

**SCHOOL DISTRICT SUPERINTENDENT****RETENTION ELECTIONS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kenneth W. Sumsion**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill requires retention elections for school district superintendents.

**Highlighted Provisions:**

This bill:

- ▶ requires school district superintendents to be subject to a retention election at the first general election held more than two years after the superintendent was appointed and at each subsequent general election;
- ▶ establishes retention election procedures;
- ▶ establishes campaign and financial reporting requirements; and
- ▶ prohibits a superintendent who is not retained from receiving:
  - another appointment as the superintendent for that school district; and
  - retirement, termination, or separation benefits and incentives, except for those provided for all school district employees.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:



28 **20A-11-1501**, Utah Code Annotated 1953

29 **20A-11-1502**, Utah Code Annotated 1953

30 **20A-11-1503**, Utah Code Annotated 1953

31 **20A-11-1504**, Utah Code Annotated 1953

32 **20A-11-1505**, Utah Code Annotated 1953

33 **20A-14-301**, Utah Code Annotated 1953

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

36 Section 1. Section **20A-11-1501** is enacted to read:

37 **Part 15. School District Superintendent Retention Elections**

38 **20A-11-1501. School district superintendent appointees -- Retention elections.**

39 (1) Each school district superintendent retention election candidate shall deposit each  
40 contribution and public service assistance received in one or more separate accounts in a  
41 financial institution that are dedicated only to that purpose.

42 (2) A superintendent may not deposit or mingle any contributions or public service  
43 assistance received into a personal or business account.

44 (3) A superintendent may not make any political expenditures prohibited by law.

45 (4) If a superintendent who is no longer a retention election candidate chooses not to  
46 expend the monies remaining in his campaign account, the superintendent shall continue to file  
47 the year-end summary report required by Section 20A-11-1502 until the statement of  
48 dissolution and final summary report required by Section 20A-11-1504 are filed with the  
49 county clerk.

50 Section 2. Section **20A-11-1502** is enacted to read:

51 **20A-11-1502. Superintendent retention election candidates -- Financial reporting**  
52 **requirements -- Year-end summary report.**

53 (1) Each superintendent retention election candidate shall file a summary report with  
54 the county clerk by 5 p.m. on January 5 of the year after the regular general election year.

55 (2) (a) Each summary report shall include the following information as of December 31  
56 of the last regular general election year:

57 (i) the net balance of the last summary report, if any;

58 (ii) a single figure equal to the total amount of receipts reported on all interim reports,

if any, during the calendar year in which the summary report is due;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the election year;

(iv) a detailed listing of each receipt, contribution, and public service assistance since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure; and

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures.

(b) (i) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the last regular general election year.

(3) The summary report shall contain a paragraph signed by the superintendent retention election candidate certifying that, to the best of the superintendent retention election candidate's knowledge, all receipts and all expenditures have been reported as of December 31 of the last regular general election year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 3. Section **20A-11-1503** is enacted to read:

**20A-11-1503. Superintendent retention election candidates -- Financial reporting requirements -- Interim reports.**

(1) Each superintendent retention election candidate shall file an interim report with the county clerk no later than 5 p.m. on the date seven days before the regular general election date in any year in which the superintendent is a retention election candidate.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim

reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the county clerk that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of three days before the required filing date of the report.

Section 4. Section 20A-11-1504 is enacted to read:

**20A-11-1504. Superintendent retention election candidate -- Financial reporting requirements -- Termination of duty to report.**

(1) Each superintendent retention election candidate is subject to interim reporting requirements until the candidate withdraws.

(2) Each superintendent retention election candidate is subject to year-end summary reporting requirements until the candidate has filed a statement of dissolution with the county

clerk stating that:

(a) the superintendent retention election candidate is no longer receiving contributions and is no longer making expenditures;

(b) the ending balance on the last summary report filed is zero and the balance in the separate bank account required in Section 20A-11-1501 is zero; and

(c) a final summary report in the form required by Section 20A-11-1502 showing a zero balance is attached to the statement of dissolution.

(3) A statement of dissolution and a final summary report may be filed at any time.

(4) Each superintendent retention election candidate shall continue to file the year-end summary report required by Section 20A-11-1502 until the statement of dissolution and final summary report required by this section are filed.

Section 5. Section **20A-11-1505** is enacted to read:

**20A-11-1505. Superintendent retention election candidates -- Failure to file statement -- Name not printed on ballot -- Filling vacancy.**

(1) (a) If a superintendent retention election candidate fails to file an interim report due before the regular general election, the chief election officer shall, after making a reasonable attempt to discover if the report was timely mailed, inform the county clerk and other appropriate election officials who:

(i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(iii) may not count any votes for that candidate.

(b) Any superintendent retention election candidate who fails to timely file a financial statement required by this part is disqualified.

(c) Notwithstanding Subsections (1)(a) and (b), a superintendent retention election candidate is not disqualified if:

(i) the candidate files the reports required by this section;

(ii) those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies;

and

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report, the county clerk shall review each filed summary report to ensure that:

(i) each superintendent retention election candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any superintendent retention election candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the county clerk has received a written complaint alleging a violation of the law or the falsity of any summary report, the county clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify the superintendent retention election candidate of the violation or written complaint and direct the superintendent retention election candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any superintendent retention election candidate to fail to file or amend a summary report within 14 days after receiving notice from the county clerk under this section.

(ii) Each superintendent retention election candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The county clerk shall report all violations of Subsection (2)(c)(i) to the district or county attorney.

Section 6. Section **20A-14-301** is enacted to read:

### **Part 3. School District Superintendent Retention Elections**

#### **20A-14-301. School district superintendent appointees -- Retention elections.**

(1) (a) Each superintendent appointed for a school district in accordance with Section 53A-3-301 is subject to an unopposed retention election at the first general election held more than two years after the superintendent was appointed.

(b) After the first retention election, the superintendent shall be on the regular general election ballot for an unopposed retention election every general election year.

(2) Each superintendent who wishes to retain office shall, in the year the

183 superintendent is subject to a retention election:  
184 (a) file a declaration of candidacy as if a candidate for county office in accordance with  
185 Section 20A-9-202; and  
186 (b) pay a filing fee of \$25.  
187 (3) A county clerk shall place the name of the superintendent standing for retention  
188 election in the nonpartisan section of the ballot within the school district boundaries in the  
189 county.  
190 (4) At the general election, the ballots shall contain, as to the superintendent to be  
191 voted on by the voters within the school district boundaries in the county, the following  
192 question:  
193 "Shall \_\_\_\_\_ (name of superintendent) be retained in the  
194 office of Superintendent of the \_\_\_\_\_ (name of school district) School  
195 District?  
196 Yes ( )  
197 No ( )."  
198 (5) (a) If the superintendent receives more yes votes than no votes, the superintendent  
199 is retained for the term of office provided by law.  
200 (b) If the superintendent does not receive more yes votes than no votes, the  
201 superintendent is not retained, and a vacancy exists in the office on the first Monday in January  
202 after the regular general election.  
203 (6) A superintendent not retained is ineligible for:  
204 (a) another appointment as the superintendent for that school district; and  
205 (b) retirement, termination, or separation benefits and incentives, except for those  
206 provided for all school district employees.

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**Legislative Review Note**  
**as of 1-17-07 2:19 PM**

**Office of Legislative Research and General Counsel**

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**H.B. 144 - School District Superintendent Retention Elections**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments. School districts could incur additional costs if a superintendent is not retained and a higher salary is required for the replacement.

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*1/29/2007, 10:19:22 AM, Lead Analyst: Ricks, G.*

**Office of the Legislative Fiscal Analyst**