature

Notary Seal



# DIRECT PRIMARY ELECTION

## 1 LONG TITLE

### 2 General Description:

3 This Initiative amends Title 20A (Election Code) of the Utah Code to designate a direct  
4 vote of the people in a regular primary election as the sole method of selecting political-party  
5 nominees to appear as such on the general-election ballot. Specifically, this Initiative does so by  
6 repealing provisions related to qualified political parties and retaining the direct primary election  
7 process that exists in current law for registered political parties to nominate candidates.

### 8 Statement of Intent and Subject Matter:

9 The caucus-convention method of nominating political candidates in Utah elections is  
10 outdated and dysfunctional. Many political party voters are unable to participate due to logistical  
11 constraints and other obstacles. Because only a small group is empowered, a party's broader  
12 membership is disenfranchised and overall voter participation is discouraged. While political  
13 parties should always remain free to hold caucuses and conventions, a direct primary election  
14 should serve as the only mechanism through which a candidate for elective office may appear  
15 with political party affiliation on the general-election ballot.

16 This issue has been debated publicly for many years, but now is the time for the People of  
17 Utah to decide. This initiative's purpose is to institute a direct primary election that will improve  
18 voter participation, enhance party candidates' access to the primary-election ballot, require  
19 political party nominees to show a sufficiently broad level of support in order to appear with  
20 party affiliation on the general-election ballot, and ensure the integrity and reliability of the  
21 election process through a uniformly administered state-run primary election.

### 22 Highlighted Provisions:

23 This Initiative:

- Provides for a direct primary election to serve as the only mechanism through which political-party nominees for Utah's federal-, state-, and county-level public offices are selected and subsequently featured on the general election ballot with political party affiliation;
- Enacts changes related to definitions, election dates, and other provisions necessary to implement a direct primary election;
- Reduces required signature thresholds for candidates to access the ballot in direct primary elections;
- Repeals provisions associated with the caucus-convention method of nominating political candidates;
- Adjusts deadlines and filing requirements associated with candidate ballot access;
- Establishes a run-off election, when necessary; and
- Enacts a severability clause.

**Monies Appropriated in this Initiative:**

None

**Utah Code Sections Affected:**

**AMENDS:**

- **20A-1-102**, as last amended by Laws of Utah 2017, Chapter 52
- **20A-1-103**, as last amended by Laws of Utah 2015, Chapter 258
- **20A-1-201.5**, as last amended by Laws of Utah 2015, Chapter 352
- **20A-3-308**, as last amended by Laws of Utah 2017, Chapter 235
- **20A-4-301**, as last amended by Laws of Utah 2014, Chapter 377
- **20A-4-306**, as last amended by Laws of Utah 2011, Chapter 2

- **20A-5-101**, as last amended by Laws of Utah 2017, Chapter 267
- **20A-6-203**, as last amended by Laws of Utah 2016, Chapter 326
- **20A-8-103**, as last amended by Laws of Utah 2017, Chapter 91
- **20A-9-101**, as last amended by Laws of Utah 2016, Chapter 16
- **20A-9-403**, as last amended by Laws of Utah 2017, Chapter 91
- **20A-9-405**, as last amended by Laws of Utah 2017, Chapter 17

**REPEALS:**

- **20A-9-406**, as last amended by Laws of Utah 2017, Chapter 91
- **20A-9-407**, as last amended by Laws of Utah 2017, Chapter 91
- **20A-9-408**, as last amended by Laws of Utah 2017, Chapter 91
- **20A-9-408.5**, as last amended by Laws of Utah 2015, Chapter 296
- **20A-9-409**, as last amended by Laws of Utah 2017, Chapter 91
- **20A-9-411**, as last amended by Laws of Utah 2015, Chapter 296

**ENACTS:**

- **20A-1-104**, Utah Code Annotated 1953
- **20A-5-411**, Utah Code Annotated 1953

**Other Special Clauses:**

None

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*Be It Enacted by the People of the State of Utah:*

**SECTION 1. SECTION 20A-1-102 IS AMENDED TO READ:**

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

...

(80) "Ticket" means a list of:

(a) registered political parties that have chosen to nominate all candidates for elective office through direct primary election pursuant to Section 20A-9-403;

(b) candidates for an office; or

(c) ballot propositions.

...

SECTION 2. **SECTION 20A-1-103 IS AMENDED TO READ:**

**20A-1-103. Severability clause.**

If any provision of the Direct Primary Election Initiative of 2018 [~~Laws of Utah 2014, Chapter 17~~], or the application of any provision of that Initiative [~~Laws of Utah 2014, Chapter 17~~], to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of that Initiative [~~Laws of Utah 2014, Chapter 17,~~] shall be given effect without the invalid provision or application. The provisions of the Direct Primary Election Initiative of 2018 [~~Laws of Utah 2014, Chapter 17,~~] are severable.

SECTION 3. **SECTION 20A-1-104 IS ENACTED TO READ:**

**20A-1-104. Repeal of certain provisions.**

All acts and parts of acts related to the nomination or election of candidates for elective office that were enacted between July 1, 2017 and the enactment of this Section are hereby repealed. This Section is intended solely to prevent the Legislature's potential interference in the initiative process and to preserve the ability of the People of the State of Utah to express their

will as to the nomination and election of candidates for elective office through the Direct Primary Election Initiative of 2018. This Section shall not be construed to alter the power given to the Legislature under Section 20A-7-212(3)(b)(2).

SECTION 4. SECTION 20A-1-201.5 IS AMENDED TO READ:

**20A-1-201.5. Primary election dates.**

(1) A regular primary election shall be held throughout the state on the first ~~[fourth]~~ Tuesday of June of each even numbered year as provided in Section 20A-9-403~~[-20A-9-407, or 20A-9-408, as applicable,]~~ to nominate persons for:

(a) national, state, school board, and county offices; and

(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

...

SECTION 5. SECTION 20A-3-308 IS AMENDED TO READ:

**20A-3-308. Absentee ballots in the custody of poll workers—Disposition—Notice.**

...

(5)(a) If the election officer rejects an individual's absentee ballot because the election officer determines that the signature on the ballot does not match the individual's signature that is maintained on file, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue;



(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

- (i) an attestation that the individual voted the absentee ballot;
- (ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;
- (iii) a space for the individual to sign the affidavit; and
- (iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer no later than the end of the business day before the election canvass.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

- (i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and
- (ii) if the canvass has not concluded, count the individual's ballot.

(6) An election officer who rejects an individual's absentee ballot for any reason, other than the reason described in Subsection (5)(a), shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the absentee ballot before election day:

(i) one business day after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by postal mail or phone;

(b) ~~[seven days after election]~~ the day prior to the canvass, if the election officer rejects the absentee ballot on election day; or

(c) seven days after the canvass if the election officer rejects the absentee ballot after election day and before the end of the canvass.

...

**SECTION 6. SECTION 20A-4-301 IS AMENDED TO READ:**

**20A-4-301. Board of canvassers.**

(1)(a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each local district whose election is conducted by the county if:

(A) the election relates to the creation of the local district;

(B) the county legislative body serves as the governing body of the local district; or

(C) there is no duly constituted governing body of the local district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that, for a regular primary election or runoff election is no later than seven days after the election, and for a regular general election or other type of election is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

...

SECTION 7. **SECTION 20A-4-306** IS AMENDED TO READ:

**20A-4-306. Statewide canvass.**

...

(5)(a) At noon on the [~~fourth Monday~~] seventh day after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) Not later than the ~~[August 1]~~ tenth day after the primary election, the lieutenant governor shall certify the results of:

(i) the primary canvass, except for the office of President of the United States, to the county clerks; and

(ii) the primary canvass for the office of President of the United States to each registered political party that participated in the primary.

SECTION 8. **SECTION 20A-5-101** IS AMENDED TO READ:

**20A-5-101. Notice of election.**

(1) On or before ~~[November 15]~~ October 1 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Section[s] 20A-9-403~~[-20A-9-407, and 20A-9-408]~~ for those offices;

(c) includes the master ballot position list for the next year and the year following as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

...

SECTION 9. SECTION 20A-5-411 IS ENACTED TO READ:

**20A-5-411. Candidate appearance with partisan affiliation on ballot of regular general election.**

(1) Notwithstanding any other provision of law, the name of a candidate for elective office shall not appear on the ballot for a regular general election as affiliated with, endorsed by, nominated by, or otherwise associated with any political party, any political group, or any other group of any kind, unless the candidate has been nominated by a registered political party as a presidential or vice presidential candidate pursuant to Subsection 20A-9-204(4) or the candidate has been nominated by a registered political party pursuant to the direct primary election process set forth at Subsection 20A-9-403(5).

(2) Each election officer shall ensure compliance with the requirement described in Subsection (1).

SECTION 10. SECTION 20A-6-203 IS AMENDED TO READ:

**20A-6-203. Ballots for regular primary elections.**

...

(3) Notwithstanding any other provision of law, a filing officer shall not include any marking, insignia, or other feature within the format of a regular primary election ballot that

226 would cause a voter to view a candidate for elective office of a registered political party more  
227 positively or negatively than another candidate from that registered political party.

229 SECTION 11. SECTION 20A-8-103 IS AMENDED TO READ:

230 **20A-8-103. Petition procedures--Criminal penalty.**

231 ...

232 (2) To become a registered political party, an organization of registered voters that is not  
233 a continuing political party shall:

234 (a) circulate a petition seeking registered political party status beginning no earlier than  
235 the date of the statewide canvass held after the last regular general election and ending no later  
236 than November 30 of the year before the year in which the next regular general election will be  
237 held;

238 (b) file a petition with the lieutenant governor that is signed, with a holographic signature,  
239 by at least 2,000 registered voters on or before November 30 of the year in which a regular  
240 general election will be held; and

241 (c) file, with the petition described in Subsection (2)(b), a document certifying:

242 (i) the identity of one or more registered political parties whose members may  
243 vote for the organization's candidates;

244 (ii) whether unaffiliated voters may vote for the organization's candidates; and

245 (iii) whether, for the next election, the organization intends to nominate the  
246 organization's candidates in accordance with the provisions of Section [20A-9-406] 20A-9-403.

247 ...

SECTION 12. SECTION 20A-9-101 IS AMENDED TO READ:

**20A-9-101. Definitions.**

...

(12) "Registered political party" means the same as that term is defined in Section 20A-8-101. ~~[(12) "Qualified political party" means a registered political party that:~~

~~(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or~~

~~(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;~~

~~(b) does not hold the registered political party's convention before the fourth Saturday in March of an even numbered year;~~

~~(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:~~

~~(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or~~

~~(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and~~

~~(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or~~

~~(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.]~~

SECTION 13. **SECTION 20A-9-403 IS AMENDED TO READ:**

**20A-9-403. Regular primary elections.**

(1)(a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The first ~~[fourth]~~ Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).



(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2)(a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) ~~[either]~~ declare either that the registered political party intends ~~[party's intent]~~ to participate in the next regular primary election or ~~[declare]~~ that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on ~~[November]~~ September 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3)(a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

316 (i) circulated and completed in accordance with Section 20A-9-405; and  
317 (ii) signed by at least [~~2%~~] 1% of the registered political party's members who  
318 reside in the political division of the office that the individual seeks.

319 (b) (i) A candidate for elective office shall submit nomination petitions to the  
320 appropriate filing officer for verification and certification no later than 5 p.m. on the [~~final day~~]  
321 first business day in March.

322 (ii) A candidate may supplement the candidate's submissions at any time on or  
323 before the filing deadline.

324 (c) (i) The lieutenant governor shall determine for each elective office the total  
325 number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the  
326 aggregate number of individuals residing in each elective office's political division who have  
327 designated a particular registered political party on the individuals' voter registration forms on or  
328 before [~~November 15~~] September 15 of each odd-numbered year.

329 (ii) The lieutenant governor shall publish the determination for each elective  
330 office no later than [~~November 30~~] October 1 of each odd-numbered year.

331 (d) The filing officer shall:

332 (i) verify signatures on nomination petitions in a transparent and orderly manner;  
333 (ii) for all qualifying candidates for elective office who submit nomination  
334 petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5  
335 p.m. on the first [~~Monday after the third Saturday~~] business day in April;

336 (iii) consider active and inactive voters eligible to sign nomination petitions;  
337 (iv) consider an individual who signs a nomination petition a member of a  
338 registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that

339 registered political party as the individual's party membership on the individual's voter  
340 registration form; and

341 (v) utilize procedures described in Section 20A-7-206.3 to verify submitted  
342 nomination petition signatures, or use statistical sampling procedures to verify submitted  
343 nomination petition signatures in accordance with rules made under Subsection (3)(f).

344 (e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant  
345 governor may appear on the regular primary ballot of a registered political party without  
346 submitting nomination petitions if the candidate files a declaration of candidacy and complies  
347 with Subsection 20A-9-202(3).

348 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
349 director of elections, within the Office of the Lieutenant Governor, shall make rules that:

350 (i) provide for the use of statistical sampling procedures that: (A) filing officers  
351 are required to use to verify signatures under Subsection (3)(d); and (B) reflect a bona fide effort  
352 to determine the validity of a candidate's entire submission, using widely recognized statistical  
353 sampling techniques; and

354 (ii) provide for the transparent, orderly, and timely submission, verification, and  
355 certification of nomination petition signatures.

356 (g) The county clerk shall:

357 (i) review the declarations of candidacy filed by candidates for local boards of  
358 education to determine if more than two candidates have filed for the same seat;

359 (ii) place the names of all candidates who have filed a declaration of candidacy  
360 for a local board of education seat on the nonpartisan section of the ballot if more than two  
361 candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4)(a) By 5 p.m. [~~on the first Wednesday after the third Saturday in April~~] no later than two business days following the date specified in Subsection (3)(d)(ii), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form: "Notice is given that a primary election will be held Tuesday, June \_\_\_\_, \_\_\_\_ (year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct \_\_\_\_ is \_\_\_\_\_. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5)(a) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party if the candidate receives more than 35% of the votes cast for that political party for that office in the regular primary election; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If no candidate for an elective office is nominated by a registered political party pursuant to Subsection (5)(a)(i) in a race where three or more candidates appeared on the regular primary election ballot, an election officer shall conduct a runoff election to determine the party's nominee for that office between the two candidates in the same registered political party who received the highest number of votes in the regular primary election.

(c) For a runoff election described in Subsection (5)(b):

(i) the candidate who, at the runoff election, receives the highest number of votes cast for the office sought by the candidate is nominated for that office by the candidate's registered political party;

(ii) the election officer shall give notice of the runoff election pursuant to rules made by the director of elections within the Office of the Lieutenant Governor in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) the election officer shall hold the runoff election on the second Tuesday following the first Monday in August;

(iv) the election officer shall conduct the election entirely by absentee ballot in accordance with Section 20A-3-302;

(v) the county canvass is seven days after the day of the runoff election;

(vi) the lieutenant governor's canvass of federal, statewide, and multicounty elections is nine days after the day of the runoff election; and

(vii) the director of elections within the Office of the Lieutenant Governor may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act in order to ensure this runoff election is conducted in a lawful, proper, and efficient manner.

~~[(b)]~~ (d) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

~~[(e)]~~(e)(i) As used in this Subsection (5)~~[(e)]~~(e) a candidate is "unopposed" if: (A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or (B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6)(a) When a tie vote occurs in any primary or runoff election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary or runoff election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called

by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary or runoff election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws. Notwithstanding any other provision of law, an election officer or filing officer shall consider an individual a member of a registered political party for purposes of determining the sufficiency of a declaration of candidacy if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form at the time of filing.

SECTION 14. **SECTION 20A-9-405 IS AMENDED TO READ:**

**20A-9-405. Nomination petitions for regular primary elections.**

(1) This section shall apply to the form and circulation of nomination petitions for regular primary elections described in Subsection 20A-9-403(3)(a).

(2) A candidate for elective office, and the agents of the candidate, may not circulate nomination petitions until the candidate has submitted a declaration of candidacy in accordance with Subsection 20A-9-202(1) or until the candidate has provided advance notification to the filing officer of an intention to circulate nomination petitions, which may be given any time after October 1st of the year prior to a regular primary election.

454 ...

455

456 SECTION 15. SECTIONS **20A-9-406, 20A-9-407, 20A-9-408, 20A-9-408.5, 20A-9-**  
457 **409, AND 20A-9-411** ARE REPEALED.

458

459 END OF DIRECT PRIMARY ELECTION INITIATIVE

460

461 Persons gathering signatures for the petition may be paid for doing so.





**State of Utah**

**GARY R. HERBERT**  
*Governor*

**SPENCER J. COX**  
*Lieutenant Governor*

## **GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET**

**KRISTEN COX**  
*Executive Director*

October 30, 2017

Lieutenant Governor Cox,

Submitted below is the Governor's Office of Management and Budget's fiscal estimate for the Count My Vote Initiative:

The Governor's Office of Management and Budget estimates the law proposed by this initiative would result in a total fiscal expense of up to \$3.35 million every two years, including costs for runoff elections (up to \$2.9 million), additional primary elections (up to \$400,000), and signature verification and miscellaneous costs (approximately \$50,000). Candidate and voter behavior may change these estimates.

In addition, the cost of posting information regarding the proposed initiative in Utah's statewide newspapers and for printing the additional pages in the voter information pamphlet is estimated at \$30,000 in one-time funds.

Should you have any questions, please contact Phil Dean, Budget Director and Chief Economist, at (801) 538-1714.

Sincerely,

Kristen Cox  
Executive Director



## PUBLIC HEARING NOTICE

Public notice is hereby given for Count My Vote's public hearings to review its Direct Primary Election Act. The dates and locations of the public hearings are listed below. Count My Vote's proposed initiative language is available for public review at [www.elections.utah.gov](http://www.elections.utah.gov).

### **Bear River Region**

10:00 a.m. Friday, October 27, 2017  
Logan Library  
255 N Main Street, Logan, UT 84321

### **Uintah Basin Region**

10:00 a.m. Saturday, October 28, 2017  
Uintah County Library  
204 East 100 North, Vernal, UT 84078

### **Wasatch Front Region**

2:00 p.m. Friday, October 27, 2017  
Whitmore Library  
2197 E. Ft. Union Boulevard  
Cottonwood Heights, UT 84121

### **Southeast Region**

3:00 p.m. Saturday, October 28, 2017  
Jennifer Leavitt Student Center  
Utah State University Eastern  
451 East 400 North, Price, UT 84501

### **Mountain Region**

4:00 p.m. Friday, October 27, 2017  
Sorensen Student Center  
Utah Valley University  
800 West University Parkway, Orem, UT 84058

### **Southwest Region**

8:00 p.m. Saturday, October 28, 2017  
Sharwan Smith Student Center  
Southern Utah University  
351 West University Boulevard  
Cedar City, UT 84720

### **Central Region**

8:00 p.m. Friday, October 27, 2017  
Noyes Building, Snow College  
150 College Ave East, Ephraim, UT 84627

Count My Vote has notified elected officials as required by Utah law. Public notice has been posted on the Utah Public Notice Website and in newspapers of general circulation. For more information about Count My Vote's citizens' initiative, please visit [www.countmyvoteutah.org](http://www.countmyvoteutah.org).



## **PUBLIC HEARING NOTICE**

Public notice is hereby given for a Count My Vote public hearing to review its Direct Primary Election Act. The date and location of the public hearing is listed below. Count My Vote's proposed initiative language is available for public review at [www.elections.utah.gov](http://www.elections.utah.gov).

### **Mountain Region**

12:00 p.m. Monday, October 30, 2017  
Hampton Inn & Suites Orem  
851 West 1250 South  
Orem, UT 84058

Count My Vote has notified elected officials as required by Utah law. Public notice has been posted on the Utah Public Notice Website and in newspapers of general circulation. For more information about Count My Vote's citizens' initiative, please visit [www.countmyvoteutah.org](http://www.countmyvoteutah.org).



Received  
NOV 08 2017  
Spencer J. Cox  
Lieutenant Governor

November 8, 2017

The Honorable Spencer Cox  
Utah Lieutenant Governor's Office  
Utah State Capitol Building, Suite 220  
Salt Lake City, UT 84114

RE: Count My Vote citizens' initiative petition

Lieutenant Governor Cox,

We, the sponsors of the new Count My Vote citizens' initiative petition, recently held public hearings throughout the state to share information and seek feedback on our initiative. Based on important feedback from Utah voters, we have updated and refined our initiative language. We herewith deliver our final application for our initiative as required by Utah law.

This initiative's purpose is to institute direct primary elections that will improve voter participation, enhance candidates' access to the ballot, require nominees to show a sufficiently broad level of support, and ensure the integrity and reliability of the election process.

As we deliberated internally and considered the positive public input we received, it became clear to us that, in general, the compromise we forged in 2014 has worked well. This initiative will enhance and protect our 2014 compromise for the future, and will provide Utah voters, political parties, and candidates with more choice and increased access to the ballot. Our updated initiative language simplifies and preserves the caucus and convention method of party nomination for a candidate's placement on the primary election ballot. Candidates in Utah will be free to choose between accessing the primary election ballot by gathering signatures, through placement by a political party, or both.

This issue has been debated publicly for many years, but now is the time for the People of Utah to decide.

We appreciate your service and look forward to your response.

Thank you,

Michael O. Leavitt  
Norma W. Matheson  
Gail Miller  
Ben McAdams  
Rich McKeown

# Application for an Initiative or Referendum

Utah Code 20A-7-202



**PLEASE NOTE:** A copy of the proposed law must be attached to this application along with a statement indicating whether or not signature gatherers will be paid for their services.

Please type or print

Application must be completed by five sponsors

## Sponsor Statement

I, Michael O. Leavitt

Name of Sponsor (please type or print)

affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

1441 East Fairfax Road

Residence Address

Michael O. Leavitt

Sponsor's Signature

Salt Lake City, UT 84103

City, State, Zip

(801) 538-5082

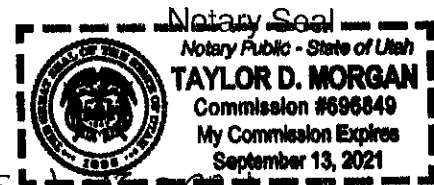
Phone Number

Subscribed and affirmed before me this 6 day of November 20 17

Taylor D. Morgan

Notary Public

My commission expires Sept. 13, 2021



## Sponsor Statement

I, Rich McKeown

Name of Sponsor (please type or print)

affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

560 East South Temple Street, #501

Residence Address

Rich McKeown

Sponsor's Signature

Salt Lake City, UT 84102

City, State, Zip

(801) 538-5082

Phone Number

Subscribed and affirmed before me this 6 day of November 20 17

Taylor D. Morgan

Notary Public

My commission expires Sept. 13, 2021



### To File this Form

Mail or deliver to  
Lieutenant Governor's Office  
Utah State Capitol  
Suite 220  
Salt Lake City, UT 84114-2325  
Fax (801) 538-1133  
For More Information call  
(801) 538-1041  
1-800-995-VOTE (8683)  
[elections@utah.gov](mailto:elections@utah.gov)

### For Office Use Only

☐ Entered \_\_\_\_\_  
☐ Copied \_\_\_\_\_

Received

NOV 08 2017

Spencer J. Cox  
Lieutenant Governor

Date Received

# Application for an Initiative or Referendum

Utah Code 20A-7-202

Name of Organization

Received

NOV 08 2017

## Sponsor Statement

Spencer J. Cox  
Lieutenant Governor

I, Ben McAdams affirm that I am a resident of Utah and I have voted in a  
Name of Sponsor (please type or print) regular general election in Utah within the last three years.

2205 South 1000 East

Residence Address

Salt Lake City, UT 84106

City, State, Zip

(801) 618-1946

Phone Number

Subscribed and affirmed before me this 6 day of November 20 17

Sponsor's Signature



Notary Seal  
TAYLOR D. MORGAN  
Commission #696849  
My Commission Expires  
September 13, 2021

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13, 2021

## Sponsor Statement

I, Norma W. Matheson affirm that I am a resident of Utah and I have voted in a  
Name of Sponsor (please type or print) regular general election in Utah within the last three years.

2253 East Hubbard Ave

Residence Address

Salt Lake City, UT 84108

City, State, Zip

(801) 582-4451

Phone Number

Subscribed and affirmed before me this 6 day of November 20 17

Sponsor's Signature



Notary Seal  
TAYLOR D. MORGAN  
Commission #696849  
My Commission Expires  
September 13, 2021

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13, 2021

## Sponsor Statement

I, Gail Miller affirm that I am a resident of Utah and I have voted in a  
Name of Sponsor (please type or print) regular general election in Utah within the last three years.

99 West South Temple Street, #2800

Residence Address

Salt Lake City, UT 84101

City, State, Zip

(801) 563-4100

Phone Number

Subscribed and affirmed before me this 6 day of November 20 17

Sponsor's Signature



Notary Seal  
TAYLOR D. MORGAN  
Commission #696849  
My Commission Expires  
September 13, 2021

Taylor D. Morgan  
Notary Public

My commission expires Sept. 13, 2021

# **DIRECT PRIMARY ELECTION**

## **1 LONG TITLE**

### **2 General Description:**

3           This Initiative amends Title 20A (Election Code) of the Utah Code to implement a direct  
4   vote of the people in a regular primary election to select political-party nominees to appear as  
5   such on the general-election ballot. Specifically, this Initiative does so by repealing provisions  
6   related to qualified political parties, preserving a “dual path” for candidates to access the  
7   primary-election ballot through gathering signatures or through placement by a political party,  
8   and retaining the direct primary election process that exists in current law for registered political  
9   parties to nominate candidates.

### **10 Statement of Intent and Subject Matter:**

11           Political party-affiliated candidates on the general-election ballot should be chosen  
12   through a direct primary election where all party voters have an opportunity to vote. Candidates  
13   should remain free to choose between accessing the primary-election ballot by gathering  
14   signatures, through a political party convention, or both. Current law requires changes to enhance  
15   and preserve Utah’s system. A vote of the people is necessary to demonstrate citizen preference  
16   of this dual system of qualification for political party candidates.

17           A direct primary election will improve voter participation, enhance party candidates’  
18   access to the primary-election ballot, and assure that political party nominees have sufficiently  
19   broad support to appear with party affiliation on the general-election ballot. It would also ensure  
20   the integrity and reliability of the election process through a uniformly administered state-run  
21   primary election. This Initiative will clearly express the voice of the people on a matter than has  
22   been widely debated.

### **23 Highlighted Provisions:**

This Initiative:

- Provides for a direct primary election to serve as the mechanism through which political-party nominees for Utah’s federal-, state-, and county-level public offices are selected and subsequently featured on the general election ballot with political party affiliation;
- Enacts changes related to definitions, election dates, and other provisions necessary to implement a direct primary election;
- Reduces required signature thresholds for candidates to access the ballot in direct primary elections;
- Preserves political party placement as a method for candidates to access the ballot in direct primary elections;
- Repeals provisions associated with the caucus-convention method of nominating political candidates;
- Adjusts deadlines and filing requirements associated with candidate ballot access;
- Establishes a run-off election, when necessary; and
- Enacts a severability clause.

**Monies Appropriated in this Initiative:**

None

**Utah Code Sections Affected:**

**AMENDS:**

- **20A-1-102**, as last amended by Laws of Utah 2017, Chapter 52
- **20A-1-103**, as last amended by Laws of Utah 2015, Chapter 258
- **20A-1-201.5**, as last amended by Laws of Utah 2015, Chapter 352



- 47       ▪   **20A-3-308**, as last amended by Laws of Utah 2017, Chapter 235
- 48       ▪   **20A-4-301**, as last amended by Laws of Utah 2014, Chapter 377
- 49       ▪   **20A-4-306**, as last amended by Laws of Utah 2011, Chapter 2
- 50       ▪   **20A-4-401**, as last amended by Laws of Utah 2013, Chapter 92
- 51       ▪   **20A-4-403**, as last amended by Laws of Utah 2007, Chapter 238
- 52       ▪   **20A-5-101**, as last amended by Laws of Utah 2017, Chapter 267
- 53       ▪   **20A-6-203**, as last amended by Laws of Utah 2016, Chapter 326
- 54       ▪   **20A-8-103**, as last amended by Laws of Utah 2017, Chapter 91
- 55       ▪   **20A-9-101**, as last amended by Laws of Utah 2016, Chapter 16
- 56       ▪   **20A-9-202**, as last amended by Laws of Utah 2017, Chapter 63
- 57       ▪   **20A-9-403**, as last amended by Laws of Utah 2017, Chapter 91
- 58       ▪   **20A-9-405**, as last amended by Laws of Utah 2017, Chapter 17

59       **REPEALS:**

- 60       ▪   **20A-9-406**, as last amended by Laws of Utah 2017, Chapter 91
- 61       ▪   **20A-9-407**, as last amended by Laws of Utah 2017, Chapter 91
- 62       ▪   **20A-9-408**, as last amended by Laws of Utah 2017, Chapter 91
- 63       ▪   **20A-9-408.5**, as last amended by Laws of Utah 2015, Chapter 296
- 64       ▪   **20A-9-409**, as last amended by Laws of Utah 2017, Chapter 91
- 65       ▪   **20A-9-411**, as last amended by Laws of Utah 2015, Chapter 296

66       **ENACTS:**

- 67       ▪   **20A-1-104**, Utah Code Annotated 1953
- 68       ▪   **20A-5-411**, Utah Code Annotated 1953

69       **Other Special Clauses:**

None

---

*Be It Enacted by the People of the State of Utah:*

SECTION 1. **SECTION 20A-1-102** IS AMENDED TO READ:

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

...

(24) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a runoff election, a municipal primary election, and a local district election.

...

(80) “Ticket” means a list of:

(a) registered political parties that have chosen to nominate all candidates for elective office through direct primary election pursuant to Section 20A-9-403;

(b) candidates for an office; or

(c) ballot propositions.

...

SECTION 2. **SECTION 20A-1-103** IS AMENDED TO READ:

**20A-1-103. Severability clause.**

If any provision of the Direct Primary Election Initiative of 2018 [~~Laws of Utah 2014, Chapter 17~~], or the application of any provision of that Initiative [~~Laws of Utah 2014, Chapter 17~~], to any person or circumstance is held invalid by a final decision of a court of competent

jurisdiction, the remainder of that Initiative [~~Laws of Utah 2014, Chapter 17,~~] shall be given effect without the invalid provision or application. The provisions of the Direct Primary Election Initiative of 2018 [~~Laws of Utah 2014, Chapter 17,~~] are severable.

SECTION 3. **SECTION 20A-1-104 IS ENACTED TO READ:**

**20A-1-104. Repeal of certain provisions.**

All acts and parts of acts related to the nomination or election of candidates for elective office that were enacted between November 1, 2017 and the enactment of this Section are hereby repealed, to the extent they conflict with the text or purpose of the Direct Primary Election Initiative of 2018. This Section is intended solely to prevent the Legislature's potential interference in the initiative process and to preserve the ability of the People of the State of Utah to express their will as to the nomination and election of candidates for elective office through the Direct Primary Election Initiative of 2018. This Section shall not be construed to alter the power given to the Legislature under Section 20A-7-212(3)(b).

SECTION 4. **SECTION 20A-1-201.5 IS AMENDED TO READ:**

**20A-1-201.5. Primary election dates.**

(1) A regular primary election shall be held throughout the state on the first [~~fourth~~] Tuesday of June of each even numbered year as provided in Section 20A-9-403[~~, 20A-9-407, or 20A-9-408, as applicable,~~] to nominate persons for:

(a) national, state, school board, and county offices; and

(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

...

SECTION 5. **SECTION 20A-3-308** IS AMENDED TO READ:

**20A-3-308. Absentee ballots in the custody of poll workers—Disposition—Notice.**

...

(5)(a) If the election officer rejects an individual's absentee ballot because the election officer determines that the signature on the ballot does not match the individual's signature that is maintained on file, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue;

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the absentee ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer no later than the end of the business day before the election canvass.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the canvass has not concluded, count the individual's ballot.

(6) An election officer who rejects an individual's absentee ballot for any reason, other than the reason described in Subsection (5)(a), shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the absentee ballot before election day:

(i) one business day after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by postal mail or phone;

(b) ~~[seven days after election]~~ the day prior to the canvass, if the election officer rejects the absentee ballot on election day; or

(c) seven days after the canvass if the election officer rejects the absentee ballot after election day and before the end of the canvass.

...

SECTION 6. **SECTION 20A-4-301** IS AMENDED TO READ:

**20A-4-301. Board of canvassers.**

(1)(a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each local district whose election is conducted by the county if:

(A) the election relates to the creation of the local district;

(B) the county legislative body serves as the governing body of the local district; or

(C) there is no duly constituted governing body of the local district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that, for a regular primary election or runoff election is seven days after the election, and for a regular general election or other type of election is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

...

SECTION 7. **SECTION 20A-4-306** IS AMENDED TO READ:

**20A-4-306. Statewide canvass.**

...

(5)(a) At noon on the [~~fourth Monday~~] ninth day after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) Not later than the [~~August 1~~] tenth day after the primary election, the lieutenant governor shall certify the results of:

(i) the primary canvass, except for the office of President of the United States, to the county clerks; and

(ii) the primary canvass for the office of President of the United States to each registered political party that participated in the primary.

SECTION 8. **SECTION 20A-4-401** IS AMENDED TO READ:

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

(1)(a) Except as provided in Subsection (1)(b), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)(c).

(b) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)(c).

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

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

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

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

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

(C) the county clerk, for races voted on entirely within a single county; or

(D) the lieutenant governor, for statewide races and multicounty races.

(d) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that race;

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



(iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and

(v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.

...

SECTION 9. **SECTION 20A-4-403** IS AMENDED TO READ:

**20A-4-403. Election contest—Petition and response.**

(1)(a) In contesting the results of all elections, except for primary elections, runoff elections, and bond elections, a registered voter shall contest the right of any person declared elected to any office by filing a verified written complaint with the district court of the county in which he resides within 40 days after the canvass.

(b) The complaint shall include:

(i) the name of the party contesting the election;

(ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the person whose right to the office is contested;

(iv) the office to which that person was ostensibly elected;

(v) one or more of the grounds for an election contest specified in Section 20A-4-402;

(vi) the person who was purportedly elected to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given in one or more specified voting precincts to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or

(ii) that legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.

(d)(i) The court may not take or receive evidence of any of the votes described in Subsection (1)(c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(2)(a) In contesting the results of a primary election, when contesting the results of a runoff election, or when contesting the petition nominating an independent candidate, [~~or when challenging any person, election officer, election official, board, or convention for failing to nominate a person~~], a registered voter shall contest the right of any person declared nominated to any office by filing a verified written complaint within [40] two days after the date of the

271 canvass for the [~~primary~~] election, or 10 days after the date of filing of the petition, [~~or after the~~  
272 ~~date of the convention, respectively,~~] with:

273 (i) the district court of the county in which he resides if he is contesting a  
274 nomination made only by voters from that county; or

275 (ii) the Utah Supreme Court, if he is contesting a nomination made by voters in  
276 more than one county.

277 (b) The complaint shall include:

278 (i) the name of the party contesting the nomination;

279 (ii) a statement that the contesting party is a registered voter in the jurisdiction in  
280 which the election was held;

281 (iii) the name of the person whose right to nomination is contested or the name of  
282 the person who failed to have their name placed in nomination;

283 (iv) the office to which that person was nominated or should have been  
284 nominated;

285 (v) one or more of the grounds for an election contest specified in Subsection (1);

286 (vi) the person who was purportedly nominated to the office as respondent; and

287 (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a  
288 ground for the contest, the name and address of all persons who allegedly cast illegal votes or  
289 whose legal vote was rejected.

290 (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause  
291 of contest, it is sufficient to state generally that:

(i) illegal votes were given to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or

(ii) legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.

(d)(i) The court may not take or receive evidence of any the votes described in Subsection (2)(c), unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

...

**SECTION 10. SECTION 20A-5-101 IS AMENDED TO READ:**

**20A-5-101. Notice of election.**

(1) On or before [~~November 15~~] October 1 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Section[s] 20A-9-403[, ~~20A-9-407, and 20A-9-408~~] for those offices;

(c) includes the master ballot position list for the next year and the year following [as established under ~~Section 20A-6-305~~], if available; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

...

SECTION 11. **SECTION 20A-5-411 IS ENACTED TO READ:**

**20A-5-411. Candidate appearance with partisan affiliation on ballot of regular general election.**

(1) Notwithstanding any other provision of law, the name of a candidate for elective office shall not appear on the ballot for a regular general election as affiliated with, endorsed by, nominated by, or otherwise associated with any political party, any political group, or any other group of any kind, unless the candidate has been nominated by a registered political party as a presidential or vice presidential candidate or unless the candidate has been nominated by a registered political party pursuant to the direct primary election or unopposed candidate processes set forth at Subsection 20A-9-403(5).

(2) Each election officer shall ensure compliance with the requirement described in Subsection (1).

SECTION 12. **SECTION 20A-6-203 IS AMENDED TO READ:**

**20A-6-203. Ballots for regular primary elections.**

...

(3) Notwithstanding any other provision of law, a filing officer shall not include any marking, insignia, or other feature within the format of a regular primary election ballot that would cause a voter to view a candidate for elective office of a registered political party more positively or negatively than another candidate from that registered political party.

SECTION 13. **SECTION 20A-8-103 IS AMENDED TO READ:**

**20A-8-103. Petition procedures--Criminal penalty.**

...

(2) To become a registered political party, an organization of registered voters that is not a continuing political party shall:

(a) circulate a petition seeking registered political party status beginning no earlier than the date of the statewide canvass held after the last regular general election and ending no later than November 30 of the year before the year in which the next regular general election will be held;

(b) file a petition with the lieutenant governor that is signed, with a holographic signature, by at least 2,000 registered voters on or before November 30 of the year in which a regular general election will be held; and

(c) file, with the petition described in Subsection (2)(b), a document certifying:

(i) the identity of one or more registered political parties whose members may vote for the organization's candidates;

(ii) whether unaffiliated voters may vote for the organization's candidates; and

(iii) whether, for the next election, the organization intends to nominate the organization's candidates in accordance with the provisions of Section [~~20A-9-406~~] 20A-9-403.

...

SECTION 14. **SECTION 20A-9-101** IS AMENDED TO READ:

**20A-9-101. Definitions.**

...

(12) “Registered political party” means the same as that term is defined in Section 20A-8-

101. ~~[(12) “Qualified political party” means a registered political party that:~~

(a) ~~(i) permits a delegate for the registered political party to vote on a candidate~~

~~nomination in the registered political party's convention remotely; or~~

~~(ii) provides a procedure for designating an alternate delegate if a delegate is not~~

~~present at the registered political party's convention;~~

~~(b) does not hold the registered political party's convention before the fourth Saturday in~~

~~March of an even-numbered year;~~

~~(c) permits a member of the registered political party to seek the registered political~~

~~party's nomination for any elective office by the member choosing to seek the nomination by~~

~~either or both of the following methods:~~

~~(i) seeking the nomination through the registered political party's convention~~

~~process, in accordance with the provisions of Section 20A-9-407; or~~

~~(ii) seeking the nomination by collecting signatures, in accordance with the~~

~~provisions of Section 20A-9-408; and~~

~~(d) (i) if the registered political party is a continuing political party, no later than 5~~

~~p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the~~

election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.]

SECTION 15. **SECTION 20A-9-202 IS AMENDED TO READ:**

**20A-9-202. Declarations of candidacy for regular general elections.**

(1)(a) Each person seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, [and, if applicable,] or before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one working day after it is filed.

(c) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed in their office.

(d) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.



(2)(a) Each person intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3)(a) [~~On or before 5 p.m. on the first Monday after the third Saturday in April~~] At least five days prior to the date specified in Subsection 20A-9-403(d)(ii), each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has [~~received certification~~] qualified or attempted to qualify for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) Any candidate for lieutenant governor who fails to timely file is disqualified. If a lieutenant governor is disqualified, another candidate shall file to replace the disqualified candidate.

...

SECTION 16. **SECTION 20A-9-403** IS AMENDED TO READ:

**20A-9-403. Regular primary elections and post-primary runoff elections.**

(1)(a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The first [~~fourth~~] Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or, in the case of a presidential or vice presidential candidate, in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2)(a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) ~~[either]~~ declare either that the registered political party intends ~~[party's intent]~~ to participate in the next regular primary election or ~~[declare]~~ that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on ~~[November]~~ September 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3)(a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is featured on a listing of candidates for the regular primary election ballot that a registered political party submits to the appropriate filing officer no later than 5 p.m. on the first business day in March or if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least ~~[2%]~~ 1% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the ~~[final day]~~ first business day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before ~~[November 15]~~ September 15 of each odd-numbered year, in the case of a registered political party, and on or before December 15, in the case of a newly registered political party.

(ii) The lieutenant governor shall publish the determination for each elective office no later than ~~[November 30]~~ October 1 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first ~~[Monday after the third Saturday]~~ business day in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that

registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, ~~shall~~ may make rules that:

(i) provide for the use of statistical sampling procedures that: (A) filing officers are required to use to verify signatures under Subsection (3)(d); and (B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4)(a) By 5 p.m. [~~on the first Wednesday after the third Saturday in April~~] no later than two business days following the date specified in Subsection (3)(d)(ii), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have [~~received certifications~~] qualified for the regular primary election ballot under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection [~~(5)(e)~~] (5)(e) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form: "Notice is given that a primary election will be held Tuesday, June \_\_\_\_\_, \_\_\_\_\_(year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct \_\_\_\_\_ is \_\_\_\_\_. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5)(a) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party if the candidate receives more than 35% of the votes cast for that political party for that office in the regular primary election; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If no candidate for an elective office is nominated by a registered political party pursuant to Subsection (5)(a)(i) in a race where three or more candidates appeared on the regular primary election ballot, an election officer shall conduct a runoff election to determine the party's nominee for that office between the two candidates in the same registered political party who received the highest number of votes in the regular primary election.

(c) For a runoff election described in Subsection (5)(b):

(i) the candidate who, at the runoff election, receives the highest number of votes cast for the office sought by the candidate is nominated for that office by the candidate's registered political party;

(ii) the election officer shall give notice of the runoff election pursuant to rules made by the director of elections within the Office of the Lieutenant Governor in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) the election officer shall hold the runoff election on the second Tuesday following the first Monday in August;

(iv) the election officer shall conduct the election entirely by absentee ballot in accordance with Section 20A-3-302;

(v) the county canvass is seven days after the day of the runoff election;

(vi) the lieutenant governor's canvass of federal, statewide, and multicounty elections is nine days after the day of the runoff election; and

(vii) the director of elections within the Office of the Lieutenant Governor may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act in order to ensure this runoff election is conducted in a lawful, timely, proper, and efficient manner.

~~[(b)]~~ (d) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

~~[(e)]~~(e)(i) As used in this Subsection (5)~~[(e)]~~(e) a candidate is “unopposed” if: (A) no individual other than the candidate ~~[receives a certification]~~ qualifies under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or (B) for an office where more than one individual is to be elected or nominated, the number of candidates who ~~[receive certification]~~ qualify under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6)(a) When a tie vote occurs in any primary or runoff election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary or runoff election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called



by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary or runoff election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws. Notwithstanding any other provision of law, an election officer or filing officer shall consider an individual a member of a registered political party for purposes of determining the sufficiency of a declaration of candidacy if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form at the time of filing and if the individual has not designated another registered political party as the individual's party membership on the individual's voter registration form during the past four years.

SECTION 17. **SECTION 20A-9-405** IS AMENDED TO READ:

**20A-9-405. Nomination petitions for regular primary elections.**

(1) This section shall apply to the form and circulation of nomination petitions for regular primary elections described in Subsection 20A-9-403(3)(a).

(2) A candidate for elective office, and the agents of the candidate, may not circulate nomination petitions until the candidate has submitted a declaration of candidacy in accordance with Subsection 20A-9-202(1) or filed a declaration of candidacy as advance notification to the

610 filing officer of an intention to circulate nomination petitions, which may be given any time after  
611 October 1st of the year prior to a regular primary election.

612 ...

613

614 SECTION 18. SECTIONS **20A-9-406, 20A-9-407, 20A-9-408, 20A-9-408.5, 20A-9-**  
615 **409, AND 20A-9-411** ARE REPEALED.

616

617 END OF DIRECT PRIMARY ELECTION INITIATIVE

618

619 Persons gathering signatures for the petition may be paid for doing so.



**State of Utah**

**GARY R. HERBERT**  
*Governor*

**SPENCER J. COX**  
*Lieutenant Governor*

## **GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET**

**KRISTEN COX**  
*Executive Director*

November 16, 2017

Lieutenant Governor Cox,

Submitted below is the Governor's Office of Management and Budget's fiscal estimate for the Count My Vote Initiative (the recent changes to the initiative language have had no impact on the original fiscal note):

The Governor's Office of Management and Budget estimates the law proposed by this initiative would result in a total fiscal expense of up to \$3.35 million every two years, including costs for runoff elections (up to \$2.9 million), additional primary elections (up to \$400,000), and signature verification and miscellaneous costs (approximately \$50,000). Candidate and voter behavior may change these estimates.

In addition, the cost of posting information regarding the proposed initiative in Utah's statewide newspapers and for printing the additional pages in the voter information pamphlet is estimated at \$30,000 in one-time funds.

Should you have any questions, please contact Phil Dean, Budget Director and Chief Economist, at (801) 538-1714.

Sincerely,

Kristen Cox  
Executive Director

# STATE OF UTAH



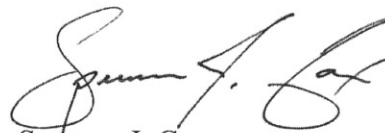
OFFICE OF THE LIEUTENANT GOVERNOR

## 2018 STATEWIDE INITIATIVES

I, Spencer J. Cox, Lieutenant Governor, do hereby declare the DIRECT PRIMARY ELECTION initiative insufficient to be submitted to the voters of Utah for their approval or rejection.

IN WITNESS WHEREOF,  
I have hereunto set my hand and affixed the  
Great Seal of the State of Utah at Salt Lake  
City, this 29th day of May, 2018.



  
Spencer J. Cox  
Lieutenant Governor