

HB0264S01 compared with HB0264

~~{deleted text}~~ shows text that was in HB0264 but was deleted in HB0264S01.

inserted text shows text that was not in HB0264 but was inserted into HB0264S01.

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Representative Jim Nielson proposes the following substitute bill:

STATE BOARD OF EDUCATION MEMBER ELECTION

PROCESS AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms:
- ▶ requires the direct, nonpartisan election of members of the State Board of Education;
- ▶ repeals the involvement of the governor and the nominating and recruiting committee for the State Board of Education in the selection process;~~{and~~

~~}~~

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- ▶ moves the election for the State Board of Education to an odd-numbered year;
- ▶ designates a county clerk as the election officer for the election to the State Board of Education; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2010, Chapters 129, 197, and 254

20A-1-201, as last amended by Laws of Utah 2000, Chapter 241

20A-1-201.5, as last amended by Laws of Utah 2007, Chapters 256 and 329

20A-4-304, as last amended by Laws of Utah 2008, Chapter 82

20A-5-401, as last amended by Laws of Utah 2009, Chapter 45

20A-5-409, as last amended by Laws of Utah 2008, Chapter 225

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

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

~~{20A-9-403}~~ 20A-9-202, as last amended by Laws of Utah ~~{2008, Chapter 225~~

~~†~~ 2009, Chapter 119

20A-11-101, as last amended by Laws of Utah 2010, Chapters 197, 246, and 389

20A-11-1302, as last amended by Laws of Utah 2010, Chapter 389

20A-11-1303, as last amended by Laws of Utah 2010, Chapter 389

20A-11-1305, as last amended by Laws of Utah 2010, Chapter 389

20A-14-103, as last amended by Laws of Utah 2008, Chapter 8

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

REPEALS:

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

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

Section 1. Section 20A-1-102 is amended to read:

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20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question; or

(g) any other ballot question specifically authorized by the Legislature.

(7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(8) "Bond election" means an election held for the purpose of approving or rejecting

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the proposed issuance of bonds by a government entity.

(9) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(13) "Convention" means the political party convention at which party officers and delegates are selected.

(14) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(15) "Counting judge" means a poll worker designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(17) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(18) "County officers" means those county officers that are required by law to be elected.

(19) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(20) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal

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primary election, a school board general election, a school board primary election, and a local district election.

(21) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(22) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(23) "Election judge" means a poll worker that is assigned to:

- (a) preside over other poll workers at a polling place;
- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

(24) "Election officer" means:

- (a) the lieutenant governor, for all statewide ballots;
- (b) the county clerk or clerks for:
 - (i) all county ballots [and for];
 - (ii) certain ballots and elections as provided in Section 20A-5-400.5;
 - (iii) a school board primary election; and
 - (iv) a school board general election;

(c) the municipal clerk for all municipal ballots and for certain ballots and elections as provided in Section 20A-5-400.5;

(d) the local district clerk or chief executive officer for certain ballots and elections as provided in Section 20A-5-400.5; and

(e) the business administrator or superintendent of a school district for certain ballots or elections as provided in Section 20A-5-400.5.

(25) "Election official" means any election officer, election judge, or poll worker.

(26) "Election results" means, for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(27) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

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(28) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(29) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(30) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(31) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(32) "Judicial office" means the office filled by any judicial officer.

(33) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(34) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(35) "Local district officers" means those local district officers that are required by law to be elected.

(36) "Local election" means a regular municipal election, a local special election, a local district election, and a bond election.

(37) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(38) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(39) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(40) "Municipal general election" means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year

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for the purposes established in Section 20A-1-202.

(41) "Municipal legislative body" means the council of the city or town in any form of municipal government.

(42) "Municipal officers" means those municipal officers that are required by law to be elected.

(43) "Municipal primary election" means an election held to nominate candidates for municipal office.

(44) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(45) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(46) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(47) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(48) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(49) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

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(50) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(51) "Polling place" means the building where voting is conducted.

(52) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(53) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(54) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(55) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(56) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(57) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(58) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(59) "Registration form" means a book voter registration form and a by-mail voter registration form.

(60) "Regular ballot" means a ballot that is not a provisional ballot.

(61) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(62) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

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(63) "Resident" means a person who resides within a specific voting precinct in Utah.

(64) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(65) "School board general election" means an election at which a person is elected to the State Board of Education.

(66) "School board primary election" means an election held:

(a) if more than two candidates file a declaration of candidacy for the same seat; and

(b) at which a candidate who receives the highest number of votes or the second highest number of votes is nominated to advance to the school board general election.

~~(65)~~ (67) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

~~(66)~~ (68) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

~~(67)~~ (69) "Special election" means an election held as authorized by Section 20A-1-204.

~~(68)~~ (70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

~~(69)~~ (71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

~~(70)~~ (72) "Stub" means the detachable part of each ballot.

~~(71)~~ (73) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

~~(72)~~ (74) "Ticket" means each list of candidates for each political party or for each group of petitioners.

~~(73)~~ (75) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

~~(74)~~ (76) "Vacancy" means the absence of a person to serve in any position created

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by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

~~[(75)]~~[(77)] "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:
 - (A) the state; or
 - (B) a branch, department, or agency of the United States;
- (iii) a currently valid Utah permit to carry a concealed weapon;
- (iv) a currently valid United States passport; or
- (v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection ~~[(75)]~~[(77)](a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid Social Security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;

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(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(76)]~~ [(78)] "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

~~[(77)]~~ [(79)] "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

~~[(78)]~~ [(80)] "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

~~[(79)]~~ [(81)] "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(80)]~~ [(82)] "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

~~[(81)]~~ [(83)] "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

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~~[(82)]~~ [(84)] "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

~~[(83)]~~ [(85)] "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

~~[(84)]~~ [(86)] "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

~~[(85)]~~ [(87)] "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

~~[(86)]~~ [(88)] "Western States Presidential Primary" means the election established in Title 20A, Chapter 9, Part 8.

~~[(87)]~~ [(89)] "Write-in ballot" means a ballot containing any write-in votes.

~~[(88)]~~ [(90)] "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-1-201 is amended to read:

20A-1-201. Date and purpose of regular general elections and school board election.

(1) A regular general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

(2) At the regular general election, the voters shall:

(a) choose persons to serve the terms established by law for the following offices:

(i) electors of President and Vice President of the United States;

(ii) United States Senators;

(iii) Representatives to the United States Congress;

(iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

(v) senators and representatives to the Utah Legislature;

(vi) county officers;

~~[(vii)] State School Board members;~~

~~[(viii)]~~ [(vii)] local school board members; and

~~[(ix)]~~ [(viii)] any elected judicial officers; and

(b) approve or reject:

(i) any proposed amendments to the Utah Constitution that have qualified for the ballot

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under procedures established in the Utah Code;

(ii) any proposed initiatives or referenda that have qualified for the ballot under procedures established in the Utah Code; and

(iii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

(3) A school board general election shall be held throughout the state on the same day as the municipal general election to elect persons to serve on the State Board of Education for the terms described in Section 20A-14-103.

Section 3. Section 20A-1-201.5 is amended to read:

20A-1-201.5. Primary election dates.

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for national, state, local school board, and county offices.

(2) (a) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in September before the regular municipal election to nominate persons for municipal offices.

(b) A school board primary election shall be held, if necessary, on the same day as the municipal primary election to nominate persons to advance to the school board general election.

(3) The Western States Presidential Primary election shall be held throughout the state on the first Tuesday in February in the year in which a presidential election will be held.

Section 4. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

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(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) (a) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition; and

(vii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

(i) review the report to ensure that it is correct; and

(ii) sign the report.

(c) The election officer shall:

(i) record or file the certified report in a book kept for that purpose;

(ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(iii) publish a copy of the certified report:

(A) in one or more conspicuous places within the jurisdiction;

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- (B) in a conspicuous place on the county's website; and
- (C) in a newspaper with general circulation in the board's jurisdiction; and
- (iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school board general election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(5) In regular primary elections and in the Western States Presidential Primary, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor:

(i) not later than the second Tuesday after the primary election for the regular primary election; and

(ii) not later than the Tuesday following the election for the Western States Presidential Primary; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

(6) In a school board primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for a district that is in more than one county by telephone or fax not later than the second Tuesday after the school board primary election; and

(b) a complete tabulation showing voting totals for all district races, within the county precinct by precinct, by mail on or before the third Friday following the school board primary election.

Section 5. Section 20A-5-401 is amended to read:

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20A-5-401. Official register -- Preparation -- Contents.

(1) (a) Before the registration days for each regular general, municipal general, school board general, regular primary, municipal primary, school board primary, or Western States Presidential Primary election, each county clerk shall prepare an official register of voters for each voting precinct that will participate in the election.

(b) The county clerk shall ensure that the official register is prepared for the alphabetical entry of names and contains entry fields to provide for the following information:

- (i) registered voter's name;
- (ii) party affiliation;
- (iii) grounds for challenge;
- (iv) name of person challenging a voter;
- (v) primary, November, special;
- (vi) date of birth;
- (vii) place of birth;
- (viii) place of current residence;
- (ix) street address;
- (x) zip code;
- (xi) identification and provisional ballot information as required under Subsection

(1)(d); and

- (xii) space for the voter to sign his name for each election.

(c) When preparing the official register for the Western States Presidential Primary, the county clerk shall include:

- (i) an entry field to record the name of the political party whose ballot the voter voted;

and

- (ii) an entry field for the poll worker to record changes in the voter's party affiliation.

(d) When preparing the official register for any regular general election, municipal general election, statewide special election, local special election, regular primary election, municipal primary election, local district election, or election for federal office, the county clerk shall include:

- (i) an entry field for the poll worker to record the type of identification provided by the voter;

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(ii) a column for the poll worker to record the provisional envelope ballot number for voters who receive a provisional ballot; and

(iii) a space for the poll worker to record the type of identification that was provided by voters who receive a provisional ballot.

(2) (a) (i) For regular and municipal elections, primary elections, regular municipal elections, school board general elections, school board primary elections, local district elections, and bond elections, the county clerk shall make an official register only for voting precincts affected by the primary, municipal, school board, local district, or bond election.

(ii) If a polling place to be used in a bond election serves both voters residing in the local political subdivision calling the bond election and voters residing outside of that local political subdivision, the official register shall designate whether each voter resides in or outside of the local political subdivision.

(iii) Each county clerk, with the assistance of the clerk of each affected local district, shall provide a detailed map or an indication on the registration list or other means to enable a poll worker to determine the voters entitled to vote at an election of local district officers.

(b) Municipalities shall pay the costs of making the official register for municipal elections.

Section 6. Section 20A-5-409 is amended to read:

20A-5-409. Certification of candidates to county clerks.

(1) No later than September 8 of each regular general election year, the lieutenant governor shall certify to each county clerk the name of each candidate qualified to be printed on the regular general election ballot for that county clerk's county.

(2) No later than September 30 of each school board general election year, the lieutenant governor shall certify the names and order of the names of each candidate qualified to be printed on the school board general election ballot for that county clerk's county.

Section ~~6~~7. Section **20A-6-301** is amended to read:

20A-6-301. Paper ballots -- Regular general election -- School board election.

(1) Each election officer shall ensure that:

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

(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the

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top of the ballot, and divided from the rest of ballot by a perforated line;

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

(iii) ballot stubs are numbered consecutively;

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

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

(ii) the date of the election; and

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

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

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

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

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

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

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

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

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

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than 1/4 of an inch in length is printed on the same

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side as but opposite a double bracket enclosing the names of the two candidates;

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

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

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

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

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

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

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

(2) Each election officer shall ensure that:

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

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

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

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

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

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(d) the ballots contain no other names.

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

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

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

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

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

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

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

~~[(g) (f) if candidates for membership on {the State Board of Education or } a local board of education were selected in a primary election, the name of the candidate who received the most votes in the primary election is listed first on the ballot;~~

~~[(h) (g) if candidates for membership on {the State Board of Education or } a local board of education were not selected in the primary election, the names of the candidates are listed on the ballot in the order determined by a lottery conducted by the { lieutenant governor or } county clerk; and~~

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

(4) Each election officer shall ensure that:

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

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

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

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Section ~~{2}~~8. Section **20A-6-302** is amended to read:

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

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

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

(i) each candidate is listed by party; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 9. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections and school board general elections -- Requirements for candidates.

(1) (a) Each person seeking to become a candidate for elective office for any county office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the county clerk on or after the second Friday in March and before 5 p.m. on the third Friday in March before the next regular general election; and

(ii) pay the filing fee.

(b) Each person intending to become a candidate for any legislative office or multicounty office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with either the lieutenant governor or the county clerk in the candidate's county of residence on or after the second Friday in March and before 5 p.m. on the third Friday in March before the next regular general election; and

(ii) pay the filing fee.

(c) (i) Each county clerk who receives a declaration of candidacy from a candidate for

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multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one working day after it is filed.

(ii) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of legislative candidates who have filed in their office.

(d) Each person seeking to become a candidate for elective office for any federal office or constitutional office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the lieutenant governor on or after the second Friday in March and before 5 p.m. on the third Friday in March before the next regular general election; and

(ii) pay the filing fee.

(e) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of President or Vice President of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each person intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third Friday in March before the next regular general election; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) Within five working days of nomination, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor; and

(ii) pay the filing fee.

(b) (i) Any candidate for lieutenant governor who fails to file within five working days is disqualified.

(ii) If a lieutenant governor is disqualified, another candidate shall be nominated to replace the disqualified candidate.

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(4) Each registered political party shall:

(a) certify the names of its candidates for President and Vice President of the United States to the lieutenant governor no later than September 8; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for President and Vice President of the United States from the national office of the registered political party.

(5) (a) To become a candidate for a State Board of Education office that is to be filled at the next school board general election, a person shall:

(i) file a declaration of candidacy in person on or after July 1 and no later than the close of normal office hours on July 15 before the next school board general election with:

(A) the county clerk, if the district is within one county; or

(B) either the lieutenant governor or the county clerk in the candidate's county of residence, if the district is within more than one county; and

(ii) pay the filing fee.

(b) Each county clerk who receives a declaration of candidacy from a candidate for a district that is within more than one county shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one working day after it is filed.

~~[(5)]~~ (6) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

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(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

~~[(6)1(7)]~~ Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

Section ~~{3}~~10. Section ~~{20A-9-403}~~20A-11-101 is amended to read:

~~{~~ ~~20A-9-403.~~ **Regular primary elections.**

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

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

~~———— (2) (a) As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:~~

~~———— (i) declare their intent to participate in the primary election;~~

~~———— (ii) identify one or more registered political parties whose members may vote for the registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates; and~~

~~———— (iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year:~~

~~———— (b) As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:~~

~~———— (i) certify the name and office of all of the registered political party's candidates to the lieutenant governor no later than 5 p.m. on May 13 of each even-numbered year; and~~

~~———— (ii) certify the name and office of each of its county candidates to the county clerks by 5 p.m. on May 13 of each even-numbered year.~~

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

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

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

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

~~—— (3) (a) The county clerk shall:~~

~~—— [(a)] (i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;~~

~~—— [(b)] (ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and~~

~~—— [(c)] (iii) conduct a lottery to determine the order of the candidates' names on the ballot.~~

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

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

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

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

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

~~—— "Notice is given that a primary election will be held Tuesday, June _____,~~

~~_____ (year), to nominate party candidates for the parties and nonpartisan offices listed on the primary ballot. The polling place for voting precinct _____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk".~~

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

~~—— (b) If two or more candidates are to be elected to the office at the regular general~~

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~~election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of their party for those positions.~~

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

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

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

‡ **20A-11-101. Definitions.**

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(3) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(4) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in

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Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(5) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist;

or

(B) any agency or subdivision of the state, including school districts; and

(vi) goods or services provided to or for the benefit of the filing entity at less than fair market value.

(b) "Contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the filing entity;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(6) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

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(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

- (i) the purpose of expressly advocating for political purposes; or
- (ii) the purpose of expressly advocating the approval or the defeat of any ballot

proposition.

(b) "Corporation" does not mean:

- (i) a business organization's political action committee or political issues committee; or
- (ii) a business entity organized as a partnership or a sole proprietorship.

(8) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(9) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(10) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly

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identified candidate's or judge's election date.

(11) (a) "Expenditure" means:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (11)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(12) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(13) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(14) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

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(15) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(16) "Incorporation election" means the election authorized by Section 10-2-111.

(17) "Incorporation petition" means a petition authorized by Section 10-2-109.

(18) "Individual" means a natural person.

(19) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(20) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(21) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a legislative office.

(22) "Officeholder" means a person who holds a public office.

(23) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(24) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(25) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(26) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(27) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political

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purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(28) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(29) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the

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regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(30) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(31) (a) "Political issues expenditure" means any of the following:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

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(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(32) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

(33) "Primary election" means any regular primary election held under the election laws.

(34) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state or local school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(35) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all

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of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(36) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(37) "Receipts" means contributions and public service assistance.

(38) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(39) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the lieutenant governor's office.

(40) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the lieutenant governor's office.

(41) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(42) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

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(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(43) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(44) "School board office" means the office of ~~[state school board or]~~:

(a) the State Board of Education; or

(b) a local school board.

(45) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(46) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(47) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a state office.

(48) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(49) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 11. Section 20A-11-1302 is amended to read:

**20A-11-1302. School board office candidate -- Financial reporting requirements
-- Year-end summary report.**

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(1) (a) (i) Each [school board] State Board of Education office candidate shall file a summary report by January 10 of the year after the [regular] school board general election year.

(ii) Each local school board office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former school board office candidate that has not filed the statement of dissolution and final summary report required under Section 20A-11-1304 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, during the previous year;

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

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description 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 previous year.

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(d) A check or negotiable instrument received by a school board office candidate on or before December 31 of the previous year shall be included in the summary report.

(3) The school board office candidate shall certify in the summary report that, to the best of the school board office candidate's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 12. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate -- Financial reporting requirements -- Interim reports.

(1) (a) Each ~~[school board]~~ State Board of Education office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy ~~[for a public office]~~:

~~[(a) May 15, for state school board office candidates;~~

~~— (b)]~~

~~[(b) (i) seven days before the [regular] school board primary election date; and~~

~~[(c) August 31; and]~~

~~[(d) (ii) seven days before the [regular] school general election date.~~

(b) Each local school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy:

(i) seven days before the regular primary election date;

~~[(c) ii] August 31; and~~

~~[(d) iii] seven days before the regular general election date.~~

(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:

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(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description 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 lieutenant governor 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) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 13. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement --

Penalties.

(1) (a) If a school board office candidate fails to file an interim report ~~[due before the regular primary election, on August 31, and before the regular general election]~~, the chief election officer shall, after making a reasonable attempt to discover if the report was timely filed:

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(i) inform the county clerk and other appropriate election officials who:

(A) (I) shall, if practicable, remove the name of the candidate from the ballots 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 candidate will not be counted; and

(B) may not count any votes for that candidate; and

(ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

(b) Any school board office candidate who fails to file timely a financial statement required by this part is disqualified and the vacancy on the ballot may be filled as provided in Section 20A-1-501.

(c) Notwithstanding Subsections (1)(a) and (1)(b), a school board office candidate is not disqualified and the chief election officer may not impose a fine if:

(i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;

(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 described in Subsection (1)(c)(ii) are corrected in:

(A) an amended report; or

(B) the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report by a candidate for state school board, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state school board 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 state school board 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 lieutenant governor has received a written complaint alleging a violation of the law or the

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falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state school board candidate of the violation or written complaint and direct the state school board candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any state school board candidate to fail to file or amend a summary report within 14 days after receiving notice from the lieutenant governor under this section.

(ii) Each state school board candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

(3) (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 local school board 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 local school board 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 local school board candidate of the violation or written complaint and direct the local school board candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any local school board 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 local school board candidate who violates Subsection (3)(c)(i) is guilty of a class B misdemeanor.

(iii) The county clerk shall report all violations of Subsection (3)(c)(i) to the district or county attorney.

Section 14. Section 20A-14-103 is amended to read:

20A-14-103. State Board of Education members -- When elected -- Qualifications

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-- Avoiding conflicts of interest.

(1) (a) (i) A member elected in 2008 from District 2, 3, 5, 6, 9, 10, 14, or 15 shall serve a five-year term.

~~[(1)(a)]~~ (ii) In ~~[2002]~~ 2013 and every four years thereafter, one member each shall be elected from ~~[new]~~ Districts 2, 3, 5, 6, 9, 10, 14, and 15 to serve a four-year term.

~~{ (b) In 2004 }~~ (b) (i) A member elected in 2010 from District 1, 4, 7, 8, 11, 12, or 13 shall serve a five-year term.

~~[(b)]~~ (ii) In ~~[2004]~~ 2015 and every four years thereafter, one member each shall be elected from new Districts 1, 4, 7, 8, 11, 12, and 13 to serve a four-year term.

~~[(c) (i) Because of the combination of certain former districts, the state school board members elected from old Districts 2 and 4 who will reside in new District 1 may not serve out the term for which they were elected, but shall stand for election in 2002 for a term of office of four years from the realigned district in which each resides.]~~

~~[(ii) If one of the incumbent state school board members from new District 1 indicates in writing to the lieutenant governor that the school board member will not seek reelection, that incumbent state school board member may serve until January 1, 2003 and the other incumbent state school board member shall serve out the term for which the member was elected, which is until January 1, 2005.]~~

(2) (a) A person seeking election to the state school board must have been a resident of the state school board district in which the person is seeking election for at least one year as of the date of the election.

(b) A person who has resided within the state school board district, as the boundaries of the district exist on the date of the election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A member shall:

(a) be and remain a registered voter in the state board district from which the member was elected or appointed; and

(b) maintain the member's primary residence within the state board district from which the member was elected or appointed during the member's term of office.

(4) A member of the State Board of Education may not, during the member's term of office, also serve as an employee of:

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- (a) the board;
- (b) the Utah State Office of Education; or
- (c) the Utah State Office of Rehabilitation.

Section ~~{4}~~15. Section **20A-14-104** is amended to read:

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

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

(2) (a) If more than two candidates file for the same State Board of Education district, the election officer shall:

(i) hold a school board primary election by following the same procedures as for a regular primary election on the date specified in Section 20A-1-201.5; and

(ii) place the names of all candidates who file a declaration of candidacy for a State Board of Education district on the school board primary ballot, in an order determined in the same manner as the order of the nonpartisan section of a regular primary ballot.

(b) The candidate who receives the highest number of votes and the candidate who receives the second highest number of votes for one State Board of Education district advance to the school board general election.

(3) (a) The election officer shall conduct a school board general election by following the same procedures as for a regular general election on the date specified in Section 20A-1-201.

(b) If no school board primary election was held, the election officer shall place the names of the candidates who file declarations of candidacy for the State Board of Education district on the school board general election ballot as provided in Section 20A-5-409.

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

~~[(2) By November 1 of the year preceding each regular general election year, a nominating and recruiting committee consisting of 12 members, each to serve a two-year term,~~

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shall be appointed by the governor as follows:]

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

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

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

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

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

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

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

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

~~[(i) teachers;]~~

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

~~[(iii) parents;]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(ii) manufacturing;]~~

~~[(iii) retailing;]~~

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

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

~~[(vi) construction;]~~

~~[(vii) banking;]~~

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

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

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

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

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

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

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

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

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

Section ~~{5}~~16. 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}~~