

1                                   **STATE BOARD OF EDUCATION ELECTION**

2   **AMENDMENTS**

3   2000 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Glenn L. Way**

6 AN ACT RELATING TO THE STATE BOARD OF EDUCATION; MODIFYING THE  
7 PROCEDURE BY WHICH INDIVIDUALS BECOME CANDIDATES FOR MEMBERSHIP ON  
8 THE STATE BOARD OF EDUCATION; AND PROVIDING FOR THE PLACEMENT OF  
9 CANDIDATES' NAMES ON THE ELECTION BALLOT.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12                   **20A-9-201**, as last amended by Chapters 22 and 45, Laws of Utah 1999

13                   **20A-9-403**, as last amended by Chapters 24, 182 and 184, Laws of Utah 1997

14                   **20A-14-105**, as enacted by Chapter 1, Laws of Utah 1995

15 REPEALS AND REENACTS:

16                   **20A-14-104**, as last amended by Chapter 184, Laws of Utah 1997

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

18                   Section 1. Section **20A-9-201** is amended to read:

19                   **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**  
20 **more than one political party prohibited with exceptions -- General filing and form**  
21 **requirements.**

22                   (1) Before filing a declaration of candidacy for election to any office, a person shall:

23                   (a) be a United States citizen; and

24                   (b) meet the legal requirements of that office.

25                   (2) (a) Except as provided in Subsection (2)(b), a person may not:

26                   (i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah  
27 during any election year; or

28 (ii) appear on the ballot as the candidate of more than one political party.

29 (b) A person may file a declaration of candidacy for, or be a candidate for, President or  
30 Vice President of the United States and another office, if the person resigns the person's candidacy  
31 for the other office after the person is officially nominated for President or Vice President of the  
32 United States.

33 (3) If the final date established for filing a declaration of candidacy is a Saturday or  
34 Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

35 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any  
36 declaration of candidacy, the filing officer shall:

37 (A) read to the prospective candidate the constitutional and statutory qualification  
38 requirements for the office that the candidate is seeking; and

39 (B) require the candidate to state whether or not the candidate meets those requirements.

40 (ii) Before accepting a declaration of candidacy for the office of county attorney, the  
41 county clerk shall ensure that the person filing that declaration of candidacy is:

42 (A) a United States citizen;

43 (B) an attorney licensed to practice law in Utah who is an active member in good standing  
44 of the Utah State Bar;

45 (C) a registered voter in the county in which he is seeking office; and

46 (D) a current resident of the county in which he is seeking office and either has been a  
47 resident of that county for at least one year or was appointed and is currently serving as county  
48 attorney and became a resident of the county within 30 days after appointment to the office.

49 (iii) Before accepting a declaration of candidacy for the office of district attorney, the  
50 county clerk shall ensure that, as of the date of the election, the person filing that declaration of  
51 candidacy is:

52 (A) a United States citizen;

53 (B) an attorney licensed to practice law in Utah who is an active member in good standing  
54 of the Utah State Bar;

55 (C) a registered voter in the prosecution district in which he is seeking office; and

56 (D) a current resident of the prosecution district in which he is seeking office and either  
57 will have been a resident of that prosecution district for at least one year as of the date of the  
58 election or was appointed and is currently serving as district attorney and became a resident of the

59 prosecution district within 30 days after receiving appointment to the office.

60 (b) If the prospective candidate states that he does not meet the qualification requirements  
61 for the office, the filing officer may not accept the prospective candidate's declaration of candidacy.

62 (c) If the candidate states that he meets the requirements of candidacy, the filing officer  
63 shall:

64 (i) accept the candidate's declaration of candidacy; and

65 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
66 declaration of candidacy to the chair of the county or state political party of which the candidate  
67 is a member.

68 (5) Except for presidential candidates, the form of the declaration of candidacy shall be  
69 substantially as follows:

70 "State of Utah, County of \_\_\_\_

71 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office of \_\_\_\_  
72 as a candidate for the \_\_\_\_ party. I do solemnly swear that: I can qualify to hold that office, both  
73 legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or Town of \_\_\_\_\_,  
74 Utah, Zip Code \_\_\_\_ Phone No. \_\_\_\_; I will not knowingly violate any law governing campaigns  
75 and elections; and I will qualify for the office if elected to it. The mailing address that I designate  
76 for receiving official election notices is \_\_\_\_\_.

77 \_\_\_\_\_

78 Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_, [19] 20\_\_.

79 \_\_\_\_\_  
80 Notary Public (or other officer qualified to administer oath.)"

81 (6) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

82 (i) \$25 for candidates for the [local] State Board of Education and for a school district  
83 board; and

84 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person holding  
85 the office, but not less than \$5, for all other federal, state, and county offices.

86 (b) Except for presidential candidates, the filing officer shall refund the filing fee to any  
87 candidate:

88 (i) who is disqualified; or

89 (ii) who the filing officer determines has filed improperly.

90 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received from  
91 candidates.

92 (ii) The lieutenant governor shall:

93 (A) apportion to and pay to the county treasurers of the various counties all fees received  
94 for filing of nomination certificates or acceptances; and

95 (B) ensure that each county receives that proportion of the total amount paid to the  
96 lieutenant governor from the congressional district that the total vote of that county for all  
97 candidates for representative in Congress bears to the total vote of all counties within the  
98 congressional district for all candidates for representative in Congress.

99 (d) (i) Each person who is unable to pay the filing fee may file a declaration of candidacy  
100 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of  
101 impecuniosity filed with the filing officer.

102 (ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in  
103 substantially the following form:

104 "Affidavit of Impecuniosity

105 Individual Name \_\_\_\_\_ Address \_\_\_\_\_

106 Phone Number \_\_\_\_\_

107 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm] that, owing to my poverty,

108 I am unable to pay the filing fee required by law.

109 Date \_\_\_\_\_ Signature \_\_\_\_\_

110 Affiant

111 Subscribed and sworn to before me on \_\_\_\_\_ (date)

112 \_\_\_\_\_  
113 (signature)

114 Name and Title of Officer Authorized to Administer Oath:"

115 (7) Any person who fails to file a declaration of candidacy or certificate of nomination  
116 within the time provided in this chapter is ineligible for nomination to office.

117 Section 2. Section **20A-9-403** is amended to read:

118 **20A-9-403. Regular primary elections.**

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

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

123 (2) (a) (i) Each registered political party that wishes to participate in the primary election  
124 shall submit the names of its county candidates to the county clerks and the names of all of its  
125 candidates to the lieutenant governor by 5 p.m. on May 13 of each even-numbered year.

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

129 (b) (i) Except as provided in Subsection (2)(b)(ii), if a registered political party does not  
130 wish to participate in the primary election, it shall submit the names of its county candidates to the  
131 county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May  
132 30 of each even-numbered year.

133 (ii) Notwithstanding Subsection (2)(b)(i), a registered political party's candidates for  
134 President and Vice President of the United States shall be certified to the lieutenant governor as  
135 provided in Subsection 20A-9-202(4).

136 (c) Each political party shall certify the names of its presidential and vice-presidential  
137 candidates and presidential electors to the lieutenant governor's office by August 30 of each  
138 presidential election year.

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

140 (i) conduct a lottery to determine the order of names of candidates for membership on the  
141 State Board of Education on the primary ballot; and

142 (ii) send each county clerk a certified list of the names and order of names of the state  
143 board candidates to be printed on the primary ballot in the county clerk's county.

144 (b) The names of state board candidates shall be printed on the primary ballot only if more  
145 than two candidates have filed for the office.

146 [(3)] (4) The county clerk shall:

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

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

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

153 [(4)] (5) After the county clerk receives the certified list from a registered political party,  
154 the county clerk shall post or publish a primary election notice in substantially the following form:

155 "Notice is given that a primary election will be held Tuesday, June \_\_\_\_, [19] 20\_\_, to  
156 nominate party candidates for the parties and nonpartisan offices listed on the primary ballot. The  
157 polling place for voting precinct \_\_\_\_ is \_\_\_\_\_. The polls will open at 7 a.m. and continue open  
158 until 8 p.m. of the same day. Attest: county clerk".

159 [(5)] (6) (a) Candidates receiving the highest number of votes cast for each office at the  
160 regular primary election are nominated by their party or nonpartisan group for that office.

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

164 [(6)] (7) (a) When a tie vote occurs in any primary election for any national, state, or other  
165 office that represents more than one county, the governor, lieutenant governor, and attorney general  
166 shall, at a public meeting called by the governor and in the presence of the candidates involved,  
167 select the nominee by lot cast in whatever manner the governor determines.

168 (b) When a tie vote occurs in any primary election for any county office, the district court  
169 judges of the district in which the county is located shall, at a public meeting called by the judges  
170 and in the presence of the candidates involved, select the nominee by lot cast in whatever manner  
171 the judges determine.

172 [(7)] (8) The expense of providing all ballots, blanks, or other supplies to be used at any  
173 primary election provided for by this section, and all expenses necessarily incurred in the  
174 preparation for or the conduct of that primary election shall be paid out of the treasury of the  
175 county or state, in the same manner as for the regular general elections.

176 Section 3. Section **20A-14-104** is repealed and reenacted to read:

177 **20A-14-104. Becoming a candidate for membership on the State Board of Education**  
178 **-- Declaration of candidacy.**

179 An individual interested in becoming a candidate for the State Board of Education shall file  
180 a declaration of candidacy according to the procedures and requirements of Sections 20A-9-201  
181 and 20A-9-202.

182 Section 4. Section **20A-14-105** is amended to read:

183           **20A-14-105. Candidates for membership on the State Board of Education -- Ballot**  
184 **placement.**

185           ~~[(1) By September 1 of each regular general election year, the governor shall:]~~

186           ~~[(a) for each state board district subject to election in that year, select two candidates for~~  
187 ~~the State Board of Education from the lists submitted by the state board district nominating~~  
188 ~~committees; and]~~

189           ~~[(b) certify the names of the two candidates from each school board district to the~~  
190 ~~lieutenant governor.]~~

191           ~~[(2) If the governor fails to select two candidates for a state board district by September~~  
192 ~~1, the nominating committee from that district shall:]~~

193           ~~[(a) select the two candidates; and]~~

194           ~~[(b) notify the lieutenant governor of its selections by September 15.]~~

195           (1) The names of the two State Board of Education candidates who received the most votes  
196 in the primary election for the state board office shall be placed on the November general ballot  
197 with the name of the individual who received the most votes in the primary election listed first.

198           ~~[(3)]~~ (2) The lieutenant governor shall~~[:-(a)]~~ conduct a lottery to determine the order of the  
199 candidates' names on the ballot~~[:];~~ , if the candidates' names did not appear on the primary ballot  
200 under Section 20A-9-403.

201           ~~[(b)]~~ (3) The lieutenant governor shall certify the names and order of the names to the  
202 county clerks for placement on the nonpartisan section of the ballot.

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**Legislative Review Note**  
**as of 12-28-99 8:43 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**