

HB0246S01 compared with HB0246

~~{deleted text}~~ shows text that was in HB0246 but was deleted in HB0246S01.

inserted text shows text that was not in HB0246 but was inserted into HB0246S01.

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Representative Craig Hall proposes the following substitute bill:

FAILURE TO REPORT CONTRIBUTIONS OR PUBLIC

SERVICE ASSISTANCE

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code by imposing a penalty for failure to report contributions or public service assistance within the 30-day period required by law.

Highlighted Provisions:

This bill:

- ▶ imposes a penalty for a state office candidate, a legislative office candidate, a ~~{political action committee, a political issues committee, a }~~ school board office candidate, or a judge, that fails to report contributions or public service assistance, as applicable, within the 30-day period required by law; and

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- ▶ provides for publication of information relating to a penalty described in the preceding paragraph.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

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

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

~~{ 20A-11-602, as last amended by Laws of Utah 2013, Chapter 420~~

~~— 20A-11-802, as last amended by Laws of Utah 2013, Chapter 420~~

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

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

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

Section 1. Section **20A-11-201** is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Report contributions within 30 days -- Report other accounts.

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

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

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

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

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

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summary report required by Section 20A-11-205 are filed with the lieutenant governor.

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

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

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

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

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

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

(b) Each state office candidate shall report each contribution and public service assistance to the lieutenant governor within 30 days after the contribution or public service assistance is received.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a state office candidate fails to report within the 30-day time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

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

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

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

(e) The lieutenant governor shall:

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

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

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- (A) each fine imposed by the lieutenant governor against the state office candidate;
- (B) the amount of the fine;
- (C) the amount of the contribution to which the fine relates;
- (D) the date of the contribution; and
- (E) the name of the person who made the contribution.

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

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

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

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

Section 2. Section **20A-11-301** is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Report contributions within 30 days -- Report other accounts.

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

- (ii) A legislative office candidate may:
 - (A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and
 - (B) be designated by a political action committee as an officer who has primary

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decision-making authority as described in Section 20A-11-601.

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

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

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

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

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

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

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

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

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

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

(b) Each legislative office candidate shall report each contribution and public service assistance to the lieutenant governor within 30 days after the contribution or public service assistance is received.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a legislative office candidate fails to report within the 30-day time

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period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

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

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

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

(e) The lieutenant governor shall:

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

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

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

(B) the amount of the fine;

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

(D) the date of the contribution; and

(E) the name of the person who made the contribution.

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

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

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

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

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

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Section 3. Section ~~{20A-11-602}~~ 20A-11-1301 is amended to read:

~~{~~ ~~20A-11-602. Political action committees -- Financial reporting.~~

~~———— (1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$50, during a calendar year shall file a verified financial statement with the lieutenant governor's office:~~

~~———— (i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;~~

~~———— (ii) seven days before the state political convention of each major political party;~~

~~———— (iii) seven days before the regular primary election date;~~

~~———— (iv) on August 31; and~~

~~———— (v) seven days before:~~

~~———— (A) the municipal general election; and~~

~~———— (B) the regular general election date.~~

~~———— (b) The registered political action committee shall report:~~

~~———— (i) a detailed listing of all contributions received and expenditures made since the last statement; and~~

~~———— (ii) for financial statements filed under Subsections (1)(a)(ii) through (iv), all contributions and expenditures as of five days before the required filing date of the financial statement.~~

~~———— (c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.~~

~~———— (2) (a) The verified financial statement shall include:~~

~~———— (i) the name and address of any individual that makes a contribution to the reporting political action committee, and the amount of the contribution;~~

~~———— (ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, and the amount of the contribution;~~

~~———— (iii) the name and address of any political action committee, group, or entity that makes a contribution to the reporting political action committee, and the amount of the contribution;~~

~~———— (iv) for each nonmonetary contribution, the fair market value of the contribution;~~

~~———— (v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;~~

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- ~~—— (vi) for each nonmonetary expenditure, the fair market value of the expenditure;~~
- ~~—— (vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;~~
- ~~—— (viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and~~
- ~~—— (ix) a summary page in the form required by the lieutenant governor that identifies:~~
 - ~~—— (A) beginning balance;~~
 - ~~—— (B) total contributions during the period since the last statement;~~
 - ~~—— (C) total contributions to date;~~
 - ~~—— (D) total expenditures during the period since the last statement; and~~
 - ~~—— (E) total expenditures to date.~~
- ~~—— (b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.~~
- ~~—— (ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.~~
- ~~—— (3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.~~
- ~~—— (4) (a) As used in this Subsection (4), "received" means:~~
 - ~~—— (i) for a cash contribution, that the cash is given to a political action committee;~~
 - ~~—— (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and~~
 - ~~—— (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.~~
- ~~—— (b) A political action committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.~~
- ~~—— (c) Except as provided in Subsection (4)(d), for each contribution that a political action committee fails to report within the 30-day time period described in Subsection (4)(b), the lieutenant governor shall impose a fine against the political action committee in an amount equal to the greater of \$50 or 15% of the contribution.~~
- ~~—— (d) A fine described in Subsection (4)(c) may not exceed the amount of the~~

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~~contribution to which the fine relates:~~

~~—— (c) The lieutenant governor shall:~~

~~—— (i) deposit money received under Subsection (4)(c) into the General Fund; and~~

~~—— (ii) report on the lieutenant governor's website, in the location where reports relating to each political action committee are available for public access:~~

~~—— (A) each fine imposed by the lieutenant governor against the political action committee;~~

~~—— (B) the amount of the fine;~~

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

~~—— (D) the date of the contribution; and~~

~~—— (E) the name of the person who made the contribution.~~

~~—— Section 4. Section 20A-11-802 is amended to read:~~

~~—— **20A-11-802. Political issues committees -- Financial reporting.**~~

~~—— (1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least \$50, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:~~

~~—— (i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;~~

~~—— (ii) seven days before the state political convention of each major political party;~~

~~—— (iii) seven days before the regular primary election date;~~

~~—— (iv) seven days before the date of an incorporation election, if the political issues committee has received donations or made disbursements to affect an incorporation;~~

~~—— (v) at least three days before the first public hearing held as required by Section 20A-7-204.1;~~

~~—— (vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, at the time the initiative or referendum sponsors submit:~~

~~—— (A) the verified and certified initiative packets as required by Section 20A-7-206; or~~

~~—— (B) the signed and verified referendum packets as required by Section 20A-7-306;~~

~~—— (vii) on August 31; and~~

~~—— (viii) seven days before:~~

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- ~~—— (A) the municipal general election; and~~
- ~~—— (B) the regular general election;~~
- ~~—— (b) The political issues committee shall report:~~
 - ~~—— (i) a detailed listing of all contributions received and expenditures made since the last statement; and~~
 - ~~—— (ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10;~~
 - ~~—— (c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period:~~
 - ~~—— (2) (a) That statement shall include:~~
 - ~~—— (i) the name and address of any individual that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;~~
 - ~~—— (ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;~~
 - ~~—— (iii) the name and address of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;~~
 - ~~—— (iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;~~
 - ~~—— (v) for each nonmonetary contribution, the fair market value of the contribution;~~
 - ~~—— (vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;~~
 - ~~—— (vii) for each nonmonetary expenditure, the fair market value of the expenditure;~~
 - ~~—— (viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;~~
 - ~~—— (ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and~~

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- ~~_____ (x) a summary page in the form required by the lieutenant governor that identifies:~~
- ~~_____ (A) beginning balance;~~
- ~~_____ (B) total contributions during the period since the last statement;~~
- ~~_____ (C) total contributions to date;~~
- ~~_____ (D) total expenditures during the period since the last statement; and~~
- ~~_____ (E) total expenditures to date.~~
- ~~_____ (b) (i) Political issues contributions received by a political issues committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.~~
- ~~_____ (ii) Two or more political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.~~
- ~~_____ (c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:~~
- ~~_____ (i) need only report the amount paid to each initiative petition circulator; and~~
- ~~_____ (ii) need not report the name or address of the circulator.~~
- ~~_____ (3) (a) As used in this Subsection (3), "received" means:~~
- ~~_____ (i) for a cash contribution, that the cash is given to a political issues committee;~~
- ~~_____ (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and~~
- ~~_____ (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.~~
- ~~_____ (b) A political issues committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.~~
- ~~_____ (c) Except as provided in Subsection (3)(d), for each contribution that a political issues committee fails to report within the 30-day time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the political issues committee in an amount equal to the greater of \$50 or 15% of the contribution.~~
- ~~_____ (d) A fine described in Subsection (3)(c) may not exceed the amount of the contribution to which the fine relates.~~
- ~~_____ (e) The lieutenant governor shall:~~

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- ~~— (i) deposit money received under Subsection (3)(c) into the General Fund; and~~
- ~~— (ii) report on the lieutenant governor's website, in the location where reports relating to each political issues committee are available for public access;~~
- ~~— (A) each fine imposed by the lieutenant governor against the political issues committee;~~
- ~~— (B) the amount of the fine;~~
- ~~— (C) the amount of the contribution to which the fine relates;~~
- ~~— (D) the date of the contribution; and~~
- ~~— (E) the name of the person who made the contribution.~~
- ~~— Section 5. Section 20A-11-1301 is amended to read:~~

‡ **20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Report contributions within 30 days -- Report other accounts.**

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

(ii) A school board office candidate may:

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

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

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

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

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

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

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end

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summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with:

- (a) the lieutenant governor in the case of a state school board candidate; and
- (b) the county clerk, in the case of a local school board candidate.

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

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

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

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

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

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

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance within 30 days after the contribution or public service assistance is received.

(c) Except as provided in Subsection (6)(d), for each contribution or provision of public service assistance that a school board office candidate fails to report within the 30-day time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

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

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

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

(e) The chief election officer shall:

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(i) deposit money received under Subsection (6)(c) into the General Fund; and
(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

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

(B) the amount of the fine;

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

(D) the date of the contribution; and

(E) the name of the person who made the contribution.

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

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

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

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section ~~6~~4. Section **20A-12-303** is amended to read:

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

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

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

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

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

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

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

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution within 30 days after the contribution is received.

(c) Except as provided in Subsection (3)(d), for each contribution that a judge fails to report within the 30-day time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to the greater of \$50 or 15% of the amount of the contribution.

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

(e) The lieutenant governor shall:

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

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

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

(B) the amount of the fine;

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

(D) the date of the contribution; and

(E) the name of the person who made the contribution.

Section ~~7~~5. **Effective date.**

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

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Legislative Review Note

~~as of 12-18-13 3:19 PM~~

~~Office of Legislative Research and General Counsel~~