

1                                   **CAMPAIGN FINANCE AMENDMENTS**

2   1999 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Patrice M. Arent**

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

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

10 AMENDS:

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

12           **20A-11-206**, as last amended by Chapter 355, Laws of Utah 1997

13           **20A-11-305**, as last amended by Chapter 355, Laws of Utah 1997

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

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

16           **20A-11-101. Definitions.**

17           As used in this chapter:

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

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

23           (3) "Candidate" means any person who:

24           (a) files a declaration of candidacy for a public office; or

25           (b) receives contributions, makes expenditures, or gives consent for any other person to  
26 receive contributions or make expenditures to bring about the person's nomination or election to  
27 a public office.

28 (4) "Chief election officer" means:

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

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

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

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

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

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

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

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

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

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

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

52 (b) "Contribution" does not include:

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

55 (ii) money lent to the filing entity by a financial institution in the ordinary course of  
56 business.

57 (7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business  
58 organization that is registered as a corporation or is authorized to do business in a state and makes

59 any expenditure from corporate funds for:

60 (i) political purposes; or

61 (ii) the purpose of influencing the approval or the defeat of any ballot proposition.

62 (b) "Corporation" does not mean:

63 (i) a business organization's political action committee or political issues committee; or

64 (ii) a business entity organized as a partnership or a sole proprietorship.

65 (8) "Detailed listing" means:

66 (a) for each contribution or public service assistance:

67 (i) the name and address of the individual or source making the contribution or public  
68 service assistance;

69 (ii) the amount or value of the contribution or public service assistance; and

70 (iii) the date the contribution or public service assistance was made; and

71 (b) for each expenditure:

72 (i) the amount of the expenditure;

73 (ii) the person or entity to whom it was disbursed;

74 (iii) the specific purpose, item, or service acquired by the expenditure; and

75 (iv) the date the expenditure was made.

76 (9) "Election" means each:

77 (a) regular general election;

78 (b) regular primary election; and

79 (c) special election at which candidates are eliminated and selected.

80 (10) (a) "Expenditure" means:

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

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

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

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

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

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

94 (b) "Expenditure" does not include:

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

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

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

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

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

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

108 (14) "Individual" means a natural person.

109 (15) "Interim report" means a report identifying the contributions received and  
110 expenditures made since the last report.

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

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

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

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

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

121 a legislative office.

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

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

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

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

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

132 (23) (a) "Political action committee" means an entity, or any group of individuals or  
133 entities within or outside this state, that solicits or receives contributions from any other person,  
134 group, or entity or makes expenditures for political purposes. A group or entity may not divide or  
135 separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting  
136 requirements of this chapter, and substance shall prevail over form in determining the scope or size  
137 of a political action committee.

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

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

142 (i) a party committee;

143 (ii) any entity that provides goods or services to a candidate or committee in the regular  
144 course of its business at the same price that would be provided to the general public;

145 (iii) an individual;

146 (iv) individuals who are related and who make contributions from a joint checking  
147 account;

148 (v) a corporation; or

149 (vi) a personal campaign committee.

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

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

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

159 (i) a registered political party or a party committee;

160 (ii) any entity that provides goods or services to an individual or committee in the regular  
161 course of its business at the same price that would be provided to the general public;

162 (iii) an individual;

163 (iv) individuals who are related and who make contributions from a joint checking  
164 account; or

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

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

168 (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or  
169 anything of value given to a political issues committee;

170 (ii) an express, legally enforceable contract, promise, or agreement to make a political  
171 issues donation to influence the approval or defeat of any ballot proposition;

172 (iii) any transfer of funds received by a political issues committee from a reporting entity;

173 (iv) compensation paid by another reporting entity for personal services rendered without  
174 charge to a political issues committee; and

175 (v) goods or services provided to or for the benefit of a political issues committee at less  
176 than fair market value.

177 (b) "Political issues contribution" does not include:

178 (i) services provided without compensation by individuals volunteering a portion or all of  
179 their time on behalf of a political issues committee; or

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

182 (27) (a) "Political issues expenditure" means any of the following:

183 (i) any payment from political issues contributions made for the purpose of influencing the  
184 approval or the defeat of a statewide ballot proposition;

185 (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for  
186 the purpose of influencing the approval or the defeat of a statewide ballot proposition;

187 (iii) an express, legally enforceable contract, promise, or agreement to make any political  
188 issues expenditure;

189 (iv) compensation paid by a reporting entity for personal services rendered by a person  
190 without charge to a political issues committee; or

191 (v) goods or services provided to or for the benefit of another reporting entity at less than  
192 fair market value.

193 (b) "Political issues expenditure" does not include:

194 (i) services provided without compensation by individuals volunteering a portion or all of  
195 their time on behalf of a political issues committee; or

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

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

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

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

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

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

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

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

- 214 (i) anything provided by the state;
- 215 (ii) services provided without compensation by individuals volunteering a portion or all
- 216 of their time on behalf of an officeholder;
- 217 (iii) money lent to an officeholder by a financial institution in the ordinary course of
- 218 business;
- 219 (iv) news coverage or any publication by the news media; or
- 220 (v) any article, story, or other coverage as part of any regular publication of any
- 221 organization unless substantially all the publication is devoted to information about the
- 222 officeholder.

223 (32) "Publicly identified class of individuals" means a group of 50 or more individuals

224 sharing a common occupation, interest, or association that contribute to a political action

225 committee or political issues committee and whose names can be obtained by contacting the

226 political action committee or political issues committee upon whose financial report they are listed.

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

228 (34) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist

229 Disclosure and Regulation Act.

230 (35) "Registered political action committee" means any political action committee that is

231 required by this chapter to file a statement of organization with the lieutenant governor's office.

232 (36) "Registered political issues committee" means any political issues committee that is

233 required by this chapter to file a statement of organization with the lieutenant governor's office.

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

235 (a) participated in the last regular general election and polled a total vote equal to 2% or

236 more of the total votes cast for all candidates for the United States House of Representatives for

237 any of its candidates for any office; or

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

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

240 (39) "Reporting entity" means a candidate, a candidate's personal campaign committee,

241 an officeholder, and a party committee, a political action committee, and a political issues

242 committee.

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

244 (41) (a) "Source" means the person or entity that is the legal owner of the tangible or



245 intangible asset that comprises the contribution.

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

249 [(41)] (42) "State office" means the offices of governor, lieutenant governor, attorney  
250 general, state auditor, and state treasurer.

251 [(42)] (43) "State office candidate" means a person who:

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

253 (b) receives contributions, makes expenditures, or gives consent for any other person to  
254 receive contributions or make expenditures to bring about the person's nomination or election to  
255 a state office.

256 [(43)] (44) "Summary report" means the year end report containing the summary of a  
257 reporting entity's contributions and expenditures.

258 [(44)] (45) "Supervisory board" means the individual or group of individuals that allocate  
259 expenditures from a political issues committee.

260 Section 2. Section **20A-11-206** is amended to read:

261 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

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

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

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

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

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

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

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

279 (ii) those reports are completed, detailing accurately and completely the information  
280 required by this part except for minor errors or inaccuracies not apparent from the face of the  
281 report; and

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

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

286 (i) each state office candidate that is required to file a summary report has filed one; and  
287 (ii) each summary report contains the information required by this part.

288 (b) If it appears that any state office candidate has failed to file the summary report  
289 required by law, if it appears that a filed summary report does not conform to the law, or if the  
290 lieutenant governor has received a written complaint alleging a violation of the law or the falsity  
291 of any summary report, the lieutenant governor shall, within five days of discovery of a violation  
292 or receipt of a written complaint, notify the state office candidate of the violation or written  
293 complaint and direct the state office candidate to file a summary report correcting the problem.

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

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

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

300 Section 3. Section **20A-11-305** is amended to read:

301 **20A-11-305. Legislative office candidate -- Failure to file report -- Name not printed**  
302 **on ballot -- Filling vacancy.**

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

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

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

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

313 (b) Any legislative office candidate who fails to file timely a financial statement required  
314 by this part is disqualified and the vacancy on the ballot may be filled as provided in Section  
315 20A-1-501.

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

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

321 (ii) those reports are completed, detailing accurately and completely the information  
322 required by this part except for minor errors or inaccuracies not apparent from the face of the  
323 report; and

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

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

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

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

331 (b) If it appears that any legislative office candidate has failed to file the summary report  
332 required by law, if it appears that a filed summary report does not conform to the law, or if the  
333 lieutenant governor has received a written complaint alleging a violation of the law or the falsity  
334 of any summary report, the lieutenant governor shall, within five days of discovery of a violation  
335 or receipt of a written complaint, notify the legislative office candidate of the violation or written  
336 complaint and direct the legislative office candidate to file a summary report correcting the  
337 problem.

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

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

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

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**Legislative Review Note**

**as of 1-11-99 12:08 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**