

Representative Brian M. Greene proposes the following substitute bill:

**UTAH STATE BOARD OF EDUCATION ELECTIONS AND
REPORTING AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code to make candidates for, and members of, the Utah State Board of Education subject to partisan election and modifies the reporting requirements of state school board office candidates and officeholders.

Highlighted Provisions:

This bill:

- ▶ provides that members of the Utah State Board of Education are elected through partisan elections;
- ▶ modifies the reporting requirements of state school board office candidates and officeholders;
- ▶ removes the nominating committee, and related provisions, for selecting candidates to run for the Utah State Board of Education; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **20A-1-504**, as last amended by Laws of Utah 2010, Chapter 197

29 **20A-11-403**, as last amended by Laws of Utah 2013, Chapter 420

30 **20A-11-1301**, as last amended by Laws of Utah 2012, Chapter 230

31 **20A-11-1303**, as last amended by Laws of Utah 2013, Chapter 420

32 **20A-11-1305**, as last amended by Laws of Utah 2013, Chapters 252, 317, and 420

33 **20A-14-104**, as last amended by Laws of Utah 2004, Chapter 19

34 REPEALS:

35 **20A-14-105**, as last amended by Laws of Utah 2011, Chapters 292, 327, 335 and last
36 amended by Coordination Clause, Laws of Utah 2011, Chapter 327



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

39 Section 1. Section **20A-1-504** is amended to read:

40 **20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer,**
41 **state auditor, and lieutenant governor.**

42 (1) (a) When a vacancy occurs for any reason in the office of attorney general, state
43 treasurer, [or] state auditor, or State Board of Education, it shall be filled for the unexpired
44 term at the next regular general election.

45 (b) The governor shall fill the vacancy until the next regular general election by
46 appointing a person who meets the qualifications for the office from three persons nominated
47 by the state central committee of the same political party as the prior officeholder.

48 (2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the
49 consent of the Senate, appoint a person to hold the office until the next regular general election
50 at which the governor stands for election.

51 Section 2. Section **20A-11-403** is amended to read:

52 **20A-11-403. Failure to file -- Penalties.**

53 (1) Within 30 days after a deadline for the filing of a summary report, the lieutenant
54 governor shall review each filed summary report to ensure that:

55 (a) each officeholder that is required to file a summary report has filed one; and

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

57 (2) If it appears that any officeholder has failed to file the summary report required by
58 law, if it appears that a filed summary report does not conform to the law, or if the lieutenant
59 governor has received a written complaint alleging a violation of the law or the falsity of any
60 summary report, the lieutenant governor shall, if the lieutenant governor determines that a
61 violation has occurred:

62 (a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

63 (b) within five days of discovery of a violation or receipt of a written complaint, notify
64 the officeholder of the violation or written complaint and direct the officeholder to file a
65 summary report correcting the problem.

66 (3) (a) It is unlawful for any officeholder to fail to file or amend a summary report
67 within seven days after receiving notice from the lieutenant governor under this section.

68 (b) Each officeholder who violates Subsection (3)(a) is guilty of a class B
69 misdemeanor.

70 (c) The lieutenant governor shall report all violations of Subsection (3)(a) to the
71 attorney general.

72 (d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant
73 governor shall impose a civil fine of \$100 against an officeholder who violates Subsection
74 (3)(a).

75 (4) Within 30 days after a deadline for the filing of an interim report by an officeholder
76 under Subsection 20A-11-204(1)(c), 20A-11-303(1)(c), or 20A-11-1303(1)~~(c)~~(d), the
77 lieutenant governor shall review each filed interim report to ensure that each interim report
78 contains the information required for the report.

79 (5) If it appears that any officeholder has failed to file an interim report required by
80 law, if it appears that a filed interim report does not conform to the law, or if the lieutenant
81 governor has received a written complaint alleging a violation of the law or the falsity of any
82 interim report, the lieutenant governor shall, if the lieutenant governor determines that a
83 violation has occurred:

84 (a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

85 (b) within five days after the day on which the violation is discovered or a written
86 complaint is received, notify the officeholder of the violation or written complaint and direct
87 the officeholder to file an interim report correcting the problem.

88 (6) (a) It is unlawful for any officeholder to fail to file or amend an interim report
89 within seven days after the day on which the officeholder receives notice from the lieutenant
90 governor under this section.

91 (b) Each officeholder who violates Subsection (6)(a) is guilty of a class B
92 misdemeanor.

93 (c) The lieutenant governor shall report all violations of Subsection (6)(a) to the
94 attorney general.

95 (d) In addition to the criminal penalty described in Subsection (6)(b), the lieutenant
96 governor shall impose a civil fine of \$100 against an officeholder who violates Subsection
97 (6)(a).

98 Section 3. Section **20A-11-1301** is amended to read:

99 **20A-11-1301. School board office candidate -- Campaign finance requirements --**
100 **Candidate as a political action committee officer -- No personal use -- Report**
101 **contributions within 30 days -- Report other accounts.**

102 (1) (a) (i) Each school board office candidate shall deposit each contribution and public
103 service assistance received in one or more separate accounts in a financial institution that are
104 dedicated only to that purpose.

105 (ii) A school board office candidate may:

106 (A) receive a contribution or public service assistance from a political action
107 committee registered under Section [20A-11-601](#); and

108 (B) be designated by a political action committee as an officer who has primary
109 decision-making authority as described in Section [20A-11-601](#).

110 (b) A school board office candidate may not use money deposited in an account
111 described in Subsection (1)(a)(i) for:

112 (i) a personal use expenditure; or

113 (ii) an expenditure prohibited by law.

114 (2) A school board office candidate may not deposit or mingle any contributions or
115 public service assistance received into a personal or business account.

116 (3) A school board office candidate may not make any political expenditures prohibited
117 by law.

118 (4) If a person who is no longer a school board candidate chooses not to expend the

119 money remaining in a campaign account, the person shall continue to file the year-end
120 summary report required by Section 20A-11-1302 until the statement of dissolution and final
121 summary report required by Section 20A-11-1304 are filed with:

122 (a) the lieutenant governor in the case of a state school board candidate; and

123 (b) the county clerk, in the case of a local school board candidate.

124 (5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who
125 is no longer a school board candidate may not expend or transfer the money in a campaign
126 account in a manner that would cause the former school board candidate to recognize the
127 money as taxable income under federal tax law.

128 (b) A person who is no longer a school board candidate may transfer the money in a
129 campaign account in a manner that would cause the former school board candidate to recognize
130 the money as taxable income under federal tax law if the transfer is made to a campaign
131 account for federal office.

132 (6) (a) As used in this Subsection (6), ~~and Section 20A-11-1303;~~ "received" ~~[means:]~~
133 is as defined in Subsection 20A-11-1303(1)(a).

134 ~~[(i) for a cash contribution, that the cash is given to a school board office candidate or a~~
135 ~~member of the candidate's personal campaign committee;]~~

136 ~~[(ii) for a contribution that is a negotiable instrument or check, that the negotiable~~
137 ~~instrument or check is negotiated; and]~~

138 ~~[(iii) for any other type of contribution, that any portion of the contribution's benefit~~
139 ~~inures to the school board office candidate.]~~

140 (b) Each school board office candidate shall report to the chief election officer each
141 contribution and public service assistance within 30 days after the contribution or public
142 service assistance is received.

143 (7) (a) As used in this Subsection (7), "account" means an account in a financial
144 institution:

145 (i) that is not described in Subsection (1)(a)(i); and

146 (ii) into which or from which a person who, as a candidate for an office, other than a
147 school board office for which the person files a declaration of candidacy or federal office, or as
148 a holder of an office, other than a school board office for which the person files a declaration of
149 candidacy or federal office, deposits a contribution or makes an expenditure.

150 (b) A school board office candidate shall include on any financial statement filed in
151 accordance with this part:

152 (i) a contribution deposited in an account:

153 (A) since the last campaign finance statement was filed; or

154 (B) that has not been reported under a statute or ordinance that governs the account; or

155 (ii) an expenditure made from an account:

156 (A) since the last campaign finance statement was filed; or

157 (B) that has not been reported under a statute or ordinance that governs the account.

158 Section 4. Section **20A-11-1303** is amended to read:

159 **20A-11-1303. School board office candidate and school board officeholder --**

160 **Financial reporting requirements -- Interim reports.**

161 (1) (a) As used in this section, "received" means:

162 (i) for a cash contribution, that the cash is given to a school board office candidate or a
163 member of the candidate's personal campaign committee;

164 (ii) for a contribution that is a negotiable instrument or check, that the negotiable
165 instrument or check is negotiated; and

166 (iii) for any other type of contribution, that any portion of the contribution's benefit
167 inures to the school board office candidate.

168 ~~[(1)(a)]~~ (b) As used in this Subsection (1), "campaign account" means a separate
169 campaign account required under Subsection **20A-11-1301**(1)(a)(i).

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

172 (i) ~~[May 15,]~~ for a state school board office candidate, seven days before the state
173 school board office candidate's political convention;

174 (ii) seven days before the regular primary election date;

175 (iii) August 31; and

176 (iv) seven days before the regular general election date.

177 ~~[(c)]~~ (d) Each state school board office holder who has a campaign account that has not
178 been dissolved under Section **20A-11-1304** shall, in an even year, file an interim report at the
179 following times, regardless of whether an election for the state school board office holder's
180 office is held that year:

- 181 (i) [~~May 15~~] seven days before the political convention for the political party of the
182 state school board officeholder;
- 183 (ii) seven days before the regular primary election date for that year;
- 184 (iii) August 31; and
- 185 (iv) seven days before the regular general election date.
- 186 (2) Each interim report shall include the following information:
- 187 (a) the net balance of the last summary report, if any;
- 188 (b) a single figure equal to the total amount of receipts reported on all prior interim
189 reports, if any, during the calendar year in which the interim report is due;
- 190 (c) a single figure equal to the total amount of expenditures reported on all prior
191 interim reports, if any, filed during the calendar year in which the interim report is due;
- 192 (d) a detailed listing of each contribution and public service assistance received since
193 the last summary report that has not been reported in detail on a prior interim report;
- 194 (e) for each nonmonetary contribution:
- 195 (i) the fair market value of the contribution with that information provided by the
196 contributor; and
- 197 (ii) a specific description of the contribution;
- 198 (f) a detailed listing of each expenditure made since the last summary report that has
199 not been reported in detail on a prior interim report;
- 200 (g) for each nonmonetary expenditure, the fair market value of the expenditure;
- 201 (h) a net balance for the year consisting of the net balance from the last summary
202 report, if any, plus all receipts since the last summary report minus all expenditures since the
203 last summary report;
- 204 (i) a summary page in the form required by the lieutenant governor that identifies:
- 205 (i) beginning balance;
- 206 (ii) total contributions during the period since the last statement;
- 207 (iii) total contributions to date;
- 208 (iv) total expenditures during the period since the last statement; and
- 209 (v) total expenditures to date; and
- 210 (j) the name of a political action committee for which the school board office candidate
211 or school board office holder is designated as an officer who has primary decision-making

212 authority under Section 20A-11-601.

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

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

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

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

222 Section 5. Section 20A-11-1305 is amended to read:

223 **20A-11-1305. School board office candidate -- Failure to file statement --**

224 **Penalties.**

225 (1) (a) A school board office candidate who fails to file a financial statement by the
226 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

227 (b) If a school board office candidate fails to file an interim report due before the
228 regular primary election, on August 31, or before the regular general election, the chief election
229 officer shall, after making a reasonable attempt to discover if the report was timely filed,
230 inform the county clerk and other appropriate election officials who:

231 (i) (A) shall, if practicable, remove the name of the candidate from the ballots before
232 the ballots are delivered to voters; or

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

236 (ii) may not count any votes for that candidate.

237 (c) Any school board office candidate who fails to file timely a financial statement
238 required by Subsection 20A-11-1303(1)[~~(b)(ii), (iii), or (iv)~~](c) is disqualified.

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

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

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

246 (iii) those omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are
247 corrected in:

- 248 (A) an amended report; or
- 249 (B) the next scheduled report.

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

253 (i) each state school board candidate that is required to file a summary report has filed
254 one; and

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

256 (b) If it appears that any state school board candidate has failed to file the summary
257 report required by law, if it appears that a filed summary report does not conform to the law, or
258 if the lieutenant governor has received a written complaint alleging a violation of the law or the
259 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
260 violation or receipt of a written complaint, notify the state school board candidate of the
261 violation or written complaint and direct the state school board candidate to file a summary
262 report correcting the problem.

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

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

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

270 (iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant
271 governor shall impose a civil fine of \$100 against a state school board candidate who violates
272 Subsection (2)(c)(i).

273 (3) (a) Within 30 days after a deadline for the filing of a summary report, the county

274 clerk shall review each filed summary report to ensure that:

275 (i) each local school board candidate that is required to file a summary report has filed
276 one; and

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

278 (b) If it appears that any local school board candidate has failed to file the summary
279 report required by law, if it appears that a filed summary report does not conform to the law, or
280 if the county clerk has received a written complaint alleging a violation of the law or the falsity
281 of any summary report, the county clerk shall, within five days of discovery of a violation or
282 receipt of a written complaint, notify the local school board candidate of the violation or
283 written complaint and direct the local school board candidate to file a summary report
284 correcting the problem.

285 (c) (i) It is unlawful for any local school board candidate to fail to file or amend a
286 summary report within seven days after receiving notice from the county clerk under this
287 section.

288 (ii) Each local school board candidate who violates Subsection (3)(c)(i) is guilty of a
289 class B misdemeanor.

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

292 (iv) In addition to the criminal penalty described in Subsection (3)(c)(ii), the lieutenant
293 governor shall impose a civil fine of \$100 against a local school board candidate who violates
294 Subsection (3)(c)(i).

295 Section 6. Section **20A-14-104** is amended to read:

296 **20A-14-104. Becoming a candidate for membership on the State Board of**
297 **Education.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

371 Section 7. **Repealer.**

372 This bill repeals:

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

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