

CAMPAIGN FINANCE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

This bill amends provisions relating to campaign finance reporting requirements.

Highlighted Provisions:

This bill:

- ▶ clarifies and modifies financial reporting requirements for a political action committee;
- ▶ enacts penalties for failure to comply with political action committee financial reporting requirements; and
- ▶ requires a corporation to make financial disclosures for certain donations made to the corporation with the knowledge or intent that the donated money will be used by the corporation for political purposes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-601, as last amended by Laws of Utah 2018, Chapter 83



28 **20A-11-602**, as last amended by Laws of Utah 2018, Chapter 83
 29 **20A-11-701**, as last amended by Laws of Utah 2017, Chapter 276
 30 **20A-11-702**, as last amended by Laws of Utah 2017, Chapter 276



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **20A-11-601** is amended to read:

34 **20A-11-601. Political action committees -- Registration -- Criminal penalty for**
 35 **providing false information or accepting unlawful contribution.**

36 (1) (a) Each political action committee shall file a statement of organization with the
 37 lieutenant governor's office by January 10 of each year, unless the political action committee
 38 has filed a notice of dissolution under Subsection (4).

39 (b) If a political action committee is organized after the January 10 filing date, the
 40 political action committee shall file an initial statement of organization no later than seven days
 41 after the earlier of the day on which the political action committee:

42 (i) ~~[receiving]~~ receives contributions totaling at least \$750; or

43 (ii) ~~[distributing]~~ makes expenditures for political purposes totaling at least \$750.

44 (c) Except as provided in Subsection (1)(d), the lieutenant governor shall fine a
 45 political action committee \$100 for failing to timely comply with Subsection (1)(a) or (b).

46 (d) The lieutenant governor may waive the fine described in Subsection (1)(c) and
 47 issue a warning to the political action committee if:

48 (i) the political action committee has not previously violated Subsection (1)(a) or (b);

49 (ii) the lieutenant governor determines that the failure to timely comply with
 50 Subsection (1)(a) or (b) is due to a lack of knowledge of the requirements described in
 51 Subsection (1)(a) or (b); and

52 (iii) the political action committee promptly complies with Subsection (1)(a) or (b), as
 53 applicable, after becoming aware of the requirement.

54 ~~[(e)]~~ (e) Each political action committee shall deposit each contribution received in one
 55 or more separate accounts in a financial institution that are dedicated only to that purpose.

56 (2) (a) Each political action committee shall designate two officers who have primary
 57 decision-making authority for the political action committee.

58 (b) A person may not exercise primary decision-making authority for a political action

59 committee who is not designated under Subsection (2)(a).

60 (3) The statement of organization shall include:

61 (a) the name and address of the political action committee;

62 (b) the name, street address, phone number, occupation, and title of the two primary
63 officers designated under Subsection (2)(a);

64 (c) the name, street address, occupation, and title of all other officers of the political
65 action committee;

66 (d) the name and street address of the organization, individual corporation, association,
67 unit of government, or union that the political action committee represents, if any;

68 (e) the name and street address of all affiliated or connected organizations and their
69 relationships to the political action committee;

70 (f) the name, street address, business address, occupation, and phone number of the
71 committee's treasurer or chief financial officer; and

72 (g) the name, street address, and occupation of each member of the governing and
73 advisory boards, if any.

74 (4) (a) Any registered political action committee that intends to permanently cease
75 operations shall file a notice of dissolution with the lieutenant governor's office.

76 (b) Any notice of dissolution filed by a political action committee does not exempt that
77 political action committee from complying with the financial reporting requirements of this
78 chapter.

79 (5) (a) Unless the political action committee has filed a notice of dissolution under
80 Subsection (4), a political action committee shall file, with the lieutenant governor's office,
81 notice of any change of an officer described in Subsection (2)(a).

82 (b) Notice of a change of a primary officer described in Subsection (2)(a) shall:

83 (i) be filed within 10 days of the date of the change; and

84 (ii) contain the name and title of the officer being replaced, and the name, street
85 address, occupation, and title of the new officer.

86 (6) (a) A person is guilty of providing false information in relation to a political action
87 committee if the person intentionally or knowingly gives false or misleading material
88 information in the statement of organization or the notice of change of primary officer.

89 (b) Each primary officer designated in Subsection (2)(a) is guilty of accepting an

90 unlawful contribution if the political action committee knowingly or recklessly accepts a
91 contribution from a corporation that:

- 92 (i) was organized less than 90 days before the date of the general election; and
- 93 (ii) at the time the political action committee accepts the contribution, has failed to file
94 a statement of organization with the lieutenant governor's office as required by Section
95 [20A-11-704](#).

96 (c) A violation of this Subsection (6) is a third degree felony.

97 Section 2. Section **20A-11-602** is amended to read:

98 **20A-11-602. Political action committees -- Financial reporting.**

99 (1) (a) Each registered political action committee that has received contributions
100 totaling at least \$750, or disbursed expenditures totaling at least \$750, during a calendar year
101 shall file a verified financial statement with the lieutenant governor's office:

- 102 (i) on January 10, reporting contributions and expenditures as of December 31 of the
103 previous year;
- 104 (ii) seven days before the state political convention of each major political party;
- 105 (iii) seven days before the regular primary election date;
- 106 (iv) on September 30; and
- 107 (v) seven days before:
 - 108 (A) the municipal general election; and
 - 109 (B) the regular general election date.
- 110 (b) The registered political action committee shall report:
 - 111 (i) a detailed listing of all contributions received and expenditures made since the last
112 statement; and
 - 113 (ii) for a financial statement described in Subsections (1)(a)(ii) through (iv), all
114 contributions and expenditures as of five days before the required filing date of the financial
115 statement.

116 (c) The registered political action committee need not file a statement under this
117 section if it received no contributions and made no expenditures during the reporting period.

118 (2) (a) The verified financial statement shall include:

- 119 (i) the name and address of any individual who makes a contribution to the reporting
120 political action committee, if known, and the amount of the contribution;

121 (ii) the identification of any publicly identified class of individuals that makes a
122 contribution to the reporting political action committee, if known, and the amount of the
123 contribution;

124 (iii) the name and address of any political action committee, group, or entity, if known,
125 that makes a contribution to the reporting political action committee, and the amount of the
126 contribution;

127 (iv) for each nonmonetary contribution, the fair market value of the contribution;

128 (v) the name and address of each reporting entity that received an expenditure from the
129 reporting political action committee, and the amount of each expenditure;

130 (vi) for each nonmonetary expenditure, the fair market value of the expenditure;

131 (vii) the total amount of contributions received and expenditures disbursed by the
132 reporting political action committee;

133 (viii) a statement by the political action committee's treasurer or chief financial officer
134 certifying that, to the best of the person's knowledge, the financial report is accurate; and

135 (ix) a summary page in the form required by the lieutenant governor that identifies:

136 (A) beginning balance;

137 (B) total contributions during the period since the last statement;

138 (C) total contributions to date;

139 (D) total expenditures during the period since the last statement; and

140 (E) total expenditures to date.

141 (b) (i) Contributions received by a political action committee that have a value of \$50
142 or less need not be reported individually, but shall be listed on the report as an aggregate total.

143 (ii) Two or more contributions from the same source that have an aggregate total of
144 more than \$50 may not be reported in the aggregate, but shall be reported separately.

145 (3) A group or entity may not divide or separate into units, sections, or smaller groups
146 for the purpose of avoiding the financial reporting requirements of this chapter, and substance
147 shall prevail over form in determining the scope or size of a political action committee.

148 (4) (a) As used in this Subsection (4), "received" means:

149 (i) for a cash contribution, that the cash is given to a political action committee;

150 (ii) for a contribution that is a negotiable instrument or check, that the negotiable
151 instrument or check is negotiated; and

152 (iii) for any other type of contribution, that any portion of the contribution's benefit
153 inures to the political action committee.

154 (b) A political action committee shall report each contribution to the lieutenant
155 governor;

156 (i) except as provided in Subsection (4)(b)(ii), within 31 days after the day on which
157 the contribution is received[-]; or

158 (ii) within three business days after the day on which the contribution is received, if:

159 (A) the contribution is received within 30 days before the day on which a state or
160 county convention for a registered political party is held;

161 (B) the contribution is received within 30 days before the day on which the primary
162 election is held; or

163 (C) the contribution is received within 30 days before the day on which the general
164 election is held.

165 (c) For each contribution that a political action committee fails to report within the
166 time period described in Subsection (4)(b), the lieutenant governor shall impose a fine against
167 the political action committee in an amount equal to:

168 (i) 10% of the amount of the contribution, if the political action committee reports the
169 contribution within 60 days after the day on which the time period described in Subsection
170 (4)(b) ends; or

171 (ii) 20% of the amount of the contribution, if the political action committee fails to
172 report the contribution within 60 days after the day on which the time period described in
173 Subsection (4)(b) ends.

174 (5) A political action committee may not expend a contribution for political purposes if
175 the contribution:

176 (a) is cash or a negotiable instrument;

177 (b) exceeds \$50; and

178 (c) is from an unknown source.

179 (6) Within 31 days after receiving a contribution that is cash or a negotiable
180 instrument, exceeds \$50, and is from an unknown source, a political action committee shall
181 disburse the amount of the contribution to:

182 (a) the treasurer of the state or a political subdivision for deposit into the state's or

183 political subdivision's general fund; or

184 (b) an organization that is exempt from federal income taxation under Section
185 501(c)(3), Internal Revenue Code.

186 Section 3. Section **20A-11-701** is amended to read:

187 **20A-11-701. Campaign financial reporting by corporations -- Filing requirements**
188 **-- Statement contents.**

189 (1) (a) Each corporation that has made expenditures for political purposes that total at
190 least \$750 during a calendar year shall file a verified financial statement with the lieutenant
191 governor's office:

192 (i) on January 10, reporting expenditures as of December 31 of the previous year;

193 (ii) seven days before the state political convention for each major political party;

194 (iii) seven days before the regular primary election date;

195 (iv) on September 30; and

196 (v) seven days before the regular general election date.

197 (b) The corporation shall report:

198 (i) a detailed listing of all expenditures made since the last financial statement;

199 (ii) for a financial statement described in Subsections (1)(a)(ii) through (v), all
200 expenditures as of five days before the required filing date of the financial statement; [~~and~~]

201 (iii) for each person who, during the period beginning one year before the day on which
202 the corporation files the report and ending when the corporation files the report, donates a total
203 of \$100 or more to the corporation with the knowledge or intent that the money will be used by
204 the corporation for an expenditure for political purposes:

205 (A) the name and address of the person; and

206 (B) the amount donated by the person that was not included in a previous report; and

207 [(iii)] (iv) whether the corporation, including an officer of the corporation, director of
208 the corporation, or person with at least 10% ownership in the corporation:

209 (A) has bid since the last financial statement on a contract, as defined in Section
210 [63G-6a-103](#), in excess of \$100,000;

211 (B) is currently bidding on a contract, as defined in Section [63G-6a-103](#), in excess of
212 \$100,000; or

213 (C) is a party to a contract, as defined in Section [63G-6a-103](#), in excess of \$100,000.

214 (c) The corporation need not file a financial statement under this section if the
215 corporation:

216 (i) made no expenditures during the reporting period[-]; and

217 (ii) is not required, for the reporting period, to report the information described in

218 Subsection (1)(b)(iii).

219 (d) The corporation is not required to report an expenditure made to, or on behalf of, a
220 reporting entity that the reporting entity is required to include in a financial statement described
221 in this chapter or Chapter 12, Part 2, Judicial Retention Elections.

222 (2) The financial statement shall include:

223 (a) the name and address of each reporting entity that received an expenditure from the
224 corporation, and the amount of each expenditure;

225 (b) the total amount of expenditures disbursed by the corporation; and

226 (c) a statement by the corporation's treasurer or chief financial officer certifying the
227 accuracy of the financial statement.

228 Section 4. Section **20A-11-702** is amended to read:

229 **20A-11-702. Campaign financial reporting of political issues expenditures by**
230 **corporations -- Financial reporting.**

231 (1) (a) Each corporation that has made political issues expenditures on current or
232 proposed ballot issues that total at least \$750 during a calendar year shall file a verified
233 financial statement with the lieutenant governor's office:

234 (i) on January 10, reporting expenditures as of December 31 of the previous year;

235 (ii) seven days before the state political convention of each major political party;

236 (iii) seven days before the regular primary election date;

237 (iv) on September 30; and

238 (v) seven days before the regular general election date.

239 (b) The corporation shall report:

240 (i) a detailed listing of all expenditures made since the last financial statement; ~~and~~

241 (ii) for a financial statement described in Subsections (1)(a)(ii) through (v),

242 expenditures as of five days before the required filing date of the financial statement[-]; and

243 (iii) for each person who, during the period beginning one year before the day on which

244 the corporation files the report and ending when the corporation files the report, donates a total

245 of \$100 or more to the corporation with the knowledge or intent that the money will be used by
246 the corporation for a political issues expenditure:

247 (A) the name and address of the person; and

248 (B) the amount donated by the person that was not included in a previous report.

249 (c) The corporation need not file a statement under this section if [it] the corporation:

250 (i) made no political issues expenditures during the reporting period[-]; and

251 (ii) is not required, for the reporting period, to report the information described in

252 Subsection (1)(b)(iii).

253 (2) That statement shall include:

254 (a) the name and address of each individual, entity, or group of individuals or entities
255 that received a political issues expenditure of more than \$50 from the corporation, and the
256 amount of each political issues expenditure;

257 (b) the total amount of political issues expenditures disbursed by the corporation; and

258 (c) a statement by the corporation's treasurer or chief financial officer certifying the
259 accuracy of the verified financial statement.