

1                   **CAMPAIGN AND FINANCIAL REPORTING REQUIREMENTS**

2                                   **REVISIONS**

3   2014 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Patrice M. Arent**

6                                   Senate Sponsor: Curtis S. Bramble

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends provisions of the Election Code relating to campaign and financial  
11 reporting requirements.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ defines terms;
- 15                   ▶ requires that a financial report include expenditures made by a candidate, an  
16 officeholder, or an agent (including a political consultant) of a candidate or  
17 officeholder on behalf of the candidate or officeholder; and
- 18                   ▶ provides that when a person makes a detailed listing, discloses or reports the source  
19 of a contribution, discloses or reports the person or entity to whom a disbursement  
20 is made, or discloses or reports the identity of a donor, the person:
  - 21                   • shall reveal the actual source of the contribution, the actual person or entity to  
22 whom the disbursement is ultimately made, or the actual identity of the donor;
  - 23 and
  - 24                   • may not merely list, disclose, or report the transactional intermediary.

25                   **Money Appropriated in this Bill:**

26                   None

27                   **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **20A-11-101**, as last amended by Laws of Utah 2013, Chapters 86, 170, 318, and 420

32 ENACTS:

33 **20A-11-101.5**, Utah Code Annotated 1953

34 **20A-12-301.5**, Utah Code Annotated 1953

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

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

38 **20A-11-101. Definitions.**

39 As used in this chapter:

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

42 (2) "Agent of a candidate or officeholder" means:

43 (a) a person acting on behalf of a candidate or officeholder at the direction of the  
44 candidate or officeholder;

45 (b) a person employed by a candidate or officeholder in the candidate's or  
46 officeholder's capacity as a candidate or officeholder;

47 (c) the personal campaign committee of a candidate or officeholder;

48 (d) a member of the personal campaign committee of a candidate or  
49 officeholder in the member's capacity as a member of the personal campaign committee of the  
50 candidate or officeholder; or

51 (e) a political consultant of a candidate or officeholder.

52 [~~(2)~~] (3) "Ballot proposition" includes initiatives, referenda, proposed constitutional  
53 amendments, and any other ballot propositions submitted to the voters that are authorized by  
54 the Utah Code Annotated 1953.

55 [~~(3)~~] (4) "Candidate" means any person who:

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

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

59 to a public office.

60 [~~(4)~~] (5) "Chief election officer" means:

61 (a) the lieutenant governor for state office candidates, legislative office candidates,  
62 officeholders, political parties, political action committees, corporations, political issues  
63 committees, state school board candidates, judges, and labor organizations, as defined in  
64 Section 20A-11-1501; and

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

66 [~~(5)~~] (6) (a) "Contribution" means any of the following when done for political  
67 purposes:

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

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

73 (iii) any transfer of funds from another reporting entity to the filing entity;

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

76 (v) remuneration from:

77 (A) any organization or its directly affiliated organization that has a registered lobbyist;  
78 or

79 (B) any agency or subdivision of the state, including school districts; and

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

82 (b) "Contribution" does not include:

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

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

87 (iii) goods or services provided for the benefit of a candidate or political party at less  
88 than fair market value that are not authorized by or coordinated with the candidate or political  
89 party.

90           ~~[(6)]~~ (7) "Coordinated with" means that goods or services provided for the benefit of a  
91 candidate or political party are provided:

92           (a) with the candidate's or political party's prior knowledge, if the candidate or political  
93 party does not object;

94           (b) by agreement with the candidate or political party;

95           (c) in coordination with the candidate or political party; or

96           (d) using official logos, slogans, and similar elements belonging to a candidate or  
97 political party.

98           ~~[(7)]~~ (8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business  
99 organization that is registered as a corporation or is authorized to do business in a state and  
100 makes any expenditure from corporate funds for:

101           (i) the purpose of expressly advocating for political purposes; or

102           (ii) the purpose of expressly advocating the approval or the defeat of any ballot  
103 proposition.

104           (b) "Corporation" does not mean:

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

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

107           ~~[(8)]~~ (9) "County political party" means, for each registered political party, all of the  
108 persons within a single county who, under definitions established by the political party, are  
109 members of the registered political party.

110           ~~[(9)]~~ (10) "County political party officer" means a person whose name is required to be  
111 submitted by a county political party to the lieutenant governor in accordance with Section  
112 [20A-8-402](#).

113           ~~[(10)]~~ (11) "Detailed listing" means:

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

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

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

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

119           (b) for each expenditure:

120           (i) the amount of the expenditure;

- 121 (ii) the person or entity to whom it was disbursed;
- 122 (iii) the specific purpose, item, or service acquired by the expenditure; and
- 123 (iv) the date the expenditure was made.
- 124 ~~[(11)]~~ (12) (a) "Donor" means a person that gives money, including a fee, due, or
- 125 assessment for membership in the corporation, to a corporation without receiving full and
- 126 adequate consideration for the money.
- 127 (b) "Donor" does not include a person that signs a statement that the corporation may
- 128 not use the money for an expenditure or political issues expenditure.
- 129 ~~[(12)]~~ (13) "Election" means each:
- 130 (a) regular general election;
- 131 (b) regular primary election; and
- 132 (c) special election at which candidates are eliminated and selected.
- 133 ~~[(13)]~~ (14) "Electioneering communication" means a communication that:
- 134 (a) has at least a value of \$10,000;
- 135 (b) clearly identifies a candidate or judge; and
- 136 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising
- 137 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly
- 138 identified candidate's or judge's election date.
- 139 ~~[(14)]~~ (15) (a) "Expenditure" means any of the following made by a candidate, an
- 140 officeholder, or an agent of a candidate or officeholder on behalf of the candidate or
- 141 officeholder:
- 142 (i) any disbursement from contributions, receipts, or from the separate bank account
- 143 required by this chapter;
- 144 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
- 145 or anything of value made for political purposes;
- 146 (iii) an express, legally enforceable contract, promise, or agreement to make any
- 147 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
- 148 value for political purposes;
- 149 (iv) compensation paid by a filing entity for personal services rendered by a person
- 150 without charge to a reporting entity;
- 151 (v) a transfer of funds between the filing entity and a candidate's personal campaign

152 committee; or

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

155 (b) "Expenditure" does not include:

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

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

160 (iii) anything listed in Subsection [~~(14)~~] (15)(a) that is given by a reporting entity to  
161 candidates for office or officeholders in states other than Utah.

162 [~~(15)~~] (16) "Federal office" means the office of President of the United States, United  
163 States Senator, or United States Representative.

164 [~~(16)~~] (17) "Filing entity" means the reporting entity that is required to file a financial  
165 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

166 [~~(17)~~] (18) "Financial statement" includes any summary report, interim report, verified  
167 financial statement, or other statement disclosing contributions, expenditures, receipts,  
168 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial  
169 Retention Elections.

170 [~~(18)~~] (19) "Governing board" means the individual or group of individuals that  
171 determine the candidates and committees that will receive expenditures from a political action  
172 committee, political party, or corporation.

173 [~~(19)~~] (20) "Incorporation" means the process established by Title 10, Chapter 2, Part  
174 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

175 [~~(20)~~] (21) "Incorporation election" means the election authorized by Section 10-2-111.

176 [~~(21)~~] (22) "Incorporation petition" means a petition authorized by Section 10-2-109.

177 [~~(22)~~] (23) "Individual" means a natural person.

178 [~~(23)~~] (24) "Interim report" means a report identifying the contributions received and  
179 expenditures made since the last report.

180 [~~(24)~~] (25) "Legislative office" means the office of state senator, state representative,  
181 speaker of the House of Representatives, president of the Senate, and the leader, whip, and  
182 assistant whip of any party caucus in either house of the Legislature.

183           ~~[(25)]~~ (26) "Legislative office candidate" means a person who:

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

185           (b) declares oneself to be a candidate for, or actively campaigns for, the position of  
186 speaker of the House of Representatives, president of the Senate, or the leader, whip, and

187 assistant whip of any party caucus in either house of the Legislature; or

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

191           ~~[(26)]~~ (27) "Major political party" means either of the two registered political parties  
192 that have the greatest number of members elected to the two houses of the Legislature.

193           ~~[(27)]~~ (28) "Officeholder" means a person who holds a public office.

194           ~~[(28)]~~ (29) "Party committee" means any committee organized by or authorized by the  
195 governing board of a registered political party.

196           ~~[(29)]~~ (30) "Person" means both natural and legal persons, including individuals,  
197 business organizations, personal campaign committees, party committees, political action  
198 committees, political issues committees, and labor organizations, as defined in Section  
199 [20A-11-1501](#).

200           ~~[(30)]~~ (31) "Personal campaign committee" means the committee appointed by a  
201 candidate to act for the candidate as provided in this chapter.

202           ~~[(31)]~~ (32) "Personal use expenditure" has the same meaning as provided under Section  
203 [20A-11-104](#).

204           ~~[(32)]~~ (33) (a) "Political action committee" means an entity, or any group of  
205 individuals or entities within or outside this state, a major purpose of which is to:

206           (i) solicit or receive contributions from any other person, group, or entity for political  
207 purposes; or

208           (ii) make expenditures to expressly advocate for any person to refrain from voting or to  
209 vote for or against any candidate or person seeking election to a municipal or county office.

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

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

- 214 (i) a party committee;
- 215 (ii) any entity that provides goods or services to a candidate or committee in the regular
- 216 course of its business at the same price that would be provided to the general public;
- 217 (iii) an individual;
- 218 (iv) individuals who are related and who make contributions from a joint checking
- 219 account;
- 220 (v) a corporation, except a corporation a major purpose of which is to act as a political
- 221 action committee; or
- 222 (vi) a personal campaign committee.

223 (34) "Political consultant" means a person who is paid or otherwise retained by, or with  
 224 the consent of, a candidate or officeholder to provide political advice or political assistance to  
 225 the candidate or officeholder.

226 [~~(33)~~] (35) "Political convention" means a county or state political convention held by  
 227 a registered political party to select candidates.

228 [~~(34)~~] (36) (a) "Political issues committee" means an entity, or any group of individuals  
 229 or entities within or outside this state, a major purpose of which is to:

- 230 (i) solicit or receive donations from any other person, group, or entity to assist in
- 231 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or
- 232 to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;
- 233 (ii) make expenditures to expressly advocate for any person to sign or refuse to sign a
- 234 ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any
- 235 proposed ballot proposition or an incorporation in an incorporation election; or
- 236 (iii) make expenditures to assist in qualifying or placing a ballot proposition on the
- 237 ballot or to assist in keeping a ballot proposition off the ballot.

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

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



245 (v) a corporation, except a corporation a major purpose of which is to act as a political  
246 issues committee.

247 [~~35~~] (37) (a) "Political issues contribution" means any of the following:

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

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

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

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

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

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

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

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

263 [~~36~~] (38) (a) "Political issues expenditure" means any of the following:

264 (i) any payment from political issues contributions made for the purpose of influencing  
265 the approval or the defeat of:

266 (A) a ballot proposition; or

267 (B) an incorporation petition or incorporation election;

268 (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for  
269 the express purpose of influencing the approval or the defeat of:

270 (A) a ballot proposition; or

271 (B) an incorporation petition or incorporation election;

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

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

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

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

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

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

283 [~~(37)~~] (39) "Political purposes" means an act done with the intent or in a way to  
284 influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote  
285 for or against any candidate or a person seeking a municipal or county office at any caucus,  
286 political convention, or election.

287 [~~(38)~~] (40) (a) "Poll" means the survey of a person regarding the person's opinion or  
288 knowledge of an individual who has filed a declaration of candidacy for public office, or of a  
289 ballot proposition that has legally qualified for placement on the ballot, which is conducted in  
290 person or by telephone, facsimile, Internet, postal mail, or email.

291 (b) "Poll" does not include:

292 (i) a ballot; or

293 (ii) an interview of a focus group that is conducted, in person, by one individual, if:

294 (A) the focus group consists of more than three, and less than thirteen, individuals; and

295 (B) all individuals in the focus group are present during the interview.

296 [~~(39)~~] (41) "Primary election" means any regular primary election held under the  
297 election laws.

298 [~~(40)~~] (42) "Public office" means the office of governor, lieutenant governor, state  
299 auditor, state treasurer, attorney general, state or local school board member, state senator, state  
300 representative, speaker of the House of Representatives, president of the Senate, and the leader,  
301 whip, and assistant whip of any party caucus in either house of the Legislature.

302 [~~(41)~~] (43) (a) "Public service assistance" means the following when given or provided  
303 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to  
304 communicate with the officeholder's constituents:

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

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

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

310 (i) anything provided by the state;

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

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

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

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

319 [~~(42)~~] (44) "Publicly identified class of individuals" means a group of 50 or more  
320 individuals sharing a common occupation, interest, or association that contribute to a political  
321 action committee or political issues committee and whose names can be obtained by contacting  
322 the political action committee or political issues committee upon whose financial statement the  
323 individuals are listed.

324 [~~(43)~~] (45) "Receipts" means contributions and public service assistance.

325 [~~(44)~~] (46) "Registered lobbyist" means a person registered under Title 36, Chapter 11,  
326 Lobbyist Disclosure and Regulation Act.

327 [~~(45)~~] (47) "Registered political action committee" means any political action  
328 committee that is required by this chapter to file a statement of organization with the Office of  
329 the Lieutenant Governor.

330 [~~(46)~~] (48) "Registered political issues committee" means any political issues  
331 committee that is required by this chapter to file a statement of organization with the Office of  
332 the Lieutenant Governor.

333 [~~(47)~~] (49) "Registered political party" means an organization of voters that:

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

337 (b) has complied with the petition and organizing procedures of Chapter 8, Political

338 Party Formation and Procedures.

339 ~~[(48)]~~ (50) (a) "Remuneration" means a payment:

340 (i) made to a legislator for the period the Legislature is in session; and

341 (ii) that is approximately equivalent to an amount a legislator would have earned

342 during the period the Legislature is in session in the legislator's ordinary course of business.

343 (b) "Remuneration" does not mean anything of economic value given to a legislator by:

344 (i) the legislator's primary employer in the ordinary course of business; or

345 (ii) a person or entity in the ordinary course of business:

346 (A) because of the legislator's ownership interest in the entity; or

347 (B) for services rendered by the legislator on behalf of the person or entity.

348 ~~[(49)]~~ (51) "Reporting entity" means a candidate, a candidate's personal campaign

349 committee, a judge, a judge's personal campaign committee, an officeholder, a party

350 committee, a political action committee, a political issues committee, a corporation, or a labor

351 organization, as defined in Section [20A-11-1501](#).

352 ~~[(50)]~~ (52) "School board office" means the office of state school board or local school

353 board.

354 ~~[(51)]~~ (53) (a) "Source" means the person or entity that is the legal owner of the  
355 tangible or intangible asset that comprises the contribution.

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

359 ~~[(52)]~~ (54) "State office" means the offices of governor, lieutenant governor, attorney  
360 general, state auditor, and state treasurer.

361 ~~[(53)]~~ (55) "State office candidate" means a person who:

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

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

366 ~~[(54)]~~ (56) "Summary report" means the year end report containing the summary of a  
367 reporting entity's contributions and expenditures.

368 ~~[(55)]~~ (57) "Supervisory board" means the individual or group of individuals that

369 allocate expenditures from a political issues committee.

370 Section 2. Section 20A-11-101.5 is enacted to read:

371 **20A-11-101.5. Disclosure of actual source or recipient required.**

372 (1) As used in this section, "transactional intermediary" means a person that pays or  
373 transfers money to a person on behalf of another person, including a credit card company, a  
374 financial institution, or a money transfer service.

375 (2) When, under this chapter, a person makes a detailed listing, discloses or reports the  
376 source of a contribution, discloses or reports the person or entity to whom a disbursement is  
377 made, or discloses or reports the identity of a donor, the person:

378 (a) shall reveal the actual source of the contribution, the actual person or entity to  
379 whom the disbursement is ultimately made, or the actual identity of the donor; and

380 (b) may not merely list, disclose, or report the transactional intermediary.

381 Section 3. Section 20A-12-301.5 is enacted to read:

382 **20A-12-301.5. Disclosure of actual source or recipient required.**

383 (1) As used in this section, "transactional intermediary" means a person that pays or  
384 transfers money to a person on behalf of another person, including a credit card company, a  
385 financial institution, or a money transfer service.

386 (2) When, under this chapter, a person makes a detailed listing, discloses or reports the  
387 source of a contribution, discloses or reports the person or entity to whom a disbursement is  
388 made, or discloses or reports the identity of a donor, the person:

389 (a) shall reveal the actual source of the contribution, the actual person or entity to  
390 whom the disbursement is ultimately made, or the actual identity of the donor; and

391 (b) may not merely list, disclose, or report the transactional intermediary.

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**Legislative Review Note**  
as of 1-14-14 8:18 AM

**Office of Legislative Research and General Counsel**