

1 **ELECTION LAW - INDEPENDENT EXPENDITURES**

2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Douglas V. Sagers**

6 Senate Sponsor: Evan J. Vickers

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Election Code by adding provisions relating to independent
11 expenditures.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ requires that, when a person makes total independent expenditures (i.e., an
16 expenditure expressly advocating the success or defeat of a candidate or ballot
17 proposition that is not made in coordination with the candidate or certain other
18 persons) of \$1,000 or more, the person is required to file a report relating to the
19 independent expenditures;
- 20 ▶ describes the content of an independent expenditure report;
- 21 ▶ provides that an independent expenditure report is a public record;
- 22 ▶ requires a person who files an independent expenditure report to preserve records
23 relating to the report for at least two years; and
- 24 ▶ establishes penalties for failing to timely file an independent expenditure report.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **20A-11-1701**, Utah Code Annotated 1953

32 **20A-11-1702**, Utah Code Annotated 1953

33 **20A-11-1703**, Utah Code Annotated 1953

34 **20A-11-1704**, Utah Code Annotated 1953

35 **20A-11-1705**, Utah Code Annotated 1953

36 **20A-11-1706**, Utah Code Annotated 1953

37

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

39 Section 1. Section **20A-11-1701** is enacted to read:

40 **Part 17. Independent Expenditures**

41 **20A-11-1701. Title.**

42 This part is known as "Independent Expenditures."

43 Section 2. Section **20A-11-1702** is enacted to read:

44 **20A-11-1702. Definitions.**

45 As used in this part:

46 (1) "Clearly identified" means:

47 (a) the name of the candidate appears;

48 (b) a photograph or drawing of the candidate appears; or

49 (c) the identity of the candidate or ballot proposition is apparent by unambiguous

50 reference.

51 (2) (a) "Independent expenditure" means an expenditure by a person expressly
52 advocating the success or defeat of a clearly identified candidate or ballot proposition if the
53 expenditure is not made in coordination with, or at the request or suggestion of:

54 (i) a candidate;

55 (ii) a candidate's personal campaign committee;

56 (iii) a member of a candidate's personal campaign committee;

57 (iv) a political action committee for which the candidate is an officer with primary

58 decision making authority;
59 (v) an agent of a candidate; or
60 (vi) a political issues committee.
61 (b) "Independent expenditure" includes:
62 (i) the cost of creating and disseminating material for a public communication,
63 including design and production costs; and
64 (ii) a contract or other promise to make an expenditure described in Subsection (2)(a)
65 or (2)(b)(i).
66 (3) (a) "Public communication" means a communication by:
67 (i) broadcast, cable, satellite communication, newspaper, magazine, outdoor
68 advertising facility, mass mailing, or telephone bank; or
69 (ii) another medium used for political advertising to the general public.
70 (b) "Public communication" does not include:
71 (i) a news story, a commentary, or an editorial disseminated by a broadcasting station,
72 including a cable television operator, programmer, or producer, satellite television or radio
73 provider, website, newspaper, magazine, or other periodical publication, that is not controlled
74 by a candidate or political party; or
75 (ii) a candidate debate or forum.
76 (4) "Telephone bank" means 500 or more identical or substantially similar telephone
77 calls within any 30-day period.

78 Section 3. Section **20A-11-1703** is enacted to read:

79 **20A-11-1703. Exception.**

80 A registered political party is not required to comply with the requirements of this part.

81 Section 4. Section **20A-11-1704** is enacted to read:

82 **20A-11-1704. Independent expenditure report.**

83 (1) Except as provided in Section [20A-11-1703](#), within 30 days after the day on which
84 a person has made a total of at least \$1,000 in independent expenditures during an election
85 cycle, the person shall file an independent expenditure report with the chief election officer.

86 (2) Except as provided in Section 20A-11-1703, within 30 days after the day on which
87 a person has made a total of at least \$1,000 in independent expenditures during an election
88 cycle that were not reported in an independent expenditure report already filed with the chief
89 election officer during the same election cycle, the person shall file another independent
90 expenditure report with the chief election officer.

91 (3) An independent expenditure report shall include the following information:

92 (a) if the person who made the independent expenditures is an individual, the person's
93 name, address, and phone number;

94 (b) if the person who made the independent expenditures is not an individual:

95 (i) the person's name, address, and phone number; and

96 (ii) the name, address, and phone number of an individual who may be contacted by the
97 chief election officer in relation to the independent expenditure report; and

98 (c) for each independent expenditure made by the person during the current election
99 cycle that was not reported in a previous independent expenditure report:

100 (i) the date of the independent expenditure;

101 (ii) the amount of the independent expenditure;

102 (iii) the candidate or ballot proposition for which the independent expenditure
103 expressly advocates the success or defeat and a description of whether the independent
104 expenditure supports or opposes the candidate or ballot proposition;

105 (iv) the identity, address, and phone number of the person to whom the independent
106 expenditure was made;

107 (v) a description of the goods or services obtained by the independent expenditure; and

108 (vi) for each person who, for political purposes, made cumulative donations of \$1,000
109 or more during the current election cycle to the filer of the independent expenditure report:

110 (A) the identity, address, and phone number of the person;

111 (B) the date of the donation; and

112 (C) the amount of the donation.

113 (4) (a) If the person filing an independent expenditure report is an individual, the

114 person shall sign the independent expenditure report and certify that the information contained
115 in the report is complete and accurate.

116 (b) If the person filing an independent expenditure report is not an individual:

117 (i) the person filing the independent expenditure report shall designate an authorized
118 individual to sign the independent expenditure report on behalf of the person; and

119 (ii) the individual designated under Subsection (4)(b)(i) shall sign the independent
120 expenditure report and certify that the information contained in the report is complete and
121 accurate.

122 (5) If a person who files an independent expenditure report previously filed an
123 independent expenditure report during, or in relation to, the same election cycle that includes
124 information, described in Subsection (3)(a) or (b), that has changed since the person filed the
125 previous independent expenditure report, the person shall include in the most recent
126 independent expenditure report a description of the information that has changed that includes
127 both the old information and the new information.

128 (6) An independent expenditure report is a public record under Title 63G, Chapter 2,
129 Government Records Access and Management Act.

130 Section 5. Section **20A-11-1705** is enacted to read:

131 **20A-11-1705. Detailed records.**

132 A person who files an independent expenditure report shall keep records of all
133 independent expenditures made by the person, including receipts, and all donations described
134 in Subsection [20A-11-1704\(3\)\(c\)\(vi\)](#), for at least two years after the day on which the
135 independent expenditure report to which the records relate is filed.

136 Section 6. Section **20A-11-1706** is enacted to read:

137 **20A-11-1706. Penalties.**

138 (1) The chief election officer shall impose a \$100 fine against an individual who fails
139 to file an independent expenditure report within the time period required by this part.

140 (2) The chief election officer shall impose a \$1000 fine against a person who is not an
141 individual who fails to file an independent expenditure report within the time period required

142 by this part.

143 (3) The chief election officer shall deposit fines collected under this chapter in the

144 General Fund.