

Senator Curtis S. Bramble proposes the following substitute bill:

GOVERNMENT ETHICS REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Election Code and the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the chief election officer to provide notice to each filing entity, for which the chief election officer has a physical or email address, of the reporting and filing requirements described in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
 - ▶ imposes a penalty for a state office candidate, a legislative office candidate, a school board office candidate, or a judge, who fails to report contributions or public service assistance, as applicable, within the time period required by law;
 - ▶ provides for publication of information relating to a penalty described in the preceding paragraph;
 - ▶ reduces from 30 days to three business days, under certain circumstances, the deadline by which a state office candidate, a legislative office candidate, or a school board office candidate, is required to report contributions or public service



26 assistance;

27 ▶ requires that the Legislature's website include, for each legislative officeholder, a
28 link to the financial reports maintained on the lieutenant governor's website in
29 relation to that legislative officeholder;

30 ▶ amends provisions of the Lobbyist Disclosure and Regulation Act by:

31 • requiring a lobbyist to, at the beginning of making a communication to a public
32 official that constitutes lobbying, inform the public official of the identity of the
33 principal on whose behalf the lobbyist is lobbying; and

34 • modifying penalty provisions; and

35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill provides an immediate effective date.

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **20A-11-103**, as last amended by Laws of Utah 2012, Chapter 369

43 **20A-11-201**, as last amended by Laws of Utah 2012, Chapter 230

44 **20A-11-301**, as last amended by Laws of Utah 2012, Chapter 230

45 **20A-11-1301**, as last amended by Laws of Utah 2012, Chapter 230

46 **20A-12-303**, as last amended by Laws of Utah 2011, Chapter 396

47 **36-11-401**, as last amended by Laws of Utah 2011, Chapter 389

48 ENACTS:

49 **20A-11-1604**, Utah Code Annotated 1953

50 **36-11-305.5**, Utah Code Annotated 1953

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

53 Section 1. Section **20A-11-103** is amended to read:

54 **20A-11-103. Notice of pending interim and summary reports -- Form of**
55 **submission -- Public availability -- Notice of reporting and filing requirements.**

56 (1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or

57 summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections,
58 the chief election officer shall inform the filing entity by postal mail or, if requested by the
59 filing entity, by electronic mail:

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

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

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

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

71 (3) (a) A financial statement is considered timely filed if it is received by the chief
72 election officer's office before the close of regular office hours on the date that it is due.

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

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

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

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

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

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

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

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

96 Section 2. Section 20A-11-201 is amended to read:

97 **20A-11-201. State office candidate -- Separate bank account for campaign funds**
98 **-- No personal use -- Contribution reporting deadline -- Report other accounts.**

99 (1) (a) Each state office candidate or the candidate's personal campaign committee
100 shall deposit each contribution and public service assistance received in one or more separate
101 campaign accounts in a financial institution.

102 (b) A state office candidate or a candidate's personal campaign committee may not use
103 money deposited in a campaign account for:

- 104 (i) a personal use expenditure; or
105 (ii) an expenditure prohibited by law.

106 (2) A state office candidate or the candidate's personal campaign committee may not
107 deposit or mingle any contributions received into a personal or business account.

108 (3) If a person who is no longer a state office candidate chooses not to expend the
109 money remaining in a campaign account, the person shall continue to file the year-end
110 summary report required by Section 20A-11-203 until the statement of dissolution and final
111 summary report required by Section 20A-11-205 are filed with the lieutenant governor.

112 (4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who
113 is no longer a state office candidate may not expend or transfer the money in a campaign
114 account in a manner that would cause the former state office candidate to recognize the money
115 as taxable income under federal tax law.

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

119 account for federal office.

120 (5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

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

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

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

127 (b) Each state office candidate shall report to the lieutenant governor each contribution
128 and public service assistance [~~to the lieutenant governor~~] received by the state office candidate:

129 (i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which
130 the contribution or public service assistance is received[-]; or

131 (ii) within three business days after the day on which the contribution or public service
132 assistance is received, if:

133 (A) the state office candidate is contested in a convention and the contribution or
134 public service assistance is received within 30 days before the day on which the convention is
135 held;

136 (B) the state office candidate is contested in a primary election and the contribution or
137 public service assistance is received within 30 days before the day on which the primary
138 election is held; or

139 (C) the state office candidate is contested in a general election and the contribution or
140 public service assistance is received within 30 days before the day on which the general
141 election is held.

142 (c) Except as provided in Subsection (5)(d), for each contribution or provision of
143 public service assistance that a state office candidate fails to report within the time period
144 described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state
145 office candidate in an amount equal to:

146 (i) the greater of \$50 or 15% of the amount of the contribution; or

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

148 (d) A fine described in Subsection (5)(c) may not exceed the amount of the
149 contribution or the value of the public service assistance to which the fine relates.

150 (e) The lieutenant governor shall:
151 (i) deposit money received under Subsection (5)(c) into the General Fund; and
152 (ii) report on the lieutenant governor's website, in the location where reports relating to
153 each state office candidate are available for public access:

- 154 (A) each fine imposed by the lieutenant governor against the state office candidate;
- 155 (B) the amount of the fine;
- 156 (C) the amount of the contribution to which the fine relates; and
- 157 (D) the date of the contribution.

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

- 160 (i) that is not described in Subsection (1)(a); and
- 161 (ii) into which or from which a person who, as a candidate for an office, other than the
162 state office for which the person files a declaration of candidacy or federal office, or as a holder
163 of an office, other than a state office for which the person files a declaration of candidacy or
164 federal office, deposits a contribution or makes an expenditure.

165 (b) A state office candidate shall include on any financial statement filed in accordance
166 with this part:

- 167 (i) a contribution deposited in an account:
 - 168 (A) since the last campaign finance statement was filed; or
 - 169 (B) that has not been reported under a statute or ordinance that governs the account; or
- 170 (ii) an expenditure made from an account:
 - 171 (A) since the last campaign finance statement was filed; or
 - 172 (B) that has not been reported under a statute or ordinance that governs the account.

173 Section 3. Section **20A-11-301** is amended to read:

174 **20A-11-301. Legislative office candidate -- Campaign finance requirements --**
175 **Candidate as a political action committee officer -- No personal use -- Contribution**
176 **reporting deadline -- Report other accounts.**

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

180 (ii) A legislative office candidate may:

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

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

185 (b) A legislative office candidate or the candidate's personal campaign committee may
186 not use money deposited in an account described in Subsection (1)(a)(i) for:

187 (i) a personal use expenditure; or

188 (ii) an expenditure prohibited by law.

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

191 (3) If a person who is no longer a legislative candidate chooses not to expend the
192 money remaining in a campaign account, the person shall continue to file the year-end
193 summary report required by Section 20A-11-302 until the statement of dissolution and final
194 summary report required by Section 20A-11-304 are filed with the lieutenant governor.

195 (4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who
196 is no longer a legislative office candidate may not expend or transfer the money in a campaign
197 account in a manner that would cause the former legislative office candidate to recognize the
198 money as taxable income under federal tax law.

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

203 (5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

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

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

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

210 (b) Each legislative office candidate shall report to the lieutenant governor each
211 contribution and public service assistance [~~to the lieutenant governor~~] received by the

212 legislative office candidate:

213 (i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which
214 the contribution or public service assistance is received[-]; or

215 (ii) within three business days after the day on which the contribution or public service
216 assistance is received, if:

217 (A) the legislative office candidate is contested in a convention and the contribution or
218 public service assistance is received within 30 days before the day on which the convention is
219 held;

220 (B) the legislative office candidate is contested in a primary election and the
221 contribution or public service assistance is received within 30 days before the day on which the
222 primary election is held; or

223 (C) the legislative office candidate is contested in a general election and the
224 contribution or public service assistance is received within 30 days before the day on which the
225 general election is held.

226 (c) Except as provided in Subsection (5)(d), for each contribution or provision of
227 public service assistance that a legislative office candidate fails to report within the time period
228 described in Subsection (5)(b), the lieutenant governor shall impose a fine against the
229 legislative office candidate in an amount equal to:

230 (i) the greater of \$50 or 15% of the amount of the contribution; or

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

232 (d) A fine described in Subsection (5)(c) may not exceed the amount of the
233 contribution or the value of the public service assistance to which the fine relates.

234 (e) The lieutenant governor shall:

235 (i) deposit money received under Subsection (5)(c) into the General Fund; and

236 (ii) report on the lieutenant governor's website, in the location where reports relating to
237 each legislative office candidate are available for public access:

238 (A) each fine imposed by the lieutenant governor against the legislative office
239 candidate;

240 (B) the amount of the fine;

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

242 (D) the date of the contribution.

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

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

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

250 (b) A legislative office candidate shall include on any financial statement filed in
251 accordance with this part:

252 (i) a contribution deposited in an account:

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

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

255 (ii) an expenditure made from an account:

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

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

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

259 **20A-11-1301. School board office candidate -- Campaign finance requirements --**
260 **Candidate as a political action committee officer -- No personal use -- Contribution**
261 **reporting deadline -- Report other accounts.**

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

265 (ii) A school board office candidate may:

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

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

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

272 (i) a personal use expenditure; or

273 (ii) an expenditure prohibited by law.

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

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

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

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

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

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

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

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

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

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

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

299 (b) Each school board office candidate shall report to the chief election officer each
300 contribution and public service assistance received by the school board office candidate:

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

303 (ii) within three business days after the day on which the contribution or public service
304 assistance is received, if:

305 (A) the school board office candidate is contested in a primary election and the
306 contribution or public service assistance is received within 30 days before the day on which the
307 primary election is held; or

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

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

315 (i) the greater of \$50 or 15% of the amount of the contribution; or

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

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

319 (e) The chief election officer shall:

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

321 (ii) report on the chief election officer's website, in the location where reports relating
322 to each school board office candidate are available for public access:

323 (A) each fine imposed by the chief election officer against the school board office
324 candidate;

325 (B) the amount of the fine;

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

327 (D) the date of the contribution.

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

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

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

335 (b) A school board office candidate shall include on any financial statement filed in

336 accordance with this part:

337 (i) a contribution deposited in an account:

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

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

340 (ii) an expenditure made from an account:

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

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

343 Section 5. Section **20A-11-1604** is enacted to read:

344 **20A-11-1604. Link to financial reports on Legislature's website.**

345 The Legislature's website shall include, for each legislative officeholder, a link to the
346 financial reports maintained on the lieutenant governor's website in relation to that legislative
347 officeholder.

348 Section 6. Section **20A-12-303** is amended to read:

349 **20A-12-303. Separate account for campaign funds -- Reporting contributions.**

350 (1) The judge or the judge's personal campaign committee shall deposit each
351 contribution in one or more separate personal campaign accounts in a financial institution.

352 (2) The judge or the judge's personal campaign committee may not deposit or mingle
353 any contributions received into a personal or business account.

354 (3) (a) As used in this Subsection (3) and Section **20A-12-305**, "received" means:

355 (i) for a cash contribution, that the cash is given to a judge or the judge's personal
356 campaign committee;

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

359 (iii) for any other type of contribution, that any portion of the contribution's benefit
360 inures to the judge.

361 (b) The judge or the judge's personal campaign committee shall report to the lieutenant
362 governor each contribution received by the judge, within 30 days after the day on which the
363 contribution is received.

364 (c) Except as provided in Subsection (3)(d), for each contribution that a judge fails to
365 report within the time period described in Subsection (3)(b), the lieutenant governor shall
366 impose a fine against the judge in an amount equal to the greater of \$50 or 15% of the amount

367 of the contribution.

368 (d) A fine described in Subsection (3)(c) may not exceed the amount of the
369 contribution to which the fine relates.

370 (e) The lieutenant governor shall:

371 (i) deposit money received under Subsection (3)(c) into the General Fund; and

372 (ii) report on the lieutenant governor's website, in the location where reports relating to
373 each judge are available for public access:

374 (A) each fine imposed by the lieutenant governor against the judge;

375 (B) the amount of the fine;

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

377 (D) the date of the contribution.

378 Section 7. Section **36-11-305.5** is enacted to read:

379 **36-11-305.5. Lobbyist requirements.**

380 A lobbyist shall, at the beginning of making a communication to a public official that
381 constitutes lobbying, inform the public official of the identity of the principal on whose behalf
382 the lobbyist is lobbying.

383 Section 8. Section **36-11-401** is amended to read:

384 **36-11-401. Penalties.**

385 (1) Any person who [~~willfully and knowingly~~] intentionally violates Section
386 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, 36-11-308, or
387 36-11-403, is subject to the following penalties:

388 (a) an administrative penalty of up to \$1,000 for each violation; and

389 (b) for each subsequent violation of that same section within 24 months, either:

390 (i) an administrative penalty of up to \$5,000; or

391 (ii) suspension of the violator's lobbying license for up to one year, if the person is a
392 lobbyist.

393 (2) Any person who [~~willfully and knowingly~~] intentionally fails to file a financial
394 report required by this chapter, omits material information from a license application form or
395 financial report, or files false information on a license application form or financial report, is
396 subject to the following penalties:

397 (a) an administrative penalty of up to \$1,000 for each violation; or

398 (b) suspension of the violator's lobbying license for up to one year, if the person is a
399 lobbyist.

400 (3) Any person who [~~willfully and knowingly~~] intentionally fails to file a financial
401 report required by this chapter on the date that it is due shall, in addition to the penalties, if any,
402 imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the
403 report is late.

404 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,
405 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years
406 from the date of the conviction.

407 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the
408 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
409 conviction.

410 (5) (a) Any person who [~~willfully and knowingly~~] intentionally violates Section
411 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

412 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted
413 under any of these sections for up to one year.

414 (c) The suspension shall be in addition to any administrative penalties imposed by the
415 lieutenant governor under this section.

416 (d) Any person with evidence of a possible violation of this chapter may submit that
417 evidence to the lieutenant governor for investigation and resolution.

418 (6) A lobbyist who does not complete the training required by Section 36-11-307 is
419 subject to the following penalties:

420 (a) an administrative penalty of up to \$1,000 for each failure to complete the training
421 required by Section 36-11-307; and

422 (b) for two or more failures to complete the training required by Section 36-11-307
423 within 24 months, suspension of the lobbyist's lobbying license.

424 (7) Nothing in this chapter creates a third-party cause of action or appeal rights.
425 Section 9. **Effective date.**

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

429 the date of veto override.