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~~{deleted text}~~ shows text that was in HB0020 but was deleted in HB0020S01.

Inserted text shows text that was not in HB0020 but was inserted into HB0020S01.

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Representative Jeremy A. Peterson proposes the following substitute bill:

POLITICAL ACTIVITIES AND ELECTIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~—The Government Operations Interim Committee recommended this bill.~~

~~{General Description:~~

This bill amends provisions relating to the regulation of candidates, officeholders, and lobbyists.

Highlighted Provisions:

This bill:

- ▶ clarifies penalty provisions of the Election Code;
- ▶ modifies provisions addressing the notification provided by the Department of Corrections to the lieutenant governor regarding convicted felons;
- ▶ defines the term "filing officer" for different portions of the Election Code;
- ▶ clarifies the information that the lieutenant governor includes in a ballot

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certification;

- ▶ modifies provisions relating to filling a State Board of Education candidate vacancy and a State Board of Education office vacancy;
- ▶ addresses the handling of, and access to, a financial disclosure form filed by a candidate;
- ▶ shortens the deadline for a filing officer to forward a financial disclosure form to the lieutenant governor;
- ▶ clarifies the definition of an "expenditure" under the Lobbyist Disclosure and Regulation Act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

[20A-1-504, as last amended by Laws of Utah 2016, Chapter 28](#)

20A-1-601, as last amended by Laws of Utah 2008, Chapter 276

20A-1-602, as last amended by Laws of Utah 2008, Chapter 276

20A-1-603, as last amended by Laws of Utah 2008, Chapter 276

20A-1-604, as last amended by Laws of Utah 2016, Chapter 303

20A-1-605, as enacted by Laws of Utah 1993, Chapter 1

20A-1-606, as last amended by Laws of Utah 2008, Chapter 276

20A-1-609, as last amended by Laws of Utah 2016, Chapter 365

20A-1-610, as enacted by Laws of Utah 1993, Chapter 1

20A-2-109, as last amended by Laws of Utah 2011, Chapter 333

20A-9-101, as last amended by Laws of Utah 2016, Chapter 16

20A-9-407, as last amended by Laws of Utah 2017, Chapter 91

20A-11-1305, as last amended by Laws of Utah 2016, Chapter 28

20A-11-1602, as last amended by Laws of Utah 2014, Chapter 18

20A-11-1603, as last amended by Laws of Utah 2014, Chapter 18

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20A-14-103, as last amended by Laws of Utah 2016, Chapters 28, 144, and 271

36-11-102, as last amended by Laws of Utah 2015, Chapters 32, 188, and 264

REPEALS:

20A-1-507, as enacted by Laws of Utah 1993, Chapter 1

20A-14-106, as enacted by Laws of Utah 1995, Chapter 1

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

Section 1. Section 20A-1-504 is amended to read:

20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer, state auditor, State Board of Education member, and lieutenant governor.

(1) (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, state auditor, or State Board of Education member, the vacancy shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by:

(i) appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder[;];
or

(ii) for a State Board of Education vacancy, if the individual who is being replaced:

(A) was elected at a nonpartisan State Board of Education election, by appointing, with the consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103;

(B) was elected at a partisan State Board of Education election, but is not a member of a political party, by appointing, with the consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103; or

(C) was elected at partisan State Board of Education election, and is a member of a political party, by appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

(2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the consent of the Senate, appoint a person to hold the office until the next regular general election

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at which the governor stands for election.

~~[(3) For a State Board of Education member vacancy, if the individual who is being replaced is not a member of a political party, or if the member was elected at or before the 2016 regular general election, the governor shall fill the vacancy, with the consent of the Senate, by selecting an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103.]~~

Section ~~{1}~~2. Section **20A-1-601** is amended to read:

20A-1-601. Bribery in elections -- Paying for votes -- Penalties.

(1) A person may not, directly or indirectly, by himself or through any other person:

(a) pay, loan, or contribute, or offer or promise to pay, loan, or contribute any money or other valuable consideration to or for any voter or to or for any other person:

(i) to induce the voter to vote or refrain from voting at any election provided by law;

(ii) to induce any voter to vote or refrain from voting at an election for any particular person or measure;

(iii) to induce a voter to go to the polls or remain away from the polls at any election;

(iv) because a voter voted or refrained from voting for any particular person, or went to the polls or remained away from the polls; or

(v) to obtain the political support or aid of any person at an election;

(b) give, offer, or promise any office, place, or employment, or to promise or procure, or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any other person, in order to:

(i) induce a voter to vote or refrain from voting at any election;

(ii) induce any voter to vote or refrain from voting at an election for any particular person or measure; or

(iii) obtain the political support or aid of any person;

(c) advance or pay, or cause to be paid, any money or other valuable thing to, or for the use of, any other person with the intent that the money or other valuable thing be used in bribery at any election provided by law; or

(d) knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money expended wholly or in part in bribery at any election.

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(2) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

Section ~~{2}~~3. Section **20A-1-602** is amended to read:

20A-1-602. Receiving bribe -- Receiving payments for votes -- Penalties.

(1) A person may not, for himself or for any other person, directly or indirectly, by himself or through any person, before, during, or after any election:

(a) receive, agree to receive, or contract for any money, gift, loan, or other valuable consideration, office, place, or employment for:

(i) voting or agreeing to vote;

(ii) going or agreeing to go to the polls;

(iii) remaining or agreeing to remain away from the polls; or

(iv) refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting, for any particular person or measure at any election provided by law; or

(b) receive any money or other valuable thing because the person induced any other person to:

(i) vote or refrain from voting; or

(ii) vote or refrain from voting for any particular person or measure at any election provided by law.

(2) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

Section ~~{3}~~4. Section **20A-1-603** is amended to read:

20A-1-603. Fraud, interference, disturbance -- Tampering with ballots or records -- Penalties.

(1) (a) A person may not fraudulently vote on behalf of himself or another, by:

(i) voting more than once at any one election;

(ii) knowingly handing in two or more ballots folded together;

(iii) changing any ballot after it has been cast or deposited in the ballot box;

(iv) adding or attempting to add any ballot or vote to those legally polled at any

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election by fraudulently introducing the ballot or vote into the ballot box or vote tally, either before or after the ballots have been counted;

(v) adding to or mixing or attempting to add or mix, other ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at any other time; or

(vi) voting in a voting district or precinct when the person knew or should have known that the person was not eligible for voter registration in that district or precinct, unless the person is legally entitled to vote the ballot under Section 20A-4-107 or another provision of this title.

(b) A person may not fraudulently interfere with an election by:

(i) willfully detaining, mutilating, or destroying any election returns;

(ii) in any manner, interfering with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, so as to prevent the election or canvass from being fairly held or lawfully conducted;

(iii) engaging in riotous conduct at any election, or interfering in any manner with any election official in the discharge of the election official's duties;

(iv) inducing any election officer, or officer whose duty it is to ascertain, announce, or declare the result of any election or to give or make any certificate, document, or evidence in relation to any election, to violate or refuse to comply with the election officer's duty or any law regulating the election officer's duty;

(v) taking, carrying away, concealing, removing, or destroying any ballot, pollbook, or other thing from a polling place, or from the possession of the person authorized by law to have the custody of that thing; or

(vi) aiding, counseling, providing, procuring, advising, or assisting any person to do any of the acts specified in this section.

(2) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a class A misdemeanor.

Section ~~{4}~~5. Section **20A-1-604** is amended to read:

20A-1-604. Destroying instruction cards, sample ballots, or election paraphernalia -- Penalties.

(1) A person may not:

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(a) willfully deface or destroy any list of candidates posted in accordance with the provisions of this title;

(b) willfully deface, tear down, remove or destroy any card of instruction or sample ballot, printed or posted for the instruction of voters during an election;

(c) willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot during an election; or

(d) willfully hinder the voting of others.

(2) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of an infraction.

Section ~~{5}~~6. Section **20A-1-605** is amended to read:

20A-1-605. Mutilating certificate of nomination -- Forging declination or resignation -- Tampering with ballots.

(1) It is unlawful for any person to:

(a) falsely mark or willfully deface or destroy:

(i) any certificate of nomination or any part of a certificate of nomination; or

(ii) any letter of declination or resignation;

(b) file any certificate of nomination or letter of declination or resignation knowing it, or any part of it, to be falsely made;

(c) suppress any certificate of nomination, or letter of declination or resignation, or any part of a certificate of nomination or letter of declination or resignation that has been legally filed;

(d) forge any letter of declination or resignation;

(e) falsely make the official endorsement on any ballot;

(f) willfully destroy or deface any ballot;

(g) willfully delay the delivery of any ballots;

(h) examine any ballot offered or cast at the polls or found in any ballot box for any purpose other than to determine which candidate was elected; and

(i) make or place any mark or device on any ballot in order to determine the name of any person for whom the elector has voted.

(2) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections

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20A-1-609(2) and (3), any person convicted of any of the offenses established by this section is guilty of a class A misdemeanor.

Section ~~6~~7. Section **20A-1-606** is amended to read:

20A-1-606. Wagering on elections forbidden.

(1) (a) A candidate may not, before or during any primary or election campaign:

(i) make any bet or wager anything of pecuniary value on the result of the primary or election, or on any event or contingency relating to any pending primary or election;

(ii) become a party to any bet or wager on the result of a primary or election or on any event or contingency relating to any pending primary or election; and

(iii) provide money or any other valuable thing to be used by any other person in betting or wagering upon the results of any impending primary or election.

(b) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

(2) (a) A person who is not a candidate may not make any bet or wager anything of pecuniary value on the result of any primary or election, or on any event or contingency relating to any primary or election.

(b) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (2)(a) is guilty of a class B misdemeanor.

(3) (a) A person may not directly or indirectly make a bet or wager with any voter that is dependent upon the outcome of any primary or election with the intent to subject that voter to the possibility of challenge at a primary or election or to prevent the voter from voting at a primary or election.

(b) In addition to the penalties established in [~~Section 20A-1-609~~] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (3)(a) is guilty of a class B misdemeanor.

Section ~~7~~8. Section **20A-1-609** is amended to read:

20A-1-609. Omnibus penalties.

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

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(b) Subsection (1)(a) does not apply to ~~[(i)]~~ a provision of this title for which another penalty is expressly stated ~~[; or]~~.

~~[(ii)]~~ (c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection 20A-7-203(2)(e), 20A-7-303(2)(h), 20A-7-503(2)(e), or 20A-7-603(2)(h).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, ~~[a person]~~ an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which ~~[he]~~ the individual was elected; and

(c) receive the emoluments of the office to which ~~[he]~~ the individual was elected.

(3) (a) Any ~~[person]~~ individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section 20A-3-202.

Section ~~8~~9. Section **20A-1-610** is amended to read:

20A-1-610. Abetting violation of chapter -- Penalty.

In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), any person who aids, abets, or advises a violation of any provision of this title is guilty of a class B misdemeanor, unless another penalty is specifically provided.

Section ~~9~~10. Section **20A-2-109** is amended to read:

20A-2-109. Statewide voter registration database -- Lieutenant governor to create -- Counties to participate -- Maintenance of database -- Cooperation with governmental entities -- Record security -- List of incarcerated felons.

(1) (a) (i) The lieutenant governor shall develop a statewide voter registration database.

(ii) (A) The lieutenant governor may compare the information in the statewide voter registration database with information submitted by a registered voter to a state agency to identify a change in a registered voter's principal place of residence or name.

(B) The lieutenant governor shall establish matching criteria and security measures for identifying a change described in Subsection (1)(a)(ii)(A) to ensure the accuracy of a voter

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registration record.

(C) The lieutenant governor shall notify the county clerk of the county in which the voter's principal place of residence is located of the change in the registered voter's principal place of residence or name.

(b) Each county clerk shall utilize the statewide voter registration database when recording or modifying voter registration records.

(2) (a) The lieutenant governor shall establish and implement a procedure to maintain the accuracy of the statewide voter registration database by using information available from:

- (i) a voter;
- (ii) a governmental entity, as defined by Section 63G-2-103; or
- (iii) another state.

(b) Subject to Subsection (2)(c), the lieutenant governor may cooperate or enter into an agreement with a governmental entity or another state to share information to implement the procedure established under Subsection (2)(a).

(c) For a record shared under Subsection (2)(b), the lieutenant governor shall ensure:

- (i) that the record is only used to maintain the accuracy of a voter registration database;
- (ii) compliance with Section 63G-2-206; and
- (iii) that the record is secure from unauthorized use by employing data encryption or another similar technology security system.

(3) (a) The lieutenant governor shall maintain a current list of all incarcerated felons in Utah.

(b) (i) The Department of Corrections shall provide the lieutenant governor's office with a list of the name and last-known address of each person who:

- (A) was convicted of a felony in a Utah state court; and
- (B) is currently incarcerated for commission of a felony.

(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.

(c) (i) The Department of Corrections shall provide the lieutenant governor's office with a list ~~[of]~~ containing the name of each convicted felon who ~~[is no longer subject to the jurisdiction of the department because the person]~~ has been released from incarceration.

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(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.

Section ~~10~~11. 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 officeholder 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.

(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

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- (ii) all constitutional offices;
- (b) the county clerk, for county offices and local school district offices~~[-and];~~
- (c) the county clerk in the filer's county of residence, for multicounty offices;
- ~~(c)~~ (d) the city or town clerk, for municipal offices; and
- ~~(d)~~ (e) 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 officeholder 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 officeholder is elected and that an officeholder 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) (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;

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

(c) permits a member of the registered political party to seek the registered political

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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

(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 ~~{11}~~12. Section **20A-9-407** is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) file a declaration of candidacy in person with the filing officer 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

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(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district 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) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before 5 p.m. on the first Monday after the fourth Saturday in April.

(b) The lieutenant governor shall [~~ensure that the certification described in Subsection 20A-9-701(1) also includes~~] include, in the primary ballot certification or, for a race where a primary is not held because the candidate is unopposed, in the general election ballot certification, the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section ~~{12}~~13. Section **20A-11-1305** is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement --

Penalties.

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

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

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

(2) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the lieutenant governor may send an electronic notice to the school board office candidate and the political party of which the school board office candidate is a member, if any, that states:

(a) that the school board office candidate failed to timely file the report; and

(b) that, if the school board office candidate fails to file the report within 24 hours after the deadline for filing the report, the school board office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a school board office candidate and inform the county clerk and other appropriate election officials that the school board office candidate is disqualified if the school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv) within 24 hours after the deadline for filing the report.

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

(4) (a) If a school board office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the school board office candidate's name from the ballot; or

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

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

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

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

(b) An election officer may fulfill the requirement described in Subsection (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.

(5) A school board office candidate is not disqualified if:

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

(a) the school board office candidate files the reports described in Subsections 20A-11-1303(1)(c)(i) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

~~[(ii) (b) [those] 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) [those] the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) (5)(b) are corrected in:]~~ an amended report or the next scheduled report.

~~[(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 [by a school board office candidate], the lieutenant governor shall review each filed summary report to ensure that:~~

~~(i) each school board office candidate who is required to file a summary report has filed [one] the report; and~~

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

(b) If it appears that a school board 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 school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary

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report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report within seven days after receiving the notice described in Subsection (6)(b) from the lieutenant governor [~~under this section~~].

(ii) Each school board 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 school board office candidate who violates Subsection [~~(2)~~] (6)(c)(i).

Section ~~{13}~~14. Section **20A-11-1602** is amended to read:

20A-11-1602. Definitions.

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(3) "Filing officer" means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the county clerk in the county of the candidate's residence, for a state legislative office.

[~~(3)~~] (4) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent

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for state or federal income tax purposes by the regulated officeholder.

~~[(4)]~~ (5) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

~~[(5)]~~ (6) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

- (i) a member of a board of directors or other governing body of an entity; or
- (ii) a partner in any type of partnership.

~~[(6)]~~ (7) "Preceding year" means the year immediately preceding the day on which the regulated officeholder files a financial disclosure form.

~~[(7)]~~ (8) "Regulated officeholder" means an individual who is required to file a financial disclosure form under the provisions of this part.

~~[(8)]~~ (9) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

Section ~~{14}~~15. Section **20A-11-1603** is amended to read:

20A-11-1603. Financial disclosure form -- Required when filing for candidacy -- Public availability.

(1) Candidates seeking the following offices shall file a financial disclosure with the filing officer at the time of filing a declaration of candidacy:

- (a) state constitutional officer;
- (b) state legislator; or
- (c) State Board of Education member.

(2) A filing officer may not accept a declaration of candidacy for an office listed in Subsection (1) unless the declaration of candidacy is accompanied by the financial disclosure required by this section.

(3) The financial disclosure form shall contain the same requirements and shall be in

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the same format as the financial disclosure form described in Section 20A-11-1604.

~~[(4) The financial disclosure form shall:]~~

~~[(a) be made available for public inspection at the filing officer's place of business;]~~

~~[(b) if the filing officer is an individual other than the lieutenant governor, be provided to the lieutenant governor within five business days of the date of filing and be made publicly available at the Office of the Lieutenant Governor; and]~~

~~[(c) be made publicly available on the Statewide Electronic Voter Information Website administered by the lieutenant governor.]~~

(4) The filing officer shall:

(a) make each financial disclosure form that the filing officer receives available for public inspection at the filing officer's place of business; and

(b) if the filing officer is not the lieutenant governor, provide each financial disclosure form to the lieutenant governor within one business day after the day on which the candidate files the financial disclosure form.

(5) The lieutenant governor shall make each financial disclosure form that the lieutenant governor receives available to the public:

(a) at the Office of the Lieutenant Governor; and

(b) on the Statewide Electronic Voter Information Website administered by the lieutenant governor.

Section 16. Section 20A-14-103 is amended to read:

20A-14-103. State Board of Education members -- Term -- Requirements.

(1) Unless otherwise provided by law, each State Board of Education member elected from a State Board of Education District at ~~[or before the 2016 general]~~ a nonpartisan election shall serve out the term of office for which that member was elected.

(2) (a) A person seeking election to the State Board of Education shall have been a resident of the State Board of Education district in which the person is seeking election for at least one year as of the date of the election.

(b) A person who has resided within the State Board of Education district, as the boundaries of the district exist on the date of the election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A State Board of Education member shall:

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(a) be and remain a registered voter in the State Board of Education district from which the member was elected or appointed; and

(b) maintain the member's primary residence within the State Board of Education district from which the member was elected or appointed during the member's term of office.

(4) A State Board of Education member may not, during the member's term of office, also serve as an employee of the State Board of Education.

Section ~~{15}~~17. Section **36-11-102** is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means a tour or a meeting:

(a) (i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is

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paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(7) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

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- (iii) a deposit, subscription, or forbearance;
- (iv) services or goods;
- (v) money;
- (vi) real property;
- (vii) a ticket or admission to an event; or
- (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

- (i) a commercially reasonable loan made in the ordinary course of business;
- (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- (iii) printed informational material that is related to the performance of the recipient's official duties;
- (iv) a devise or inheritance;
- (v) any item listed in Subsection (8)(a) if:
 - (A) given by a relative;
 - (B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;
 - (C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or
 - (D) the item is not food or beverage, has a value of less than \$10, and the aggregate daily expenditures do not exceed \$10;
- (vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:
 - (A) all members of the Legislature;
 - (B) all members of a standing or interim committee;
 - (C) all members of an official legislative task force;
 - (D) all members of a party caucus; or
 - (E) all members of a group described in Subsections (8)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general

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legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public;

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a publication having a cash value not exceeding \$30;

(x) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit contributions reportable under:

(I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

(II) 2 U.S.C. Sec. 434; or

(B) charitable solicitation, as defined in Section 13-22-2;

(xi) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xii) sponsorship of an event that is an approved activity;

(xiii) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity; or

(B) that is widely attended and related to a governmental duty of a public official; or

(xiv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state.

(9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(10) (a) "Government officer" means:

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(i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or

(ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(11) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(12) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(13) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

(14) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting

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the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(15) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(16) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(18) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(19) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

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(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

- (A) occupies a policymaking position or makes purchasing or contracting decisions;
- (B) drafts legislation or makes rules;
- (C) determines rates or fees; or
- (D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection (19)(a).

(20) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(b) an immediate family member of a person described in Subsection (19)(a).

(21) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(22) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

(24) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

- (a) viewing a facility;
- (b) viewing the sight of a natural disaster; or
- (c) assessing a circumstance in relation to which a public official may need to take

action within the scope of the public official's duties.

Section ~~16~~18. **Repealer.**

This bill repeals:

Section **20A-1-507, Midterm vacancies in the State Board of Education.**

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Section 20A-14-106, Vacancies on the State Board of Education.

Section ~~{17}~~19. 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.

‡

Legislative Review Note

~~Office of Legislative Research and General Counsel~~