

**Representative Kenneth W. Sumsion** proposes the following substitute bill:

1                                   **STATE BOARD OF EDUCATION MEMBER**

2                                   **ELECTION PROCESS AMENDMENTS**

3                                   2009 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Carol Spackman Moss**

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

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8 **LONG TITLE**

9 **General Description:**

10                   This bill modifies provisions governing the qualification, nomination, and election of  
11 members of the State Board of Education.

12 **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ requires members of the State Board of Education to be elected in partisan
- 15 elections;
- 16                   ▶ provides candidate qualification, nomination, and election procedures;
- 17                   ▶ amends the procedures for filling midterm vacancies of members of the State Board
- 18 of Education;
- 19                   ▶ repeals the State Board of Education nominating and recruiting committee; and
- 20                   ▶ makes technical corrections.

21 **Monies Appropriated in this Bill:**

22                   None

23 **Other Special Clauses:**

24                   None

25 **Utah Code Sections Affected:**



26 AMENDS:

27 **20A-1-501**, as last amended by Chapter 264, Laws of Utah 2006

28 **20A-1-507**, as enacted by Chapter 1, Laws of Utah 1993

29 **20A-6-301**, as last amended by Laws of Utah 2008, Chapters 225 and 315

30 **20A-6-302**, as last amended by Laws of Utah 2006, Chapter 326

31 **20A-14-104**, as last amended by Laws of Utah 2004, Chapter 19

32 REPEALS:

33 **20A-14-105**, as last amended by Laws of Utah 2003, Chapter 315



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

36 Section 1. Section **20A-1-501** is amended to read:

37 **20A-1-501. Candidate vacancies -- Procedure for filling.**

38 (1) The state central committee of a political party, for candidates for United States  
39 senator, United States representative, governor, lieutenant governor, attorney general, state  
40 treasurer, and state auditor, and for state school board and legislative candidates whose  
41 legislative districts encompass more than one county, and the county central committee of a  
42 political party, for all other party candidates seeking an office elected at a regular general  
43 election, may certify the name of another candidate to the appropriate election officer if:

44 (a) after the close of the period for filing declarations of candidacy and continuing  
45 through the date 15 days before the date of the primary election:

46 (i) only one or two candidates from that party have filed a declaration of candidacy for  
47 that office; and

48 (ii) one or both:

49 (A) dies;

50 (B) resigns because of becoming physically or mentally disabled as certified by a  
51 physician; or

52 (C) is disqualified by an election officer for improper filing or nominating procedures;  
53 or

54 (b) after the close of the primary election and continuing through the date of the voter  
55 registration deadline for the general election as established in Section 20A-2-102.5, the party's  
56 candidate:

- 57 (i) dies;
- 58 (ii) resigns because of becoming physically or mentally disabled as certified by a
- 59 physician;
- 60 (iii) is disqualified by an election officer for improper filing or nominating procedures;
- 61 or
- 62 (iv) resigns to become a candidate for President or Vice-President of the United States.

63 (2) If no more than two candidates from a political party have filed a declaration of  
64 candidacy for an office elected at a regular general election and one resigns to become the party  
65 candidate for another position, the state central committee of that political party, for candidates  
66 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for  
67 state school board and legislative candidates whose legislative districts encompass more than  
68 one county, and the county central committee of that political party, for all other party  
69 candidates, may certify the name of another candidate to the appropriate election officer.

70 (3) Each replacement candidate shall file a declaration of candidacy as required by  
71 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

72 (4) A replacement candidate may not be certified for an election during the period  
73 beginning on the day after the date of the voter registration deadline and continuing through the  
74 date of the election.

75 Section 2. Section **20A-1-507** is amended to read:

76 **20A-1-507. Midterm vacancies in the State Board of Education.**

77 (1) If a vacancy occurs on the State Board of Education for any reason other than the  
78 expiration of a member's term, the governor~~[, with the consent of the Senate,]~~ shall fill the  
79 vacancy by ~~[appointment of a qualified member to serve out the unexpired term]~~ immediately  
80 appointing the person whose name was submitted by the party liaison of the same political  
81 party as the prior board member.

82 (2) The lieutenant governor shall issue a certificate of appointment to the appointed  
83 member and certify the appointment to the board.

84 Section 3. Section **20A-6-301** is amended to read:

85 **20A-6-301. Paper ballots -- Regular general election.**

86 (1) Each election officer shall ensure that:

- 87 (a) all paper ballots furnished for use at the regular general election contain no captions

88 or other endorsements except as provided in this section;

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

91 (ii) the ballot number and the words " Poll Worker's Initial \_\_\_\_ " are printed on the  
92 stub; and

93 (iii) ballot stubs are numbered consecutively;

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

96 (i) "Official Ballot for \_\_\_\_ County, Utah";

97 (ii) the date of the election; and

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

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

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

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

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

110 (h) the columns containing the lists of candidates, including the party name and device,  
111 are separated by heavy parallel lines;

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

114 (j) the names of candidates are printed in capital letters, not less than 1/8 nor more than  
115 1/4 of an inch high in heavy-faced type not smaller than ten-point, between lines or rules 3/8 of  
116 an inch apart;

117 (k) a square with sides measuring not less than 1/4 of an inch in length is printed at the  
118 right of the name of each candidate;

119 (l) for the offices of president and vice president and governor and lieutenant governor,  
120 one square with sides measuring not less than 1/4 of an inch in length is printed opposite a  
121 double bracket enclosing the right side of the names of the two candidates;

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

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

127 (A) a blank, horizontal line to enable the entry of a valid write-in candidate and a  
128 square with sides measuring not less than 1/4 of an inch in length printed at the right of the  
129 blank horizontal line; or

130 (B) for the offices of president and vice president and governor and lieutenant  
131 governor, two blank horizontal lines, one placed above the other, to enable the entry of two  
132 valid write-in candidates, and one square with sides measuring not less than 1/4 of an inch in  
133 length printed opposite a double bracket enclosing the right side of the two blank horizontal  
134 lines; and

135 (ii) the words "Write-In Voting Column" printed at the head of the column without a  
136 1/2 inch circle;

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

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

142 (2) Each election officer shall ensure that:

143 (a) each person nominated by any political party or group of petitioners is placed on the  
144 ballot:

145 (i) under the party name and emblem, if any; or

146 (ii) under the title of the party or group as designated by them in their certificates of  
147 nomination or petition, or, if none is designated, then under some suitable title;

148 (b) the names of all unaffiliated candidates that qualify as required in Title 20A,  
149 Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

150 (c) the names of the candidates for president and vice president are used on the ballot  
151 instead of the names of the presidential electors; and

152 (d) the ballots contain no other names.

153 (3) When the ballot contains a nonpartisan section, the election officer shall ensure  
154 that:

155 (a) the designation of the office to be filled in the election and the number of  
156 candidates to be elected are printed in type not smaller than eight-point;

157 (b) the words designating the office are printed flush with the left-hand margin;

158 (c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of  
159 the column;

160 (d) the nonpartisan candidates are grouped according to the office for which they are  
161 candidates;

162 (e) the names in each group are placed in alphabetical order with the surnames last,  
163 except for candidates for ~~[the State Board of Education and]~~ local school boards;

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

166 ~~[(g)]~~ (f) if candidates for membership on a local board of education were selected in a  
167 primary election, the name of the candidate who received the most votes in the primary election  
168 is listed first on the ballot;

169 ~~[(h)]~~ (g) if candidates for membership on a local board of education were not selected  
170 in the primary election, the names of the candidates are listed on the ballot in the order  
171 determined by a lottery conducted by the county clerk; and

172 ~~[(i)]~~ (h) each group is preceded by the designation of the office for which the  
173 candidates seek election, and the words, "Vote for one" or "Vote for two or more," according to  
174 the number to be elected.

175 (4) Each election officer shall ensure that:

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

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

180 (c) bond propositions that have qualified for the ballot are listed on the ballot under the

181 title assigned to each bond proposition under Section 11-14-206.

182 Section 4. Section **20A-6-302** is amended to read:

183 **20A-6-302. Paper ballots -- Placement of candidates' names.**

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

186 (a) except for candidates for [~~state school board and~~] local school boards:

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

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

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

192 [~~(c)~~] (b) if candidates for membership on a local board of education were selected in a  
193 regular primary election, the name of the candidate who received the most votes in the regular  
194 primary election is listed first on the ballot; and

195 [~~(d)~~] (c) if candidates for membership on a local board of education were not selected  
196 in the regular primary election, the names of the candidates are listed on the ballot in the order  
197 determined by a lottery conducted by the county clerk.

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

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

201 (i) shall, if possible, cancel the name of the dead or withdrawn candidate by drawing a  
202 line through the candidate's name before the ballots are delivered to voters; and

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

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

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

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

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

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

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

- 227 (i) requests the procedure set forth in Subsection (3)(a) to be followed; and
- 228 (ii) contains the signatures of registered voters in the county representing in number at  
229 least 25% of all votes cast in the county for all candidates for governor at the last election at  
230 which a governor was elected.

231 (4) (a) When there is only one candidate for district attorney at the regular general  
232 election in a prosecution district that has three or fewer registered voters of the district who are  
233 licensed active members in good standing of the Utah State Bar, the county clerk shall cause  
234 that candidate's name and party affiliation, if any, to be placed on a separate section of the  
235 ballot with the following question: "Shall (name of candidate) be elected to the office of district  
236 attorney? Yes \_\_\_\_ No \_\_\_\_."

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

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

242 (d) When the name of only one candidate for district attorney is printed on the ballot

243 under authority of this Subsection (4), the county clerk may not count any write-in votes  
244 received for the office of district attorney.

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

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

- 254 (i) requests the procedure set forth in Subsection (4)(a) to be followed; and  
255 (ii) contains the signatures of registered voters in the county representing in number at  
256 least 25% of all votes cast in the county for all candidates for governor at the last election at  
257 which a governor was elected.

258 Section 5. Section **20A-14-104** is amended to read:

259 **20A-14-104. Becoming a candidate for membership on the State Board of**  
260 **Education.**

261 ~~[(1)(a)]~~ Persons interested in becoming a candidate for the State Board of Education  
262 shall file a declaration of candidacy according to the procedures and requirements of ~~[Sections~~  
263 ~~20A-9-201 and 20A-9-202]~~ Title 20A, Chapter 9, Candidate Qualifications and Nominating  
264 Procedures.

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

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

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

274 ~~[(i) manufacturing and mining;]~~  
275 ~~[(ii) transportation and public utilities;]~~  
276 ~~[(iii) service, trade, and information technology;]~~  
277 ~~[(iv) finance, insurance, and real estate;]~~  
278 ~~[(v) construction; and]~~  
279 ~~[(vi) agriculture; and]~~  
280 ~~[(b) one member shall be appointed to represent each of the following education~~  
281 ~~sectors:]~~  
282 ~~[(i) teachers;]~~  
283 ~~[(ii) school administrators;]~~  
284 ~~[(iii) parents;]~~  
285 ~~[(iv) local school board members;]~~  
286 ~~[(v) charter schools; and]~~  
287 ~~[(vi) higher education.]~~  
288 ~~[(3) (a) The members appointed under Subsections (2)(a)(i) through (vi) and (2)(b)(i)~~  
289 ~~through (vi) shall be appointed from lists containing at least two names submitted by~~  
290 ~~organizations representing each of the respective sectors.]~~  
291 ~~[(b) At least one member of the nominating and recruiting committee shall reside~~  
292 ~~within each state board district in which a member's term expires during the committee's two-~~  
293 ~~year term of office.]~~  
294 ~~[(4) (a) The members shall elect one member to serve as chair for the committee.]~~  
295 ~~[(b) The chair, or another member of the committee designated by the chair, shall~~  
296 ~~schedule and convene all committee meetings.]~~  
297 ~~[(c) Any formal action by the committee requires the approval of a majority of~~  
298 ~~committee members.]~~  
299 ~~[(d) Members of the nominating and recruiting committee shall serve without~~  
300 ~~compensation, but they may be reimbursed for expenses incurred in the performance of their~~  
301 ~~official duties as established by the Division of Finance.]~~  
302 ~~[(5) The nominating and recruiting committee shall:]~~  
303 ~~[(a) recruit potential candidates for membership on the State Board of Education prior~~  
304 ~~to the deadline to file a declaration of candidacy;]~~

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

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

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

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

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

316 ~~[(b) business and industry human resource management;]~~

317 ~~[(c) business and industry finance;]~~

318 ~~[(d) business and industry, including expertise in:]~~

319 ~~[(i) metrics and evaluation;]~~

320 ~~[(ii) manufacturing;]~~

321 ~~[(iii) retailing;]~~

322 ~~[(iv) natural resources;]~~

323 ~~[(v) information technology;]~~

324 ~~[(vi) construction;]~~

325 ~~[(vii) banking;]~~

326 ~~[(viii) science and engineering; and]~~

327 ~~[(ix) medical and healthcare;]~~

328 ~~[(e) higher education administration;]~~

329 ~~[(f) applied technology education;]~~

330 ~~[(g) public education administration;]~~

331 ~~[(h) public education instruction;]~~

332 ~~[(i) economic development;]~~

333 ~~[(j) labor; and]~~

334 ~~[(k) other life experiences that would benefit the State Board of Education.]~~

335 **Section 6. Repealer.**

336 This bill repeals:

337 Section **20A-14-105, Becoming a candidate for membership on the State Board of**

338 **Education -- Selection of candidates by the governor -- Ballot placement.**