

CAMPAIGN FINANCE AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Patrice M. Arent

Ralph Becker
Jackie Biskupski
Afton B. Bradshaw
Gary F. Cox
David L. Gladwell
Neil A. Hansen

Brad King
Mary Carlson
Perry L. Buckner
Jordan Tanner
David Ure
Rebecca D. Lockhart

Susan J. Koehn
Sheryl L. Allen
David M. Jones
Marlon O. Snow
Judy Ann Buffmire
Neal B. Hendrickson

AN ACT RELATING TO ELECTIONS; CLARIFYING REQUIREMENTS GOVERNING
FILING OF INTERIM AND SUMMARY REPORTS; CLARIFYING DEFINITIONS
GOVERNING IDENTIFICATION OF CAMPAIGN DONORS; AND MAKING TECHNICAL
CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-11-101, as last amended by Chapter 355, Laws of Utah 1997

20A-11-204, as last amended by Chapter 13, Laws of Utah 1998

20A-11-206, as last amended by Chapter 355, Laws of Utah 1997

20A-11-303, as last amended by Chapter 355, Laws of Utah 1997

20A-11-305, as last amended by Chapter 355, Laws of Utah 1997

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

Section 1. Section **20A-11-101** is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(3) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or
(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(4) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, and state school board candidates; and

(b) the county clerk for local school board candidates.

(5) "Continuing political party" means an organization of voters that participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity or a corporation to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from any organization or its directly affiliated organization that has a registered lobbyist to compensate a legislator for a loss of salary or income while the Legislature is in session;

(vi) salaries or other remuneration paid to a legislator by any agency or subdivision of the state, including school districts, for the period the Legislature is in session; and

(vii) goods or services provided to or for the benefit of the filing entity at less than fair market value.

- (b) "Contribution" does not include:
 - (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the filing entity; or
 - (ii) money lent to the filing entity by a financial institution in the ordinary course of business.
- (7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:
 - (i) political purposes; or
 - (ii) the purpose of influencing the approval or the defeat of any ballot proposition.
- (b) "Corporation" does not mean:
 - (i) a business organization's political action committee or political issues committee; or
 - (ii) a business entity organized as a partnership or a sole proprietorship.
- (8) "Detailed listing" means:
 - (a) for each contribution or public service assistance:
 - (i) the name and address of the individual or source making the contribution or public service assistance;
 - (ii) the amount or value of the contribution or public service assistance; and
 - (iii) the date the contribution or public service assistance was made; and
 - (b) for each expenditure:
 - (i) the amount of the expenditure;
 - (ii) the person or entity to whom it was disbursed;
 - (iii) the specific purpose, item, or service acquired by the expenditure; and
 - (iv) the date the expenditure was made.
- (9) "Election" means each:
 - (a) regular general election;
 - (b) regular primary election; and
 - (c) special election at which candidates are eliminated and selected.
- (10) (a) "Expenditure" means:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a corporation or filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (5)(a) that is given by a corporation or reporting entity to candidates for office or officeholders in states other than Utah.

(11) "Filing entity" means the reporting entity that is filing a report required by this chapter.

(12) "Financial statement" includes any summary report, interim report, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter.

(13) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee.

(14) "Individual" means a natural person.

(15) "Interim report" means a report identifying the contributions received and expenditures

made since the last report.

(16) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(17) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares himself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; and

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a legislative office.

(18) "Newly registered political party" means an organization of voters that has complied with the petition and organizing procedures of this chapter to become a registered political party.

(19) "Officeholder" means a person who holds a public office.

(20) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(21) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, labor unions, and labor organizations.

(22) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(23) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, that solicits or receives contributions from any other person, group, or entity or makes expenditures for political purposes. 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.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

- (i) a party committee;
- (ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;
- (iii) an individual;
- (iv) individuals who are related and who make contributions from a joint checking account;
- (v) a corporation; or
- (vi) a personal campaign committee.

(24) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(25) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, that solicits or receives donations from any other person, group, or entity or makes disbursements to influence, or to intend to influence, directly or indirectly, any person to assist in placing a ballot proposition on the ballot, to assist in keeping a ballot proposition off the ballot, or to refrain from voting or to vote for or to vote against any ballot proposition.

(b) "Political issues committee" does not mean:

- (i) a registered political party or a party committee;
- (ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;
- (iii) an individual;
- (iv) individuals who are related and who make contributions from a joint checking account;

or

(v) a corporation, except a corporation whose apparent purpose is to act as a political issues committee.

(26) (a) "Political issues contribution" means any of the following:

- (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;
 - (ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;
 - (iii) any transfer of funds received by a political issues committee from a reporting entity;
 - (iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and
 - (v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.
- (b) "Political issues contribution" does not include:
- (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or
 - (ii) money lent to a political issues committee by a financial institution in the ordinary course of business.
- (27) (a) "Political issues expenditure" means any of the following:
- (i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of a statewide ballot proposition;
 - (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the purpose of influencing the approval or the defeat of a statewide ballot proposition;
 - (iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;
 - (iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or
 - (v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.
- (b) "Political issues expenditure" does not include:
- (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(28) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

(29) "Primary election" means any regular primary election held under the election laws.

(30) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state or local school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(31) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(32) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee

or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial report they are listed.

(33) "Receipts" means contributions and public service assistance.

(34) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(35) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the lieutenant governor's office.

(36) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the lieutenant governor's office.

(37) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of this chapter.

(38) "Report" means a verified financial statement.

(39) "Reporting entity" means a candidate, a candidate's personal campaign committee, an officeholder, and a party committee, a political action committee, and a political issues committee.

(40) "School board office" means the office of state school board or local school board.

(41) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

[(41)] (42) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

[(42)] (43) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to

receive contributions or make expenditures to bring about the person's nomination or election to a state office.

~~[(43)]~~ (44) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

~~[(44)]~~ (45) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 2. Section **20A-11-204** is amended to read:

20A-11-204. State office candidate -- Financial reporting requirements -- Interim reports.

(1) Each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) seven days before any political convention if more than one individual in the candidate's same party has filed a declaration of candidacy for the particular public office that the candidate seeks;

(b) seven days before the regular primary election date;

(c) September 15; and

(d) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) 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.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of [three] five days before the required filing date of the report.

(5) State office candidates reporting under this section need only report contributions received and expenditures made after April 29, 1991.

Section 3. Section **20A-11-206** is amended to read:

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

(1) (a) If a state office candidate fails to file an interim report due before the regular primary election, September 15, or before the regular general election, the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely mailed, inform the county clerk and other appropriate election officials who:

(i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the

candidate will not be counted; and

(iii) may not count any votes for that candidate.

(b) Any state office candidate who fails to file timely a financial statement required by this part is disqualified and the vacancy on the ballot may be filled as provided in Section 20A-1-501.

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

(i) the candidate~~[, in good faith: (i) files the reports required by this section on time even if an error or inaccuracy in the report requires the state office candidate to file an amended report after the deadline; and (ii) the error is]~~ files the reports required by this section;

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

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

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

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

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

(b) If it appears that any state 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 state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any state office candidate to fail to file or amend a summary report within 14 days after receiving notice from the lieutenant governor under this section.

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

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

general.

Section 4. Section **20A-11-303** is amended to read:

20A-11-303. Legislative office candidate -- Financial reporting requirements -- Interim reports.

(1) Each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) seven days before any political convention if more than one individual in the candidate's same party has filed a declaration of candidacy for the particular public office that the candidate seeks;

(b) seven days before the regular primary election date, if the candidate is on the ballot in the primary election;

(c) September 15, unless the candidate is unopposed; and

(d) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

- (i) a summary page in the form required by the lieutenant governor that identifies:
- (i) beginning balance;
- (ii) total contributions during the period since the last statement;
- (iii) total contributions to date;
- (iv) total expenditures during the period since the last statement; and
- (v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) 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.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of [three] five days before the required filing date of the report.

(5) Legislative office candidates reporting under this section need only report contributions received and expenditures made after April 29, 1991.

Section 5. Section **20A-11-305** is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Name not printed on ballot -- Filling vacancy.

(1) (a) If a legislative office candidate fails to file an interim report due before the regular primary election, September 15, or before the regular general election, the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely mailed, inform the county clerk and other appropriate election officials who:

(i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

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

(iii) may not count any votes for that candidate.

(b) Any legislative office candidate who fails to file timely a financial statement required by

this part is disqualified and the vacancy on the ballot may be filled as provided in Section 20A-1-501.

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

~~(i) the candidate[in good faith: (i) files the reports required by this section on time even if an error or inaccuracy in the report requires the legislative office candidate to file an amended report after the deadline; and (ii) the error is]~~ files the reports required by this section;

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

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

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

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

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

(b) If it appears that any legislative 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 legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any legislative office candidate to fail to file or amend a summary report within 14 days after receiving notice from the lieutenant governor under this section.

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

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

