

1                   **CANDIDATE FINANCIAL DISCLOSURE AMENDMENTS**

2                                   2016 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Brad King**

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

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends candidate financial disclosure penalty provisions.

10 **Highlighted Provisions:**

11       This bill:

12           ▶ amends penalties for failure of a candidate to timely file certain financial disclosure  
13 reports.

14 **Money Appropriated in this Bill:**

15       None

16 **Other Special Clauses:**

17       None

18 **Utah Code Sections Affected:**

19 AMENDS:

20       **20A-11-206**, as last amended by Laws of Utah 2015, Chapter 204

21       **20A-11-305**, as last amended by Laws of Utah 2015, Chapter 204

22       **20A-11-1005**, as last amended by Laws of Utah 2013, Chapter 252

23       **20A-11-1305**, as last amended by Laws of Utah 2015, Chapter 204

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

26       Section 1. Section **20A-11-206** is amended to read:

27       **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**



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

30 (b) If a state office candidate fails to file an interim report described in Subsections  
31 20A-11-204(1)(b)(ii) through [~~(iv)~~] (iii), the lieutenant governor shall, after making a  
32 reasonable attempt to discover if the report was timely filed, inform the county clerk and other  
33 appropriate election officials that the state office candidate is disqualified.

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

36 (ii) If a state office candidate is disqualified under Subsection (1)(a), the election  
37 official shall:

38 (A) remove the candidate's name from the ballot; or

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

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

46 (d) Notwithstanding Subsections (1)(b) and (1)(c), a state office candidate is not  
47 disqualified if:

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

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

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

55 (A) an amended report; or

56 (B) the next scheduled report.

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

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

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

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

69 (c) (i) It is unlawful for any state office candidate to fail to file or amend a summary  
70 report within seven days after receiving notice from the lieutenant governor under this section.

71 (ii) Each state office candidate who violates Subsection (2)(c)(i) is guilty of a class B  
72 misdemeanor.

73 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the  
74 attorney general.

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

78 Section 2. Section **20A-11-305** is amended to read:

79 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

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

82 (b) If a legislative office candidate fails to file an interim report described in  
83 Subsections **20A-11-303**(1)(b)(ii) through [~~(iv)~~] (iii), the lieutenant governor shall, after  
84 making a reasonable attempt to discover if the report was timely filed, inform the county clerk  
85 and other appropriate election officials that the legislative office candidate is disqualified.

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

88 (ii) If a legislative office candidate is disqualified under Subsection (1)(a), the election  
89 officer shall:

90 (A) remove the candidate's name from the ballot; or

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

94 (d) Notwithstanding Subsections (1)(b) and (1)(c), a legislative office candidate is not  
95 disqualified if:

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

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

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

103 (A) an amended report; or

104 (B) the next scheduled report.

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

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

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

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

117 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a  
118 summary report within seven days after receiving notice from the lieutenant governor under  
119 this section.

120 (ii) Each legislative office candidate who violates Subsection (2)(c)(i) is guilty of a

121 class B misdemeanor.

122 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the  
123 attorney general.

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

127 Section 3. Section **20A-11-1005** is amended to read:

128 **20A-11-1005. Fines for failing to file a financial statement.**

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

132 (2) The chief election officer shall fine a filing entity \$500 for failing to file a financial  
133 statement described in Subsection 20A-11-204(1)(b)(iv), 20A-11-303(1)(b)(iv), or  
134 20A-11-1303(1)(b)(iv), by the filing deadline.

135 [~~(3)~~] (3) If a filing entity is unable to pay the fine or files an affidavit of impecuniosity  
136 in a manner similar to Subsection 20A-9-201(5)(d), the chief election officer shall impose the  
137 fine against the candidate or treasurer, as appropriate.

138 [~~(4)~~] (4) The chief election officer shall deposit fines collected under this chapter in the  
139 General Fund.

140 Section 4. Section **20A-11-1305** is amended to read:

141 **20A-11-1305. School board office candidate -- Failure to file statement --**  
142 **Penalties.**

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

145 (b) If a school board office candidate fails to file an interim report described in  
146 Subsections 20A-11-1303(1)(b)(ii) through [~~(iv)~~] (iii), the chief election officer shall, after  
147 making a reasonable attempt to discover if the report was timely filed, inform the county clerk  
148 and other appropriate election officials who:

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

151 (B) shall, if removing the candidate's name from the ballot is not practicable, inform

152 the voters by any practicable method that the candidate has been disqualified and that votes  
153 cast for the candidate will not be counted; and

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

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

157 (d) Notwithstanding Subsections (1)(b) and (1)(c), a school board office candidate is  
158 not disqualified and the chief election officer may not impose a fine if:

159 (i) the candidate timely files the reports required by this section in accordance with  
160 Section 20A-11-103;

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

164 (iii) those omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are  
165 corrected in:

166 (A) an amended report; or

167 (B) the next scheduled report.

168 (2) (a) Within 30 days after a deadline for the filing of a summary report by a school  
169 board office candidate, the lieutenant governor shall review each filed summary report to  
170 ensure that:

171 (i) each school board candidate that is required to file a summary report has filed one;  
172 and

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

174 (b) If it appears that a school board candidate has failed to file the summary report  
175 required by law, if it appears that a filed summary report does not conform to the law, or if the  
176 lieutenant governor has received a written complaint alleging a violation of the law or the  
177 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a  
178 violation or receipt of a written complaint, notify the school board candidate of the violation or  
179 written complaint and direct the school board candidate to file a summary report correcting the  
180 problem.

181 (c) (i) It is unlawful for a school board candidate to fail to file or amend a summary  
182 report within seven days after receiving notice from the lieutenant governor under this section.

183           (ii) Each school board candidate who violates Subsection (2)(c)(i) is guilty of a class B  
184 misdemeanor.

185           (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the  
186 attorney general.

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

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**