

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: S2/14/19

# A Bill

SENATE BILL 258

5 By: Senators Bond, K. Ingram, Hester, J. Hendren  
6

## For An Act To Be Entitled

8 AN ACT TO INCREASE THE PENALTY FOR TAKING CAMPAIGN  
9 FUNDS AS PERSONAL INCOME; TO AMEND PROVISIONS OF  
10 ARKANSAS LAW RESULTING FROM INITIATED ACT 1 OF 1990  
11 AND INITIATED ACT 1 OF 1996; AND FOR OTHER PURPOSES.  
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### Subtitle

14 TO INCREASE THE PENALTY FOR TAKING  
15 CAMPAIGN FUNDS AS PERSONAL INCOME; AND TO  
16 AMEND PROVISIONS OF ARKANSAS LAW  
17 RESULTING FROM INITIATED ACT 1 OF 1990  
18 AND INITIATED ACT 1 OF 1996.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 7-6-202, concerning penalties, is amended  
25 to read as follows:

26 7-6-202. Penalties.

27 A person who knowingly fails to comply with this subchapter shall upon  
28 conviction be guilty of a Class A misdemeanor unless a different penalty  
29 applies under this subchapter.  
30

31 SECTION 2. Arkansas Code § 7-6-203(f), concerning use of campaign  
32 contributions and resulting from Initiated Act 1 of 1990 and Initiated Act 1  
33 of 1996, is amended to add an additional subdivision to read as follows:

34 (f)(1) A candidate shall not take any campaign funds as personal  
35 income. ~~This subdivision (f)(1) shall not apply to campaign funds that were+~~  
36 ~~(A) Accumulated prior to the passage of Initiated Act 1 of~~



1 ~~1990, or~~

2 ~~(B) Disposed of prior to July 28, 1995.~~

3 (2) A candidate shall not take any campaign funds as income for  
4 his or her spouse or dependent children, except that:

5 (A) This subsection shall not prohibit a candidate who has  
6 an opponent from employing his or her spouse or dependent children as  
7 campaign workers; and

8 (B) Any candidate who has an opponent and who, during the  
9 campaign and before the election, takes a leave of absence without pay from  
10 his or her primary place of employment shall be authorized to take campaign  
11 funds during the campaign and before the election as personal income up to  
12 the amount of employment income lost as a result of such leave of absence.

13 (3) A candidate who takes campaign funds during the campaign and  
14 before the election under a leave of absence pursuant to the provisions of  
15 subdivision (f)(2) of this section may elect to treat the campaign funds as a  
16 loan from the campaign fund to the candidate to be paid back to the campaign  
17 fund by the candidate.

18 ~~(4)(A) For purposes of this subsection, a candidate who uses~~  
19 ~~campaign funds to fulfill any commitment, obligation, or expense that would~~  
20 ~~exist regardless of the candidate's campaign shall be deemed to have taken~~  
21 ~~campaign funds as personal income.~~

22 ~~(B) The use of campaign funds to purchase a cake or other~~  
23 ~~perishable item of food at a fund raising event held by a volunteer agency,~~  
24 ~~as defined in § 16-6-103, shall not be considered a taking of campaign funds~~  
25 ~~as personal income.~~

26 ~~(C) The use of campaign funds to purchase advertising~~  
27 ~~prior to the date the final report is due to be filed thanking voters for~~  
28 ~~their support shall not be considered a taking of campaign funds as personal~~  
29 ~~income.~~

30 ~~(D) The use of campaign funds to pay a candidate's own~~  
31 ~~personal expenses for food, lodging, or travel to attend a national~~  
32 ~~presidential nominating convention shall not be considered a taking of~~  
33 ~~campaign funds as personal income.~~

34 (4) A candidate or officeholder is deemed to have taken campaign  
35 or carryover funds as personal income under this section if the candidate or  
36 officeholder uses the campaign or carryover funds for a reason unrelated to a

1 legitimate campaign or officeholder activity, including without limitation:

2 (A) To fulfill any commitment, obligation, or expense that  
3 would exist regardless of the campaign of the candidate or duties of the  
4 officeholder while in office;

5 (B)(i) For household food items and supplies.

6 (ii) This prohibition under subdivision (f)(4)(B)(i)  
7 of this section applies to food purchased for day-to-day consumption in the  
8 personal residence and supplies purchased to maintain the personal residence.

9 (iii) This prohibition under subdivision  
10 (f)(4)(B)(i) of this section does not apply to food and supplies for  
11 fundraising activities, including a fundraising activity that takes place in  
12 the home of the candidate, or to food or refreshments for activities related  
13 to the campaign of the candidate or duties of the officeholder while in  
14 office;

15 (C)(i) For clothing.

16 (ii) This prohibition under subdivision (f)(4)(C)(i)  
17 of this section applies to all attire for political or personal functions.

18 (iii) This prohibition under subdivision  
19 (f)(4)(C)(i) of this section does not apply to clothing of minimal value such  
20 as shirts or caps imprinted with a campaign logo, slogan, or the name of a  
21 candidate prominently displayed as such items may be purchased with campaign  
22 funds and are a legitimate campaign expense; and

23 (D)(i)(a) To make mortgage, rent, or utility payments at  
24 the personal residence of the candidate or officeholder or his or her family,  
25 even if a portion of the residence is used by the campaign.

26 (b) As used in subdivision (f)(4)(D)(i)(a) of  
27 this section, "family" means:

28 (1) A candidate's or officeholder's  
29 spouse;

30 (2) Children of the candidate or  
31 officeholder, or of his or her spouse;

32 (3) Brothers, sisters, or parents of the  
33 candidate or officeholder, or of his or her spouse.

34 (ii) This prohibition under subdivision (f)(4)(D)(i)  
35 of this section does not apply to payments made by a:

36 (a) Candidate concerning other buildings or

1 offices or office space used solely for campaign purposes, such as the  
2 headquarters of the campaign, even if the candidate owns the space used, so  
3 long as the space is not the personal residence of the candidate or his or  
4 her family and the campaign pays a fair market value for use of the space; or

5 (b) Member of the General Assembly concerning  
6 an apartment leased solely for use while in the capital so long as the  
7 apartment is not maintained as the primary personal residence of the  
8 officeholder and per diem is used to pay a proportional share of the cost  
9 incurred for rent and utilities in connection with maintaining the apartment.

10 (5) A candidate or officeholder shall not be deemed to have  
11 taken campaign or carryover funds as personal income under this section if  
12 the candidate or officeholder uses the campaign or carryover funds:

13 (A) To purchase a cake or other perishable item of food at  
14 a fund-raising event held by a volunteer agency, as defined under § 16-6-103;

15 (B) To purchase advertising prior to the date the final  
16 report is due to be filed thanking voters for their support;

17 (C) To pay a candidate's own personal expenses for food,  
18 lodging, or travel to attend a national presidential nominating convention;

19 (D)(i) To reimburse himself or herself or otherwise pay  
20 for his or her attendance to in-state or out-of-state conferences or seminars  
21 on general political issues.

22 (ii) During the campaign, funds may be used to  
23 reimburse campaign staff and spouses provided their attendance at these  
24 conferences relates to the campaign;

25 (E) In any manner permitted at the time by any rule of the  
26 Arkansas Ethics Commission; and

27 (F) In any way reasonably and legitimately related to  
28 campaign or officeholder activity.

29 (6) If a candidate loses an election or if an officeholder is no  
30 longer in office, and after disposing of surplus funds, has carryover funds  
31 remaining, personal use of funds remains prohibited by this section for  
32 expenses unless the expenses relate to a future candidacy and comply with  
33 subdivision (f)(5) of this section.

34 (7) Knowingly taking campaign funds as personal income is a:

35 (A) Class B felony if the value of the benefit is twenty-  
36 five thousand dollars (\$25,000) or more;

1                   (B) Class C felony if the value of the benefit is five  
2 thousand dollars (\$5,000) or more but less than twenty-five thousand dollars  
3 (\$25,000);

4                   (C) Class D felony if the value of the benefit is two  
5 thousand five hundred dollars (\$2,500) or more but less than five thousand  
6 dollars (\$5,000); or

7                   (D) Class A misdemeanor if the value of the benefit is  
8 less than two thousand five hundred dollars (\$2,500).

9                   (8) It is an affirmative defense to a prosecution for taking  
10 campaign funds as personal income if the candidate or officeholder shows by a  
11 preponderance of the evidence that:

12                   (A) If the personal property was retained as carryover  
13 funds, that the candidate or officeholder:

14                   (i) Reported the personal property as carryover  
15 funds; and

16                   (ii) Retained or disposed of the personal property  
17 in the manner that is required by law for carryover funds; or

18                   (B) If the personal property was retained as surplus  
19 funds, that the candidate or officeholder:

20                   (i) Reported the personal property as surplus funds;  
21 and

22                   (ii) Retained or disposed of the personal property  
23 in the manner that is required by law for surplus funds.

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26                   */s/Bond*  
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