

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: S1/24/05 H3/16/05

# A Bill

SENATE BILL 68

5 By: Senator Faris  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS ARKANSAS ETHICS AND  
10 CAMPAIGN FINANCE STATUTES, A PORTION OF WHICH  
11 RESULTED FROM INITIATED ACT 1 OF 1988, INITIATED  
12 ACT 1 OF 1990, AND INITIATED ACT 1 OF 1996; AND  
13 FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO AMEND VARIOUS ARKANSAS ETHICS  
16 AND CAMPAIGN FINANCE STATUTES.  
17  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 7-1-103(a)(7), concerning miscellaneous  
23 misdemeanor penalties, is amended to read as follows:

24 (7)(A) All articles, statements, or communications appearing in  
25 any newspaper printed or circulated in this state or on radio, television, or  
26 any other electronic medium intended or calculated to influence the vote of  
27 any elector in any election and for the publication of which a consideration  
28 is paid or to be paid shall ~~be preceded or followed by~~ clearly contain the  
29 words "Paid Political Advertisement" or "Paid Political Ad". ~~in conspicuous~~  
30 ~~letters~~

31 (B) Both the persons placing and the persons publishing  
32 the articles, statements, or communications shall be responsible for  
33 including the required disclaimer;  
34

35 SECTION 2. Arkansas Code § 7-6-201, *resulting from Initiated Act 1 of*  
36 *1990* is amended to read as follows:



1 7-6-201. Definitions.

2 As used in this subchapter, unless the context otherwise requires:

3 (1)(A) "Approved political action committee" means any person  
4 who:

5 (i) Receives contributions from one (1) or more  
6 persons in order to make contributions to candidates;

7 (ii) Does not accept any contribution or cumulative  
8 contributions in excess of five thousand dollars (\$5,000) from any person in  
9 any calendar year; and

10 (iii) Has been registered pursuant to § 7-6-215 for  
11 at least four (4) continuous months prior to making contributions to  
12 candidates.

13 (B) "Approved political action committee" shall not  
14 include an organized political party as defined in § 7-1-101~~(16)~~, the  
15 candidate's own campaign committee, or an exploratory committee;

16 (2) "Candidate" means any person who has knowingly and willingly  
17 taken affirmative action, including solicitation of funds, for the purpose of  
18 seeking nomination for or election to any public office;

19 (3) "Carryover funds" means the amount of campaign funds  
20 retained from the last election by the candidate for future use but not to  
21 exceed the annual salary, excluding expense allowances, set by Arkansas law  
22 for the office sought;

23 (4)(A) "Contribution" means, whether direct or indirect,  
24 advances, deposits, or transfers of funds, contracts, or obligations, whether  
25 or not legally enforceable, payments, gifts, subscriptions, assessments,  
26 payment for services, dues, advancements, forbearance, loans, pledge or  
27 promise of money or anything of value, whether or not legally enforceable, to  
28 a candidate, committee, or holder of elective office, made for the purpose of  
29 influencing the nomination or election of any candidate, ~~and~~.

30 (B) "Contribution" includes the purchase of tickets for  
31 events such as dinners, luncheons, rallies, and similar fundraising events;  
32 the granting of discounts or rebates by television and radio stations and  
33 newspapers not extended on an equal basis to all candidates for the same  
34 office; and any payments for the services of any person serving as an agent  
35 of a candidate or committee by a person other than the candidate or committee  
36 or persons whose expenditures the candidates or committee must report under

1 this subchapter. The term "contribution" further includes any transfer of  
2 anything of value received by a committee from another committee.

3 (C) "Contribution" shall not include noncompensated,  
4 nonreimbursed, volunteer personal services or travel;

5 (5) "Contribution and expenditure" shall not include activity  
6 sponsored and funded by organized political parties as defined in § 7-1-  
7 101~~(16)~~ to promote their candidates or nominees through events such as  
8 dinners, luncheons, rallies, or similar gatherings and shall not include  
9 nonpartisan activity designed to encourage individuals to register to vote,  
10 or to vote, or any communication by any membership organization to its  
11 members or stockholders if the membership organization or corporation is not  
12 organized primarily for the purpose of influencing the nomination for  
13 election, or election, of any candidate;

14 (6) "Election" means each election held to nominate or elect a  
15 candidate to any public office, including school elections. For the purposes  
16 of this subchapter, a preferential primary, a general primary, a special  
17 election, and a general election shall each constitute a separate election;

18 (7) "Expenditure" means a purchase, payment, distribution, gift,  
19 loan, or advance of money or anything of value, and a contract, promise, or  
20 agreement to make an expenditure, made for the purpose of influencing the  
21 nomination or election of any candidate;

22 (8) "Exploratory committee" means a person who receives  
23 contributions which are held to be transferred to the campaign of a single  
24 candidate in an election. "Exploratory committee" shall not include an  
25 organized political party as defined in § 7-1-101~~(16)~~ or the candidate's own  
26 campaign committee;

27 (9) "Financial institution" means any commercial bank, savings  
28 and loan, mutual savings bank or savings bank, insurance company brokerage  
29 house, or any corporation that is in the business of lending money and that  
30 is subject to state or federal regulation;

31 (10) An "independent expenditure" is any expenditure which is  
32 not a contribution and:

33 (A) Expressly advocates the election or defeat of a  
34 clearly identified candidate for office;

35 (B) Is made without arrangement, cooperation, or  
36 consultation between any candidate or any authorized committee or agent of

1 the candidate and the person making the expenditure or any authorized agent  
2 of that person; and

3 (C) Is not made in concert with or at the request or  
4 suggestion of any candidate or any authorized committee or agent of the  
5 candidate;

6 (11) "Independent expenditure committee" means any person who  
7 receives contributions from one (1) or more persons in order to make an  
8 independent expenditure and is registered pursuant to § 7-6-215 prior to  
9 making expenditures;

10 (12) "Person" means any individual, proprietorship, firm,  
11 partnership, joint venture, syndicate, labor union, business trust, company,  
12 corporation, association, committee, or any other organization or group of  
13 persons acting in concert. It shall also include organized political parties  
14 as defined in § 7-1-101~~(16)~~;

15 (13) "Prohibited political action committee" means any person  
16 who receives contributions from one (1) or more persons in order to make  
17 contributions to candidates but who does not meet the requirements of an  
18 approved political action committee or a small donor political action  
19 committee. "Prohibited political action committee" shall not include an  
20 organized political party as defined in § 7-1-101~~(16)~~, the candidate's own  
21 campaign committee, or an exploratory committee;

22 (14) "Public office" means any office created by or under  
23 authority of the laws of the State of Arkansas, or of a subdivision thereof,  
24 that is filled by the voters, except a federal office;

25 (15) A "small donor political action committee" means any person  
26 who:

27 (A) Receives contributions from one (1) or more  
28 individuals in order to make contributions to candidates;

29 (B) Does not accept any contribution or cumulative  
30 contributions in excess of twenty-five dollars (\$25) from any individual in  
31 any calendar year; and

32 (C) Is registered pursuant to § 7-6-215 prior to making  
33 contributions to candidates. "Small donor political action committee" shall  
34 not include an organized political party, the candidate's own campaign  
35 committee, or an exploratory committee; and

36 (16) "Surplus campaign funds" means any balance of campaign

1 funds over expenses incurred as of the day of the election except for:

2 (A) Carryover funds; and

3 (B) Any funds required to reimburse the candidate for  
4 personal funds contributed to the campaign or to repay loans made by  
5 financial institutions to the candidate and applied to the campaign.

6  
7 SECTION 3. Arkansas Code § 7-6-203(d), concerning candidates accepting  
8 campaign contributions *and resulting from Initiated Act 1 of 1990*, is amended  
9 to read as follows:

10 (d) However, an organized political party as defined in § 7-1-101~~(16)~~  
11 may contribute up to two thousand five hundred dollars (\$2,500) to each of  
12 the party's candidates per election.

13  
14 SECTION 4. Arkansas Code § 7-6-203(h), concerning candidates accepting  
15 campaign contributions *and resulting from Initiated Act 1 of 1990 and*  
16 *Initiated Act 1 of 1996*, is amended to read as follows:

17 (h)(1) Within thirty (30) days following the end of the month in which  
18 the general election is held, a candidate shall turn over surplus campaign  
19 funds to either:

20 (A) The Treasurer of State for the benefit of the General  
21 Revenue Fund Account of the State Apportionment Fund;

22 (B) An organized political party as defined in § 7-1-  
23 101~~(16)~~ or a political party caucus of the General Assembly, the Senate, or  
24 House of Representatives;

25 (C) A nonprofit organization which is exempt from taxation  
26 under Section 501(c)(3) of the Internal Revenue Code; or

27 (D) The contributors to the candidate's campaign.

28 (2)(A) If an unopposed candidate agrees not to solicit further  
29 campaign contributions by filing an affidavit declaring such an agreement,  
30 the candidate may dispose of any surplus campaign funds prior to a general  
31 election as soon as the time has passed to declare an intent to be a write-in  
32 candidate pursuant to § 7-5-205.

33 (B) For unopposed candidates for nonpartisan judicial  
34 office, the affidavit may be filed after the deadlines have passed to declare  
35 as a filing fee candidate, petition candidate, or write-in candidate under §  
36 7-10-103.

1           (C) The affidavit shall be filed in the office where the  
2 candidate is required to file reports of contributions received and  
3 expenditures made.

4           (D) Unopposed candidates and defeated candidates who file  
5 the affidavit are exempt from further reporting requirements provided that  
6 the affidavit contains a statement that the candidate's campaign fund has a  
7 zero balance.

8  
9           SECTION 5. Arkansas Code § 7-6-217(c)(1), concerning members of the  
10 Arkansas Ethics Commission *and resulting from Initiated Act 1 of 1990*, is  
11 amended to read as follows:

12           (c)(1) No member of the commission shall be a federal, state, or local  
13 government official or employee, an elected public official, a candidate for  
14 public office, a lobbyist as defined in § 21-8-402(11), or an officer or paid  
15 employee of an organized political party as defined in § 7-1-101~~(16)~~.

16  
17           SECTION 6. Arkansas Code § 7-6-220(a), concerning the reporting of  
18 independent expenditures *and resulting from Initiated Act 1 of 1996*, is  
19 amended to read as follows:

20           (a) A person or an independent expenditure committee which makes  
21 independent expenditures in an aggregate amount or value in excess of five  
22 hundred dollars (\$500) in a calendar year shall file reports with the  
23 Secretary of State:

24           (1) No later than thirty (30) days prior to preferential primary  
25 elections, general elections and special elections covering the period ending  
26 thirty-five (35) days prior to such elections;

27           (2) No later than seven (7) days prior to preferential primary  
28 elections, runoff elections, general elections, and special elections  
29 covering the period ending ten (10) days prior to such elections; and

30           (3) As for a final report, no later than thirty (30) days after  
31 the end of the month in which the last election is held at which the  
32 candidate seeks nomination or election.

33  
34           SECTION 7. Arkansas Code § 7-6-222(a), concerning tax credits for  
35 certain campaign contributions *and resulting from Initiated Act 1 of 1996*, is  
36 amended to read as follows:

1 (a) Pursuant to regulations to be adopted by the Department of Finance  
2 and Administration, a credit against individual Arkansas income taxes shall  
3 be allowed for money contributions made by the taxpayer in a taxable year to  
4 one (1) or more of the following:

5 (1) A candidate seeking nomination or election to a public  
6 office at an election, or to the candidate's campaign committee;

7 (2) A small donor political action committee as defined in § 7-  
8 6-201;

9 (3) An approved political action committee as defined in § 7-6-  
10 201; or

11 (4) An organized political party as defined in § 7-1-101~~(16)~~.

12  
13 SECTION 8. Arkansas Code § 7-6-223(a), concerning reports of  
14 contributions by political parties *and resulting from Initiated Act 1 of*  
15 *1996*, is amended to read as follows:

16 (a) Within fifteen (15) calendar days after the end of each calendar  
17 quarter, each organized political party as defined in § 7-1-101~~(16)~~ shall  
18 file a quarterly report with the Secretary of State.

19  
20 SECTION 9. Arkansas Code § 7-9-404(a)(1), concerning filing deadlines,  
21 is amended to read as follows:

22 (a)(1)(A) A ballot question committee or a legislative question  
23 committee shall file a statement of organization with the Arkansas Ethics  
24 Commission within ~~fifteen (15) days after the committee is formed~~ five (5)  
25 days of receiving contributions or making expenditures in excess of five  
26 hundred dollars (\$500) for the purpose of expressly advocating the  
27 qualification, passage, or defeat of a ballot question or the passage or  
28 defeat of a legislative question.

29 (B) The commission shall maintain such statement of  
30 organization until notified of the committee's dissolution.

31  
32 SECTION 10. Arkansas Code § 7-9-404(b), concerning information  
33 included on the statement of organization, is amended to read as follows:

34 (b) The statement of organization shall include the following  
35 information:

36 (1) The name, the street address, and, where available, the

1 telephone number of the committee. A committee address and telephone number  
2 may be that of the residence of an officer or director of the committee;

3 (2) The name, street address, and, where available, the  
4 telephone number of the treasurer and other principal officers and directors  
5 of the committee;

6 (3) The name and address of each financial institution in which  
7 the committee deposits money or anything else of monetary value;

8 (4) The name of each person who is a member of the committee. A  
9 person that is not an individual may be listed by its name without also  
10 listing its own members, if any; and

11 (5) A brief statement identifying the substance of each ballot  
12 question ~~whose~~ the qualification, passage, or defeat of which the committee  
13 seeks to influence or of each legislative question ~~which~~ the passage or  
14 defeat of which the committee seeks to influence and, if known, the date each  
15 ballot or legislative question shall be presented to a popular vote at an  
16 election.

17  
18 SECTION 11. Arkansas Code § 7-9-407 is amended to read as follows:

19 7-9-407. Financial Reports - Information.

20 A financial report of a ballot question committee, a legislative  
21 question committee, an individual person, a public servant, or a governmental  
22 body, as required by § 7-9-406, shall contain the following information:

23 (1) The name, address, and telephone number of the committee,  
24 individual person, public servant, or governmental body filing the statement;

25 (2)(A) For a committee:

26 (i) The total amount of contributions received  
27 during the period covered by the financial report;

28 (ii) The total amount of expenditures made during  
29 the period covered by the financial report;

30 (iii) The cumulative amount of those totals for each  
31 ballot question or legislative question;

32 (iv) The balance of cash and cash equivalents on  
33 hand at the beginning and the end of the period covered by the financial  
34 report;

35 (v) The total amount of contributions received  
36 during the period covered by the financial statement from persons who

1 contributed less than one hundred dollars (\$100), and the cumulative amount  
2 of that total for each ballot question or legislative question;

3 (vi) The total amount of contributions received  
4 during the period covered by the financial statement from persons who  
5 contributed one hundred dollars (\$100) or more, and the cumulative amount of  
6 that total for each ballot question or legislative question; ~~and~~

7 (vii) The name and street address of each person who  
8 contributed one hundred dollars (\$100) or more during the period covered by  
9 the financial report, together with the amount contributed, the date of  
10 receipt, and the cumulative amount contributed by that person for each ballot  
11 question or legislative question; and

12 (viii) The name and address of each person who  
13 contributed a nonmoney item, together with a description of the item, the  
14 date of receipt, and the value, not including volunteer service by  
15 individuals;

16 (B) For an individual person:

17 (i) The total amount of expenditures made during the  
18 period covered by the financial report; and

19 (ii) The cumulative amount of that total for each  
20 ballot question or legislative question; and

21 (C) For a public servant or governmental body using public  
22 funds:

23 (i) The total amount of expenditures made during the  
24 period covered by the financial report; and

25 (ii) The cumulative amount of that total for each  
26 ballot question or legislative question; and

27 (3) The name and street address of each person to whom  
28 expenditures totalling one hundred dollars (\$100) or more were made, together  
29 with the date and amount of each separate expenditure to each person during  
30 the period covered by the financial report and the purpose of the  
31 expenditure.

32  
33 SECTION 12. Arkansas Code § 21-8-301 is amended to read as follows:

34 21-8-301. Definitions.

35 In this subchapter,

36 ~~(1)(A) "Financial interest" means notes, stock certificates,~~

1 ~~bonds, contracts, or other evidence of ownership interest in any firm,~~  
 2 ~~corporation, or enterprise.~~

3 ~~(B) "Financial interest" does not mean demand deposits,~~  
 4 ~~time deposits, or other types of deposits that do not vest any ownership~~  
 5 ~~interest in any firm, corporation, or enterprise;~~

6 ~~(2) "Regulatory agency" means any state board, commission,~~  
 7 ~~department, or officer authorized by law to make rules or to adjudicate~~  
 8 ~~contested cases except those in the legislative or judicial branches; and~~

9 ~~(3) "State state employee" means all employees of the State of~~  
 10 ~~Arkansas employed on a full-time or part-time basis.~~

11  
 12 SECTION 13. Arkansas Code § 21-8-302 is amended to read as follows:  
 13 21-8-302. Penalties.

14 ~~(a) Any person who knowingly or willfully fails to file any report~~  
 15 ~~pursuant to this subchapter or files an incomplete or inaccurate report or~~  
 16 ~~otherwise violates any provision of this subchapter shall be guilty of a~~  
 17 ~~Class B misdemeanor.~~

18 ~~(b) In addition, any person who shall willfully conceal or fail~~  
 19 ~~to disclose any information which, by the provisions of this subchapter, is~~  
 20 ~~required to be disclosed and filed with the appropriate official as required~~  
 21 ~~by this subchapter shall be guilty of malfeasance in office or position of~~  
 22 ~~employment and shall be removed therefrom.~~

23  
 24 SECTION 14. Arkansas Code § 21-8-601(a), concerning lobbyist  
 25 registration and resulting from Initiated Act 1 of 1988, is amended to read  
 26 as follows:

27 (a)(1) A lobbyist shall register within five (5) days after beginning  
 28 lobbying. Such registration shall be on forms provided by the Secretary of  
 29 State containing the following information:

30 (A) The name, address, and telephone number of the  
 31 lobbyist;

32 (B) The calendar year for which the lobbyist is  
 33 registering;

34 (C) The types of public servants being lobbied;

35 ~~(G)(D)~~ The name, address, and telephone number of the  
 36 lobbyist's client or employer;

1                   ~~(D)~~(E) A description of the nature of the lobbyist's  
2 client or employer; and

3                   ~~(E)~~(F) Certification by the lobbyist that the information  
4 contained on the lobbyist registration form is true and correct.

5                   (2)(A) Except as provided in subdivision (a)(2)(B) of this  
6 section, if there is a change of information during the registration period,  
7 a lobbyist shall file an amended registration form within ten (10) days of  
8 the change.

9                   (B) A lobbyist registered to lobby members of the General  
10 Assembly shall file an amended registration form within three (3) business  
11 days of a change of information that occurs during a regular or extraordinary  
12 session of the General Assembly.

13                   ~~(2)~~(3) A lobbyist shall not be required to register if he or she  
14 engages in no lobbying other than the following activities:

15                   (A) The publishing or broadcasting, by news media  
16 executives or their employees or agents, in the ordinary course of business,  
17 of news items, editorials, or other comments or paid advertisements which  
18 directly or indirectly urge legislative action or administrative action;

19                   (B) Engaging in lobbying exclusively on behalf of an  
20 Arkansas church which qualifies as a tax exempt organization under §  
21 501(c)(3) of the Internal Revenue Code when lobbying solely for the purpose  
22 of protecting the rights of members or adherents to practice the religious  
23 doctrines of the church;

24                   (C)(i) Action in a person's official capacity as a public  
25 servant.

26                                   (ii) However, a public servant shall be required to  
27 register as a lobbyist if he or she:

28   (a) Receives income from a nongovernmental  
29 person in excess of four hundred dollars (\$400) in a quarter for lobbying; or

30   (b) Expends or is reimbursed in excess of four  
31 hundred dollars (\$400), regardless of the source, in a quarter for lobbying,  
32 excluding the cost of informational material and personal travel, lodging,  
33 meals, and dues;

34                   (D) Drafting legislation;

35                   (E) Appearing in:

36                                   (i) A judicial proceeding;

1 (ii) A proceeding or hearing if the appearance is a  
2 matter of public record; or

3 (iii) Any hearing or appeal proceeding conducted  
4 pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

5 (F) Assisting an executive agency, at the written request  
6 of the agency, in drafting administrative regulations or in publicizing or  
7 assisting in the implementation of final administrative actions;

8 (G) Testifying as an individual at a public hearing in  
9 support of or in opposition to legislation or administrative action,  
10 testifying on behalf of a corporation, partnership, association, or other  
11 organization with which the person is regularly associated as an employee,  
12 officer, member, or partner, or testifying at the request of a legislative  
13 committee; or

14 (H) Actions by contractors or employees of contractors  
15 while engaged in selling to a governmental body by demonstrating or  
16 describing commodities or services or inquiring as to specifications or terms  
17 and conditions of a particular purchase unless such contractor or its  
18 employees expend in excess of four hundred dollars (\$400) in a calendar  
19 quarter for food, lodging, travel, or gifts to benefit public servants who  
20 purchase commodities or services on behalf of a governmental body.

21 ~~(3)~~(4) A person whose only act of lobbying is to compensate or  
22 reimburse a registered lobbyist in the person's behalf shall not be required  
23 to register as a lobbyist.

24  
25 SECTION 15. Arkansas Code § 21-8-701(a), concerning persons required  
26 to file a written statement of financial interest *and resulting from*  
27 *Initiated Act 1 of 1988*, is amended to read as follows:

28 (a) The following persons shall file a written statement of financial  
29 interest:

30 (1) A public official, as defined in § 21-8-402(17);

31 (2) A candidate for elective office;

32 (3) A district judge or city attorney, whether elected or  
33 appointed;

34 (4) Any agency head, department director, or division director  
35 of state government;

36 (5)(A) Any public appointee to any state board or commission ~~who~~

1 that is authorized or charged by law with the exercise of regulatory  
2 authority or is authorized to receive or disburse state or federal funds.

3 (B) A public appointee to a state board or commission  
4 which is not charged by law with the exercise of regulatory authority and  
5 which receives or disburses state or federal funds only in the form of  
6 mileage reimbursement for members attending meetings of the board or  
7 commission shall not be required to file a written statement of financial  
8 interest;

9 (6) All persons who are elected members of a school board or who  
10 are candidates for a position on a school board;

11 (7) All public and charter school superintendents;

12 (8) Directors of educational cooperatives; and

13 (9) Any person appointed to one (1) of the following types of  
14 regional, municipal, or county boards or commissions:

15 (A) A planning board or commission;

16 (B) An airport board or commission;

17 (C) A water or sewer board or commission;

18 (D) A utility board or commission; or

19 (E) A civil service commission.

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21 /s/ Faris  
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