

1 **STATE BOARD OF EDUCATION MEMBER ELECTION**

2 **PROCESS AMENDMENTS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Carol Spackman Moss**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the election process for membership on the State Board of Education.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires the direct, nonpartisan election of members of the State Board of
14 Education;

15 ▶ repeals the involvement of the governor and the nominating and recruiting
16 committee for the State Board of Education in the selection process; and

17 ▶ makes technical corrections.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 **AMENDS:**

24 **20A-6-301**, as last amended by Laws of Utah 2009, Chapter 202

25 **20A-6-302**, as last amended by Laws of Utah 2006, Chapter 326

26 **20A-9-403**, as last amended by Laws of Utah 2008, Chapter 225

27 **20A-14-104**, as last amended by Laws of Utah 2004, Chapter 19



28 REPEALS:

29 **20A-14-105**, as last amended by Laws of Utah 2003, Chapter 315



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

32 Section 1. Section **20A-6-301** is amended to read:

33 **20A-6-301. Paper ballots -- Regular general election.**

34 (1) Each election officer shall ensure that:

35 (a) all paper ballots furnished for use at the regular general election contain no captions
36 or other endorsements except as provided in this section;

37 (b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the
38 top of the ballot, and divided from the rest of ballot by a perforated line;

39 (ii) the ballot number and the words " Poll Worker's Initial ____ " are printed on the
40 stub; and

41 (iii) ballot stubs are numbered consecutively;

42 (c) immediately below the perforated ballot stub, the following endorsements are
43 printed in 18-point bold type:

44 (i) "Official Ballot for ____ County, Utah";

45 (ii) the date of the election; and

46 (iii) a facsimile of the signature of the county clerk and the words "county clerk";

47 (d) each ticket is placed in a separate column on the ballot in the order determined by
48 the election officer with the party emblem, followed by the party name, at the head of the
49 column;

50 (e) the party name or title is printed in capital letters not less than 1/4 of an inch high;

51 (f) a circle 1/2 inch in diameter is printed immediately below the party name or title,
52 and the top of the circle is placed not less than two inches below the perforated line;

53 (g) unaffiliated candidates and candidates not affiliated with a registered political party
54 are listed in one column, without a party circle, with the following instructions printed at the
55 head of the column: "All candidates not affiliated with a political party are listed below. They
56 are to be considered with all offices and candidates listed to the left. Only one vote is allowed
57 for each office.";

58 (h) the columns containing the lists of candidates, including the party name and device,

59 are separated by heavy parallel lines;

60 (i) the offices to be filled are plainly printed immediately above the names of the
61 candidates for those offices;

62 (j) the names of candidates are printed in capital letters, not less than 1/8 nor more than
63 1/4 of an inch high in heavy-faced type not smaller than 10 point, between lines or rules 3/8 of
64 an inch apart;

65 (k) a square with sides measuring not less than 1/4 of an inch in length is printed
66 immediately adjacent to the name of each candidate;

67 (l) for the offices of president and vice president and governor and lieutenant governor,
68 one square with sides measuring not less than 1/4 of an inch in length is printed on the same
69 side as but opposite a double bracket enclosing the names of the two candidates;

70 (m) immediately adjacent to the unaffiliated ticket on the ballot, the ballot contains a
71 write-in column long enough to contain as many written names of candidates as there are
72 persons to be elected with:

73 (i) for each office on the ballot, the office to be filled plainly printed immediately
74 above:

75 (A) a blank, horizontal line to enable the entry of a valid write-in candidate and a
76 square with sides measuring not less than 1/4 of an inch in length printed immediately adjacent
77 to the blank horizontal line; or

78 (B) for the offices of president and vice president and governor and lieutenant
79 governor, two blank horizontal lines, one placed above the other, to enable the entry of two
80 valid write-in candidates, and one square with sides measuring not less than 1/4 of an inch in
81 length printed on the same side as but opposite a double bracket enclosing the two blank
82 horizontal lines; and

83 (ii) the words "Write-In Voting Column" printed at the head of the column without a
84 1/2 inch circle;

85 (n) when required, the ballot includes a nonpartisan ticket placed immediately adjacent
86 to the write-in ticket with the word "NONPARTISAN" in reverse type in an 18 point solid rule
87 running vertically the full length of the nonpartisan ballot copy; and

88 (o) constitutional amendments or other questions submitted to the vote of the people,
89 are printed on the ballot after the list of candidates.

90 (2) Each election officer shall ensure that:
91 (a) each person nominated by any political party or group of petitioners is placed on the
92 ballot:
93 (i) under the party name and emblem, if any; or
94 (ii) under the title of the party or group as designated by them in their certificates of
95 nomination or petition, or, if none is designated, then under some suitable title;
96 (b) the names of all unaffiliated candidates that qualify as required in Title 20A,
97 Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;
98 (c) the names of the candidates for president and vice president are used on the ballot
99 instead of the names of the presidential electors; and
100 (d) the ballots contain no other names.
101 (3) When the ballot contains a nonpartisan section, the election officer shall ensure
102 that:
103 (a) the designation of the office to be filled in the election and the number of
104 candidates to be elected are printed in type not smaller than eight point;
105 (b) the words designating the office are printed flush with the left-hand margin;
106 (c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of
107 the column;
108 (d) the nonpartisan candidates are grouped according to the office for which they are
109 candidates;
110 (e) the names in each group are placed in alphabetical order with the surnames last,
111 except for candidates for the State Board of Education and local school boards;
112 [~~(f) the names of candidates for the State Board of Education are placed on the ballot as~~
113 ~~certified by the lieutenant governor under Section 20A-14-105;~~]
114 [~~(g)~~ (f) if candidates for membership on the State Board of Education or a local board
115 of education were selected in a primary election, the name of the candidate who received the
116 most votes in the primary election is listed first on the ballot;
117 [~~(h)~~ (g) if candidates for membership on the State Board of Education or a local board
118 of education were not selected in the primary election, the names of the candidates are listed on
119 the ballot in the order determined by a lottery conducted by the lieutenant governor or county
120 clerk; and

121 [(†)] (h) each group is preceded by the designation of the office for which the
 122 candidates seek election, and the words, "Vote for one" or "Vote for two or more," according to
 123 the number to be elected.

124 (4) Each election officer shall ensure that:

125 (a) proposed amendments to the Utah Constitution are listed on the ballot in
 126 accordance with Section 20A-6-107;

127 (b) ballot propositions submitted to the voters are listed on the ballot in accordance
 128 with Section 20A-6-107; and

129 (c) bond propositions that have qualified for the ballot are listed on the ballot under the
 130 title assigned to each bond proposition under Section 11-14-206.

131 Section 2. Section **20A-6-302** is amended to read:

132 **20A-6-302. Paper ballots -- Placement of candidates' names.**

133 (1) Each election officer shall ensure, for paper ballots in regular general elections,
 134 that:

135 (a) except for candidates for state school board and local school boards:

136 (i) each candidate is listed by party; and

137 (ii) candidates' surnames are listed in alphabetical order on the ballots when two or
 138 more candidates' names are required to be listed on a ticket under the title of an office;

139 [~~(b) the names of candidates for the State Board of Education are placed on the ballot
 140 as certified by the lieutenant governor under Section 20A-14-105;~~]

141 [(e)] (b) if candidates for membership on the State Board of Education or a local board
 142 of education were selected in a regular primary election, the name of the candidate who
 143 received the most votes in the regular primary election is listed first on the ballot; and

144 [(d)] (c) if candidates for membership on the State Board of Education or a local board
 145 of education were not selected in the regular primary election, the names of the candidates are
 146 listed on the ballot in the order determined by a lottery conducted by the lieutenant governor or
 147 county clerk.

148 (2) (a) The election officer may not allow the name of a candidate who dies or
 149 withdraws before election day to be printed upon the ballots.

150 (b) If the ballots have already been printed, the election officer:

151 (i) shall, if possible, cancel the name of the dead or withdrawn candidate by drawing a

152 line through the candidate's name before the ballots are delivered to voters; and

153 (ii) may not count any votes for that dead or withdrawn candidate.

154 (3) (a) When there is only one candidate for county attorney at the regular general
155 election in counties that have three or fewer registered voters of the county who are licensed
156 active members in good standing of the Utah State Bar, the county clerk shall cause that
157 candidate's name and party affiliation, if any, to be placed on a separate section of the ballot
158 with the following question: "Shall (name of candidate) be elected to the office of county
159 attorney? Yes ____ No ____."

160 (b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is
161 elected to the office of county attorney.

162 (c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not
163 elected and may not take office, nor may he continue in the office past the end of the term
164 resulting from any prior election or appointment.

165 (d) When the name of only one candidate for county attorney is printed on the ballot
166 under authority of this Subsection (3), the county clerk may not count any write-in votes
167 received for the office of county attorney.

168 (e) If no qualified person files for the office of county attorney or if the candidate is not
169 elected by the voters, the county legislative body shall appoint the county attorney as provided
170 in Section 20A-1-509.2.

171 (f) If the candidate whose name would, except for this Subsection (3)(f), be placed on
172 the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the
173 two consecutive terms immediately preceding the term for which the candidate is seeking
174 election, Subsection (3)(a) shall not apply and that candidate shall be considered to be an
175 unopposed candidate the same as any other unopposed candidate for another office, unless a
176 petition is filed with the county clerk before the date of that year's primary election that:

177 (i) requests the procedure set forth in Subsection (3)(a) to be followed; and

178 (ii) contains the signatures of registered voters in the county representing in number at
179 least 25% of all votes cast in the county for all candidates for governor at the last election at
180 which a governor was elected.

181 (4) (a) When there is only one candidate for district attorney at the regular general
182 election in a prosecution district that has three or fewer registered voters of the district who are

183 licensed active members in good standing of the Utah State Bar, the county clerk shall cause
184 that candidate's name and party affiliation, if any, to be placed on a separate section of the
185 ballot with the following question: "Shall (name of candidate) be elected to the office of district
186 attorney? Yes ____ No ____."

187 (b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is
188 elected to the office of district attorney.

189 (c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not
190 elected and may not take office, nor may he continue in the office past the end of the term
191 resulting from any prior election or appointment.

192 (d) When the name of only one candidate for district attorney is printed on the ballot
193 under authority of this Subsection (4), the county clerk may not count any write-in votes
194 received for the office of district attorney.

195 (e) If no qualified person files for the office of district attorney, or if the only candidate
196 is not elected by the voters under this subsection, the county legislative body shall appoint a
197 new district attorney for a four-year term as provided in Section 20A-1-509.2.

198 (f) If the candidate whose name would, except for this Subsection (4)(f), be placed on
199 the ballot under Subsection (4)(a) has been elected on a ballot under Subsection (4)(a) to the
200 two consecutive terms immediately preceding the term for which the candidate is seeking
201 election, Subsection (4)(a) shall not apply and that candidate shall be considered to be an
202 unopposed candidate the same as any other unopposed candidate for another office, unless a
203 petition is filed with the county clerk before the date of that year's primary election that:

204 (i) requests the procedure set forth in Subsection (4)(a) to be followed; and

205 (ii) contains the signatures of registered voters in the county representing in number at
206 least 25% of all votes cast in the county for all candidates for governor at the last election at
207 which a governor was elected.

208 Section 3. Section **20A-9-403** is amended to read:

209 **20A-9-403. Regular primary elections.**

210 (1) (a) The fourth Tuesday of June of each even-numbered year is designated as regular
211 primary election day.

212 (b) Each registered political party that chooses to use the primary election process to
213 nominate some or all of its candidates shall comply with the requirements of this section.

214 (2) (a) As a condition for using the state's election system, each registered political
215 party that wishes to participate in the primary election shall:
216 (i) declare their intent to participate in the primary election;
217 (ii) identify one or more registered political parties whose members may vote for the
218 registered political party's candidates and whether or not persons identified as unaffiliated with
219 a political party may vote for the registered political party's candidates; and
220 (iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1
221 of each even-numbered year.

222 (b) As a condition for using the state's election system, each registered political party
223 that wishes to participate in the primary election shall:
224 (i) certify the name and office of all of the registered political party's candidates to the
225 lieutenant governor no later than 5 p.m. on May 13 of each even-numbered year; and
226 (ii) certify the name and office of each of its county candidates to the county clerks by
227 5 p.m. on May 13 of each even-numbered year.

228 (c) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall
229 send the county clerks a certified list of the names of all statewide or multicounty candidates
230 that must be printed on the primary ballot.

231 (d) (i) Except as provided in Subsection (2)(d)(ii), if a registered political party does
232 not wish to participate in the primary election, it shall submit the names of its county
233 candidates to the county clerks and the names of all of its candidates to the lieutenant governor
234 by 5 p.m. on May 30 of each even-numbered year.

235 (ii) A registered political party's candidates for President and Vice President of the
236 United States shall be certified to the lieutenant governor as provided in Subsection
237 20A-9-202(4).

238 (e) Each political party shall certify the names of its presidential and vice presidential
239 candidates and presidential electors to the lieutenant governor's office no later than September
240 8 of each presidential election year.

241 (3) (a) The county clerk shall:
242 ~~[(a)]~~ (i) review the declarations of candidacy filed by candidates for local boards of
243 education to determine if more than two candidates have filed for the same seat;
244 ~~[(b)]~~ (ii) place the names of all candidates who have filed a declaration of candidacy

245 for a local board of education seat on the nonpartisan section of the ballot if more than two
246 candidates have filed for the same seat; and

247 ~~(c)~~ (iii) conduct a lottery to determine the order of the candidates' names on the
248 ballot.

249 (b) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall:

250 (i) review the declarations of candidacy filed by candidates for the State Board of
251 Education to determine if more than two candidates have filed for the same seat;

252 (ii) if more than two candidates have filed a declaration of candidacy for the same State
253 Board of Education seat, send the county clerks a certified list of the names and order of names
254 of all candidates who have filed for the same seat that must be printed on the nonpartisan
255 section of the ballot; and

256 (iii) conduct a lottery to determine the order of the candidates' names on the ballot.

257 (4) After the county clerk receives the certified list from a registered political party, the
258 county clerk shall post or publish a primary election notice in substantially the following form:

259 "Notice is given that a primary election will be held Tuesday, June _____,
260 _____(year), to nominate party candidates for the parties and nonpartisan offices listed on
261 the primary ballot. The polling place for voting precinct _____ is _____. The polls will open at 7
262 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk".

263 (5) (a) Candidates receiving the highest number of votes cast for each office at the
264 regular primary election are nominated by their party or nonpartisan group for that office.

265 (b) If two or more candidates are to be elected to the office at the regular general
266 election, those party candidates equal in number to positions to be filled who receive the
267 highest number of votes at the regular primary election are the nominees of their party for those
268 positions.

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

273 (b) When a tie vote occurs in any primary election for any county office, the district
274 court judges of the district in which the county is located shall, at a public meeting called by
275 the judges and in the presence of the candidates involved, select the nominee by lot cast in

276 whatever manner the judges determine.

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

281 Section 4. Section **20A-14-104** is amended to read:

282 **20A-14-104. Becoming a candidate for membership on the State Board of**
283 **Education.**

284 [~~(1)(a) Persons~~] A person interested in becoming a candidate for the State Board of
285 Education shall file a declaration of candidacy according to the procedures and requirements of
286 Sections 20A-9-201 and 20A-9-202.

287 [~~(b) By May 1 of the year in which a State Board of Education member's term expires;~~
288 ~~the lieutenant governor shall submit the name of each person who has filed a declaration of~~
289 ~~candidacy for the State Board of Education to the nominating and recruiting committee for the~~
290 ~~State Board of Education.]~~

291 [~~(2) By November 1 of the year preceding each regular general election year, a~~
292 ~~nominating and recruiting committee consisting of 12 members, each to serve a two-year term,~~
293 ~~shall be appointed by the governor as follows:]~~

294 [~~(a) one member shall be appointed to represent each of the following business and~~
295 ~~industry sectors:]~~

296 [~~(i) manufacturing and mining;]~~

297 [~~(ii) transportation and public utilities;]~~

298 [~~(iii) service, trade, and information technology;]~~

299 [~~(iv) finance, insurance, and real estate;]~~

300 [~~(v) construction; and]~~

301 [~~(vi) agriculture; and]~~

302 [~~(b) one member shall be appointed to represent each of the following education~~
303 ~~sectors:]~~

304 [~~(i) teachers;]~~

305 [~~(ii) school administrators;]~~

306 [~~(iii) parents;]~~

307 ~~[(iv) local school board members;]~~

308 ~~[(v) charter schools; and]~~

309 ~~[(vi) higher education.]~~

310 ~~[(3) (a) The members appointed under Subsections (2)(a)(i) through (vi) and (2)(b)(i)~~
311 ~~through (vi) shall be appointed from lists containing at least two names submitted by~~
312 ~~organizations representing each of the respective sectors.]~~

313 ~~[(b) At least one member of the nominating and recruiting committee shall reside~~
314 ~~within each state board district in which a member's term expires during the committee's two-~~
315 ~~year term of office.]~~

316 ~~[(4) (a) The members shall elect one member to serve as chair for the committee.]~~

317 ~~[(b) The chair, or another member of the committee designated by the chair, shall~~
318 ~~schedule and convene all committee meetings.]~~

319 ~~[(c) Any formal action by the committee requires the approval of a majority of~~
320 ~~committee members.]~~

321 ~~[(d) Members of the nominating and recruiting committee shall serve without~~
322 ~~compensation, but they may be reimbursed for expenses incurred in the performance of their~~
323 ~~official duties as established by the Division of Finance.]~~

324 ~~[(5) The nominating and recruiting committee shall:]~~

325 ~~[(a) recruit potential candidates for membership on the State Board of Education prior~~
326 ~~to the deadline to file a declaration of candidacy;]~~

327 ~~[(b) prepare a list of candidates for membership on the State Board of Education for~~
328 ~~each state board district subject to election in that year using the qualifications under~~
329 ~~Subsection (6);]~~

330 ~~[(c) submit a list of at least three candidates for each state board position to the~~
331 ~~governor by July 1; and]~~

332 ~~[(d) ensure that the list includes appropriate background information on each~~
333 ~~candidate.]~~

334 ~~[(6) The nominating committee shall select a broad variety of candidates who possess~~
335 ~~outstanding professional qualifications relating to the powers and duties of the State Board of~~
336 ~~Education, including experience in the following areas:]~~

337 ~~[(a) business and industry administration;]~~

- 338 [~~(b) business and industry human resource management;~~]
- 339 [~~(c) business and industry finance;~~]
- 340 [~~(d) business and industry, including expertise in:~~]
- 341 [~~(i) metrics and evaluation;~~]
- 342 [~~(ii) manufacturing;~~]
- 343 [~~(iii) retailing;~~]
- 344 [~~(iv) natural resources;~~]
- 345 [~~(v) information technology;~~]
- 346 [~~(vi) construction;~~]
- 347 [~~(vii) banking;~~]
- 348 [~~(viii) science and engineering; and~~]
- 349 [~~(ix) medical and healthcare;~~]
- 350 [~~(e) higher education administration;~~]
- 351 [~~(f) applied technology education;~~]
- 352 [~~(g) public education administration;~~]
- 353 [~~(h) public education instruction;~~]
- 354 [~~(i) economic development;~~]
- 355 [~~(j) labor; and~~]
- 356 [~~(k) other life experiences that would benefit the State Board of Education.~~]

Section 5. **Repealer.**

This bill repeals:

Section **20A-14-105, Becoming a candidate for membership on the State Board of Education -- Selection of candidates by the governor -- Ballot placement.**

Legislative Review Note
as of 1-26-11 7:02 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 264

SHORT TITLE: **State Board of Education Member Election Process Amendments**

SPONSOR: **Moss, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.