

HB0228S01 compared with HB0228

~~{deleted text}~~ shows text that was in HB0228 but was deleted in HB0228S01.

inserted text shows text that was not in HB0228 but was inserted into HB0228S01.

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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 ~~{state}~~ officeholders.

Highlighted Provisions:

This bill:

- ~~{~~ → defines terms, including amending the definition of "state office" to include the Utah State Board of Education;
- { } ▶ provides that members of the Utah State Board of Education are elected through partisan elections;

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- ▶ ~~{makes}~~ modifies the reporting requirements of state school board office candidates and officeholders ~~{ for the Utah State Board of Education subject to the same reporting requirements as candidates and officeholders for other state offices}~~;
- ▶ 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

Utah Code Sections Affected:

AMENDS:

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

~~{ — **20A-11-101**, as last amended by Laws of Utah 2013, Chapters 86, 170, 318, and 420~~

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

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

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

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

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

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

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

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

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

(b) The governor shall fill the vacancy until the next regular general election by

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appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

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

Section 2. Section ~~{20A-11-101}~~20A-11-403 is amended to read:

~~{~~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 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;~~

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~~—— (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~~

~~—— (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:~~

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- ~~—— (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) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.~~
- ~~—— (9) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.~~
- ~~—— (10) "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.~~
- ~~—— (11) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.~~
- ~~—— (b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.~~
- ~~—— (12) "Election" means each:~~
 - ~~—— (a) regular general election;~~
 - ~~—— (b) regular primary election; and~~
 - ~~—— (c) special election at which candidates are eliminated and selected.~~
- ~~—— (13) "Electioneering communication" means a communication that:~~
 - ~~—— (a) has at least a value of \$10,000;~~
 - ~~—— (b) clearly identifies a candidate or judge; and~~

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~~—— (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.~~

~~—— (14) (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 (14)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.~~

~~—— (15) "Federal office" means the office of President of the United States, United States Senator, or United States Representative.~~

~~—— (16) "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.~~

~~—— (17) "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~~

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Retention Elections:

~~—— (18) "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.~~

~~—— (19) "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.~~

~~—— (20) "Incorporation election" means the election authorized by Section 10-2-111.~~

~~—— (21) "Incorporation petition" means a petition authorized by Section 10-2-109.~~

~~—— (22) "Individual" means a natural person.~~

~~—— (23) "Interim report" means a report identifying the contributions received and expenditures made since the last report.~~

~~—— (24) "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.~~

~~—— (25) "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, election, or appointment to a legislative office.~~

~~—— (26) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.~~

~~—— (27) "Officeholder" means a person who holds a public office.~~

~~—— (28) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.~~

~~—— (29) "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.~~

~~—— (30) "Personal campaign committee" means the committee appointed by a candidate to~~

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~~act for the candidate as provided in this chapter.~~

~~—— (31) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.~~

~~—— (32) (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 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.~~

~~—— (33) "Political convention" means a county or state political convention held by a registered political party to select candidates:~~

~~—— (34) (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~~

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~~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 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.~~

~~—— (35) (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.~~

~~—— (36) (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:~~

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- ~~—— (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;~~
 - ~~—— (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.~~
- ~~—— (37) "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.~~
- ~~—— (38) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.~~
 - ~~—— (b) "Poll" does not include:~~
 - ~~—— (i) a ballot; or~~
 - ~~—— (ii) an interview of a focus group that is conducted, in person, by one individual, if:~~
 - ~~—— (A) the focus group consists of more than three, and less than thirteen, individuals; and~~
 - ~~—— (B) all individuals in the focus group are present during the interview.~~
- ~~—— (39) "Primary election" means any regular primary election held under the election~~

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laws:

~~—— (40) "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.~~

~~—— (41) (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 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.~~

~~—— (42) "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.~~

~~—— (43) "Receipts" means contributions and public service assistance.~~

~~—— (44) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.~~

~~—— (45) "Registered political action committee" means any political action committee that~~

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~~is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor:~~

~~—— (46) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor:~~

~~—— (47) "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:~~

~~—— (48) (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:~~

~~—— (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:~~

~~—— (49) "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:~~

~~—— (50) "School board office" means the office of [state school board or] a local school board:~~

~~—— (51) (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:~~

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~~(52) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, [and] state treasurer, and State Board of Education.~~

~~(53) "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, election, or appointment to a state office.~~

~~(54) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.~~

~~(55) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.~~

~~Section 3. Section 20A-11-403 is amended to read:~~

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

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

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

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

(2) If it appears that any officeholder 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 falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

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

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

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

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

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the

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attorney general.

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

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

(5) If it appears that any officeholder has failed to file an interim report required by law, if it appears that a filed interim 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 falsity of any interim report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

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

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

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

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

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

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

Section ~~4~~ 3. Section **20A-11-1301** is amended to read:

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

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

(ii) A school board office candidate may:

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

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

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

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

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

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

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with:

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

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

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

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

(6) (a) As used in this Subsection (6), ~~[and Section 20A-11-1303;]~~ "received" ~~[means:]~~

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is as defined in Subsection 20A-11-1303(1)(a).

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

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

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

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

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

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

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

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

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section ~~5~~4. Section **20A-11-1303** is amended to read:

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

Financial reporting requirements -- Interim reports.

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

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

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

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

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

~~[(b)]~~ (c) Each 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 for a public office:

~~[(i)]~~ ~~[(i)]~~ [May 15] for a state school board office candidate ~~[(i)]~~

~~[(ii)]~~ ~~[(i)]~~, seven days before ~~the regular primary election date.~~

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

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

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

~~[(i)]~~ May 15;

~~[(ii)]~~ (ii) seven days before the regular primary election date ~~for that year;~~ ~~[(ii)]~~

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

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

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

(i) [May 15] seven days before the political convention for the political party of the state school board officeholder;

(ii) seven days before the regular primary election date for that year;

(iii) August 31; and

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

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

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

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(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:

(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;

(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; and

(j) the name of a political action committee for which the school board office candidate or school board office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(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.

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

Section ~~6~~5. Section **20A-11-1305** is amended to read:

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

Penalties.

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

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

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

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

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

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

(d) Notwithstanding Subsections (1)(b) and (1)(c), 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)(d)(ii) are corrected in:

(A) an amended report; or

(B) the next scheduled report.

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(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 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 seven 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.

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

(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

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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 seven 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.

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

Section ~~(7)6~~6. Section **20A-14-104** is amended to read:

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

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

~~[(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, 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;]~~

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~~[(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 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.]~~

~~[(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~~

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~~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;]~~

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

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

~~Section ~~{8}~~7. Repealer.~~

This bill repeals:

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

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

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~~Legislative Review Note~~

~~as of 10-3-13 3:29 PM~~

~~Office of Legislative Research and General Counsel}~~