

**STATE BOARD OF EDUCATION ELECTIONS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol Spackman Moss**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions in Title 20A, Election Code, relating to the nomination and election of a person to the State Board of Education.

**Highlighted Provisions:**

This bill:

- ▶ 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

- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-9-403**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2

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

REPEALS:

**20A-14-105**, as last amended by Laws of Utah 2011, Chapters 292, 327, 335 and last



28 amended by Coordination Clause, Laws of Utah 2011, Chapter 327



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

31 Section 1. Section **20A-9-403** is amended to read:

32 **20A-9-403. Regular primary elections.**

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

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

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

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

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

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

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

47 (i) certify the name and office of all of the registered political party's candidates to the  
48 lieutenant governor no later than 5 p.m. on the first Monday after the third Saturday in April of  
49 each even-numbered year; and

50 (ii) certify the name and office of each of its county candidates to the county clerks by  
51 5 p.m. on the first Monday after the third Saturday in April of each even-numbered year.

52 (c) By 5 p.m. on the first Wednesday after the third Saturday in April of each  
53 even-numbered year, the lieutenant governor shall send the county clerks a certified list of the  
54 names of all statewide candidates, multicounty candidates, or single county candidates that  
55 shall be printed on the primary ballot and the order the candidates are to appear on the ballot in  
56 accordance with Section 20A-6-305.

57 (d) Except for presidential candidates, if a registered political party does not wish to  
58 participate in the primary election, it shall submit the names of its county candidates to the

59 county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May  
60 30 of each even-numbered year.

61 (3) (a) The lieutenant governor shall:

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

64 (ii) if more than two candidates for the State Board of Education have filed a  
65 declaration of candidacy for the same seat, send the county clerks a certified list of names of all  
66 candidates that filed for the same seat for placement on the nonpartisan section of the primary  
67 ballot.

68 (b) The county clerk shall:

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

71 ~~[(b)]~~ (ii) place on the nonpartisan section of the ballot:

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

75 (B) the names of the candidates for State Board of Education on the list certified by the  
76 lieutenant governor under Subsection (3)(a)(ii); and

77 ~~[(c)]~~ (iii) determine the order of the candidates' names on the ballot in accordance with  
78 Section 20A-6-305.

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

81 "Notice is given that a primary election will be held Tuesday, June \_\_\_\_,  
82 \_\_\_\_ (year), to nominate party candidates for the parties and nonpartisan offices listed on  
83 the primary ballot. The polling place for voting precinct \_\_\_\_ is \_\_\_\_\_. The polls will open at 7  
84 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

85 (5) (a) ~~[Candidates;]~~ (i) Except as provided by Subsection (5)(b), a candidate, other  
86 than presidential candidates, receiving the highest number of votes cast for each office at the  
87 regular primary election are nominated by their party or nonpartisan group for that office.

88 (ii) Except as provided by Subsection (5)(b), the two candidates for a nonpartisan  
89 office who receive the highest number of votes are nominated to be candidates in the regular

90 general election.

91 (b) If two or more candidates, other than presidential candidates, are to be elected to  
92 the office at the regular general election[-];

93 (i) those party candidates equal in number to positions to be filled who receive the  
94 highest number of votes at the regular primary election are the nominees of their party for those  
95 positions[-]; and

96 (ii) the candidates for nonpartisan office, double in number to positions to be filled,  
97 who receive the highest number of votes at the regular primary election advance to the regular  
98 general election.

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

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

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

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

112 **20A-14-104. Becoming a candidate for membership on the State Board of**  
113 **Education.**

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

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

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

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

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

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

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

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

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

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

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

134 ~~[(i) teachers;]~~

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

136 ~~[(iii) parents;]~~

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

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

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

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

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

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

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

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

151 ~~[(d) Members of the nominating and recruiting committee shall serve without~~

152 compensation, but they may be reimbursed for expenses incurred in the performance of their  
153 official duties as established by the Division of Finance.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

185           ~~[(j) labor; and]~~

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

187           Section 3. **Repealer.**

188           This bill repeals:

189           Section **20A-14-105, Becoming a candidate for membership on the State Board of**  
190 **Education -- Selection of candidates by the governor -- Ballot placement.**

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Legislative Review Note  
as of 8-30-12 7:54 AM

Office of Legislative Research and General Counsel