

**Representative Glenn L. Way** proposes to substitute the following bill:

1                   **STATE BOARD OF EDUCATION ELECTION AMENDMENTS**

2                                           2000 GENERAL SESSION

3                                           STATE OF UTAH

4                                           **Sponsor: Glenn L. Way**

5 AN ACT RELATING TO THE STATE BOARD OF EDUCATION; MODIFYING THE  
6 PROCEDURE BY WHICH INDIVIDUALS BECOME CANDIDATES FOR MEMBERSHIP ON  
7 THE STATE BOARD OF EDUCATION; AND PROVIDING AN EFFECTIVE DATE.

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

9 AMENDS:

10           **20A-9-201**, as last amended by Chapters 22 and 45, Laws of Utah 1999

11           **20A-14-104**, as last amended by Chapter 184, Laws of Utah 1997

12           **20A-14-105**, as enacted by Chapter 1, Laws of Utah 1995

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

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

15           **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**  
16 **more than one political party prohibited with exceptions -- General filing and form**  
17 **requirements.**

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

19           (a) be a United States citizen; and

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

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

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

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

25           (b) A person may file a declaration of candidacy for, or be a candidate for, President or

26 Vice President of the United States and another office, if the person resigns the person's candidacy  
27 for the other office after the person is officially nominated for President or Vice President of the  
28 United States.

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

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

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

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

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

38 (A) a United States citizen;

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

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

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

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

48 (A) a United States citizen;

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

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

52 (D) a current resident of the prosecution district in which he is seeking office and either  
53 will have been a resident of that prosecution district for at least one year as of the date of the  
54 election or was appointed and is currently serving as district attorney and became a resident of the  
55 prosecution district within 30 days after receiving appointment to the office.

56 (b) If the prospective candidate states that he does not meet the qualification requirements

57 for the office, the filing officer may not accept the prospective candidate's declaration of candidacy.

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

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

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

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

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

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

73 \_\_\_\_\_

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

75 Notary Public (or other officer qualified to administer oath.)"

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

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

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

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

83 (i) who is disqualified; or

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

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

87 (ii) The lieutenant governor shall:

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

90 (B) ensure that each county receives that proportion of the total amount paid to the  
91 lieutenant governor from the congressional district that the total vote of that county for all  
92 candidates for representative in Congress bears to the total vote of all counties within the  
93 congressional district for all candidates for representative in Congress.

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

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

99 "Affidavit of Impecuniosity

100 Individual Name \_\_\_\_\_ Address \_\_\_\_\_

101 Phone Number \_\_\_\_\_

102 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm] that, owing to my poverty,  
103 I am unable to pay the filing fee required by law.

104 Date \_\_\_\_\_ Signature \_\_\_\_\_

105 Affiant

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

107 \_\_\_\_\_  
108 (signature)

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

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

112 Section 2. Section **20A-14-104** is amended to read:

113 **20A-14-104. Becoming a candidate for membership on the State Board of Education**

114 **-- Declaration of candidacy -- Submittal of candidates names to governor.**

115 (1) [(a)] Persons interested in becoming a candidate for the State Board of Education shall  
116 file a declaration of candidacy according to the procedures and requirements of Sections  
117 20A-9-201 and 20A-9-202.

118 [(b)] (2) By June 1 of the year in which a State Board of Education member's term expires,

119 the lieutenant governor shall submit the name of each person who has filed a declaration of  
120 candidacy for the State Board of Education to the [~~nominating committee for the State Board of~~  
121 Education district in which that candidate resides] governor.

122 [~~(2)~~] (3) [~~By May 1 of the year in which a State Board of Education member's term~~  
123 expires, the] The lieutenant governor shall[:] ensure that the list includes appropriate background  
124 information on each candidate.

125 [~~(a) appoint a nominating committee consisting of seven members, each to serve a~~  
126 one-year term, for the state board district that member represents;]

127 [~~(b) ensure that each member of the nominating committee resides within the state board~~  
128 district; and]

129 [~~(c) ensure that:]~~

130 [~~(i) one member of the nominating committee serves on a local school board within the~~  
131 state board district;]

132 [~~(ii) one member of the nominating committee is employed as a school district or public~~  
133 school administrator;]

134 [~~(iii) one member of the nominating committee is employed as a public school teacher;]~~

135 [~~(iv) one member of the nominating committee belongs to a parent association that~~  
136 provides direct and ongoing support to public schools within the district; and]

137 [~~(v) three members of the nominating committee represent economic interests and the~~  
138 public at large; and]

139 [~~(d) designate one member to serve as chair for the committee.]~~

140 [(3) (a) The chair, or another member of the committee designated by the chair, shall  
141 schedule and convene all committee meetings.]

142 [(b) Any formal action by the committee requires the approval of at least four committee  
143 members.]

144 [(c) Members of the nominating committee shall serve without compensation, but they  
145 may be reimbursed for expenses incurred in the performance of their official duties as established  
146 by the Division of Finance.]

147 [(4) Each nominating committee shall:]

148 [(a) prepare a list of candidates for membership on the State Board of Education from its  
149 district;]

150           ~~[(b) submit a list of up to five but no fewer than three candidates for the state board~~  
151 ~~position to the governor by August 1; and]~~

152           ~~[(c) ensure that the list includes appropriate background information on each candidate.]~~

153           Section 3. Section **20A-14-105** is amended to read:

154           **20A-14-105. Selection of State Board of Education candidates by the governor --**  
155 **Ballot placement.**

156           (1) By September 1 of each regular general election year, the governor shall:

157           (a) for each state board district subject to election in that year, select two candidates for  
158 the State Board of Education from ~~[the lists submitted by the state board district nominating~~  
159 ~~committees]~~ those individuals who filed a declaration of candidacy under Section 20A-14-104; and

160           (b) certify the names of the two candidates from each school board district to the lieutenant  
161 governor.

162           ~~[(2) If the governor fails to select two candidates for a state board district by September~~  
163 ~~1, the nominating committee from that district shall:]~~

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

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

166           ~~[(3)]~~ (2) The lieutenant governor shall:

167           (a) conduct a lottery to determine the order of the candidates' names on the ballot;

168           (b) certify the names and order of the names to the county clerks for placement on the  
169 nonpartisan section of the ballot.

170           Section 4. **Effective date.**

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

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

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

174 date of veto override.