

**CAMPAIGN FINANCING AND GIFT
REGULATION**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steven R. Mascaro

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Campaign and Financial Reporting Requirements and the Lobbyist Disclosure and Regulations Act by amending reporting requirements and gift limits required for reporting food or beverages and making other changes.

Highlighted Provisions:

This bill:

- ▶ requires that the employer and occupation of a campaign contributor be included in campaign financial disclosure statements;
- ▶ defines personal use expenditure;
- ▶ prohibits state constitutional offices and offices in the Legislature or state or local school boards from spending campaign monies for a personal use expenditure;
- ▶ establishes requirements for the expenditure or transfer of monies remaining in campaign accounts created by candidates for state constitutional offices and offices in the Legislature or state or local school boards;
- ▶ requires that expenditures for food or beverage be reported by public official name if the expenditure exceeds \$10, rather than the current \$50 threshold and requires that a statement of the business purpose of the expenditure be included;
- ▶ requires the financial disclosure website established by the lieutenant governor to feature an easily searchable Internet database of the contents of campaign financial



statements;

- requires that a public official who accepts food or beverage that is required to be disclosed by a lobbyist to also file a quarterly financial report for the food or beverage, with the lieutenant governor and include a statement of the business purpose of the expenditure;

- requires a lobbyist, principal, or government officer who gives certain food or beverage to provide notice to the public official of the estimated value of the food or beverage;

- repeals the provision that certain public official involvement in a government action is required to prohibit a lobbyist, principal, or government officer from giving a gift;

- reduces the occasional nonpecuniary gift threshold from \$50 to \$10 given from a lobbyist, principal, or government officer to a public official;

- provides certain penalties for a public official who fails to report certain food or beverage and for a lobbyist, principal, or government officer who fails to provide the value of the food or beverage to the public official; and

- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-101, as last amended by Laws of Utah 2008, Chapters 14 and 49

20A-11-103, as last amended by Laws of Utah 2008, Chapters 14 and 49

20A-11-201, as last amended by Laws of Utah 1997, Chapter 355

20A-11-301, as last amended by Laws of Utah 1997, Chapter 355

20A-11-402, as last amended by Laws of Utah 1997, Chapter 355

20A-11-1002, as last amended by Laws of Utah 2002, Chapter 317

20A-11-1301, as enacted by Laws of Utah 1997, Chapter 355

20A-12-301, as enacted by Laws of Utah 2001, Chapter 166

36-11-103, as last amended by Laws of Utah 2008, Chapter 382

59 **36-11-201**, as last amended by Laws of Utah 2007, Chapters 233 and 239

60 **36-11-304**, as last amended by Laws of Utah 2007, Chapter 233

61 **36-11-401**, as last amended by Laws of Utah 2000, Chapter 338

62 ENACTS:

63 **36-11-203**, Utah Code Annotated 1953

64

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

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

67 **20A-11-101. Definitions.**

68 As used in this chapter:

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

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

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

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

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

79 (4) "Chief election officer" means:

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

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

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

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

88 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of
89 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;]~~

121 (i) (A) from an individual, the individual's name, address, employer, and the
122 occupation of the individual making the contribution or public service assistance; or

123 (B) from an entity other than an individual, the entity's name and address or the name
124 and addresses of the principals of the entity making the contribution or public service
125 assistance;

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

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

128 (b) for each expenditure:

129 (i) the amount of the expenditure;

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

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

132 (iv) the date the expenditure was made.

133 (9) "Election" means each:

134 (a) regular general election;

135 (b) regular primary election; and

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

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

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

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

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

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

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

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

151 (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 (10)(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 financial statement required by this chapter.

(12) "Financial statement" includes any summary report, interim report, verified financial statement, 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) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(15) "Incorporation election" means the election authorized by Section 10-2-111.

(16) "Incorporation petition" means a petition authorized by Section 10-2-109.

(17) "Individual" means a natural person.

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

(19) "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.

(20) "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.

(21) "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.

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

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

(24) "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.

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

(26) "Personal use expenditure" means an expenditure that provides a benefit of any kind to a candidate or officeholder that is not reasonably related to the candidate's election to the public office or to fulfilling duties of the public office.

~~[(26)]~~ (27) (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:

(i) for political purposes; or

(ii) 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 a municipal or county office.

(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.

~~[(27)]~~ (28) "Political convention" means a county or state political convention held by a registered political party to select candidates.

~~[(28)]~~ (29) (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:

(i) assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or refrain from voting or vote for or vote against any ballot proposition; or

(ii) sign or refuse to sign an incorporation petition or refrain from voting, vote for, or vote against any proposed incorporation in an incorporation election.

(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.

~~[(29)]~~ (30) (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.

~~[(30)]~~ (31) (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) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(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) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(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.

~~[(31)]~~ (32) "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.

276 ~~[(32)]~~ (33) "Primary election" means any regular primary election held under the
277 election laws.

278 ~~[(33)]~~ (34) "Public office" means the office of governor, lieutenant governor, state
279 auditor, state treasurer, attorney general, state or local school board member, state senator, state
280 representative, speaker of the House of Representatives, president of the Senate, and the leader,
281 whip, and assistant whip of any party caucus in either house of the Legislature.

282 ~~[(34)]~~ (35) (a) "Public service assistance" means the following when given or provided
283 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to
284 communicate with the officeholder's constituents:

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

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

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

290 (i) anything provided by the state;

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

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

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

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

299 ~~[(35)]~~ (36) "Publicly identified class of individuals" means a group of 50 or more
300 individuals sharing a common occupation, interest, or association that contribute to a political
301 action committee or political issues committee and whose names can be obtained by contacting
302 the political action committee or political issues committee upon whose financial report they
303 are listed.

304 ~~[(36)]~~ (37) "Receipts" means contributions and public service assistance.

305 ~~[(37)]~~ (38) "Registered lobbyist" means a person registered under Title 36, Chapter 11,
306 Lobbyist Disclosure and Regulation Act.

307 ~~[(38)]~~ (39) "Registered political action committee" means any political action
308 committee that is required by this chapter to file a statement of organization with the lieutenant
309 governor's office.

310 ~~[(39)]~~ (40) "Registered political issues committee" means any political issues
311 committee that is required by this chapter to file a statement of organization with the lieutenant
312 governor's office.

313 ~~[(40)]~~ (41) "Registered political party" means an organization of voters that:
314 (a) participated in the last regular general election and polled a total vote equal to 2%
315 or more of the total votes cast for all candidates for the United States House of Representatives
316 for any of its candidates for any office; or

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

318 ~~[(41)]~~ (42) "Reporting entity" means a candidate, a candidate's personal campaign
319 committee, an officeholder, a party committee, a political action committee, and a political
320 issues committee.

321 ~~[(42)]~~ (43) "School board office" means the office of state school board or local school
322 board.

323 ~~[(43)]~~ (44) (a) "Source" means the person or entity that is the legal owner of the
324 tangible or intangible asset that comprises the contribution.

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

328 ~~[(44)]~~ (45) "State office" means the offices of governor, lieutenant governor, attorney
329 general, state auditor, and state treasurer.

330 ~~[(45)]~~ (46) "State office candidate" means a person who:

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

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

335 ~~[(46)]~~ (47) "Summary report" means the year end report containing the summary of a
336 reporting entity's contributions and expenditures.

337 ~~[(47)]~~ (48) "Supervisory board" means the individual or group of individuals that

allocate expenditures from a political issues committee.

Section 2. Section **20A-11-103** is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of local filings.

(1) (a) Except as provided under Subsection (1)(b), ten days before a financial statement from a state office candidate, legislative office candidate, officeholder, state school board candidate, political party, political action committee, political issues committee, or judge is due under this chapter, the lieutenant governor shall inform those candidates, officeholders, parties, committees, and judges by postal mail or, if requested by the candidate, officeholder, party, committee, or judge, by electronic mail:

(i) that the financial statement is due;

(ii) the date that the financial statement is due;

(iii) if the notification is sent to a judge in reference to the interim report due before the regular general election, or to a candidate in reference to an interim report due before the regular primary election, on August 31, or before the regular general election, that if the report is not timely filed, voters will be informed that the candidate or judge has been disqualified and any votes cast for the candidate or judge will not be counted;

(iv) if the notification is sent to a political party, political action committee, or political issues committee in reference to an interim report or a verified financial statement, that the entity may be guilty of a class B misdemeanor for failing to file the report or statement; and

(v) if the notification is in reference to a summary report, that the candidate, officeholder, party, committee, or judge may be guilty of a class B misdemeanor for failing to file the report.

(b) Notwithstanding the provisions of Subsection (1)(a), under this section the lieutenant governor is not required to provide notice:

(i) to a candidate of the financial statement that is due before the candidate's political convention; or

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1.

(c) Ten days before an interim or summary report from a local school board candidate is due under this chapter, the county clerk shall inform the candidate by postal mail or, if

requested, by electronic mail:

(i) that the report is due;

(ii) the date that the report is due;

(iii) if the notification is in reference to an interim report due before the regular primary election, on August 31, or before the regular general election, that, if the report is not timely filed, voters will be informed that the candidate has been disqualified and any votes cast for the candidate will not be counted; and

(iv) if the notification is in reference to a summary report, that the candidate may be guilty of a class B misdemeanor for failing to file the report.

(2) Persons or entities submitting financial statements required by this chapter may submit them:

(a) on paper, printed, typed, or legibly handwritten or hand printed;

(b) on a computer disk according to specifications established by the chief election officer that protect against fraudulent filings and secure the accuracy of the information contained on the computer disk;

(c) via fax; or

(d) via electronic mail or the Internet, according to specifications established by the chief election officer.

(3) A financial statement is considered timely filed if:

(a) it is received in the chief election officer's office no later than 5:00 p.m. on the date that it is due;

(b) it is received in the chief election officer's office with a postmark three days or more before the date that the financial statement was due; or

(c) the candidate, judge, or entity has proof that the financial statement was mailed, with appropriate postage and addressing, three days before the financial statement was due.

(4) (a) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

~~[(a)]~~ (i) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

~~[(b)]~~ (ii) post an electronic copy or the contents of each campaign finance statement on a website established by the lieutenant governor:

[~~(i)~~] (A) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or

[~~(ii)~~] (B) for a campaign finance statement filed under the requirements of this chapter, no later than seven business days after the date the statement is due.

(b) The website established by the lieutenant governor under Subsection (4)(a) shall:

(i) feature a searchable Internet database of the contents of campaign financial statements; and

(ii) allow summary capabilities.

(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

Section 3. Section **20A-11-201** is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) The state office candidate or the candidate's personal campaign committee:

(i) may use the monies in those accounts only for political purposes[~~;~~]; and

(ii) may not use the monies in those accounts for a personal use expenditure.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) If a person [~~who~~] withdraws or is eliminated in a convention, primary, or regular general election, or is no longer a state office candidate [~~chooses not to expend the monies remaining in his campaign account~~], the person shall dispose of monies remaining in the person's campaign account by:

(a) donating the monies to a registered political party or political action committee;

(b) donating the monies to the state General Fund;

(c) expending the monies for political purposes;

(d) donating the monies to a tax-exempt, nonprofit entity;

431 (e) repaying documented loans to the state office candidate's campaign;
432 (f) donating the monies to another candidate's campaign account;
433 (g) transferring the monies to another campaign account for the person to use as a
434 candidate for:
435 (i) a state or local elected office; or
436 (ii) a federal elected office, as may be permitted or required by federal law; or
437 (h) some combination of Subsections (3)(a) through (g).
438 (4) A person who withdraws, is eliminated, or is no longer a state office candidate shall
439 continue to file the year-end summary report required by Section 20A-11-203 until the
440 statement of dissolution and final summary report required by Section 20A-11-205 are filed
441 with the lieutenant governor.

442 Section 4. Section **20A-11-301** is amended to read:

443 **20A-11-301. Legislative office candidate -- Campaign requirements.**

444 (1) Each legislative office candidate shall deposit each contribution and public service
445 assistance received in one or more separate accounts in a financial institution that are dedicated
446 only to that purpose.

447 (2) A legislative office candidate may not:

448 (a) make any expenditures for political purposes prohibited by law; and

449 (b) use monies in an account required by this section:

450 (i) for a personal use expenditure; or

451 (ii) to donate to the campaign of another legislative candidate or legislative
452 officeholder.

453 ~~[(2)]~~ (3) A legislative office candidate may not deposit or mingle any contributions or
454 public service assistance received into a personal or business account.

455 ~~[(3) A legislative office candidate may not make any political expenditures prohibited~~
456 ~~by law.]~~

457 (4) If a person ~~[who]~~ withdraws or is eliminated in a convention, primary, or regular
458 general election, or is no longer a legislative candidate ~~[chooses not to expend the monies~~
459 ~~remaining in his campaign account]~~, the person shall dispose of monies remaining in the
460 person's campaign account by:

461 (a) donating the monies to a registered political party or political action committee;

462 (b) donating the monies to the state General Fund;
463 (c) expending the monies for political purposes;
464 (d) donating the monies to a tax-exempt, nonprofit entity;
465 (e) repaying documented loans to the legislative office candidate's campaign;
466 (f) donating the monies to another candidate's campaign account;
467 (g) transferring the monies to another campaign account for the person to use as a
468 candidate for:
469 (i) a state or local elected office; or
470 (ii) a federal elected office, as may be permitted or required by federal law; or
471 (h) some combination of Subsections (4)(a) through (g).
472 (5) A person who withdraws, is eliminated, or is no longer a legislative candidate shall
473 continue to file the year-end summary report required by Section 20A-11-302 until the
474 statement of dissolution and final summary report required by Section 20A-11-304 are filed
475 with the lieutenant governor.

476 Section 5. Section **20A-11-402** is amended to read:

477 **20A-11-402. Officeholder financial reporting requirements -- Termination of**
478 **duty to report.**

479 (1) An officeholder is active and subject to reporting requirements until the
480 officeholder has filed a statement of dissolution with the lieutenant governor stating that:

481 (a) the officeholder is no longer receiving contributions or public service assistance and
482 is no longer making expenditures;

483 (b) the ending balance on the last summary report filed is zero and the balance in the
484 separate bank account required by Sections 20A-11-201 and 20A-11-301 is zero; and

485 (c) a final summary report in the form required by Section 20A-11-401 showing a zero
486 balance is attached to the statement of dissolution.

487 (2) A statement of dissolution and a final summary report may be filed at any time.

488 (3) Each officeholder shall continue to file the year-end summary report required by
489 Section 20A-11-401 until the statement of dissolution and final summary report required by
490 this section are filed with the lieutenant governor.

491 (4) When an officeholder leaves office, the person shall dispose of monies remaining
492 in the person's campaign account required by Sections 20A-11-201 and 20A-11-301 by:

(a) donating the monies to a registered political party or political action committee;

(b) donating the monies to the state General Fund;

(c) expending the monies for political purposes;

(d) donating the monies to a tax-exempt, nonprofit entity;

(e) repaying documented loans to the officeholder's campaign;

(f) donating the monies to another candidate's campaign account;

(g) transferring the monies to another campaign account for the person to use as a candidate for:

(i) a state or local elected office; or

(ii) a federal elected office, as may be permitted or required by federal law; or

(h) some combination of Subsections (4)(a) through (g).

Section 6. Section **20A-11-1002** is amended to read:

20A-11-1002. Retention and public inspection of financial statements -- Written complaint if statement is false or unlawful.

(1) The chief election officer shall:

(a) make each financial statement required by this chapter:

(i) open to public inspection in the office of the chief election officer; and

(ii) available [for viewing on the Internet] on an easily searchable Internet database at the lieutenant governor's website within seven calendar days after the report is received by the chief election officer;

(b) preserve ~~[those statements]~~ each statement for at least five years; and

(c) provide a certified ~~[copies of the]~~ copy of a financial [statements] statement in the same manner as for other public records.

(2) Any candidate or voter may file a written complaint with the chief election officer alleging that a filed financial statement does not conform to law or to the truth.

Section 7. Section **20A-11-1301** is amended to read:

20A-11-1301. School board office candidate -- Campaign requirements.

(1) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) A school board office candidate may not:

(a) make any expenditures for political purposes prohibited by law; and

(b) use monies in an account required by this section for a personal use expenditure.

~~[(2)]~~ (3) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

~~[(3) A school board office candidate may not make any political expenditures prohibited by law.]~~

(4) If a person ~~[who]~~ withdraws or is eliminated in a regular general election or is no longer a school board candidate ~~[chooses not to expend the monies remaining in his campaign account]~~, the person shall dispose of monies remaining in the person's campaign account by:

(a) donating the monies to a registered political party or political action committee;

(b) donating the monies to the state General Fund;

(c) expending the monies for political purposes;

(d) donating the monies to a tax-exempt, nonprofit entity;

(e) repaying documented loans to the school board office candidate's campaign;

(f) donating the monies to another candidate's campaign account;

(g) transferring the monies to another campaign account for the person to use as a candidate for:

(i) a state or local elected office; or

(ii) a federal elected office, as may be permitted or required by federal law; or

(h) some combination of Subsections (4)(a) through (g).

(5) A person who withdraws, is eliminated, or is no longer a school board candidate shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with:

(a) the lieutenant governor in the case of a state school board candidate; and

(b) the county clerk, in the case of a local school board candidate.

Section 8. Section **20A-12-301** is amended to read:

20A-12-301. Definitions.

As used in this part:

(1) (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 judge or the judge's personal campaign committee;

(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 judge or the judge's personal campaign committee;

(iii) any transfer of funds from another reporting entity or a corporation to the judge or the judge's personal campaign committee;

(iv) compensation paid by any person or reporting entity other than the judge or the judge's personal campaign committee for personal services provided without charge to the judge or the judge's personal campaign committee; and

(v) goods or services provided to or for the benefit of the judge or the judge's personal campaign committee 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 judge or the judge's personal campaign committee; or

(ii) money lent to the judge or the judge's personal campaign committee by a financial institution in the ordinary course of business.

(2) (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 political purposes.

(b) "Corporation" does not mean:

(i) a business organization's political action committee as defined in Section 20A-11-101 or political issues committee as defined in Section 20A-11-101; or

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

(3) "Detailed listing" means:

(a) for each contribution:

(i) the name ~~[and]~~, address, employer, and occupation of the individual or the name, address, and organization of the source making the contribution;

(ii) the amount or value of the contribution; and

(iii) the date the contribution was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

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

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

588 (iv) the date the expenditure was made.

589 (4) (a) "Expenditure" means:

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

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

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

597 (iv) compensation paid by a corporation or reporting entity for personal services
598 rendered by a person without charge to the judge or the judge's personal campaign committee;

599 (v) a transfer of funds between the judge's personal campaign committee and another
600 judge's personal campaign committee; or

601 (vi) goods or services provided by the judge's personal campaign committee to or for
602 the benefit of another judge for political purposes at less than fair market value.

603 (b) "Expenditure" does not include:

604 (i) services provided without compensation by individuals volunteering a portion or all
605 of their time on behalf of the judge or judge's personal campaign committee; or

606 (ii) money lent to a judge's personal campaign committee by a financial institution in
607 the ordinary course of business.

608 (5) "Individual" means a natural person.

609 (6) "Interim report" means a report identifying the contributions received and
610 expenditures made since the last report.

611 (7) "Personal campaign committee" means the committee appointed by a judge to act
612 for the judge as provided in this chapter.

613 (8) "Political purposes" means an act done with the intent or in a way to influence or
614 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
615 against any judge standing for retention at any election.

616 (9) "Reporting entity" means a judge, judge's personal campaign committee, candidate,

a candidate's personal campaign committee, an officeholder, and a party committee, a political action committee, and a political issues committee.

(10) "Summary report" means the year-end report containing the summary of a reporting entity's contributions and expenditures.

Section 9. Section **36-11-103** is amended to read:

36-11-103. Licensing requirements.

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the name and business address of each principal for whom the lobbyist works or is hired as an independent contractor;

(iii) a place for the name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose any elected or appointed position that the lobbyist holds in state or local government, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section; and

(ii) pays a \$25 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals

and expires on December 31 of each even-numbered year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) for the term of any suspension imposed under Section 36-11-401; or

(iv) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated [~~Section 36-11-103,~~] this section, Section 36-11-201, 36-11-203, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall deposit license fees in the General Fund.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by [~~Sections~~] Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any expenditures made to benefit public officials as required by [~~Sections~~] Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

Section 10. Section **36-11-201** is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Each lobbyist shall file quarterly financial reports with the lieutenant governor on or before the due dates under Subsection (2)(a).

(ii) If the lobbyist has not made an expenditure during the quarterly reporting period, the lobbyist shall file a quarterly financial report listing the amount of expenditures as "none."

(b) Each government officer or principal that makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a quarterly financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(2) (a) Quarterly expense reports shall be due on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.

(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report shall be considered to be due on the next succeeding business day.

(c) A financial report shall be considered timely filed if it is:

(i) postmarked on its due date; or

(ii) filed electronically on or before the due date.

(3) A quarterly financial report shall contain:

(a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;

(b) the total amount of expenditures made, by public official type, during the quarterly reporting period;

(c) for the report due on January 10:

(i) the total amount of expenditures made to benefit any public official during the last calendar year; and

(ii) the total amount of expenditures made, by public official type, during the last calendar year;

(d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for the travel or lodging expenses of a public official, including for each trip:

(i) the purpose and each destination of the trip;

(ii) the name of each public official that participated in the trip;

(iii) the public official type of each public official named;

(iv) for each public official named, a listing of the amount and purpose of each

expenditure made for travel or lodging that benefitted the public official; and

(v) the total amount of expenditures made to benefit each public official named;

(e) a disclosure of each expenditure made during the quarterly reporting period that was not disclosed under Subsection (3)(d), to be provided as follows:

(i) using Schedule A under Section 36-11-201.3, a disclosure of each of the following expenditures:

(A) an expenditure made for the cost or value of admission to a professional or collegiate sporting event;

~~[(B) an expenditure made for tangible personal property, if the aggregate daily expenditures benefitting the public official are greater than \$10;]~~

~~[(C)]~~ (B) an expenditure made for food or beverage, if the aggregate daily expenditures benefitting the public official are greater than ~~[\$50]~~ \$10, which disclosure shall include a statement of the business purpose of the expenditure made for food or beverage; and

~~[(D)]~~ (C) any expenditure not otherwise reported in Subsection (3)(d), or this Subsection (3)(e)(i), if the aggregate daily expenditures benefitting the public official are greater than ~~[\$50]~~ \$10; and

(ii) using Schedule B under Section 36-11-201.3, a disclosure of every expenditure not reported in Subsection (3)(d) or (3)(e)(i);

(f) for each public official who was employed by the lobbyist, principal, or government officer or who performed work as an independent contractor for the lobbyist, principal, or government officer during the last year, a list that provides:

(i) the name of the public official; and

(ii) the nature of the employment or contract with the public official;

(g) each bill or resolution, by number and short title, on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official for which a report is required by this section, if any;

(h) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official for which a report is required by this section, if any;

(i) the general purposes, interests, and nature of the organization or organizations that the lobbyist, principal, or government officer filing the report represents; and

(j) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) In reporting expenditures under this section for events to which all legislators are invited, each lobbyist, principal, and government officer:

(a) may not divide the cost of the event by the number of legislators who actually attend the event and report that cost as an expenditure made to those legislators;

(b) shall divide the total cost by the total number of Utah legislators and others invited to the event and report that quotient as the amount expended for each legislator who actually attended the event; and

(c) may not report any expenditure as made to a legislator who did not attend the event.

(5) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official under circumstances which would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(6) The lieutenant governor shall:

(a) (i) develop preprinted forms for all financial reports required by this section; and

(ii) make copies of the forms available to each person who requests them; and

(b) provide a reporting system that allows financial reports to be submitted via the Internet in accordance with the provisions of Subsection 20A-11-103(4).

(7) (a) Each lobbyist and each principal shall continue to file the quarterly financial reports required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

(i) states:

(A) for a lobbyist, that the lobbyist has ceased lobbying activities; or

(B) for a principal, that the principal no longer employs an individual as a lobbyist;

(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's license;

(iii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and

licensing requirements of this chapter.

(b) A lobbyist that fails to renew the lobbyist's license or otherwise ceases to be licensed shall be required to file quarterly reports until the lobbyist files the statement required by Subsection (7)(a).

Section 11. Section **36-11-203** is enacted to read:

36-11-203. Public official financial reporting requirements.

(1) (a) An expenditure for food or beverage that is required to be reported under Subsection 36-11-201(3)(e)(i)(B) by a lobbyist, principal, or government officer shall also be reported as required under this section.

(b) (i) Each public official who accepts food or beverage that is required to be disclosed under Subsection 36-11-201(3)(e)(i)(B) during any of the quarterly reporting periods listed in Section 36-11-201 shall file a quarterly financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(ii) The report shall include a statement of the business purpose of the expenditure for food or beverage that was accepted.

(2) (a) A lobbyist, principal, or government officer who gives food or beverage under Subsection (1), shall provide notice to the public official of the value of the food or beverage at the time that the food or beverage is given.

(b) A public official may rely on the value provided under Subsection (2)(a) when filing a financial report required under this section.

Section 12. Section **36-11-304** is amended to read:

36-11-304. Prohibition on certain gifts of real or tangible personal property.

(1) As used in this section:

(a) "Gift" means a transfer of real property or tangible personal property for less than fair and adequate consideration.

(b) "Gift" does not include a plaque, commendation, or award that is presented in public.

(2) Except as provided in Subsection (3), a lobbyist, principal, or government officer may not offer to or give any public official any gift or loan ~~[if the public official has been, or is now, or in the near future may be involved in any governmental action directly affecting the donor or lender].~~

(3) Subsection (2) does not apply to the following:

(a) an occasional nonpecuniary gift, having a value of not in excess of [~~\$50~~] \$10 per individual;

(b) an award publicly presented in recognition of public services;

(c) any bona fide loan made in the ordinary course of business; or

(d) gifts to a relative.

Section 13. Section ~~36-11-401~~ is amended to read:

36-11-401. Penalties.

(1) Any person who willfully and knowingly violates Section 36-11-103, 36-11-201, ~~36-11-203~~, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to \$5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who willfully and knowingly fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who willfully and knowingly fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of

834 conviction.

835 (5) (a) Any person who willfully and knowingly violates Section 36-11-301,
836 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

837 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted
838 under any of these sections for up to one year.

839 (c) The suspension shall be in addition to any administrative penalties imposed by the
840 lieutenant governor under this section.

841 (d) Any person with evidence of a possible violation of this chapter may submit that
842 evidence to the lieutenant governor for investigation and resolution.

843 (6) Nothing in this chapter creates a third-party cause of action or appeal rights.

Legislative Review Note
as of 12-18-08 6:53 AM

Office of Legislative Research and General Counsel

H.B. 84 - Campaign Financing and Gift Regulation

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill may require as much as \$80,000 one-time from the General Fund appropriated to the Lt. Governor in FY 2010 for tracking and reporting system development.

	<u>2009 Approp.</u>	<u>2010 Approp.</u>	<u>2011 Approp.</u>	<u>2009 Revenue</u>	<u>2010 Revenue</u>	<u>2011 Revenue</u>
General Fund, One-Time	\$0	\$80,000	\$0	\$0	\$0	\$0
Total	\$0	\$80,000	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Candidates, officeholders, governments, and other entities listed in the bill may be impacted. It is not possible at this time to determine the extent of the impacts.