

HB0048S03 compared with HB0048

~~{deleted text}~~ shows text that was in HB0048 but was deleted in HB0048S03.

inserted text shows text that was not in HB0048 but was inserted into HB0048S03.

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 Daniel McCay proposes the following substitute bill:

ELECTION LAW AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

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 the requirement that a qualified political party permit unaffiliated voters to participate in a primary for the qualified political party;
- ▶ removes a political party's ability to replace a candidate who is disqualified for failure to file a financial disclosure; ~~{and~~

~~}~~

- ▶ requires an election official to provide notice and a grace period when a candidate

HB0048S03 compared with HB0048

fails to file certain financial reports, before disqualifying the candidate:

- ▶ modifies fines for failing to file certain financial reports:
- ▶ establishes a deadline by which an individual who wishes to become a candidate for the State Board of Education or a local school board shall submit a declaration of candidacy }; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-16-6.5, as last amended by Laws of Utah 2015, Chapter 21

20A-1-501, as last amended by Laws of Utah 2014, Chapter 17

20A-9-101, as last amended by Laws of Utah 2015, Chapter 296

20A-9-406, as last amended by Laws of Utah 2015, Chapter 296

20A-11-103, as last amended by Laws of Utah 2014, Chapters 76 and 335

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-11-1005, as last amended by Laws of Utah 2013, Chapter 252

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

20A-14-203, as enacted by Laws of Utah 1995, Chapter 1

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

Section 1. Section 17-16-6.5 is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1) (a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

- (i) candidates for county office; and
- (ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

HB0048S03 compared with HB0048

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than \$50, the name of the donor of the contribution, if known, and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(c) (i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

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

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an

HB0048S03 compared with HB0048

account:

- (A) since the last financial report was filed; or
- (B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution in a separate campaign account in a financial institution;

and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution of more than \$50 and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution of more than \$50 received by the candidate, and the name of the donor, if known;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

(iii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and

(iii) a list of all expenditures for political purposes made by the candidate after the

HB0048S03 compared with HB0048

cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

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

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(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.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(9) Any person who fails to comply with this section is guilty of an infraction.

(10) (a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

HB0048S03 compared with HB0048

(ii) impose additional penalties.

(b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.

(11) ~~[(a)]~~ If a candidate fails to file an interim report due before the election, the county clerk shall ~~[, after making a reasonable attempt to discover if the report was timely mailed,]:~~

(a) within 24 hours after the deadline for filing the report, send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) the date and time at which the notice is sent;

(ii) that the candidate failed to timely file the report; and

(iii) that, if the candidate fails to file the report within 24 hours after the time described in Subsection (11)(a)(i), the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of \$500 on the candidate.

(12) (a) (i) The county clerk complies with Subsection (11)(a) by sending the notice to an email address or phone number provided to the lieutenant governor by:

(A) the candidate, if one is provided by the candidate; and

(B) the political party, if one is provided by the political party.

(b) The county clerk shall disqualify a candidate and inform the appropriate election officials ~~{who:~~

~~— (i) (A) }~~ [who: (i) (A)] that the candidate is disqualified if:

(i) the candidate fails to file an interim report described in Subsection (11) within 24 hours after the county clerk sends the notice described in Subsection (11)(a); or

(ii) (A) the county clerk is not provided with an accurate email address or phone number from the candidate or the candidate's party; and

(B) the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.

(c) The political party of a candidate who is disqualified under Subsection (12)(b) may not replace the candidate.

(13) If a candidate is disqualified under Subsection (12)(b) the election official:

(a) (i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

HB0048S03 compared with HB0048

~~[(B)]~~ [(ii)] 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)]~~ [(b)] may not count any votes for that candidate.

~~[(b) Notwithstanding Subsection (11)(a), a]~~

[(14) An election official may fulfill the requirement described in Subsection (13)(a) 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.]

[(15) A candidate is not disqualified if:

[(i)] [(a)] the candidate files the ~~reports required by this section~~ interim reports described in Subsection (11) no later than the end of the applicable 24-hour period described in Subsection (12)(b);

~~[(ii) those]~~ [(b) the] reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

~~[(iii) those]~~ [(c) the] omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

~~[(c)]~~ [(16)] A report is considered timely filed if:

~~[(i) it]~~ [(a) the report] is received in the county clerk's office no later than ~~5 p.m.]~~ midnight on the date that ~~it]~~ the report] is due;

~~[(ii) it]~~ [(b) the report] is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

~~[(iii)]~~ [(c)] the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

~~[(12)]~~ [(17)] (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection ~~[(12)]~~ [(17)](a), the court shall award costs and attorney fees to the prevailing party.

~~[(13)]~~ [(18)] Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

HB0048S03 compared with HB0048

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section ~~11~~2. Section **20A-1-501** 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

HB0048S03 compared with HB0048

primary, but that will have a candidate on the ballot for a general 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 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

HB0048S03 compared with HB0048

deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(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 3. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

- (i) justice or judge of court of record or not of record;
- (ii) presidential elector;
- (iii) any political party offices; and
- (iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the office holder is selected by voters entirely within one county.

(b) "County office" does not mean:

- (i) the office of justice or judge of any court of record or not of record;
- (ii) the office of presidential elector;
- (iii) any political party offices;
- (iv) any municipal or local district offices; and
- (v) the office of United States Senator and United States Representative.

HB0048S03 compared with HB0048

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices, and the county clerk in the filer's county of residence, for multicounty offices;

(c) the city or town clerk, for municipal offices; and

(d) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the office holder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; and

(vi) any municipal or local district offices.

(10) "Municipal office" means an elective office in a municipality.

(11) (a) "Political division" means a geographic unit from which an office holder is elected and that an office holder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

~~[(a) permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;]~~

HB0048S03 compared with HB0048

~~[(b)]~~ [(a)] (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

~~[(e)]~~ [(b)] does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

~~[(d)]~~ [(c)] permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

~~[(e)]~~ [(d)] (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section 4. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on March 1 of each even-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

HB0048S03 compared with HB0048

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party:

(a) under the qualified political party's name and emblem, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include

HB0048S03 compared with HB0048

on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 5. Section 20A-11-103 is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

- (i) that the financial statement is due;
- (ii) of the date that the financial statement is due; and
- (iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

- (i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;
- (ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or
- (iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if [it] the financial statement is

HB0048S03 compared with HB0048

received by the chief election officer's office before ~~[the close of regular office hours]~~ midnight on the date that ~~[it]~~ the financial statement is due.

(b) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:

(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or

(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.

(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

(6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section ~~(2)~~6. 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]~~ before the deadline described in Subsection 20A-11-204(1)(b)(i) is subject to a fine imposed in accordance with Section 20A-11-1005.

~~[(b)]~~ (2) If a state office candidate fails to file an interim report described in

HB0048S03 compared with HB0048

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,~~]:

(a) within 24 hours after the deadline for filing the report, send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(i) the date and time at which the notice is sent;

(ii) that the state office candidate failed to timely file the report; and

(iii) that, if the state office candidate fails to file the report within 24 hours after the time described in Subsection (2)(a)(i), the state office candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of \$500 on the state office candidate.

(3) (a) (i) The lieutenant governor complies with Subsection (2)(a) by sending the notice to an email address or phone number provided to the lieutenant governor by:

(A) the candidate, if one is provided by the candidate; and

(B) the political party, if one is provided by the political party.

(ii) The lieutenant governor is not required to comply with Subsection (2)(a) if no email address or phone number is provided or if no accurate email address or phone number is provided.

(b) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified ~~{,}~~ ~~[-]~~ if:

(i) the state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(ii) through (iv) within 24 hours after the lieutenant governor sends the notice described in Subsection (2)(a); or

(ii) (A) the lieutenant governor is not provided with an accurate email address or phone number by the state office candidate or the state office candidate's party; and

(B) the state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(ii) through (iv) within 24 hours after the deadline for filing the report.

(c) The political party of a state office candidate who is disqualified under Subsection (3)(b) may not replace the state office candidate.

~~[(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as~~

HB0048S03 compared with HB0048

provided in Section 20A-1-501.]

~~[(ii)]~~ ~~(c)(4)~~ ~~(ii)a~~ If a state office candidate is disqualified under Subsection ~~[(1)(b)(a)]~~ (3)(b), the election official shall:

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

~~[(B)]~~ (ii) if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.

~~[(iii)]~~ ~~(iii)b~~ An election official may fulfill the requirement described in Subsection ~~[(1)(c)(b)(ii)(i)(B)]~~ (4)(a) 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 (b) Subsections (1)(b) and (1)(c) (b) Subsection (1)(b), a]~~

(5) A state office candidate is not disqualified if:

~~[(i)]~~ (a) the state office candidate timely files the reports ~~[required by this section]~~ described in Subsections 20A-11-204(1)(b)(ii) through (iv) no later than ~~[the due date in accordance with Section 20A-11-103]~~ the applicable 24-hour period described in Subsection (3)(b);

~~[(ii)]~~ (b) 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)]~~ (c) the omissions, errors, or inaccuracies described in Subsection ~~[(1)(d)(ii)]~~ (5)(b) are corrected in ~~[-;]~~

~~[(A)]~~ (i) an amended report ~~[-;]~~ or ~~[-]~~

~~[(B)]~~ (ii) the next scheduled report.

~~[(2)]~~ (6) (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

HB0048S03 compared with HB0048

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 a 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]~~ described in this Subsection (6).

(ii) Each state office candidate who violates Subsection ~~[(2)]~~ (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection ~~[(2)]~~ (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection ~~[(2)]~~ (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection ~~[(2)]~~ (6)(c)(i).

Section ~~{3}~~ 7. 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]~~ before the deadline described in Subsection 20A-11-303(1)(b)(i) is subject to a fine imposed in accordance with Section 20A-11-1005.

~~[(b)]~~ (2) 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,]~~

(a) within 24 hours after the deadline for filing the report, send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:

(i) the date and time at which the notice is sent;

(ii) that the legislative office candidate failed to timely file the report; and

(iii) that, if the legislative office candidate fails to file the report within 24 hours after the time described in Subsection (2)(a)(i), the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate; and

HB0048S03 compared with HB0048

(b) impose a fine of \$500 on the legislative office candidate.

(3) (a) (i) The lieutenant governor complies with Subsection (2)(a) by sending the notice to an email address or phone number provided to the lieutenant governor by:

(A) the legislative office candidate, if one is provided by the legislative office candidate; and

(B) the political party, if one is provided by the political party.

(ii) The lieutenant governor is not required to comply with Subsection (2)(a) if no email address or phone number is provided or if no accurate email address or phone number is provided.

(b) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified ~~{ }~~ if:

(i) the legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv) within 24 hours after the lieutenant governor sends the notice described in Subsection (2)(a); or

(ii) (A) the lieutenant governor is not provided with an accurate email address or phone number by the legislative office candidate or the legislative office candidate's party; and

(B) the legislative candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv) within 24 hours after the deadline for filing the report.

(c) The political party of a legislative office candidate who is disqualified under Subsection (3)(b) may not replace the legislative office candidate.

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

~~[(ii)]~~ ~~{c}4~~ (a) If a legislative office candidate is disqualified under Subsection ~~[(1){B}]{a}~~ (3)(b), the election officer shall:

~~{A}~~ (i) remove the legislative office candidate's name from the ballot; or

~~{B}~~ (ii) if removing the legislative office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the legislative office candidate has been disqualified and that votes cast for the legislative office candidate will not be counted.

~~[(d) Notwithstanding { } Subsections (1)(b) and (1)(c) { } Subsection (1)(b), a], a]~~

(b) An election official may fulfill the requirement described in Subsection (4)(a) in

HB0048S03 compared with HB0048

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.

(5) A legislative office candidate is not disqualified if:

(i) (a) the legislative office candidate [timely] files the reports [required by this section] described in Subsections 20A-11-303(1)(b)(ii) through (iv) no later than [the due date in accordance with Section 20A-11-103] the applicable 24-hour period described in Subsection (3)(b);

(ii) (b) 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) (c) the omissions, errors, or inaccuracies described in Subsection [(1)(d)(ii)] (5)(b) are corrected in [;

— (A) { } an amended report ; or {

— (B) { } the next scheduled report.

(2) (6) (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 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] a 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] described in this Subsection (6).

(ii) Each legislative office candidate who violates Subsection [(2)] (6)(c)(i) is guilty of

HB0048S03 compared with HB0048

a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection ~~[(2)]~~ [(6)](c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection ~~[(2)]~~ [(6)](c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a legislative office candidate who violates Subsection ~~[(2)]~~ [(6)](c)(i).

Section 8. Section 20A-11-1005 is amended to read:

20A-11-1005. Fines for failing to file a financial statement.

(1) Except as provided in ~~Subsections~~ Subsection 20A-11-206(2)(b), 20A-11-305(2)(b), or 20A-11-512(1)(b) and (4), the chief election officer shall fine a filing entity \$100 for failing to file a financial statement by the filing deadline.

(2) If a filing entity is unable to pay ~~the~~ a fine or files an affidavit of impecuniosity in a manner similar to Subsection 20A-9-201(5)(d), the chief election officer shall impose the fine against the candidate or treasurer, as appropriate.

(3) The chief election officer shall deposit fines collected under this chapter in the General Fund.

Section 9. Section 20A-14-104 is amended to read:

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

(1) (a) ~~Persons~~ An individual interested in becoming a candidate for the State Board of Education shall:

(i) (A) for the 2016 general election, file a declaration of candidacy [according to], in accordance with the procedures and requirements of Sections 20A-9-201 and 20A-9-202[-], before 5 p.m. on March 17, 2016; or

(B) for a general election held after 2016, file a declaration of candidacy, in accordance with the procedures and requirements of Sections 20A-9-201 and 20A-9-202, 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

(ii) pay the filing fee described in Section 20A-9-202.

(b) By May 1 of the year in which a State Board of Education member's term expires, the lieutenant governor shall submit the name of each person who has filed a declaration of

HB0048S03 compared with HB0048

candidacy for the State Board of Education to the nominating and recruiting committee for the State Board of Education.

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

(a) one member shall be appointed to represent each of the following business and industry sectors:

- (i) manufacturing and mining;
- (ii) transportation and public utilities;
- (iii) service, trade, and information technology;
- (iv) finance, insurance, and real estate;
- (v) construction; and
- (vi) agriculture; and

(b) one member shall be appointed to represent each of the following education sectors:

- (i) teachers;
- (ii) school administrators;
- (iii) parents;
- (iv) local school board members;
- (v) charter schools; and
- (vi) higher education.

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

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

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

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

(c) Any formal action by the committee requires the approval of a majority of

HB0048S03 compared with HB0048

committee members.

(d) Members of the nominating and recruiting committee shall serve without compensation, but they may be reimbursed for expenses incurred in the performance of their official duties as established by the Division of Finance.

(5) The nominating and recruiting committee shall:

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

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

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

(d) ensure that the list includes appropriate background information on each candidate.

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

(a) business and industry administration;

(b) business and industry human resource management;

(c) business and industry finance;

(d) business and industry, including expertise in:

(i) metrics and evaluation;

(ii) manufacturing;

(iii) retailing;

(iv) natural resources;

(v) information technology;

(vi) construction;

(vii) banking;

(viii) science and engineering; and

(ix) medical and healthcare;

(e) higher education administration;

(f) applied technology education;

HB0048S03 compared with HB0048

- (g) public education administration;
- (h) public education instruction;
- (i) economic development;
- (j) labor; and
- (k) other life experiences that would benefit the State Board of Education.

Section ~~{4}~~10. 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]~~ described in 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.

Section ~~{5}~~11. **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.

†

HB0048S03 compared with HB0048

~~Office of Legislative Research and General Counsel~~