

1           **CAMPAIGN AND FINANCIAL REPORTING REQUIREMENTS**

2                           **REVISIONS**

3                                   2015 GENERAL SESSION

4                                   STATE OF UTAH

5                           **Chief Sponsor: Todd Weiler**

6                           House Sponsor: Daniel McCay

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8   **LONG TITLE**

9   **General Description:**

10           This bill establishes a deadline to pay a fine imposed for violating Title 20A, Chapter  
11   11, Campaign and Financial Reporting Requirements, and prohibits a person from  
12   using the email of a public entity to send an email for a political purpose.

13   **Highlighted Provisions:**

14           This bill:

- 15           ▶ amends the definition of "political purposes";
- 16           ▶ establishes a deadline to pay a fine imposed for violating Title 20A, Chapter 11,  
17   Campaign and Financial Reporting Requirements;
- 18           ▶ prohibits a person from sending an email, using the email of a public entity, for a  
19   political purpose or to advocate for or against a ballot proposition;
- 20           ▶ provides for a civil fine against a person who violates the provisions of this bill; and
- 21           ▶ makes technical and conforming amendments.

22   **Money Appropriated in this Bill:**

23           None

24   **Other Special Clauses:**

25           None

26   **Utah Code Sections Affected:**

27   AMENDS:

28           **20A-11-1202**, as last amended by Laws of Utah 2009, Chapter 60

29           **20A-11-1203**, as last amended by Laws of Utah 2014, Chapter 158

30            **20A-11-1204**, as enacted by Laws of Utah 2004, Chapter 142

31 ENACTS:

32            **20A-11-105**, Utah Code Annotated 1953

33            **20A-11-1205**, Utah Code Annotated 1953

34            **20A-11-1206**, Utah Code Annotated 1953

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

37            Section 1. Section **20A-11-105** is enacted to read:

38            **20A-11-105. Deadline for payment of fine.**

39            A person against whom the lieutenant governor imposes a fine under this chapter shall  
40 pay the fine within 30 days after the day on which the lieutenant governor imposes the fine.

41            Section 2. Section **20A-11-1202** is amended to read:

42            **20A-11-1202. Definitions.**

43            As used in this part:

44            (1) "Applicable election officer" means:

45            (a) a county clerk, if the email relates only to a local election; or

46            (b) the lieutenant governor, if the email relates to an election other than a local  
47 election.

48            [~~(1)~~] (2) "Ballot proposition" means constitutional amendments, initiatives, referenda,  
49 judicial retention questions, opinion questions, bond approvals, or other questions submitted to  
50 the voters for their approval or rejection.

51            [~~(2)~~] (3) (a) "Commercial interlocal cooperation agency" means an interlocal  
52 cooperation agency that receives its revenues from conduct of its commercial operations.

53            (b) "Commercial interlocal cooperation agency" does not mean an interlocal  
54 cooperation agency that receives some or all of its revenues from:

55            (i) government appropriations;

56            (ii) taxes;

57            (iii) government fees imposed for regulatory or revenue raising purposes; or

58 (iv) interest earned on public funds or other returns on investment of public funds.

59 [~~(3)~~] (4) "Expenditure" means:

60 (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,  
61 or anything of value;

62 (b) an express, legally enforceable contract, promise, or agreement to make any  
63 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of  
64 value;

65 (c) a transfer of funds between a public entity and a candidate's personal campaign  
66 committee;

67 (d) a transfer of funds between a public entity and a political issues committee; or

68 (e) goods or services provided to or for the benefit of a candidate, a candidate's  
69 personal campaign committee, or a political issues committee for political purposes at less than  
70 fair market value.

71 [~~(4)~~] (5) "Governmental interlocal cooperation agency" means an interlocal  
72 cooperation agency that receives some or all of its revenues from:

73 (a) government appropriations;

74 (b) taxes;

75 (c) government fees imposed for regulatory or revenue raising purposes; or

76 (d) interest earned on public funds or other returns on investment of public funds.

77 [~~(5)~~] (6) (a) "Influence" means to campaign or advocate for or against a ballot  
78 proposition.

79 (b) "Influence" does not mean providing a brief statement about a public entity's  
80 position on a ballot proposition and the reason for that position.

81 [~~(6)~~] (7) "Interlocal cooperation agency" means an entity created by interlocal  
82 agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

83 [~~(7)~~] (8) "Local district" means an entity under Title 17B, Limited Purpose Local  
84 Government Entities - Local Districts, and includes a special service district under Title 17D,  
85 Chapter 1, Special Service District Act.

86           ~~[(8)]~~ (9) "Political purposes" means an act done with the intent or in a way to influence  
87 or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or  
88 against any:

89           (a) candidate for public office at any caucus, political convention, primary, or  
90 election~~[-];~~ or

91           (b) judge standing for retention at any election.

92           ~~[(9)]~~ (10) (a) "Public entity" includes the state, each state agency, each county,  
93 municipality, school district, local district, governmental interlocal cooperation agency, and  
94 each administrative subunit of each of them.

95           (b) "Public entity" does not include a commercial interlocal cooperation agency.

96           (c) "Public entity" includes local health departments created under Title 26, Chapter 1,  
97 Department of Health Organization.

98           ~~[(10)]~~ (11) (a) "Public funds" means any money received by a public entity from  
99 appropriations, taxes, fees, interest, or other returns on investment.

100           (b) "Public funds" does not include money donated to a public entity by a person or  
101 entity.

102           ~~[(11)]~~ (12) (a) "Public official" means an elected or appointed member of government  
103 with authority to make or determine public policy.

104           (b) "Public official" includes the person or group that:

105           (i) has supervisory authority over the personnel and affairs of a public entity; and

106           (ii) approves the expenditure of funds for the public entity.

107           ~~[(12)]~~ (13) (a) "State agency" means each department, commission, board, council,  
108 agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory,  
109 library, unit, bureau, panel, or other administrative unit of the state.

110           (b) "State agency" includes the legislative branch, the Board of Regents, the  
111 institutional councils of each higher education institution, and each higher education  
112 institution.

113           Section 3. Section **20A-11-1203** is amended to read:

114           **20A-11-1203. Public entity prohibited from expending public funds on certain**  
115 **electoral matters.**

116           (1) Unless specifically required by law, and except as provided in Section  
117 20A-11-1206, a public entity may not make an expenditure from public funds for political  
118 purposes or to influence a ballot proposition.

119           ~~[(2) Nothing in this chapter prohibits a public official from speaking, campaigning,~~  
120 ~~contributing personal money, or otherwise exercising the public official's individual First~~  
121 ~~Amendment rights for political purposes.]~~

122           ~~[(3) Nothing in this chapter prohibits a public entity from providing factual information~~  
123 ~~about a ballot proposition to the public, so long as the information grants equal access to both~~  
124 ~~the opponents and proponents of the ballot proposition.]~~

125           ~~[(4) Nothing in this chapter prohibits a public entity from the neutral encouragement of~~  
126 ~~voters to vote.]~~

127           ~~[(5) Nothing in this chapter prohibits an elected official from campaigning or~~  
128 ~~advocating for or against a ballot proposition.]~~

129           ~~[(6)]~~ (2) A violation of this section does not invalidate an otherwise valid election.

130           Section 4. Section **20A-11-1204** is amended to read:

131           **20A-11-1204. Criminal penalty.**

132           Each public official who violates ~~[this part]~~ Section 20A-11-1203 is guilty of a class B  
133 misdemeanor.

134           Section 5. Section **20A-11-1205** is enacted to read:

135           **20A-11-1205. Use of public email for a political purpose.**

136           (1) Except as provided in Subsection (5), a person may not send an email using the  
137 email of a public entity, for a political purpose or to advocate for or against a ballot  
138 proposition.

139           (2) The applicable election officer shall impose a civil fine against a person who  
140 violates Subsection (1) as follows:

141           (a) up to \$250 for a first violation; and

142 (b) except as provided in Subsection (3), for each subsequent violation committed after  
143 any applicable election officer imposes a fine against the person for a first violation, \$1,000  
144 multiplied by the number of violations committed by the person.

145 (3) The applicable election officer shall consider a violation of this section as a first  
146 violation if the violation is committed more than seven years after the day on which the person  
147 last committed a violation of this section.

148 (4) For purposes of this section, one violation means one act of sending an email,  
149 regardless of the number of recipients of the email.

150 (5) A person does not violate this section if the lieutenant governor finds that the email  
151 described in Subsection (1) was inadvertently sent, as a reply to an email received by the  
152 person described in Subsection (1), using the email of a public entity.

153 (6) A violation of this section does not invalidate an otherwise valid election.

154 Section 6. Section **20A-11-1206** is enacted to read:

155 **20A-11-1206. Exclusions.**

156 (1) Nothing in this chapter prohibits a public official from speaking, campaigning,  
157 contributing personal money, or otherwise exercising the public official's individual First  
158 Amendment rights for political purposes.

159 (2) Nothing in this chapter prohibits a public entity from providing factual information  
160 about a ballot proposition to the public, so long as the information grants equal access to both  
161 the opponents and proponents of the ballot proposition.

162 (3) Nothing in this chapter prohibits a public entity from the neutral encouragement of  
163 voters to vote.

164 (4) Nothing in this chapter prohibits an elected official from campaigning or  
165 advocating for or against a ballot proposition.