

1 **CAMPAIGN CONTRIBUTION AND PUBLIC SERVICE**
2 **ASSISTANCE DISCLOSURE AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kraig Powell**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Election Code by amending provisions relating to campaign
11 contributions and public service assistance.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires the lieutenant governor to establish and maintain, on the lieutenant
15 governor's website, a searchable database of reporting entities, principals, and
16 lobbyists;
- 17 ▶ requires a detailed listing in a financial statement to indicate whether the individual
18 or source that makes a contribution or provides public service assistance is a
19 reporting entity, principal, or lobbyist;
- 20 ▶ imposes criminal penalties and a civil fine against a reporting entity that fails to
21 timely file a corrected financial statement after the lieutenant governor provides
22 notice that the reporting entity failed to comply with the requirements described in
23 the preceding paragraph; and
- 24 ▶ makes technical changes.

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-11-105**, Utah Code Annotated 1953



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

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

37 **20A-11-101. Definitions.**

38 As used in this chapter:

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

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

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

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

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

49 (4) "Chief election officer" means:

50 (a) the lieutenant governor for state office candidates, legislative office candidates,
51 officeholders, political parties, political action committees, corporations, political issues
52 committees, state school board candidates, judges, and labor organizations, as defined in
53 Section **20A-11-1501**; and

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

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

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

58 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,

59 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
60 anything of value to the filing entity;

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

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

64 (v) remuneration from:

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

66 or

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

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

70 (b) "Contribution" does not include:

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

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

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

78 (6) "Coordinated with" means that goods or services provided for the benefit of a
79 candidate or political party are provided:

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

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

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

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

86 (7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business
87 organization that is registered as a corporation or is authorized to do business in a state and
88 makes any expenditure from corporate funds for:

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

90 (ii) the purpose of expressly advocating the approval or the defeat of any ballot
91 proposition.

92 (b) "Corporation" does not mean:

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

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

95 (8) "County political party" means, for each registered political party, all of the persons
96 within a single county who, under definitions established by the political party, are members of
97 the registered political party.

98 (9) "County political party officer" means a person whose name is required to be
99 submitted by a county political party to the lieutenant governor in accordance with Section
100 [20A-8-402](#).

101 (10) "Detailed listing" means:

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

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

105 (ii) if, when the reporting entity files the financial statement, the individual or source
106 that made the contribution or provided the public service assistance being reported is listed on
107 the lieutenant governor's website as a reporting entity, a principal as defined in Section
108 [36-11-102](#), or a lobbyist as defined in Section [36-11-102](#), an indication that the individual or
109 source is:

110 (A) a reporting entity;

111 (B) a principal as defined in Section [36-11-102](#); or

112 (C) a lobbyist as defined in Section [36-11-102](#);

113 [~~(i)~~] (iii) the amount or value of the contribution or public service assistance; and

114 [~~(ii)~~] (iv) the date the contribution or public service assistance was made; and

115 (b) for each expenditure:

116 (i) the amount of the expenditure;

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

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

119 (iv) the date the expenditure was made.

120 (11) (a) "Donor" means a person that gives money, including a fee, due, or assessment

121 for membership in the corporation, to a corporation without receiving full and adequate
122 consideration for the money.

123 (b) "Donor" does not include a person that signs a statement that the corporation may
124 not use the money for an expenditure or political issues expenditure.

125 (12) "Election" means each:

126 (a) regular general election;

127 (b) regular primary election; and

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

129 (13) "Electioneering communication" means a communication that:

130 (a) has at least a value of \$10,000;

131 (b) clearly identifies a candidate or judge; and

132 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising
133 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly
134 identified candidate's or judge's election date.

135 (14) (a) "Expenditure" means:

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

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

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

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

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

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

149 (b) "Expenditure" does not include:

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

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

154 (iii) anything listed in Subsection (14)(a) that is given by a reporting entity to
155 candidates for office or officeholders in states other than Utah.

156 (15) "Federal office" means the office of President of the United States, United States
157 Senator, or United States Representative.

158 (16) "Filing entity" means the reporting entity that is required to file a financial
159 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

160 (17) "Financial statement" includes any summary report, interim report, verified
161 financial statement, or other statement disclosing contributions, expenditures, receipts,
162 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial
163 Retention Elections.

164 (18) "Governing board" means the individual or group of individuals that determine the
165 candidates and committees that will receive expenditures from a political action committee,
166 political party, or corporation.

167 (19) "Incorporation" means the process established by Title 10, Chapter 2, Part 1,
168 Incorporation, by which a geographical area becomes legally recognized as a city or town.

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

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

171 (22) "Individual" means a natural person.

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

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

177 (25) "Legislative office candidate" means a person who:

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

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

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

183 receive contributions or make expenditures to bring about the person's nomination, election, or
184 appointment to a legislative office.

185 (26) "Major political party" means either of the two registered political parties that
186 have the greatest number of members elected to the two houses of the Legislature.

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

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

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

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

195 (31) "Personal use expenditure" has the same meaning as provided under Section
196 [20A-11-104](#).

197 (32) (a) "Political action committee" means an entity, or any group of individuals or
198 entities within or outside this state, a major purpose of which is to:

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

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

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

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

207 (i) a party committee;

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

210 (iii) an individual;

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

213 (v) a corporation, except a corporation a major purpose of which is to act as a political

214 action committee; or

215 (vi) a personal campaign committee.

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

218 (34) (a) "Political issues committee" means an entity, or any group of individuals or
219 entities within or outside this state, a major purpose of which is to:

220 (i) solicit or receive donations from any other person, group, or entity to assist in
221 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or
222 to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

223 (ii) make expenditures to expressly advocate for any person to sign or refuse to sign a
224 ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any
225 proposed ballot proposition or an incorporation in an incorporation election; or

226 (iii) make expenditures to assist in qualifying or placing a ballot proposition on the
227 ballot or to assist in keeping a ballot proposition off the ballot.

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

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

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

232 (iii) an individual;

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

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

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

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

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

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

244 (iv) compensation paid by another reporting entity for personal services rendered

245 without charge to a political issues committee; and

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

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

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

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

253 (36) (a) "Political issues expenditure" means any of the following:

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

256 (A) a ballot proposition; or

257 (B) an incorporation petition or incorporation election;

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

260 (A) a ballot proposition; or

261 (B) an incorporation petition or incorporation election;

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

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

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

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

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

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

273 (37) "Political purposes" means an act done with the intent or in a way to influence or
274 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
275 against any candidate or a person seeking a municipal or county office at any caucus, political

276 convention, or election.

277 (38) (a) "Poll" means the survey of a person regarding the person's opinion or
278 knowledge of an individual who has filed a declaration of candidacy for public office, or of a
279 ballot proposition that has legally qualified for placement on the ballot, which is conducted in
280 person or by telephone, facsimile, Internet, postal mail, or email.

281 (b) "Poll" does not include:

282 (i) a ballot; or

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

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

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

286 (39) "Primary election" means any regular primary election held under the election
287 laws.

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

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

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

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

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

300 (i) anything provided by the state;

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

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

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

306 (v) any article, story, or other coverage as part of any regular publication of any

307 organization unless substantially all the publication is devoted to information about the
308 officeholder.

309 (42) "Publicly identified class of individuals" means a group of 50 or more individuals
310 sharing a common occupation, interest, or association that contribute to a political action
311 committee or political issues committee and whose names can be obtained by contacting the
312 political action committee or political issues committee upon whose financial statement the
313 individuals are listed.

314 (43) "Receipts" means contributions and public service assistance.

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

317 (45) "Registered political action committee" means any political action committee that
318 is required by this chapter to file a statement of organization with the Office of the Lieutenant
319 Governor.

320 (46) "Registered political issues committee" means any political issues committee that
321 is required by this chapter to file a statement of organization with the Office of the Lieutenant
322 Governor.

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

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

327 (b) has complied with the petition and organizing procedures of Chapter 8, Political
328 Party Formation and Procedures.

329 (48) (a) "Remuneration" means a payment:

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

331 (ii) that is approximately equivalent to an amount a legislator would have earned
332 during the period the Legislature is in session in the legislator's ordinary course of business.

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

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

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

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

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

338 (49) "Reporting entity" means a candidate, a candidate's personal campaign committee,
339 a judge, a judge's personal campaign committee, an officeholder, a party committee, a political
340 action committee, a political issues committee, a corporation, or a labor organization, as
341 defined in Section [20A-11-1501](#).

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

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

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

348 (52) "State office" means the offices of governor, lieutenant governor, attorney general,
349 state auditor, and state treasurer.

350 (53) "State office candidate" means a person who:

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

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

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

357 (55) "Supervisory board" means the individual or group of individuals that allocate
358 expenditures from a political issues committee.

359 Section 2. Section **20A-11-105** is enacted to read:

360 **20A-11-105. Database of reporting entities, principals, and lobbyists.**

361 (1) As used in this section:

362 (a) "Lobbyist" is as defined in Section [36-11-102](#).

363 (b) "Principal" is as defined in Section [36-11-102](#).

364 (2) Beginning on July 1, 2014, the lieutenant governor shall establish and maintain a
365 database of each reporting entity, principal, or lobbyist.

366 (3) The lieutenant governor shall:

367 (a) ensure that the database described in Subsection (2):

368 (i) identifies whether each person in the database is a reporting entity, a principal, or a

369 lobbyist; and
370 (ii) is accessible and searchable by name from:
371 (A) a conspicuous link on the home page of the lieutenant governor's website; and
372 (B) the location on the lieutenant governor's website where a reporting entity completes
373 a financial statement; and
374 (b) keep a record of the day on which the lieutenant governor adds:
375 (i) a reporting entity, principal, or lobbyist to the database; or
376 (ii) a designation that a person in the database is a reporting entity, principal, or
377 lobbyist.
378 (4) (a) If it appears that a reporting entity has failed to include in a detailed listing an
379 indication required under Subsection [20A-11-101\(10\)\(a\)\(ii\)](#), the lieutenant governor shall,
380 within five days after the day on which the lieutenant governor discovers the failure, notify the
381 reporting entity of the failure and direct the reporting entity to file a financial statement
382 correcting the failure.
383 (b) It is unlawful for a reporting entity to fail to file a corrected financial statement
384 described in Subsection (4)(a) within seven days after the day on which the reporting entity
385 receives the notice described in Subsection (4)(a).
386 (c) A reporting entity that violates Subsection (4)(b) is guilty of a class B
387 misdemeanor.
388 (d) The lieutenant governor shall report all violations of Subsection (4)(b) to the
389 attorney general.
390 (e) In addition to the criminal penalty described in Subsection (4)(c), the lieutenant
391 governor shall impose a civil fine of \$100 against a reporting entity that violates Subsection
392 (4)(b).

Legislative Review Note
as of 12-23-13 2:10 PM

Office of Legislative Research and General Counsel