

# HB0048S02 compared with HB0048

~~{deleted text}~~ shows text that was in HB0048 but was deleted in HB0048S02.

inserted text shows text that was not in HB0048 but was inserted into HB0048S02.

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Representative Norman K Thurston proposes the following substitute bill:

## ELECTION LAW AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** Daniel McCay

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

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### LONG TITLE

~~{Committee Note:~~

~~\_\_\_\_\_The Government Operations Interim Committee recommended this bill.~~

~~}{General Description:~~

This bill amends provisions relating to election law.

**Highlighted Provisions:**

This bill:

~~{ → removes a political party's ability to replace a candidate who is disqualified for failure to file a financial disclosure; and~~

~~}{ ▶ establishes a deadline by which an individual who wishes to become a candidate for a local school board shall submit a declaration of candidacy.~~

**Money Appropriated in this Bill:**

None

## HB0048S02 compared with HB0048

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

- ~~{ 20A-1-501, as last amended by Laws of Utah 2014, Chapter 17~~
- ~~20A-11-206, as last amended by Laws of Utah 2015, Chapter 204~~
- ~~20A-11-305, as last amended by Laws of Utah 2015, Chapter 204~~
- ~~‡ 20A-14-203, 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-1-501}~~20A-14-203 is amended to read:

~~{ 20A-1-501. Candidate vacancies -- Procedure for filling.~~

~~(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:~~

~~(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a):~~

~~(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and~~

~~(ii) one or both:~~

~~(A) dies;~~

~~(B) resigns because of acquiring a physical or mental disability, certified by a physician, that prevents the candidate from continuing the candidacy; or~~

~~(C) is disqualified by an election officer for improper filing or nominating procedures;~~

~~(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the~~

## HB0048S02 compared with HB0048

~~period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:~~

~~—— (i) dies;~~

~~—— (ii) resigns because of acquiring a physical or mental disability as certified by a physician;~~

~~—— (iii) is disqualified by an election officer for improper filing or nominating procedures;~~  
~~or~~

~~—— (iv) resigns to become a candidate for president or vice president of the United States;~~  
~~or~~

~~—— (c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:~~

~~—— (i) dies;~~

~~—— (ii) resigns because of acquiring a physical or mental disability as certified by a physician;~~

~~—— (iii) is disqualified by an election officer for improper filing or nominating procedures;~~  
~~or~~

~~—— (iv) resigns to become a candidate for president or vice president of the United States.~~

~~—— (2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.~~

~~—— (3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.~~

~~—— (4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.~~

## HB0048S02 compared with HB0048

~~—— (b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in Subsection (1)(b) may not appear on the general election ballot.~~

~~—— (c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.~~

~~—— (5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.~~

~~—— Section 2. Section **20A-11-206** is amended to read:~~

~~—— **20A-11-206. State office candidate -- Failure to file reports -- Penalties:**~~

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

~~—— (b) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(ii) through (iv), 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 that the state office candidate is disqualified.~~

~~—— [(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as provided in Section 20A-1-501.]~~

~~—— [(ii) (c) (i) If a state office candidate is disqualified under Subsection (1)[(a)](b), the election official shall:~~

~~—— (A) remove the candidate's name from the ballot, or~~

~~—— (B) 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.~~

~~—— [(iii) (ii) An election official may fulfill the requirement described in Subsection (1)(c)[(ii)](i)(B) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.~~

~~—— (d) Notwithstanding [Subsections (1)(b) and (1)(c)] Subsection (1)(b), a state office candidate is not disqualified if:~~

~~—— (i) the candidate timely files the reports required by this section no later than the due date in accordance with Section 20A-11-103;~~

## HB0048S02 compared with HB0048

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

~~—— (iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:~~

~~—— (A) an amended report; or~~

~~—— (B) the next scheduled report.~~

~~—— (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:~~

~~—— (i) each state office candidate that is required to file a summary report has filed one; and~~

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

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

~~—— (c) (i) It is unlawful for any state 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 state 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 state office candidate who violates Subsection (2)(c)(i).~~

~~—— Section 3. Section **20A-11-305** is amended to read:~~

~~—— **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**~~

~~—— (1) (a) A legislative office candidate who fails to file a financial statement by the~~

## HB0048S02 compared with HB0048

~~deadline is subject to a fine imposed in accordance with Section 20A-11-1005:~~

~~—— (b) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv), 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 that the legislative office candidate is disqualified.~~

~~—— [(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as provided in Section 20A-1-501.]~~

~~—— [(ii)] (c) If a legislative office candidate is disqualified under Subsection (1)[(a)](b), the election officer shall:~~

~~—— [(A)] (i) remove the candidate's name from the ballot; or~~

~~—— [(B)] (ii) 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.~~

~~—— (d) Notwithstanding [Subsections (1)(b) and (1)(c)] Subsection (1)(b), a legislative office candidate is not disqualified if:~~

~~—— (i) the candidate timely files the reports required by this section no later than the due date in accordance with Section 20A-11-103;~~

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

~~—— (iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:~~

~~—— (A) an amended report; or~~

~~—— (B) the next scheduled report.~~

~~—— (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:~~

~~—— (i) each legislative office candidate that is required to file a summary report has filed one; and~~

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

~~—— (b) If it appears that any legislative office 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~~

## HB0048S02 compared with HB0048

~~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 legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.~~

~~—— (c) (i) It is unlawful for any legislative 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 legislative 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 legislative office candidate who violates Subsection (2)(c)(i).~~

~~—— Section 4. Section 20A-14-203 is amended to read:~~

‡ **20A-14-203. Becoming a member of a local board of education -- Declaration of candidacy -- Election.**

(1) An individual may become a candidate for a local school board:

(a) (i) in the 2016 general election, by filing a declaration of candidacy with the county clerk [and], in accordance with Section 20A-9-202, before 5 p.m. on March 17, 2016; or

(ii) in a general election held after 2016, by filing a declaration of candidacy with the county clerk on or after the second Friday in March, and before 5 p.m. on the third Thursday in March, before the next regular general election; and

(b) by paying the fee as required by Section 20A-9-202.

(2) (a) The term of office for an individual elected to a local board of education is four years, beginning on the first Monday in January after the election.

(b) A member of a local board of education shall serve until a successor is elected or appointed and qualified.

(c) A member of a local board of education is "qualified" when the member takes or signs the constitutional oath of office.

## HB0048S02 compared with HB0048

Section ~~{5}~~2. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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**Legislative Review Note**

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