

1 **CAMPAIGN FINANCE REPORTING IN LOCAL ELECTIONS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kenneth W. Sumsion**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends and enacts provisions related to campaign finance reporting in county
10 elections.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ exempts a county of the first or second class from the requirement to adopt an
- 15 ordinance establishing campaign finance disclosure requirements for candidates for
- 16 county office;
- 17 ▶ requires a candidate to deposit contributions in a separate account;
- 18 ▶ establishes requirements for former candidates;
- 19 ▶ requires a candidate for county office in a county of the first or second class to
- 20 report contributions within 30 days, and file interim and year-end summary reports
- 21 with the lieutenant governor;
- 22 ▶ establishes penalties for failure to file a report; and
- 23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17-16-6.5**, as last amended by Laws of Utah 2008, Chapter 49

31 **20A-11-101**, as last amended by Laws of Utah 2011, Chapter 396

32 ENACTS:

33 **20A-11-1701**, Utah Code Annotated 1953

34 **20A-11-1702**, Utah Code Annotated 1953

35 **20A-11-1703**, Utah Code Annotated 1953

36 **20A-11-1704**, Utah Code Annotated 1953

37 **20A-11-1705**, Utah Code Annotated 1953



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

40 Section 1. Section **17-16-6.5** is amended to read:

41 **17-16-6.5. Campaign financial disclosure in county elections.**

42 (1) As used in this section, "county" means a county of the third, fourth, fifth, or sixth
43 class.

44 ~~[(+)]~~ (2) (a) ~~[By January 1, 1996, each]~~ Each county shall adopt an ordinance
45 establishing campaign finance disclosure requirements for candidates for county office.

46 (b) The ordinance shall include:

47 (i) a requirement that each candidate for county office report his itemized and total
48 campaign contributions and expenditures at least once within the two weeks before the election
49 and at least once within two months after the election;

50 (ii) a definition of "contribution" and "expenditure" that requires reporting of
51 nonmonetary contributions such as in-kind contributions and contributions of tangible things;
52 and

53 (iii) a requirement that the financial reports identify:

54 (A) for each contribution of more than \$50, the name of the donor of the contribution
55 and the amount of the contribution; and

56 (B) for each expenditure, the name of the recipient and the amount of the expenditure.

57 ~~[(2)(a)]~~ (3) ~~[Except as provided in Subsection (2)(b), if any county fails to adopt]~~ If a
58 county does not have a campaign finance disclosure ordinance ~~[by January 1, 1996]~~, candidates

59 for county office shall comply with the financial reporting requirements contained in
60 Subsections ~~[(3)]~~ (4) through ~~[(6)]~~ (7).

61 ~~[(b) If, after August 1, 1995, any county adopts a campaign finance ordinance meeting~~
62 ~~the requirements of Subsection (1), that county need not comply with the requirements of~~
63 ~~Subsections (3) through (6).]~~

64 ~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), and if there is no county
65 ordinance meeting the requirements of this section, each candidate for elective office in any
66 county who is not required to submit a campaign financial statement to the lieutenant governor
67 shall file a signed campaign financial statement with the county clerk:

68 (i) seven days before the date of the regular general election, reporting each
69 contribution of more than \$50 and each expenditure as of 10 days before the date of the regular
70 general election; and

71 (ii) no later than 30 days after the date of the regular general election.

72 (b) Candidates for community council offices are exempt from the requirements of this
73 section.

74 ~~[(4)]~~ (5) (a) The statement filed seven days before the regular general election shall
75 include:

76 (i) a list of each contribution of more than \$50 received by the candidate, and the name
77 of the donor;

78 (ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

79 (iii) a list of each expenditure for political purposes made during the campaign period,
80 and the recipient of each expenditure.

81 (b) The statement filed 30 days after the regular general election shall include:

82 (i) a list of each contribution of more than \$50 received after the cutoff date for the
83 statement filed seven days before the election, and the name of the donor;

84 (ii) an aggregate total of all contributions of \$50 or less received by the candidate after
85 the cutoff date for the statement filed seven days before the election; and

86 (iii) a list of all expenditures for political purposes made by the candidate after the
87 cutoff date for the statement filed seven days before the election, and the recipient of each
88 expenditure.

89 ~~[(5)]~~ (6) Candidates for elective office in any county who are eliminated at a primary

90 election shall file a signed campaign financial statement containing the information required by
91 this section not later than 30 days after the primary election.

92 ~~[(6)]~~ (7) Any person who fails to comply with this section is guilty of an infraction.

93 ~~[(7)]~~ (8) Counties may, by ordinance, enact requirements that:

94 (a) require greater disclosure of campaign contributions and expenditures; and

95 (b) impose additional penalties.

96 ~~[(8)]~~ (9) (a) If a candidate fails to file an interim report due before the election, the

97 county clerk shall, after making a reasonable attempt to discover if the report was timely

98 mailed, inform the appropriate election officials who:

99 (i) shall, if practicable, remove the name of the candidate by blacking out the
100 candidate's name before the ballots are delivered to voters; or

101 (ii) shall, if removing the candidate's name from the ballot is not practicable, inform
102 the voters by any practicable method that the candidate has been disqualified and that votes
103 cast for the candidate will not be counted; and

104 (iii) may not count any votes for that candidate.

105 (b) Notwithstanding Subsection ~~[(8)]~~ (9)(a), a candidate is not disqualified if:

106 (i) the candidate files the reports required by this section;

107 (ii) those reports are completed, detailing accurately and completely the information
108 required by this section except for inadvertent omissions or insignificant errors or inaccuracies;
109 and

110 (iii) those omissions, errors, or inaccuracies are corrected in an amended report or in
111 the next scheduled report.

112 (c) A report is considered filed if:

113 (i) it is received in the county clerk's office no later than 5 p.m. on the date that it is
114 due;

115 (ii) it is received in the county clerk's office with a ~~[U.S.]~~ United States Postal Service
116 postmark three days or more before the date that the report was due; or

117 (iii) the candidate has proof that the report was mailed, with appropriate postage and
118 addressing, three days before the report was due.

119 ~~[(9)]~~ (10) (a) Any private party in interest may bring a civil action in district court to
120 enforce the provisions of this section or any ordinance adopted under this section.

121 (b) In a civil action filed under Subsection [~~(9)~~] (10)(a), the court shall award costs and
122 attorney's fees to the prevailing party.

123 [~~(10)~~] (11) Notwithstanding any provision of Title 63G, Chapter 2, Government
124 Records Access and Management Act, the county clerk shall:

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

127 (b) make the campaign finance statement filed by a candidate available for public
128 inspection by:

129 (i) (A) posting an electronic copy or the contents of the statement on the county's
130 website no later than seven business days after the statement is filed; and

131 (B) verifying that the address of the county's website has been provided to the
132 lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

133 (ii) submitting a copy of the statement to the lieutenant governor for posting on the
134 website established by the lieutenant governor under Section 20A-11-103 no later than two
135 business days after the statement is filed.

136 Section 2. Section **20A-11-101** is amended to read:

137 **20A-11-101. Definitions.**

138 As used in this chapter:

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

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

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

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

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

149 (4) "Chief election officer" means:

150 (a) the lieutenant governor for state office candidates, legislative office candidates,
151 officeholders, political parties, political action committees, corporations, political issues

152 committees, state school board candidates, judges, and county office candidates, and labor
153 organizations, as defined in Section 20A-11-1501; and

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

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

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

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

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

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

164 (v) remuneration from:

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

166 or

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

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

170 (b) "Contribution" does not include:

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

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

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

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

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

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

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

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

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

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

190 (ii) the purpose of expressly advocating the approval or the defeat of any ballot
191 proposition.

192 (b) "Corporation" does not mean:

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

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

195 (8) "County office candidate" means a candidate for an office that is required by law to
196 be filled by election in a county of the first or second class.

197 [~~8~~] (9) "County political party" means, for each registered political party, all of the
198 persons within a single county who, under definitions established by the political party, are
199 members of the registered political party.

200 [~~9~~] (10) "County political party officer" means a person whose name is required to be
201 submitted by a county political party to the lieutenant governor in accordance with Section
202 20A-8-402.

203 [~~10~~] (11) "Detailed listing" means:

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

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

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

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

209 (b) for each expenditure:

210 (i) the amount of the expenditure;

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

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

213 (iv) the date the expenditure was made.

214 [~~(11)~~] (12) "Election" means each:

- 215 (a) regular general election;
- 216 (b) regular primary election; and
- 217 (c) special election at which candidates are eliminated and selected.

218 [~~(12)~~] (13) "Electioneering communication" means a communication that:

- 219 (a) has at least a value of \$10,000;
- 220 (b) clearly identifies a candidate or judge; and
- 221 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising
- 222 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly
- 223 identified candidate's or judge's election date.

224 [~~(13)~~] (14) (a) "Expenditure" means:

- 225 (i) any disbursement from contributions, receipts, or from the separate bank account
- 226 required by this chapter;
- 227 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
- 228 or anything of value made for political purposes;
- 229 (iii) an express, legally enforceable contract, promise, or agreement to make any
- 230 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
- 231 value for political purposes;
- 232 (iv) compensation paid by a filing entity for personal services rendered by a person
- 233 without charge to a reporting entity;
- 234 (v) a transfer of funds between the filing entity and a candidate's personal campaign
- 235 committee; or
- 236 (vi) goods or services provided by the filing entity to or for the benefit of another
- 237 reporting entity for political purposes at less than fair market value.

238 (b) "Expenditure" does not include:

- 239 (i) services provided without compensation by individuals volunteering a portion or all
- 240 of their time on behalf of a reporting entity;
- 241 (ii) money lent to a reporting entity by a financial institution in the ordinary course of
- 242 business; or
- 243 (iii) anything listed in Subsection [~~(13)~~] (14)(a) that is given by a reporting entity to
- 244 candidates for office or officeholders in states other than Utah.

245 ~~[(14)]~~ (15) "Filing entity" means the reporting entity that is required to file a financial
246 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

247 ~~[(15)]~~ (16) "Financial statement" includes any summary report, interim report, verified
248 financial statement, or other statement disclosing contributions, expenditures, receipts,
249 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial
250 Retention Elections.

251 ~~[(16)]~~ (17) "Governing board" means the individual or group of individuals that
252 determine the candidates and committees that will receive expenditures from a political action
253 committee, political party, or corporation.

254 ~~[(17)]~~ (18) "Incorporation" means the process established by Title 10, Chapter 2, Part
255 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

256 ~~[(18)]~~ (19) "Incorporation election" means the election authorized by Section 10-2-111.

257 ~~[(19)]~~ (20) "Incorporation petition" means a petition authorized by Section 10-2-109.

258 ~~[(20)]~~ (21) "Individual" means a natural person.

259 ~~[(21)]~~ (22) "Interim report" means a report identifying the contributions received and
260 expenditures made since the last report.

261 ~~[(22)]~~ (23) "Legislative office" means the office of state senator, state representative,
262 speaker of the House of Representatives, president of the Senate, and the leader, whip, and
263 assistant whip of any party caucus in either house of the Legislature.

264 ~~[(23)]~~ (24) "Legislative office candidate" means a person who:

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

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

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

272 ~~[(24)]~~ (25) "Officeholder" means a person who holds a public office.

273 ~~[(25)]~~ (26) "Party committee" means any committee organized by or authorized by the
274 governing board of a registered political party.

275 ~~[(26)]~~ (27) "Person" means both natural and legal persons, including individuals,

276 business organizations, personal campaign committees, party committees, political action
277 committees, political issues committees, and labor organizations, as defined in Section
278 20A-11-1501.

279 ~~[(27)]~~ (28) "Personal campaign committee" means the committee appointed by a
280 candidate to act for the candidate as provided in this chapter.

281 ~~[(28)]~~ (29) "Personal use expenditure" has the same meaning as provided under Section
282 20A-11-104.

283 ~~[(29)]~~ (30) (a) "Political action committee" means an entity, or any group of
284 individuals or entities within or outside this state, a major purpose of which is to:

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

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

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

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

293 (i) a party committee;

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

296 (iii) an individual;

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

299 (v) a corporation, except a corporation a major purpose of which is to act as a political
300 action committee; or

301 (vi) a personal campaign committee.

302 ~~[(30)]~~ (31) "Political convention" means a county or state political convention held by
303 a registered political party to select candidates.

304 ~~[(31)]~~ (32) (a) "Political issues committee" means an entity, or any group of individuals
305 or entities within or outside this state, a major purpose of which is to:

306 (i) solicit or receive donations from any other person, group, or entity to assist in

307 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or
308 to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

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

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

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

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

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

318 (iii) an individual;

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

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

323 [~~32~~] (33) (a) "Political issues contribution" means any of the following:

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

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

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

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

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

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

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

337 (ii) money lent to a political issues committee by a financial institution in the ordinary

338 course of business.

339 ~~[(33)]~~ (34) (a) "Political issues expenditure" means any of the following:

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

342 (A) a ballot proposition; or

343 (B) an incorporation petition or incorporation election;

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

346 (A) a ballot proposition; or

347 (B) an incorporation petition or incorporation election;

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

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

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

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

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

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

359 ~~[(34)]~~ (35) "Political purposes" means an act done with the intent or in a way to
360 influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote
361 for or against any candidate or a person seeking a municipal or county office at any caucus,
362 political convention, or election.

363 ~~[(35)]~~ (36) "Primary election" means any regular primary election held under the
364 election laws.

365 ~~[(36)]~~ (37) "Public office" means the office of governor, lieutenant governor, state
366 auditor, state treasurer, attorney general, state or local school board member, state senator, state
367 representative, speaker of the House of Representatives, president of the Senate, an elected
368 office in a county of the first or second class, and the leader, whip, and assistant whip of any

369 party caucus in either house of the Legislature.

370 ~~[(37)]~~ (38) (a) "Public service assistance" means the following when given or provided
371 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to
372 communicate with the officeholder's constituents:

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

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

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

378 (i) anything provided by the state;

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

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

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

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

387 ~~[(38)]~~ (39) "Publicly identified class of individuals" means a group of 50 or more
388 individuals sharing a common occupation, interest, or association that contribute to a political
389 action committee or political issues committee and whose names can be obtained by contacting
390 the political action committee or political issues committee upon whose financial statement the
391 individuals are listed.

392 ~~[(39)]~~ (40) "Receipts" means contributions and public service assistance.

393 ~~[(40)]~~ (41) "Registered lobbyist" means a person registered under Title 36, Chapter 11,
394 Lobbyist Disclosure and Regulation Act.

395 ~~[(41)]~~ (42) "Registered political action committee" means any political action
396 committee that is required by this chapter to file a statement of organization with the lieutenant
397 governor's office.

398 ~~[(42)]~~ (43) "Registered political issues committee" means any political issues
399 committee that is required by this chapter to file a statement of organization with the lieutenant

400 governor's office.

401 ~~[(43)]~~ (44) "Registered political party" means an organization of voters that:

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

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

407 ~~[(44)]~~ (45) (a) "Remuneration" means a payment:

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

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

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

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

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

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

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

416 ~~[(45)]~~ (46) "Reporting entity" means a candidate, a candidate's personal campaign
417 committee, a judge, a judge's personal campaign committee, an officeholder, a party
418 committee, a political action committee, a political issues committee, a corporation, or a labor
419 organization, as defined in Section 20A-11-1501.

420 ~~[(46)]~~ (47) "School board office" means the office of state school board or local school
421 board.

422 ~~[(47)]~~ (48) (a) "Source" means the person or entity that is the legal owner of the
423 tangible or intangible asset that comprises the contribution.

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

427 ~~[(48)]~~ (49) "State office" means the offices of governor, lieutenant governor, attorney
428 general, state auditor, and state treasurer.

429 ~~[(49)]~~ (50) "State office candidate" means a person who:

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

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

434 [~~(50)~~] (51) "Summary report" means the year end report containing the summary of a
435 reporting entity's contributions and expenditures.

436 [~~(51)~~] (52) "Supervisory board" means the individual or group of individuals that
437 allocate expenditures from a political issues committee.

438 Section 3. Section **20A-11-1701** is enacted to read:

439 **20A-11-1701. County office candidate -- Campaign finance requirements --**
440 **Candidate as a political action committee officer.**

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

444 (ii) A county office candidate may:

445 (A) receive a contribution or public service assistance from a political action
446 committee registered under Section 20A-11-601; and

447 (B) be designated by a political action committee as an officer who has primary
448 decision-making authority as described in Section 20A-11-601.

449 (b) A county office candidate may not use money deposited in an account described in
450 Subsection (1)(a)(i) for:

451 (i) a personal use expenditure; or

452 (ii) an expenditure prohibited by law.

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

455 (3) A county office candidate may not make any political expenditures prohibited by
456 law.

457 (4) If a person who is no longer a county candidate chooses not to expend the money
458 remaining in a campaign account, the person shall continue to file the year-end summary report
459 required by Section 20A-11-1702 until the statement of dissolution and final summary report
460 required by Section 20A-11-1704 are filed with the chief election officer.

461 (5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who

462 is no longer a county candidate may not expend or transfer the money in a campaign account in
463 a manner that would cause the former county candidate to recognize the money as taxable
464 income under federal tax law.

465 (b) A person who is no longer a county candidate may transfer the money in a
466 campaign account in a manner that would cause the former county candidate to recognize the
467 money as taxable income under federal tax law if the transfer is made to a campaign account
468 for federal office.

469 (6) (a) As used in this Subsection (6) and Section 20A-11-1703, "received" means:

470 (i) for a cash contribution, that the cash is given to a county office candidate or a
471 member of the candidate's personal campaign committee;

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

474 (iii) for any other type of contribution, that any portion of the contribution's benefit
475 inures to the county office candidate.

476 (b) Each county office candidate shall report to the chief election officer each
477 contribution and public service assistance within 30 days after the contribution or public
478 service assistance is received.

479 Section 4. Section **20A-11-1702** is enacted to read:

480 **20A-11-1702. County office candidate -- Financial reporting requirements --**
481 **Year-end summary report.**

482 (1) (a) Each county office candidate shall file a summary report by January 10 of the
483 year after the regular general election year.

484 (b) In addition to the requirements of Subsection (1)(a), a former county office
485 candidate that has not filed the statement of dissolution and final summary report required
486 under Section 20A-11-1704 shall continue to file a summary report on January 10 of each year.

487 (2) (a) Each summary report shall include the following information as of December 31
488 of the previous year:

489 (i) the net balance of the last financial statement, if any;

490 (ii) a single figure equal to the total amount of receipts reported on all interim reports,
491 if any, during the previous year;

492 (iii) a single figure equal to the total amount of expenditures reported on all interim

493 reports, if any, filed during the previous year:

494 (iv) a detailed listing of each receipt, contribution, and public service assistance since
495 the last summary report that has not been reported in detail on an interim report;

496 (v) for each nonmonetary contribution:

497 (A) the fair market value of the contribution with that information provided by the
498 contributor; and

499 (B) a specific description of the contribution;

500 (vi) a detailed listing of each expenditure made since the last summary report that has
501 not been reported in detail on an interim report;

502 (vii) for each nonmonetary expenditure, the fair market value of the expenditure;

503 (viii) a net balance for the year consisting of the net balance from the last summary
504 report, if any, plus all receipts minus all expenditures; and

505 (ix) the name of a political action committee for which the county office candidate is
506 designated as an officer who has primary decision-making authority under Section
507 20A-11-601.

508 (b) (i) For all individual contributions or public service assistance of \$50 or less, a
509 single aggregate figure may be reported without separate detailed listings.

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

512 (c) In preparing the report, all receipts and expenditures shall be reported as of
513 December 31 of the previous year.

514 (d) A check or negotiable instrument received by a county office candidate on or before
515 December 31 of the previous year shall be included in the summary report.

516 (3) The county office candidate shall certify in the summary report that, to the best of
517 the county office candidate's knowledge, all receipts and all expenditures have been reported as
518 of December 31 of the previous year and that there are no bills or obligations outstanding and
519 unpaid except as set forth in that report.

520 Section 5. Section **20A-11-1703** is enacted to read:

521 **20A-11-1703. County office candidate -- Financial reporting requirements --**
522 **Interim reports.**

523 (1) Each county office candidate shall file an interim report at the following times in

524 any year in which the candidate has filed a declaration of candidacy for a public office:
525 (a) seven days before the regular primary election date;
526 (b) August 31; and
527 (c) seven days before the regular general election date.
528 (2) Each interim report shall include the following information:
529 (a) the net balance of the last summary report, if any;
530 (b) a single figure equal to the total amount of receipts reported on all prior interim
531 reports, if any, during the calendar year in which the interim report is due;
532 (c) a single figure equal to the total amount of expenditures reported on all prior
533 interim reports, if any, filed during the calendar year in which the interim report is due;
534 (d) a detailed listing of each contribution and public service assistance received since
535 the last summary report that has not been reported in detail on a prior interim report;
536 (e) for each nonmonetary contribution:
537 (i) the fair market value of the contribution with that information provided by the
538 contributor; and
539 (ii) a specific description of the contribution;
540 (f) a detailed listing of each expenditure made since the last summary report that has
541 not been reported in detail on a prior interim report;
542 (g) for each nonmonetary expenditure, the fair market value of the expenditure;
543 (h) a net balance for the year consisting of the net balance from the last summary
544 report, if any, plus all receipts since the last summary report minus all expenditures since the
545 last summary report;
546 (i) a summary page in the form required by the lieutenant governor that identifies:
547 (i) beginning balance;
548 (ii) total contributions during the period since the last statement;
549 (iii) total contributions to date;
550 (iv) total expenditures during the period since the last statement; and
551 (v) total expenditures to date; and
552 (j) the name of a political action committee for which the county office candidate is
553 designated as an officer who has primary decision-making authority under Section
554 20A-11-601.

555 (3) (a) For all individual contributions or public service assistance of \$50 or less, a
556 single aggregate figure may be reported without separate detailed listings.

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

559 (4) (a) In preparing each interim report, all receipts and expenditures shall be reported
560 as of five days before the required filing date of the report.

561 (b) Any negotiable instrument or check received by a county office candidate more
562 than five days before the required filing date of a report required by this section shall be
563 included in the interim report.

564 Section 6. Section **20A-11-1704** is enacted to read:

565 **20A-11-1704. County office candidate -- Financial reporting requirements --**
566 **Termination of duty to report.**

567 (1) Each county office candidate is subject to interim reporting requirements until the
568 candidate withdraws or is eliminated in a primary.

569 (2) Each county office candidate is subject to year-end summary reporting
570 requirements until the candidate has filed a statement of dissolution with the lieutenant
571 governor stating that:

572 (a) the county office candidate is no longer receiving contributions and is no longer
573 making expenditures;

574 (b) the ending balance on the last summary report filed is zero and the balance in the
575 separate bank account required in Section 20A-11-1701 is zero; and

576 (c) a final summary report in the form required by Section 20A-11-1702 showing a
577 zero balance is attached to the statement of dissolution.

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

579 (4) Each county office candidate shall continue to file the year-end summary report
580 required by Section 20A-11-1702 until the statement of dissolution and final summary report
581 required by this section are filed.

582 Section 7. Section **20A-11-1705** is enacted to read:

583 **20A-11-1705. County office candidate -- Failure to file statement -- Penalties.**

584 (1) If a county office candidate fails to file an interim report due before the regular
585 primary election, on August 31, or before the regular general election, the chief election officer

586 shall, after making a reasonable attempt to discover if the report was timely filed:

587 (a) inform the county clerk and other appropriate election officials who:

588 (i) (A) shall, if practicable, remove the name of the candidate from the ballots before
589 the ballots are delivered to voters; or

590 (B) shall, if removing the candidate's name from the ballot is not practicable, inform
591 the voters by any practicable method that the candidate has been disqualified and that votes
592 cast for the candidate will not be counted; and

593 (ii) may not count any votes for that candidate; and

594 (b) impose a fine against the filing entity in accordance with Section 20A-11-1005.

595 (2) Any county office candidate who fails to file timely a financial statement required
596 by Subsection 20A-11-1703(1) is disqualified and the vacancy on the ballot may be filled as
597 provided in Section 20A-1-508.

598 (3) Notwithstanding Subsections (1) and (2), a county office candidate is not
599 disqualified and the chief election officer may not impose a fine if:

600 (a) the candidate timely files the reports required by this section in accordance with
601 Section 20A-11-103;

602 (b) those reports are completed, detailing accurately and completely the information
603 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
604 and

605 (c) those omissions, errors, or inaccuracies described in Subsection (3)(b) are corrected
606 in:

607 (i) an amended report; or

608 (ii) the next scheduled report.

609 (4) (a) Within 30 days after a deadline for the filing of a summary report, the chief
610 election officer shall review each filed summary report to ensure that:

611 (i) each county candidate that is required to file a summary report has filed one; and

612 (ii) each summary report contains the information required by this part.

613 (b) If it appears that any county candidate has failed to file the summary report required
614 by law, if it appears that a filed summary report does not conform to the law, or if the county
615 clerk has received a written complaint alleging a violation of the law or the falsity of any
616 summary report, the chief election officer shall, within five days of discovery of a violation or

617 receipt of a written complaint, notify the county candidate of the violation or written complaint
618 and direct the county candidate to file a summary report correcting the problem.

619 (c) (i) It is unlawful for any county candidate to fail to file or amend a summary report
620 within 14 days after receiving notice from the chief election officer under this section.

621 (ii) Each county candidate who violates Subsection (4)(c)(i) is guilty of a class B
622 misdemeanor.

623 (iii) The chief election officer shall report all violations of Subsection (4)(c)(i) to the
624 district or county attorney.

Legislative Review Note
as of 2-15-12 7:55 AM

Office of Legislative Research and General Counsel