

## HB0297S01 compared with HB0297

~~deleted text~~ shows text that was in HB0297 but was deleted in HB0297S01.

inserted text shows text that was not in HB0297 but was inserted into HB0297S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Norman K Thurston proposes the following substitute bill:

### STATE SCHOOL BOARD ELECTIONS AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K Thurston**

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

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#### LONG TITLE

##### General Description:

This bill changes the method, and related provisions, for electing members to the State Board of Education.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that members of the State Board of Education are elected by electors chosen from members of the boards of local school districts;
- ▶ removes provisions relating to the State Board of Education from the Election Code;
- ▶ describes the process for choosing electors;
- ▶ describes the qualifications to become and remain a member of the State Board of

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Education;

- ▶ establishes State Board of Education districts;
- ▶ provides for filling a mid-term vacancy;
- ▶ requires a candidate for, or member of, the State Board of Education to file financial reports and to disclose conflict of interest information; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

- 20A-1-201, as last amended by Laws of Utah 2014, Chapter 362
- 20A-1-201.5, as last amended by Laws of Utah 2013, Chapter 320
- 20A-1-404, as last amended by Laws of Utah 2008, Chapter 13
- 20A-2-101.5, as last amended by Laws of Utah 2013, Chapter 263
- 20A-9-201, as last amended by Laws of Utah 2014, Chapter 17
- 20A-11-101, as last amended by Laws of Utah 2014, Chapters 18, 158, and 337
- 20A-11-402, as last amended by Laws of Utah 2013, Chapter 320
- 20A-11-403, as last amended by Laws of Utah 2013, Chapter 420
- 20A-11-1603, as last amended by Laws of Utah 2014, Chapter 18
- 53A-1-101, as last amended by Laws of Utah 2010, Chapter 162
- 53A-1-201, as last amended by Laws of Utah 2013, Chapter 111
- 53A-1a-506, as last amended by Laws of Utah 2014, Chapters 291, 363, and 406
- 53A-3-101, as repealed and reenacted by Laws of Utah 1995, Chapter 1
- 53A-11-102.5, as last amended by Laws of Utah 2010, Chapter 210
- 53A-15-1202, as last amended by Laws of Utah 2012, Chapter 238

ENACTS:

- 20A-14-101.2, Utah Code Annotated 1953
- 53A-1-107, Utah Code Annotated 1953
- 53A-1-114, Utah Code Annotated 1953

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**53A-1-115**, Utah Code Annotated 1953

**53A-1-116**, Utah Code Annotated 1953

**53A-1-117**, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

**53A-1-108**, (Renumbered from 20A-14-103, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3)

**53A-1-109**, (Renumbered from 20A-11-1301, as last amended by Laws of Utah 2014, Chapters 335 and 337)

**53A-1-110**, (Renumbered from 20A-11-1302, as last amended by Laws of Utah 2011, Chapter 347)

**53A-1-111**, (Renumbered from 20A-11-1303, as last amended by Laws of Utah 2014, Chapter 337)

**53A-1-112**, (Renumbered from 20A-11-1304, as enacted by Laws of Utah 1997, Chapter 355)

**53A-1-113**, (Renumbered from 20A-11-1305, as last amended by Laws of Utah 2014, Chapter 337)

### REPEALS:

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

**20A-14-101.1**, as last amended by Laws of Utah 2013, Chapter 455

**20A-14-101.5**, as last amended by Laws of Utah 2013, Chapter 455

**20A-14-102**, as last amended by Laws of Utah 2013, Chapter 455

**20A-14-102.1**, as last amended by Laws of Utah 2013, Chapter 455

**20A-14-102.2**, as last amended by Laws of Utah 2013, Chapter 455

**20A-14-102.3**, as last amended by Laws of Utah 2013, Chapter 455

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

**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

**20A-14-106**, as enacted by Laws of Utah 1995, Chapter 1

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

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

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### 20A-1-201. Date and purpose of regular general elections.

(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;

~~[(ix)]~~ (viii) except as provided in Subsection (3), local district officers, as applicable;

and

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

(b) approve or reject:

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

(a) applies to a special service district for which the county legislative body or the municipal legislative body, as applicable, has delegated authority for the special service district to an administrative control board; and

(b) does not apply to a special service district for which the county legislative body or the municipal legislative body, as applicable, has not delegated authority for the special service district to an administrative control board.

Section 2. Section **20A-1-201.5** is amended to read:

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### **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 municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for municipal offices.

(3) If the Legislature makes an appropriation for a Western States Presidential Primary election, 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 3. Section **20A-1-404** is amended to read:

### **20A-1-404. Election controversies.**

(1) (a) (i) Whenever any controversy occurs between any election officer or other person or entity charged with any duty or function under this title and any candidate, or the officers or representatives of any political party, or persons who have made nominations, either party to the controversy may file a verified petition with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The verified petition shall identify concisely the nature of the controversy and the relief sought.

(2) After reviewing the petition, the court shall:

(a) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, to the petition;

(b) summarily hear and dispose of any issues raised by the petition to obtain:

(i) strict compliance with all filing deadlines for financial disclosure reports under:

(A) Section 10-3-208, regarding campaign finance statements in municipal elections;

(B) Section 17-16-6.5, regarding campaign finance statements for county offices;

(C) Title 20A, Chapter 11, Part 2, State Office Candidates - Campaign Organization and Financial Reporting Requirements;

(D) Title 20A, Chapter 11, Part 3, Candidates for Legislative Office - Campaign Organization and Financial Reporting Requirements;

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(E) Title 20A, Chapter 11, Part 4, Officeholder Financial Reporting Requirements;

(F) Title 20A, Chapter 11, Part 5, Political Party Registration and Financial Reporting Requirements;

(G) Title 20A, Chapter 11, Part 6, Political Action Committee Registration and Financial Reporting Requirements;

(H) Title 20A, Chapter 11, Part 7, Campaign Financial Reporting by Corporations;

(I) Title 20A, Chapter 11, Part 8, Political Issues Committees - Registration and Financial Reporting; and

~~[(J) Title 20A, Chapter 11, Part 13, State and Local School Board Candidates; and]~~

~~[(K)]~~ (J) Title 20A, Chapter 12, Part 3, Campaign and Financial Reporting Requirements for Judicial Retention Elections; and

(ii) substantial compliance with all other provisions of this title by the parties to the controversy; and

(c) make and enter orders and judgments, and issue the process of the court to enforce all of those orders and judgments.

Section 4. Section **20A-2-101.5** is amended to read:

**20A-2-101.5. Convicted felons -- Restoration of right to vote and right to hold office.**

(1) As used in this section, "convicted felon" means ~~[a person]~~ an individual convicted of a felony in any state or federal court of the United States.

(2) Each convicted felon's right to register to vote and to vote in an election is restored when:

(a) the felon is sentenced to probation;

(b) the felon is granted parole; or

(c) the felon has successfully completed the term of incarceration to which the felon was sentenced.

(3) Except as provided by Subsection (4), a convicted felon's right to hold elective office is restored when:

(a) all of the felon's felony convictions have been expunged; or

(b) (i) 10 years have passed since the date of the felon's most recent felony conviction;

(ii) the felon has paid all court-ordered restitution and fines; and

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(iii) for each felony conviction that has not been expunged, the felon has:

(A) completed probation in relation to the felony;

(B) been granted parole in relation to the felony; or

(C) successfully completed the term of incarceration associated with the felony.

(4) An individual who has been convicted of a grievous sexual offense, as defined in Section 76-1-601, against a child, may not hold the office of [~~State Board of Education member~~ or] local school board member.

Section 5. Section **20A-9-201** is amended to read:

**20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, [~~a person~~] an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, designate that registered political party as their preferred party affiliation on their declaration of candidacy.

(2) (a) Except as provided in Subsection (2)(b), [~~a person~~] an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year; or

(ii) appear on the ballot as the candidate of more than one political party.

(b) (i) [~~A person~~] An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the [~~person~~] individual resigns the [~~person's~~] individual's candidacy for the other office after the [~~person~~] individual is officially nominated for president or vice president of the United States.

(ii) [~~A person~~] An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) [~~A person~~] An individual may file a declaration of candidacy for lieutenant governor even if the [~~person~~] individual filed a declaration of candidacy for another office in the same election year if the [~~person~~] individual withdraws as a candidate for the other office in

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accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for presidential candidates, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the [person] individual filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which the [person] individual is seeking office; and

(D) a current resident of the county in which the [person] individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the [person] individual filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which the [person] individual is seeking office; and

(D) a current resident of the prosecution district in which the [person] individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to



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the office.

(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the ~~[person]~~ individual filing the declaration of candidacy:

(A) as of the date of filing:

(I) is a United States citizen;

(II) is a registered voter in the county in which the ~~[person]~~ individual seeks office;

(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(Bb) has met the waiver requirements in Section 53-6-206; and

(IV) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(B) as of the date of the election, shall have been a resident of the county in which the person seeks office for at least one year.

(v) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, or state legislator, [~~or State Board of Education member,~~] the filing officer shall ensure:

(A) that the ~~[person]~~ individual filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(B) if the filing officer is not the lieutenant governor, that the financial disclosure is provided to the lieutenant governor according to the procedures and requirements of Section 20A-11-1603.

(b) If the prospective candidate states that the qualification requirements for the office are not met, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate meets the requirements of Subsection (3)(a) and states that the requirements of candidacy are met, the filing officer shall:

(i) inform the candidate that:

(A) the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(B) the candidate may be required to comply with state or local campaign finance

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disclosure laws; and

(C) the candidate is required to file a financial statement before the candidate's political convention under:

(I) Section 20A-11-204 for a candidate for constitutional office;

(II) Section 20A-11-303 for a candidate for the Legislature; or

(III) local campaign finance disclosure laws, if applicable;

(ii) except for a presidential candidate, provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer;

(v) accept the candidate's declaration of candidacy; and

(vi) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(4) (a) Except for presidential candidates, the form of the declaration of candidacy shall be substantially as follows:

"State of Utah, County of \_\_\_\_\_

I, \_\_\_\_\_, declare my candidacy for the office of \_\_\_\_\_, seeking the

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nomination of the \_\_\_\_ party, which is my preferred political party affiliation. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or Town of \_\_\_\_, Utah, Zip Code \_\_\_\_ Phone No. \_\_\_\_; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is \_\_\_\_\_.

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Subscribed and sworn before me this \_\_\_\_\_(month\day\year).

Notary Public (or other officer qualified to administer oath.)"

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (4)(a).

(5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the

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congressional district for all candidates for representative in Congress.

(d) (i) [~~A person~~] An individual who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) [~~A person~~] An individual who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name \_\_\_\_\_

\_\_\_\_\_ Address \_\_\_\_\_

Phone Number \_\_\_\_\_

I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Affiant

Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

\_\_\_\_\_ (signature)

Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

(v) The filing officer shall provide to [~~a person~~] an individual who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

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"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that [~~a person~~] an individual who makes a claim of impecuniosity under this Subsection (5)(d) file a financial statement on a form prepared by the election official.

(6) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(iv) pay the filing fee of \$500.

(b) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (6)(a)(i)(A).

(7) [~~Any person~~] An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(8) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 6. Section **20A-11-101** 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.

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(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "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.

(4) "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.

(5) "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.

(6) (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;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

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

(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.

(7) "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.

(8) (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.

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(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.

(9) "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.

(10) "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.

(11) "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.

(12) (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.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

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

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

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



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(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 identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

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

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "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.

(18) "Financial statement" includes any summary report, interim report, verified

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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.

(19) "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.

(20) "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.

(21) "Incorporation election" means the election authorized by Section 10-2-111 or 10-2-127.

(22) "Incorporation petition" means a petition authorized by Section 10-2-109 or 10-2-125.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

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

(26) "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.

(27) "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.

(28) "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.

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

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

(31) "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.

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

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

(34) (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.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

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(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

- (i) has already been paid, with money or other consideration;
- (ii) expects to be paid in the future, with money or other consideration; or
- (iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

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

(37) (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 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.

(38) (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;

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(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.

(39) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(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;

(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:

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(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.

(40) "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.

(41) (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.

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

~~[(45)]~~ (43) "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)]~~ (44) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, ~~[state 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.

~~[(44)]~~ (45) (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:

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(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.

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

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

(48) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) "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.

(50) "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.

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

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

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(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.

(52) "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.

~~[(53) "School board office" means the office of state school board.]~~

~~[(54)]~~ (53) (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.

~~[(55)]~~ (54) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

~~[(56)]~~ (55) "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.

~~[(57)]~~ (56) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

~~[(58)]~~ (57) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 7. Section **20A-11-402** is amended to read:

**20A-11-402. Officeholder financial reporting requirements -- Termination of duty to report.**



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(1) An officeholder is active and subject to reporting requirements until the officeholder has filed a statement of dissolution with the lieutenant governor stating that:

(a) the officeholder is no longer receiving contributions or public service assistance and is no longer making expenditures;

(b) the ending balance on the last summary report filed is zero and the balance in the separate bank account required by Section 20A-11-201[;] or 20A-11-301[; ~~or 20A-11-1301~~] is zero; and

(c) a final summary report in the form required by Section 20A-11-401 showing a zero balance is attached to the statement of dissolution.

(2) A statement of dissolution and a final summary report may be filed at any time.

(3) Each officeholder shall continue to file the year-end summary report required by Section 20A-11-401 until the statement of dissolution and final summary report required by this section are filed with the lieutenant governor.

(4) An officeholder may not use a contribution deposited in an account in accordance with this chapter for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) (a) Except as provided in Subsection (5)(b), a person who is no longer an officeholder may not expend or transfer the money in a campaign account in a manner that would cause the former officeholder to recognize the money as taxable income under federal tax law.

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

Section 8. 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.

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(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 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)[;] or 20A-11-303(1)(c), [~~or 20A-11-1303(1)(c);~~] 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.

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(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 9. Section **20A-11-1603** is amended to read:

**20A-11-1603. Financial disclosure form -- Required when filing for candidacy -- Public availability.**

(1) Candidates seeking the following offices shall file a financial disclosure with the filing officer at the time of filing a declaration of candidacy:

(a) state constitutional officer; or

(b) state legislator[~~;~~~~or~~].

~~[(c) State Board of Education member.]~~

(2) A filing officer may not accept a declaration of candidacy for an office [~~listed~~] described in Subsection (1) unless the declaration of candidacy is accompanied by the financial disclosure required by this section.

(3) The financial disclosure form shall contain the same requirements and shall be in the same format as the financial disclosure form described in Section 20A-11-1604.

(4) The financial disclosure form shall:

(a) be made available for public inspection at the filing officer's place of business;

(b) if the filing officer is an individual other than the lieutenant governor, be provided to the lieutenant governor within five business days of the date of filing and be made publicly available at the Office of the Lieutenant Governor; and

(c) be made publicly available on the Statewide Electronic Voter Information Website administered by the lieutenant governor.

Section 10. Section **20A-14-101.2** is enacted to read:

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### CHAPTER 14. ELECTION OF LOCAL SCHOOL BOARDS

#### 20A-14-101.2. Title.

This chapter is known as "Election of Local School Boards."

Section 11. Section **53A-1-101** is amended to read:

#### **53A-1-101. Definitions -- State Board of Education -- Districts.**

(1) As used in this part:

(a) "Candidate" means any person who:

(i) files a notice of intent to seek office under Subsection 53A-1-101(5); or

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

(b) "Conflict of interest" means an action that is taken by a state board officeholder that the state board officeholder reasonably believes may cause direct financial benefit or detriment to the state board officeholder, a member of the state board officeholder's immediate family, or an entity that the state board officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the state board officeholder's profession, occupation, or association generally.

(c) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) 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 a candidate;

(C) any transfer of funds from a reporting entity to the candidate;

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

(E) remuneration from any organization or its directly affiliated organization that has a registered lobbyist, or from any agency or subdivision of the state, including school districts;

(F) a loan made by a candidate deposited into the candidate's own campaign; and

(G) in-kind contributions.

(ii) "Contribution" does not include:

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(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

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

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

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to the candidate.

(e) "Detailed listing" means the same as that term is defined in Section 20A-11-101.

(f) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(g) (i) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(A) any disbursement from contributions, receipts, or the separate bank account required by Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

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

(C) 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;

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

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

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(F) goods or services provided by the filing entity to or for the benefit of a candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(h) "Filing entity" means the reporting entity that is required to file a financial statement required under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Title 20A, Chapter 12, Part 2, Judicial Retention Elections.

(i) "Immediate family" means the state board officeholder's spouse, a child living in the state board officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the state board officeholder.

(j) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

(k) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(l) (i) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(A) the entity or a portion of the entity; or

(B) an employee, agent, or independent contractor of the entity.

(ii) "Owner or officer" includes:

(A) a member of a board of directors or other governing body of an entity; or

(B) a partner in any type of partnership.

(m) "Personal use expenditure" has the same meaning as that term is defined in Section 20A-11-104.

(n) "Phase base" means:

(i) for phase two of the method of equal proportions, 0.70710678;

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(ii) for phase three of the method of equal proportions, 0.77459667;

(iii) for phase four of the method of equal proportions, 0.81649658;

(iv) for phase five of the method of equal proportions, 0.84515425;

(v) for phase six of the method of equal proportions, 0.8660254; or

(vi) for phase seven of the method of equal proportions, 0.8819171.

(o) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, an elector to refrain from voting or to vote for or against any candidate.

(p) "Population" means the number of students enrolled in a school district on October 1 of the preceding even-numbered year.

(q) "Preceding year" means the year immediately preceding the day on which the state board officeholder files a financial disclosure form.

(r) (i) "Public service assistance" means the following when given or provided to a state board officeholder to defray the costs of functioning as a state board officeholder or to aid the state board officeholder to communicate with the state board officeholder's constituents:

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

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

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

(A) anything provided by the state;

(B) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a state board officeholder;

(C) money lent to a state board officeholder by a financial institution in the ordinary course of business;

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

(E) 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 state board officeholder.

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

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(t) "Reporting entity" means the same as that term is defined in Section 20A-11-101.

(u) "Reside" or "residence" has the same meaning as the term "residence" or "resident" in Section 20A-2-105.

(v) "State board" means the State Board of Education.

(w) "State board office" means the office of State Board of Education member.

(x) "State board officeholder" means an individual who holds state board office.

(y) "State district" means a State Board of Education district.

(2) There are 15 state districts made up of local school districts, as follows:

(a) District 1 consists of Alpine School District;

(b) District 2 consists of Davis School District;

(c) District 3 consists of Granite School District;

(d) District 4 consists of Jordan School District;

(e) District 5 consists of Canyons School District;

(f) District 6 consists of Nebo School District and Provo School District;

(g) District 7 consists of Salt Lake School District and Murray School District;

(h) District 8 consists of Weber School District and Ogden School District;

(i) District 9 consists of Washington School District and Iron School District;

(j) District 10 consists of Cache School District and Logan School District;

(k) District 11 consists of Tooele School District and Box Elder School District;

(l) District 12 consists of Wasatch School District, Park City School District, Morgan School District, South Summit School District, North Summit School District, and Rich School District;

(m) District 13 consists of Uintah School District, Duchesne School District, and Daggett School District;

(n) District 14 consists of Tintic School District, Millard School District, Juab School District, Beaver School District, Sevier School District, South Sanpete School District, and North Sanpete School District; and

(o) District 15 consists of Grand School District, Kane School District, Garfield School District, Wayne School District, Piute School District, Carbon School District, San Juan School District, and Emery School District.

(3) If a school district boundary changes, the boundary of a state district that would be



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impacted by the change does not change until:

(a) the day after the last day of the next general session of the Legislature; or

(b) if the school district boundary change takes effect during a general session of the Legislature, the day after the last day of the general session of the Legislature that begins during the next calendar year.

~~[(†)] (4) Members of the [State Board of Education shall be nominated and] state board shall be elected as provided in [Title 20A, Chapter 14, Nomination and Election of State and Local School Boards] this section.~~

~~[(2)(a) In addition to the members designated under Subsection (1), the following members shall serve as nonvoting members of the State Board of Education:]~~

~~[(i) two members of the State Board of Regents, appointed by the chair of the State Board of Regents;]~~

~~[(ii) one member of the Utah College of Applied Technology Board of Trustees, appointed by the chair of the board of trustees; and]~~

~~[(iii) one member of the State Charter School Board, appointed by the chair of the State Charter School Board.]~~

~~[(b) A nonvoting member shall continue to serve as a member without a set term until the member is replaced by the chair of the State Board of Regents, chair of the Utah College of Applied Technology Board of Trustees, or chair of the State Charter School Board, as applicable.]~~

(5) An individual seeking state board office shall, for a term beginning on or after January 1, 2018, file with the lieutenant governor, in the year preceding the year in which the term of office begins, a notice of intent to seek office no earlier than the first Tuesday in May, and no later than 5 p.m. on the third Tuesday in May.

(6) For a state board office term beginning on or after January 1, 2018, no earlier than the first Tuesday in August, and no later than the last Tuesday in August of the year preceding the year in which the state board office term begins, the electors for a state board district shall, by majority vote, choose an individual who complies with the following to represent that state board district:

(a) Subsection (5);

(b) the requirements for serving in state board office; and

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(c) the residency requirements, described in Section 53A-1-108, for serving in state board office as the representative for that state board district.

(7) The term for a state board office is two years.

(8) If a vacancy occurs on the state board for any reason other than the expiration of the state board officeholder's term, the governor, with the consent of the Senate, shall fill the vacancy by appointment of an individual who complies with Subsections (6)(b) and (c) to serve the remainder of the unexpired term.

Section 12. Section **53A-1-107** is enacted to read:

### **53A-1-107. Apportionment of electors.**

(1) (a) If a state board district consists of less than three school districts, all members of the boards for those school districts are electors for that state board district.

(b) If a state board district consists of three or more school districts, the boards of those school districts shall choose electors for that state board district in accordance with Subsection (5).

(2) On April 1 of an odd-numbered year, the lieutenant governor shall apportion electors to each school district within a state board district that consists of three or more school districts in accordance with the method of equal proportions described in Subsection (3).

(3) The lieutenant governor shall:

(a) for a school district described in Subsection (2):

(i) calculate the first phase priority number for the school district by dividing the school district's population by the square root of two;

(ii) calculate the second phase priority number for the school district by multiplying the school district's first phase priority number by the second phase base; and

(iii) calculate each subsequent phase priority number for the school district by multiplying the priority number of the previous phase for the school district by the phase base for the current phase, until completion of the seventh phase; and

(b) (i) consolidate the priority numbers calculated for all school districts in all seven phases into a single list, in order of greatest to smallest;

(ii) apportion one elector to the school district whose priority number appears first on the list described in Subsection (3)(b)(i); and

(iii) apportion one elector to each subsequent school district whose priority number

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appears on the list described in Subsection (3)(b)(i) until immediately before one of the school districts would be apportioned electors in a number equal to the total number of members on the board of the local school district, plus one.

(4) If, after complying with Subsection (3), a school district is apportioned less than two electors, the lieutenant governor shall apportion additional electors to the school district until the school district is apportioned two electors.

(5) After the lieutenant governor completes the process of determining the number of electors for a school district, the board of a school district described in Subsection (1)(b) shall, on or before May 1 of an even-numbered year, by majority vote, select, from among the members of the school district board, electors to participate in choosing the next state board officeholder for the state district in which the school district is located.

(6) If a school district board described in Subsection (1)(b) fails, before the deadline described in Subsection (5), to appoint one or more of the electors apportioned to the school district, the lieutenant governor shall, on or before June 1, appoint, from among the members of the school district board, the remaining electors that were not appointed by the school district board.

Section 13. Section **53A-1-108**, which is renumbered from Section 20A-14-103 is renumbered and amended to read:

~~[20A-14-103].~~        **53A-1-108. State Board of Education members -- When elected -- Qualifications -- Avoiding conflicts of interest.**

~~[(1)(a) Unless otherwise provided by law, each State Board of Education member elected from a State Board of Education District at the 2010 general election shall:]~~

~~[(i) serve out the term of office for which that member was elected; and]~~

~~[(ii) represent the realigned district if the member resides in that district.]~~

~~[(b) At the general election to be held in 2012, a State Board of Education member elected from State Board of Education Districts 4, 7, 8, 10, 11, 12, 13, and 15 shall be elected to serve a term of office of four years.]~~

~~[(c) In order to ensure that the terms of approximately half of the State Board of Education members expire every two years:]~~

~~[(i) at the general election to be held in 2012, the State Board of Education member elected from State Board of Education District 1 shall be elected to serve a term of office of~~

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two years; and]

~~[(ii) at the general election to be held in 2014, the State Board of Education member elected from State Board of Education District 1 shall be elected to serve a term of office of four years.]~~

(1) The term of a state board officeholder who is elected or appointed to a term that begins before January 1, 2018, ends on December 31, 2017, regardless of the term to which the state board officeholder was elected or appointed.

~~(2) (a) [A person seeking election to the State Board of Education]~~ An individual seeking state board office shall have been a resident of the [State Board of Education district in which the person is seeking election for at least one year as of the date of the election] state board district that the individual is seeking to represent for at least one year immediately before the day on which the individual's term of office will begin.

~~(b) [A person]~~ An individual who has resided within the [State Board of Education] state board district, as the boundaries of the district exist on the [date of the election] day on which the individual's term of office will begin, for one year immediately preceding the [date of the election shall be] day on which the individual's term of office will begin, is considered to have met the requirements of this Subsection (2).

~~[(3) A State Board of Education member shall:]~~

(3) A state board officeholder shall:

~~(a) be and remain a [registered voter in the State Board of Education district from which the member was elected or appointed]~~ resident of the state board district that the state board officeholder was elected to represent; and

~~(b) maintain the [member's]~~ state board officeholder's primary residence within the [State Board of Education district from which the member was elected or appointed] state board district described in Subsection (3)(a) during the [member's] state board officeholder's term of office.

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

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

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(5) An individual who has been convicted of a grievous sexual offense, as defined in Section 76-1-601, against a child, may not hold a state board office.

Section 14. Section **53A-1-109**, which is renumbered from Section 20A-11-1301 is renumbered and amended to read:

~~[20A-11-1301].~~      **53A-1-109. State board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts.**

(1) (a) (i) Each ~~[school]~~ state 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]~~ state 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]~~ state 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]~~ state board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

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

(4) If ~~[a person]~~ an individual who is no longer a ~~[school]~~ state board office candidate chooses not to expend the money remaining in a campaign account, the ~~[person]~~ individual shall continue to file the year-end summary report required by Section ~~[20A-11-1302]~~ 53A-1-110 until the statement of dissolution and final summary report required by Section ~~[20A-11-1304]~~ 53A-1-112 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section ~~[20A-11-402, a person]~~ 53A-1-114, an individual who is no longer a ~~[school]~~ state board office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former

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[school] state board office candidate to recognize the money as taxable income under federal tax law.

(b) ~~[A person]~~ An individual who is no longer a [school] state board office candidate may transfer the money in a campaign account in a manner that would cause the former [school] state board office 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]~~ 53A-1-111, "received" means:

(i) for a cash contribution, that the cash is given to a [school] state board office candidate or a member of the state board office 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] state board office candidate.

(b) Each [school] state board office candidate shall report to the ~~[chief election officer]~~ lieutenant governor each contribution and public service assistance received by the [school] state board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if: ~~[(A) the school board office candidate is contested in a primary election and]~~ the contribution or public service assistance is received within 30 days before the ~~[day on which the primary election is held; or]~~ last Tuesday in August.

~~[(B) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.]~~

(c) Except as provided in Subsection (6)(d), for each contribution or provision of public service assistance that a [school] state board office candidate fails to report within the time period described in Subsection (6)(b), the ~~[chief election officer]~~ lieutenant governor shall impose a fine against the [school] state board office candidate in an amount equal to:

(i) ~~[the greater of \$50 or]~~ 15% of the amount of the contribution; or

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(ii) ~~[the greater of \$50 or]~~ 15% of the value of the public service assistance.

~~[(d) A fine described in Subsection (6)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

~~[(c) The chief election officer shall:]~~

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the ~~[chief election officer's]~~ lieutenant governor's website, in the location where reports relating to each ~~[school]~~ state board office candidate are available for public access:

(A) each fine imposed by the ~~[chief election officer]~~ lieutenant governor against the ~~[school]~~ state board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(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]~~ an individual who, as a candidate for an office, other than a ~~[school]~~ state board office for which the ~~[person]~~ individual files a ~~[declaration of candidacy]~~ notice of intent to seek office or federal office, or as a holder of an office, other than a ~~[school]~~ state board office for which the ~~[person]~~ individual files a ~~[declaration of candidacy]~~ notice of intent to seek office or federal office, deposits a contribution or makes an expenditure.

(b) A ~~[school]~~ state 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.

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Section 15. Section **53A-1-110**, which is renumbered from Section 20A-11-1302 is renumbered and amended to read:

~~[20A-11-1302]~~. **53A-1-110. State board office candidate -- Financial reporting requirements -- Year-end summary report.**

(1) (a) Each ~~[school]~~ state 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]~~ state board office candidate ~~[that]~~ who has not filed the statement of dissolution and final summary report required under Section ~~[20A-11-1304]~~ 53A-1-112 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;

(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; and

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



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(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.

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

(3) The [~~school~~] state board office candidate shall certify in the summary report that, to the best of the [~~school~~] state 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 16. Section **53A-1-111**, which is renumbered from Section 20A-11-1303 is renumbered and amended to read:

~~[20A-11-1303].~~      **53A-1-111. State board office candidate and state board officeholder -- Financial reporting requirements -- Interim reports.**

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection [~~20A-11-1304~~] 53A-1-109(1)(a)(i).

(b) Each [~~school~~] state 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~~] notice of intent to seek office for a state board office:

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

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

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

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

(i) June 1; and

(ii) July 30.

(c) Each [~~school~~] state board [~~office holder~~] officeholder who has a campaign account that has not been dissolved under Section [~~20A-11-1304~~] 53A-1-112 shall, in an even year, file an interim report at the following times, regardless of whether an election for the school board

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~~[office holder's]~~ officeholder's office is held that year:

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

~~[(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.]~~

(i) June 1; and

(ii) July 30.

(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:

(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

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(j) the name of a political action committee for which the [~~school~~] state board office candidate or [~~school~~] state board [~~office holder~~] officeholder 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.

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

Section 17. Section **53A-1-112**, which is renumbered from Section 20A-11-1304 is renumbered and amended to read:

~~[20A-11-1304].~~      **53A-1-112. State board office candidate -- Financial reporting requirements -- Termination of duty to report.**

(1) Each [~~school~~] state board office candidate is subject to interim reporting requirements until the candidate withdraws or is [~~eliminated in a primary~~] defeated.

(2) Each [~~school~~] state board office candidate is subject to year-end summary reporting requirements until the candidate has filed a statement of dissolution with the lieutenant governor stating that:

(a) the [~~school~~] state board office candidate is no longer receiving contributions and is no longer making expenditures;

(b) the ending balance on the last summary report filed is zero and the balance in the separate bank account required in Section [~~20A-11-1304~~] 53A-1-109 is zero; and

(c) a final summary report in the form required by Section [~~20A-11-1302~~] 53A-1-110 showing a zero balance is attached to the statement of dissolution.

(3) A statement of dissolution and a final summary report may be filed at any time.

(4) Each [~~school~~] state board office candidate shall continue to file the year-end summary report required by Section [~~20A-11-1302~~] 53A-1-110 until the statement of dissolution and final summary report required by this section are filed.

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Section 18. Section **53A-1-113**, which is renumbered from Section 20A-11-1305 is renumbered and amended to read:

~~[20A-11-1305].~~      **53A-1-113. State board office candidate -- Failure to file statement -- Penalties.**

(1) (a) A ~~[school]~~ state board office candidate who fails to file a financial statement by the deadline is subject to a \$100 fine imposed ~~[in accordance with Section 20A-11-1005]~~ by the lieutenant governor.

(b) If a ~~[school]~~ state board office candidate fails to file an interim report due on or before ~~[the regular primary election, on August 31, or before the regular general election, the chief election officer]~~ June 1 or July 30, the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely filed, ~~[inform the county clerk and other appropriate election officials who:]~~ disqualify the state board office candidate from running for state board office during the current race.

~~[(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]~~ state board office candidate who fails to timely file ~~[timely]~~ a financial statement required by Subsection ~~[20A-11-1303(1)(b)(ii), (iii), or (iv)]~~ 53A-1-111(1)(b) is disqualified.

(d) Notwithstanding Subsections (1)(b) and (1)(c), a ~~[school]~~ state board office candidate is not disqualified and the ~~[chief election officer]~~ lieutenant governor 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)]~~ (i) 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)]~~ (ii) those omissions, errors, or inaccuracies described in Subsection (1)(d)~~[(ii)]~~(i)

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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 [school] state board office candidate, the lieutenant governor shall review each filed summary report to ensure that:

(i) each [school] state 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 a [school] state 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 [school] state board office candidate of the violation or written complaint and direct the [school] state board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a [school] state board office 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 [school] state board office 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 [school] state board office candidate who violates Subsection (2)(c)(i).

Section 19. Section **53A-1-114** is enacted to read:

**53A-1-114. State board officeholder financial reporting requirements --**

**Termination of duty to report.**

(1) A state board officeholder is active and subject to reporting requirements until the state board officeholder has filed a statement of dissolution with the lieutenant governor stating

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that:

(a) the state board officeholder is no longer receiving contributions or public service assistance and is no longer making expenditures;

(b) the ending balance on the last summary report filed is zero and the balance in the separate bank account required by Section 53A-1-109 is zero; and

(c) a final summary report in the form required by Section 53A-1-112 showing a zero balance is attached to the statement of dissolution.

(2) A statement of dissolution and a final summary report may be filed at any time.

(3) Each state board officeholder shall continue to file the year-end summary report required by Section 53A-1-112 until the statement of dissolution and final summary report required by this section are filed with the lieutenant governor.

(4) A state board officeholder may not use a contribution deposited into an account in accordance with this chapter for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) (a) Except as provided in Subsection (5)(b), an individual who is no longer a state board officeholder may not expend or transfer the money in a campaign account in a manner that would cause the former state board officeholder to recognize the money as taxable income under federal tax law.

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

Section 20. Section **53A-1-115** is enacted to read:

**53A-1-115. Financial disclosure form -- Required when filing notice of intent to seek office -- Public availability.**

(1) A candidate who is seeking state board office shall file a financial disclosure with the lieutenant governor at the time of filing a notice of intent to seek office.

(2) The lieutenant governor may not accept a notice of intent to seek office described in Subsection (1) unless the notice of intent to seek office is accompanied by the financial disclosure required by this section.

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(3) The financial disclosure form shall contain the same requirements and shall be in the same format as the financial disclosure form described in Section 20A-11-1604.

(4) The financial disclosure form shall:

(a) be made available for public inspection at the Office of the Lieutenant Governor; and

(b) be made publicly available on the Statewide Electronic Voter Information Website administered by the lieutenant governor.

Section 21. Section **53A-1-116** is enacted to read:

**53A-1-116. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.**

(1) Before or during any vote on any rule, resolution, order, or any other state board matter in which a state board officeholder has actual knowledge that the state board officeholder has a conflict of interest that is not stated on the financial disclosure form described in this section, the state board officeholder shall orally declare to the state board that the state board officeholder may have a conflict of interest and what that conflict of interest is.

(2) Any public declaration of a conflict of interest that is made under Subsection (1) shall be noted in the minutes of the meeting or on the official record of the action taken.

(3) A state board officeholder shall file a financial disclosure form:

(a) on the tenth day of January of each year, or the following business day if the due date falls on a weekend or holiday; and

(b) each time the state board officeholder changes employment.

(4) The financial disclosure form described in Subsection (3) shall include:

(a) the state board officeholder's name;

(b) the name and address of each of the state board officeholder's current employers and each of the state board officeholder's employers during the preceding year;

(c) for each employer described in Subsection (4)(b), a brief description of the employment, including the state board officeholder's occupation and, as applicable, job title;

(d) for each entity in which the state board officeholder is an owner or officer, or was an owner or officer during the preceding year:

(i) the name of the entity;

(ii) a brief description of the type of business or activity conducted by the entity; and

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(iii) the state board officeholder's position in the entity;

(e) in accordance with Subsection (5)(b), for each individual from whom, or entity from which, the state board officeholder has received \$5,000 or more in income during the preceding year:

(i) the name of the individual or entity; and

(ii) a brief description of the type of business or activity conducted by the individual or entity;

(f) for each entity in which the state board officeholder holds any stocks or bonds having a fair market value of \$5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:

(i) the name of the entity; and

(ii) a brief description of the type of business or activity conducted by the entity;

(g) for each entity not listed in Subsections (4)(d) through (f) in which the state board officeholder currently serves, or served in the preceding year, on the board of directors or in any other type of paid leadership capacity:

(i) the name of the entity or organization;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the type of advisory position held by the state board officeholder;

(h) at the option of the state board officeholder, a description of any real property in which the state board officeholder holds an ownership or other financial interest that the state board officeholder believes may constitute a conflict of interest, including a description of the type of interest held by the state board officeholder in the property;

(i) the name of the state board officeholder's spouse and any other adult residing in the state board officeholder's household who is not related by blood or marriage, as applicable;

(j) for the state board officeholder's spouse, the information that a state board officeholder is required to provide under Subsection (4)(b);

(k) a brief description of the employment and occupation of each adult who:

(i) resides in the state board officeholder's household; and

(ii) is not related to the state board officeholder by blood or marriage;

(l) at the option of the state board officeholder, a description of any other matter or



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interest that the state board officeholder believes may constitute a conflict of interest:

(m) the date the form was completed;

(n) a statement that the state board officeholder believes that the form is true and accurate to the best of the state board officeholder's knowledge; and

(o) the signature of the state board officeholder.

(5) (a) The state board officeholder shall file the financial disclosure form with:

(i) the secretary of the Senate, if the state board officeholder is a member of the Senate;

(ii) the chief clerk of the House of Representatives, if the state board officeholder is a member of the House of Representatives; or

(iii) the lieutenant governor, if the state board officeholder is a state board officeholder other than a state board officeholder described in Subsection (5)(a)(i) or (ii).

(b) In making the disclosure described in Subsection (4)(e), a state board officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection (4)(e) in relation to the entity or practice through which the state board officeholder provides the goods or services and is not required to provide the information described in Subsection (4)(e) in relation to the state board officeholder's individual customers or clients.

(6) The lieutenant governor shall ensure that blank financial disclosure forms are available on the Internet and at the Office of the Lieutenant Governor.

(7) The lieutenant governor shall make each version of a financial disclosure form or an amendment to a financial disclosure form received under this section available to the public for two years after the day on which the lieutenant governor receives the form.

(8) The disclosure requirements described in this section do not prohibit a state board officeholder from voting or acting on any matter.

(9) A state board officeholder may amend a financial disclosure form described in this part at any time.

(10) A state board officeholder who violates the requirements of Subsection (1) is guilty of a class B misdemeanor.

(11) (a) A state board officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection (11)(a), the lieutenant

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governor shall impose a civil penalty of \$100 against a state board officeholder who violates a provision of this section, other than Subsection (1).

Section 22. Section **53A-1-117** is enacted to read:

### **53A-1-117. Failure to file -- Penalties.**

(1) Within 30 days after the day on which a state board officeholder is required to file a financial disclosure form under Subsection 53A-1-116(3)(a), the lieutenant governor shall review each filed financial disclosure form to ensure that:

(a) each state board officeholder who is required to file a financial disclosure form has filed one; and

(b) each financial disclosure form contains the information required under Section 53A-1-116.

(2) The lieutenant governor shall take the action described in Subsection (3) if:

(a) a state board officeholder has failed to timely file a financial disclosure form;

(b) a filed financial disclosure form does not comply with the requirements of Section 53A-1-116; or

(c) the lieutenant governor receives a written complaint alleging a violation of Section 53A-1-116, other than Subsection 53A-1-116(1), and after receiving the complaint and giving the state board officeholder notice and an opportunity to be heard, the lieutenant governor determines that a violation occurred.

(3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall, within five days after the day on which the lieutenant governor determines that a violation occurred, notify the state board officeholder of the violation and direct the state board officeholder to file an amended report correcting the problem.

(4) (a) It is unlawful for a state board officeholder to fail to file or amend a financial disclosure form within seven days after the day on which the state board officeholder receives the notice described in Subsection (3).

(b) A state board officeholder who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant

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governor shall impose a civil fine of \$100 against a state board officeholder who violates Subsection (4)(a).

(5) The lieutenant governor shall deposit a fine collected under this part into the General Fund as a dedicated credit to pay for the costs of administering the provisions of this part.

Section 23. Section **53A-1-201** is amended to read:

### **53A-1-201. Election and appointment of officers -- Removal from office.**

(1) The State Board of Education shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, each year at a meeting held [~~any time between November 15 and January 15.~~] no earlier than November 15 and no later than January 15.

(2) (a) If the election of officers is held [~~subsequent to~~] after the election of a new member of the board, but [~~prior to the time that~~] before the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.

(b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.

~~[(3) The duties of these officers shall be determined by the board.]~~

(3) The board shall determine the duties of the officers elected under this section.

(4) The board shall appoint a secretary who serves at the pleasure of the board.

(5) An officer [~~appointed or~~] elected by the board under this section may be removed from office for cause by a vote of two-thirds of the board.

Section 24. Section **53A-1a-506** is amended to read:

### **53A-1a-506. Eligible students.**

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, [~~Nomination and~~] Election of [~~State and~~] Local School Boards.

(b) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.

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(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of a student presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) students articulating between charter schools offering similar programs that are governed by the same governing board;

(f) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(g) students who reside within:

(i) the school district in which the charter school is located;

(ii) the municipality in which the charter school is located; or

(iii) a two-mile radius of the charter school.

(5) (a) Except as provided in Subsection (5)(b), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area shall give an enrollment preference to students who reside within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53A-1a-502.5(6)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

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(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight its lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

- (a) low-income students;
- (b) students with disabilities;
- (c) English language learners;
- (d) migrant students;
- (e) neglected or delinquent students; and
- (f) homeless students.

(9) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

Section 25. Section **53A-3-101** is amended to read:

**53A-3-101. Selection and election of members to local boards of education.**

Members of local boards of education shall be elected as provided in Title 20A, Chapter 14, [~~Nomination and~~] Election of [~~State and~~] Local School Boards.

Section 26. Section **53A-11-102.5** is amended to read:

**53A-11-102.5. Dual enrollment.**

(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, [~~Nomination and~~] Election of [~~State and~~] Local School Boards.

(2) A person having control of a minor who is enrolled in a regularly established private school or a home school may also enroll the minor in a public school for dual enrollment purposes.

(3) The minor may participate in any academic activity in the public school available to students in the minor's grade or age group, subject to compliance with the same rules and requirements that apply to a full-time student's participation in the activity.

(4) (a) A student enrolled in a dual enrollment program in a district school is considered a student of the district in which the district school of attendance is located for purposes of state funding to the extent of the student's participation in the district school

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programs.

(b) A student enrolled in a dual enrollment program in a charter school is considered a student of the charter school for purposes of state funding to the extent of the student's participation in the charter school programs.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules for purposes of dual enrollment to govern and regulate the transferability of credits toward graduation that are earned in a private or home school.

Section 27. Section **53A-15-1202** is amended to read:

### **53A-15-1202. Definitions.**

As used in this part:

(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, [~~Nomination and~~] Election of [~~State and~~] Local School Boards.

(2) "Eligible student" means:

(a) a student enrolled in a district school or charter school in Utah; or

(b) beginning on July 1, 2013, a student:

(i) who attends a private school or home school; and

(ii) whose custodial parent or legal guardian is a resident of Utah.

(3) "LEA" means a local education agency in Utah that has administrative control and direction for public education.

(4) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

(5) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(6) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent or guardian pursuant to rules of the State Board of Education.

Section 28. **Repealer.**

This bill repeals:

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

Section **20A-14-101.1, Definitions.**

Section **20A-14-101.5, State Board of Education -- Number of members -- State Board of Education district boundaries.**

Section **20A-14-102, State Board of Education districts.**

Section **20A-14-102.1, Omissions from maps -- How resolved.**

Section **20A-14-102.2, Uncertain boundaries -- How resolved.**

Section **20A-14-102.3, County clerk, Automated Geographic Reference Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.**

Section **20A-14-104, Becoming a candidate for membership on the State Board of Education -- Nominating and recruiting committee -- Membership -- Procedure -- Duties.**

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

Section **20A-14-106, Vacancies on the State Board of Education.**

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### **Legislative Review Note**

~~as of 1-26-15 1:56 PM~~

~~The Utah Legislature's Joint Rule 4-2-402 requires legislative general counsel to place a legislative review note on legislation. The Legislative Management Committee has further directed legislative general counsel to include legal analysis in the legislative review note only if legislative general counsel determines there is a high probability that a court would declare the legislation to be unconstitutional under the Utah Constitution, the United States Constitution, or both. As explained in the legal analysis below, legislative general counsel has determined, based on applicable state and federal constitutional language and current interpretations of that language in state and federal court case law, that this legislation has a high probability of being declared unconstitutional by a court.~~

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~~Article X, Section 3, of~~ Section 29. Effective date.

This bill takes effect on January 1, 2017, if:

(1) the amendment to the Utah Constitution ~~provides as follows:~~

~~"The general control and supervision of the public education system shall be vested in a State Board of Education. The membership of the board shall be established and elected as provided by statute. The~~ proposed by S.J.R. 5, Proposal to Amend Utah Constitution – State Board of Education ~~shall appoint a State Superintendent of Public Instruction who shall be the executive officer of the board."~~

~~The question raised by this bill is whether Article X, Section 3, of~~ Changes, 2015 General Session, passes the Legislature and is approved by a majority of those voting on the amendment at the next regular general election; or

(2) the amendment to the Utah Constitution ~~would permit members of the State School Board to be chosen by a group designated by law (such as local school board members) rather than requiring an election by registered voters. "The general rule of statutory construction is that where the statutory language is plain and unambiguous, [appellate courts] do not look beyond the language's plain meaning to divine legislative intent." *Horton v. Royal Order of Sun*, 821 P.2d 1167, 1168 (Utah 1991), citing *Schurtz v. BMW of N. Am. Inc.*, 814 P.2d 1108, 1112 (Utah 1991); *Brinkerhoff v. Forsyth*, 779 P.2d 685, 686 (Utah 1989); *Allisen v. American Legion Post No. 134*, 763 P.2d 806, 809 (Utah 1988).~~

~~In interpreting this constitutional provision, it is highly likely that a court would find that the plain meaning of the term "elected" requires an election by registered voters. The same term is used in the~~ proposed by H.J.R. 16, Proposal to Amend Utah Constitution ~~in relation to public officers in general (Article IV, Section 9; Article VI, Section 30; Article VII, Sections 9 and 10; and Article XXIV, Section 11), legislators (Article VI, Sections 1, 4, 5, 7, 10, 17, 18, and 25; Article VII, Sections 6 and 8; and Article XIII, Sections 1 and 2), public prosecutors (Article VIII, Section 16), county boards of equalization (Article XIII, Section 7), and the governor and lieutenant governor (Article VII, Section 2). None of these provisions have been interpreted to require anything other than elections by registered voters, despite the fact that only two of these~~



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~~references have additional language specifying submission to voters (the governor and lieutenant governor, Article VII, Section 2; and public officers in general, Article IV, Section 9). Moreover, three of the provisions that use the term "elected," use language similar to the language used in Article X, Section 3 (see: Article VII, Section 10, which provides that following an appointment to fill a vacancy in the office of state auditor, state treasurer, or attorney general, "the appointee shall hold office until a successor shall be elected and qualified, as provided by law."; Article VIII, Section 16, "Public prosecutors shall be elected in a manner provided by statute . . ."; and Article XIII, Section 7, ". . . a county board of equalization consisting of elected county officials as provided by statute."):~~

~~Additionally, while the meaning of the term "elected" in Article X, Section 3, of the Utah Constitution has never been directly addressed by a Utah appellate court, the Utah Supreme Court analyzed the Legislature's implementation of this provision in a manner that is instructive in *State Board of Education v. Commission of Finance, et al*, 247 P.2d 435 (Utah 1952). In that case, ~~}- Governance of Public Education, 2015 General Session, passes the Legislature {enacted a law that transitioned the appointed State Board of Education to the elected board, required by the new constitutional provision, by allowing the appointed members to serve the remainder of their terms of office and then be replaced by an elected member. This statutory scheme was challenged when the Commission of Finance refused to approve payment of the superintendent's salary because the superintendent was not appointed by a board whose members had all been elected. In upholding the statutory scheme enacted by the Legislature, the court analyzed the case as one based on the right of suffrage. Specifically, the court stated as follows:~~~~

~~". . . it is clear that following the approval of the constitutional amendments on November 7, 1950, by the electorate, the Legislature was under a duty to provide for the election of Board members." Id. at 443.~~

~~"Thus the question is presented whether the Legislature, when directed by a constitutional amendment to provide by law the time and the manner of the election of a board of public officers which theretofore has been appointive, works an unreasonable restraint upon the right~~

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~~of suffrage if it spreads the election of the entire board over the next three succeeding general elections." Id. at 444.~~

~~"Thus we conclude that [the statute] providing for the election of the Board according to the schedule there set forth is not an unreasonable restraint upon the right of suffrage, but is a valid exercise of the power of the Legislature to provide for the holding of elections. . ." Id. at 446.~~

~~Based on the court's analysis, it is clear that the court interpreted Article X, Section 3, of the Utah Constitution as requiring the election of the State Board of Education by the registered voters of the state.~~

~~This bill provides for the members of the State Board of Education to be chosen by electors selected by local school board districts. Based on the foregoing analysis there is a high probability that a Utah appellate court would hold that this method of selecting members of the State Board of Education is an appointive process, rather than an elective process, that violates Article X, Section 3, of the Utah Constitution.~~

~~**Office of Legislative Research and General Counsel**~~and is approved by a majority of those voting on the amendment at the next regular general election.