

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)

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Name of Department **Arkansas Ethics Commission**

Agency or Division Name **Arkansas Ethics Commission**

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person **Graham F. Sloan**

Contact E-mail **graham.sloan@arkansas.gov**

Contact Phone **501-324-9600**

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Name of Rule **Rules on Campaign Contribution Limit**

Newspaper Name **Arkansas Democrat Gazette**

Date of Publishing **April 18, 19, and 20, 2021**

Final Date for Public Comment **May 19, 2021**

Location and Time of Public Meeting **501 Woodlane, Suite 301N, Little Rock, Arkansas**

**CLEAN COPY**

# **ARKANSAS ETHICS COMMISSION**

## **RULES ON CAMPAIGN CONTRIBUTION LIMIT**

**ARKANSAS ETHICS COMMISSION  
Post Office Box 1917  
Little Rock, Arkansas 72203-1917  
(501) 324-9600 or (800) 422-7773  
Facsimile (501) 324-9606**

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§ 100 **Definitions**

(a) **Approved political action committee** – As used in these rules, the term “approved political action committee” means any person that receives contributions from one (1) or more persons in order to make contributions to candidates, ballot question committees, legislative question committees, political parties, county political party committees, or other political action committees; does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and has registered pursuant to Ark. Code Ann. § 7-6-215 prior to making contributions. “Approved political action committee” does not include political parties, county political party committees, the candidate’s own campaign committee, exploratory committees, ballot question committees, or legislative question committees.

(b) **Candidate** – As used in these rules, the term “candidate” means any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office.

(c) **Contribution** – As used in these rules, the term “contribution” means, whether direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, or pledges or promises of money or anything of value, whether or not legally enforceable, to a candidate, committee, or holder of elective office made for the purpose of influencing the nomination or election of any candidate;

“Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the granting of discounts or rebates by television stations, radio stations, and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or persons whose expenditures the candidates or committee must report under subchapter 2, Chapter 6 of Title 7 of the Arkansas Code. The term “contribution” further includes any transfer of anything of value received by a committee from another committee. “Contribution” shall not include noncompensated, nonreimbursed, volunteer personal services or travel.

“Contribution and expenditure” shall not include activity sponsored and funded by a political party to promote its candidates or nominees through events such as dinners, luncheons, rallies, or similar gatherings and shall not include nonpartisan activity designed to encourage individuals to register to vote or to vote or any communication by any membership organization to its members or stockholders if the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election or election of any candidate.

(d) **County political party committee** – As used in these rules, the term “county political party committee” means a person that is organized at the county level for the purpose of supporting its affiliate party and making contributions; is recognized by an organized political party, as defined in Ark. Code Ann. § 7-1-101, as being affiliated with that

political party; receives contributions from one (1) or more persons in order to make contributions to candidates, ballot question committees, legislative question committees, political parties, political action committees, or other county political party committees; does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and registers pursuant to Ark. Code Ann. § 7-6-226 prior to making contributions.

- (e) **Election** – As used in these rules, the term “election” means each election to be held to nominate or elect a candidate to any public office, including school elections. For the purposes of these rules, a preferential primary election, a general primary election, a runoff election, a special election, and a general election shall each constitute a separate election.
- (f) **Individual** – As used in these rules, the term “individual” means a human being.
- (g) **Legislative caucus committee** – As used in these rules, the term “legislative caucus committee” means a person that is composed exclusively of members of the General Assembly, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common. A “legislative caucus committee” includes, but is not limited to, a political party caucus of the General Assembly, the Senate, or the House of Representatives. An organization whose only nonlegislator members are the Lieutenant Governor or the Governor is a “legislative caucus committee” under these rules.
- (h) **Person** – As used in these rules, the term “person” means any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert. It shall also include a political party, a county political party committee, and a legislative caucus committee.
- (i) **Political party** – As used in these rules, the term “political party” means any group of voters which, at the last-preceding general election, polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office; or which has filed a petition with the Secretary of State containing at the time of filing the signatures of at least ten thousand (10,000) registered voters in the State of Arkansas, declaring the intention of organizing a political party, the name of which shall be stated in the declaration, and of participating in the next general election, and which has been declared a new political party by the Secretary of State. When any political party fails to obtain three percent (3%) of the total votes cast at an election for the Office of Governor or nominees for presidential electors, it shall cease to be a political party.

**§ 101 Contribution Limit**

As of \_\_\_\_\_, a candidate may accept a campaign contribution or contributions up to the maximum amount of two thousand nine hundred dollars (\$2,900) for each election, whether opposed or unopposed, from:

- (a) an individual;
- (b) a political party;
- (c) a county political party committee;
- (d) a legislative caucus committee; or
- (e) an approved political action committee.

**§ 102 Adjustment of Contribution Limit**

The contribution limit shall be adjusted by the Arkansas Ethics Commission at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015. If the amount after adjustment is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).

**MARK-UP**

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### **§ 101 Contribution Limit**

As of ~~April 8, 2015~~, a candidate may accept a campaign contribution or contributions up to the maximum amount of ~~two thousand eight hundred dollars (\$2,800)~~ two thousand nine hundred dollars (\$2,900) for each election, whether opposed or unopposed, from:

- (a) an individual;
- (b) a political party;
- (c) a county political party committee;
- (d) a legislative caucus committee; or
- (e) an approved political action committee.

### **§ 102 Adjustment of Contribution Limit**

The contribution limit shall be adjusted by the Arkansas Ethics Commission at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015. If the amount after adjustment is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE  
ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** Arkansas Ethics Commission  
**DIVISION**  
**DIVISION DIRECTOR** Graham Sloan  
**CONTACT PERSON** Graham Sloan  
**ADDRESS** 501 Woodlane Street, Suite 301N, Little Rock, AR 72201  
**PHONE NO.** 324-9600 **FAX NO.** 324-9606 **E-MAIL** Graham.Sloan@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Graham Sloan  
**PRESENTER E-MAIL** Graham.Sloan@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

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- 1. What is the short title of this rule?

**Rules on Campaign Contribution Limit**

- 2. What is the subject of the proposed rule?

**The contribution limit for candidates for public office in Arkansas for the 2021-2022 election cycle.**

- 3. Is this rule required to comply with a federal statute, rule, or regulation?  
Yes \_\_\_ No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
Yes\_\_\_ No

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes\_\_\_\_\_ No N/A

5. Is this a new rule? Yes\_\_\_\_\_ No

If yes, please provide a brief summary explaining the rule.

**BRIEF SUMMARY:**

Pursuant to Act 1280 of 2015, Ark. Code Ann. §7-6-203(i) provides as follows:

(1) The contribution limits under subdivision (a)(1)(A) and subdivision (b)(1) of this section shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015.

(2) If the amount after adjustment under subdivision (i)(1) of this section is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).

(3) The Arkansas Ethics Commission shall promulgate rules identifying the adjusted contribution limit under subdivision (i)(1) of this section.

On or about February 7, 2019, the Federal Election Commission announced updated contribution limits that have been indexed for inflation and are effective for the 2019-2020 federal elections. In 2019, an amendment was made to adjust the campaign contribution limit from \$2,700 to \$2,800 for candidates for public office in Arkansas.

On or about February 2, 2021, the Federal Election Commission announced updated contribution limits that have been indexed for inflation and are effective for the 2021-2022 federal elections. This proposed amendment is necessary to adjust the campaign contribution limit from \$2,800 to \$2,900 for candidates for public office in Arkansas.

Does this repeal an existing rule? Yes\_\_\_ No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No \_\_\_ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

**Ark. Code Ann. §§ 7-6-217(g) and 7-6-203(i)**

7. What is the purpose of this proposed rule? Why is it necessary?

**The purpose of the amendment is to keep the campaign contribution limit in line with the consumer price index and the rate of inflation. This proposed amendment is necessary to raise the contribution limit for candidates for public office in Arkansas for the 2021-2022 campaign cycle, as is required by Act 1280 of 2015 and seen in Ark Code Ann. §7-6-203(i).**

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

**ArkansasEthics.com**

9. Will a public hearing be held on this proposed rule? Yes  No \_\_\_\_\_  
If yes, please complete the following:

Date: **May 21, 2021**

Time: **9:00 a.m.**

Place: **501 Woodlane, Suite 301 N, Little Rock, Arkansas**

10. When does the public comment period expire for permanent promulgation? (Must provide a date.) **May 19, 2021 at 5:00 p.m.**

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
**ASAP**

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT/AGENCY:** Arkansas Ethics Commission  
**DIVISION**

**PERSON COMPLETING THIS STATEMENT:** Graham Sloan

**PHONE NO.:** 324-9600 **FAX NO.:** 324-9606 **E-MAIL:** Graham.Sloan@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE:** **Rules on Campaign Contribution Limit**

1. Does this proposed, amended, or repealed rule have a financial impact?

Yes \_\_\_ No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?

Yes  No \_\_\_

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No \_\_\_

If an agency is proposing a more costly rule, please state the following:

a. How the additional benefits of the more costly rule justify its additional cost;

b. The reason for adoption of the more costly rule;

c. Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

d. Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a. What is the cost to implement the federal rule or regulation?

**Current Fiscal Year Next Fiscal Year**

General Revenue	-0-	General Revenue	-0-
Federal Funds	-0-	Federal Funds	-0-
Cash Funds	-0-	Cash Funds	-0-
Special Revenue	-0-	Special Revenue	-0-
Other (Identify)	-0-	Other (Identify)	-0-
Total	<b><u>-0-</u></b>	Total	<b><u>-0-</u></b>

b. What is the additional cost of the state rule?

**Current Fiscal Year Next Fiscal Year**

General Revenue	-0-	General Revenue	-0-
Federal Funds	-0-	Federal Funds	-0-
Cash Funds	-0-	Cash Funds	-0-
Special Revenue	-0-	Special Revenue	-0-
Other (Identify)	-0-	Other (Identify)	-0-
Total	<b><u>-0-</u></b>	Total	<b><u>-0-</u></b>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year Next Fiscal Year**

\$ \_\_\_\_\_-0-\_\_\_\_\_      \$ \_\_\_\_\_-0-\_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year Next Fiscal Year**

\$ \_\_\_\_\_-0-\_\_\_\_\_      \$ \_\_\_\_\_-0-\_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year



to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes \_\_\_\_\_ No  \_\_\_\_\_

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**Summary of Proposed Amendment to the Arkansas Ethics Commission's  
Rules on Campaign Contribution Limit**

Pursuant to Act 1280 of 2015, Ark. Code Ann. §7-6-203(i) provides as follows:

1. The contribution limits under subdivision (a)(1)(A) and subdivision (b)(1) of this section shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015.
2. If the amount after adjustment under subdivision (i)(1) of this section is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).
3. The Arkansas Ethics Commission shall promulgate rules identifying the adjusted contribution limit under subdivision (i)(1) of this section.

On or about February 2, 2021, the Federal Election Commission announced updated contribution limits that have been indexed for inflation and are effective for the 2021-2022 federal elections.

This proposed amendment is necessary to adjust the campaign contribution limit from \$2,800 to \$2,900 for candidates for public office in Arkansas. The purpose of this Rule is to establish a campaign contribution limit and give the public clear guidance on that limit. The presumed intent of the mandated adjustment is to keep the contribution limit in line with the rising cost of running a campaign.

## **Ark. Code Ann. § 7-6-203. Contributions — Limitations — Acceptance or solicitation — Use as personal income — Disposition.**

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**(a)(1)(A)** It shall be unlawful for any candidate for any public office or for any person acting on the candidate's behalf to accept campaign contributions in excess of two thousand seven hundred dollars (\$2,700) per election from:

**(i)** An individual;

**(ii)** A political party that meets the definition of a political party under § 7-1-101;

**(iii)** A political party that meets the requirements of § 7-7-205;

**(iv)** A county political party committee;

**(v)** A legislative caucus committee; or

**(vi)** An approved political action committee.

**(B)** It shall be unlawful for a candidate for a public office or for any person acting on the candidate's behalf to accept a campaign contribution from a prospective contributor other than those under subdivisions (a)(1)(A)(i)-(vi) of this section.

**(2)** A candidate may accept a campaign contribution or contributions up to the maximum amount from any prospective contributor under subdivisions (a)(1)(A)(i)-(vi) of this section for each election, whether opposed or unopposed.

**(b)**

**(1)** It shall be unlawful for any person to make a contribution to a candidate for any public office or to any person acting on the candidate's behalf, which in the aggregate exceeds two thousand seven hundred dollars (\$2,700) per election.

**(2)** A person permitted to make a contribution or contributions under subdivisions (a)(1)(A)(i)-(vi) of this section may make a contribution or contributions up to the maximum amount to a candidate for each election, whether opposed or unopposed.

**(c)** The limitation shall not apply to loans made by a candidate from his or her own personal funds to the campaign, contributions made by a candidate from his or her personal funds to the campaign, or to personal loans made by financial institutions to the candidate and applied to his or her campaign.

**(d)**

**(1)** It shall be unlawful for any candidate for any public office or any person acting in the candidate's behalf to accept any contribution from a prohibited political action committee for any election.

**(2)** It shall be unlawful for any prohibited political action committee to make a contribution to a candidate for public office in an election.

**(3)** It shall be unlawful for any ballot question committee, legislative question committee, political party, county political party committee, or approved political action committee to accept any contribution from a prohibited political action committee.

**(4)** It shall be unlawful for any prohibited political action committee to make a contribution to:

**(A)** A ballot question committee;

**(B)** A legislative question committee;

**(C)** A political party;

**(D)** A county political party committee; or

**(E)** An approved political action committee.

**(e)** It shall be unlawful for any candidate for public office, any person acting in the candidate's behalf, or any exploratory committee to solicit or accept campaign contributions more than two (2) years before an election at which the candidate seeks nomination or election. This subsection shall not prohibit the solicitation or acceptance of a contribution for the sole purpose of raising funds to retire a previous campaign debt.

**(f)**

**(1)** A candidate shall not take any campaign funds as personal income.

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

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

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

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

**(4)**

**(A)**

**(i)** For purposes of this subsection, a candidate or officeholder, who uses campaign funds or carryover funds to fulfill any commitment, obligation, or expense that would exist regardless of the candidate's campaign or officeholder activity, shall be deemed to have taken campaign funds as personal income.

**(ii)** Candidates or officeholders may use campaign funds or carryover funds to fulfill any commitment, obligation, or expense authorized by law, or permitted by an Arkansas Ethics Commission rule or opinion at the time of the expenditure, or reasonably and legitimately related to a campaign or officeholder activity.

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

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

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

**(5)** If a candidate loses an election or if an officeholder is no longer in office, and after disposing of surplus funds, has carryover funds remaining, personal use of funds remains prohibited by this section for expenses unless the expenses relate to a future candidacy and comply with subdivision (f)(4) of this section.

**(6)** Knowingly taking campaign funds as personal income is a:

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

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

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

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

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

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

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

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

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

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

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

(g)

(1) Within thirty (30) days following the end of the month in which an election is held or a candidate has withdrawn, a candidate shall turn over surplus campaign funds to either:

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

(B) A political party as defined in § 7-1-101 or a political party caucus of the General Assembly, the Senate, or the House of Representatives;

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

(D) Cities of the first class, cities of the second class, or incorporated towns; or

(E) The contributors to the candidate's campaign.

(2) If the candidate's campaign has not ended, disposal of surplus campaign funds shall not be required and the candidate may carry forward any remaining funds to the general primary election, general election, or general runoff election for that same office.

(3)

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

(B) For an unopposed nonpartisan candidate, the affidavit may be filed after the deadlines have passed to declare as a filing fee candidate, petition candidate, or write-in candidate under § 7-10-103.

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

(D) Unopposed candidates and defeated candidates who file the affidavit are exempt from further reporting requirements provided that the affidavit contains:

(i) All campaign activity not previously reported; and

(ii) A statement that the candidate's campaign fund has a zero (\$0.00) balance.

(4)

(A) Carryover funds may be expended at any time for any purpose not prohibited by this chapter and may be used as campaign funds for seeking any public office. Nothing shall prohibit a person at any time from disposing of all or any portion of his or her carryover funds in the same manner as for surplus campaign funds. However, the candidate shall not take the funds as personal income or as income for his or her spouse or dependent children.

(B)

(i) When a person having carryover funds files as a candidate for public office, his or her carryover funds shall be transferred to the person's active campaign fund. Once transferred, the funds will no longer be treated as carryover funds.

(ii) This subdivision (g)(4)(B) shall not apply to carryover funds from an election held prior to July 1, 1997.

(iii) This subdivision (g)(4)(B) shall not apply to a campaign debt.

(C)

(i) If carryover funds are expended prior to transferring the funds to an active campaign fund, the expenditures shall be reported pursuant to this subdivision (g)(4)(C). A person shall file an expenditure report concerning carryover funds if, since the last report concerning the carryover funds, the person has expended in excess of five hundred dollars (\$500). The report shall be filed at the office in which the candidate was required to file his or her campaign contribution and expenditure reports for the previous campaign not later than fifteen (15) days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative expenditure limit has not been exceeded since the person's last report.

(ii) The person shall also file an expenditure report for the calendar quarter in which he or she transfers the carryover funds to an active campaign fund.

**(iii)**

(a) A person who retains carryover funds shall file an annual report outlining the status of the carryover fund account as of December 31 unless the person has filed a quarterly report during the calendar year pursuant to subdivisions (g)(4)(C)(i) and (ii) of this section.

(b) The annual report shall be due by January 31 of each year.

(c) A person who retains carryover funds from a general election held in November or a runoff election held in November is not required to file an annual report for the year of the general election or runoff election from which carryover funds were retained.

(iv) The carryover fund reports of a candidate for school district, township, municipal, or county office shall be filed with the county clerk of the county in which the election was held.

**(v)**

(a) The carryover fund reports of a candidate for state or district office shall be filed with the Secretary of State.

(b) The carryover fund reports of a candidate for state or district office filed with the Secretary of State shall be filed in electronic form through the official website of the Secretary of State. The Arkansas Ethics Commission shall approve the format used by the Secretary of State for the filing of carryover fund reports in electronic form under this subdivision (g)(4)(C)(v)(b) to ensure that all required information is requested. The official website of the Secretary of State shall allow for searches of carryover fund report information required to be filed in electronic form under this subdivision (g)(4)(C)(v)(b).

**(D)**

(i) Carryover funds may be retained by a person for not more than ten (10) years after the last election at which he or she was a candidate, or if applicable, not more than ten (10) years after the last day that the person held office, and any remaining carryover funds shall be disposed of in the same manner as for surplus campaign funds.

**(ii)**

(a) The officer with whom the person last filed a final campaign report shall provide the person timely notice of the requirements of this subdivision (g)(4)(D) prior to the expiration of the ten-year period.

(b) However, failure to provide the notice does not relieve the person of his or her obligation under this subsection.

**(E)**

(i) The use of carryover funds to pay an elected candidate's own personal expenses for food, lodging, conference fees, or travel to attend a conference related to the performance of his or her responsibilities as an elected official shall not be considered a taking of campaign funds as personal income.

(ii) The reimbursement of expenses shall be a result of travel and the source of the reimbursement shall be authorized under the rules of the House of Representatives or the Senate and used to reimburse the carryover account.

(iii) The reimbursement amount shall be reported in the elected candidate's carryover fund report.

(5) After the date of an election at which the person is a candidate for nomination or election, the person shall not accept campaign contributions for that election except for the sole purpose of raising funds to retire campaign debt.

(6) Surplus campaign funds or carryover funds given to a political party caucus shall be segregated in an account separated from other caucus funds and shall not be used:

(A) By the political party caucus to make a campaign contribution; or

(B) To provide any personal income to any candidate who donated surplus campaign funds or carryover funds.

(h) A candidate may maintain his or her campaign funds in one (1) or more campaign accounts. Campaign funds shall not be placed in an account containing personal or business funds.

**(i)**

(1) The contribution limits under subdivision (a)(1)(A) and subdivision (b)(1) of this section shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the United States Bureau of Labor Statistics under 52 U.S.C. § 30116(c) as existing on January 1, 2015.

(2) If the amount after adjustment under subdivision (i)(1) of this section is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).

(3) The Arkansas Ethics Commission shall promulgate rules identifying the adjusted contribution limit under subdivision (i)(1) of this section.

## History

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Acts 1975, No. 788, § 2; 1977, No. 312, § 6; 1981, No. 690, § 1; A.S.A. 1947, § 3-1110; Init. Meas. 1990, No. 1, §§ 2, 3; Acts 1993, No. 1195, § 1; 1993, No. 1196, § 1; 1995, No. 863, §§ 1-3; 1995, No. 1296, § 41; Init. Meas. 1996, No. 1, §§ 2, 3; Acts 1997, No. 116, § 1; 1997, No. 491, §§ 2, 3; 1999, No. 553, § 3; 1999, No. 1057, § 1; 2001, No. 954, § 1; 2001, No. 1839, § 2; 2003, No. 195, §§ 2, 3; 2003, No. 248, § 1; 2005, No. 1284, §§ 3, 4; 2005, No. 1413, § 1; 2005, No. 1695, § 1; 2007, No. 221, § 2; 2009, No. 340, § 1; 2009, No. 473, §§ 3, 4; 2009, No. 1204, § 2; 2011, No. 721, §§ 3, 4; 2013, No. 382, § 1; 2013, No. 1110, § 7; 2015, No. 142, § 1; 2015, No. 1280, §§ 5-7; 2017, No. 318, § 1; 2019, No. 240, § 1; 2019, No. 845, § 1; 2019, No. 879, § 2.