

SECOND REGULAR SESSION

# HOUSE BILL NO. 1649

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PLANK.

4424H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 130.011 and 130.047, RSMo, and to enact in lieu thereof three new sections relating to campaign contributions, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 130.011 and 130.047, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 130.011, 130.047, and 355.077, to read as follows:

130.011. As used in this chapter, unless the context clearly indicates otherwise, the following terms mean:

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026 to receive certain required statements and reports;

(2) "Ballot measure" or "measure", any proposal submitted or intended to be submitted to qualified voters for their approval or rejection, including any proposal submitted by initiative petition, referendum petition, or by the general assembly or any local governmental body having authority to refer proposals to the voter;

(3) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a write-in candidate as defined in subdivision (28) of

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 this section. A candidate shall be deemed to seek nomination or election when the person  
18 first:

19 (a) Receives contributions or makes expenditures or reserves space or facilities with  
20 intent to promote the person's candidacy for office; or

21 (b) Knows or has reason to know that contributions are being received or  
22 expenditures are being made or space or facilities are being reserved with the intent to  
23 promote the person's candidacy for office; except that, such individual shall not be deemed a  
24 candidate if the person files a statement with the appropriate officer within five days after  
25 learning of the receipt of contributions, the making of expenditures, or the reservation of  
26 space or facilities disavowing the candidacy and stating that the person will not accept  
27 nomination or take office if elected; provided that, if the election at which such individual is  
28 supported as a candidate is to take place within five days after the person's learning of the  
29 above-specified activities, the individual shall file the statement disavowing the candidacy  
30 within one day; or

31 (c) Announces or files a declaration of candidacy for office;

32 (4) "Cash", currency, coin, United States postage stamps, or any negotiable  
33 instrument which can be transferred from one person to another person without the signature  
34 or endorsement of the transferor;

35 (5) "Check", a check drawn on a state or federal bank, or a draft on a negotiable order  
36 of withdrawal account in a savings and loan association or a share draft account in a credit  
37 union;

38 (6) "Closing date", the date through which a statement or report is required to be  
39 complete;

40 (7) "Committee", a person or any combination of persons, who accepts contributions  
41 or makes expenditures for the primary or incidental purpose of influencing or attempting to  
42 influence the action of voters for or against the nomination or election to public office of one  
43 or more candidates or the qualification, passage or defeat of any ballot measure or for the  
44 purpose of paying a previously incurred campaign debt or obligation of a candidate or the  
45 debts or obligations of a committee or for the purpose of contributing funds to another  
46 committee:

47 (a) "Committee", does not include:

48 a. A person or combination of persons, if neither the aggregate of expenditures made  
49 nor the aggregate of contributions received during a calendar year exceeds five hundred  
50 dollars and if no single contributor has contributed more than two hundred fifty dollars of  
51 such aggregate contributions;

52 b. An individual, other than a candidate, who accepts no contributions and who deals  
53 only with the individual's own funds or property;

54 c. A corporation, cooperative association, partnership, proprietorship, or joint venture  
55 organized or operated for a primary or principal purpose other than that of influencing or  
56 attempting to influence the action of voters for or against the nomination or election to public  
57 office of one or more candidates or the qualification, passage or defeat of any ballot measure,  
58 and it accepts no contributions, and all expenditures it makes are from its own funds or  
59 property obtained in the usual course of business or in any commercial or other transaction  
60 and which are not contributions as defined by subdivision (12) of this section;

61 d. A labor organization organized or operated for a primary or principal purpose other  
62 than that of influencing or attempting to influence the action of voters for or against the  
63 nomination or election to public office of one or more candidates, or the qualification,  
64 passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures  
65 made by the organization are from its own funds or property received from membership dues  
66 or membership fees which were given or solicited for the purpose of supporting the normal  
67 and usual activities and functions of the organization and which are not contributions as  
68 defined by subdivision (12) of this section;

69 e. A person who acts as an authorized agent for a committee in soliciting or receiving  
70 contributions or in making expenditures or incurring indebtedness on behalf of the committee  
71 if such person renders to the committee treasurer or deputy treasurer or candidate, if  
72 applicable, an accurate account of each receipt or other transaction in the detail required by  
73 the treasurer to comply with all record-keeping and reporting requirements of this chapter;

74 f. Any department, agency, board, institution or other entity of the state or any of its  
75 subdivisions or any officer or employee thereof, acting in the person's official capacity;

76 (b) The term "committee" includes, but is not limited to, each of the following  
77 committees: campaign committee, candidate committee, continuing committee and political  
78 party committee;

79 (8) "Campaign committee", a committee, other than a candidate committee, which  
80 shall be formed by an individual or group of individuals to receive contributions or make  
81 expenditures and whose sole purpose is to support or oppose the qualification and passage of  
82 one or more particular ballot measures in an election or the retention of judges under the  
83 nonpartisan court plan, such committee shall be formed no later than thirty days prior to the  
84 election for which the committee receives contributions or makes expenditures, and which  
85 shall terminate the later of either thirty days after the general election or upon the satisfaction  
86 of all committee debt after the general election, except that no committee retiring debt shall  
87 engage in any other activities in support of a measure for which the committee was formed;

88 (9) "Candidate committee", a committee which shall be formed by a candidate to  
89 receive contributions or make expenditures in behalf of the person's candidacy and which  
90 shall continue in existence for use by an elected candidate or which shall terminate the later of

91 either thirty days after the general election for a candidate who was not elected or upon the  
92 satisfaction of all committee debt after the election, except that no committee retiring debt  
93 shall engage in any other activities in support of the candidate for which the committee was  
94 formed. Any candidate for elective office shall have only one candidate committee for the  
95 elective office sought, which is controlled directly by the candidate for the purpose of making  
96 expenditures. A candidate committee is presumed to be under the control and direction of the  
97 candidate unless the candidate files an affidavit with the appropriate officer stating that the  
98 committee is acting without control or direction on the candidate's part;

99 (10) "Continuing committee", a committee of continuing existence which is not  
100 formed, controlled or directed by a candidate, and is a committee other than a candidate  
101 committee or campaign committee, whose primary or incidental purpose is to receive  
102 contributions or make expenditures to influence or attempt to influence the action of voters  
103 whether or not a particular candidate or candidates or a particular ballot measure or measures  
104 to be supported or opposed has been determined at the time the committee is required to file  
105 any statement or report pursuant to the provisions of this chapter. "Continuing committee"  
106 includes, but is not limited to, any committee organized or sponsored by a business entity, a  
107 labor organization, a professional association, a trade or business association, a club or other  
108 organization and whose primary purpose is to solicit, accept and use contributions from the  
109 members, employees or stockholders of such entity and any individual or group of individuals  
110 who accept and use contributions to influence or attempt to influence the action of voters.  
111 Such committee shall be formed no later than sixty days prior to the election for which the  
112 committee receives contributions or makes expenditures;

113 (11) "Connected organization", any organization such as a corporation, a labor  
114 organization, a membership organization, a cooperative, or trade or professional association  
115 which expends funds or provides services or facilities to establish, administer or maintain a  
116 committee or to solicit contributions to a committee from its members, officers, directors,  
117 employees or security holders. An organization shall be deemed to be the connected  
118 organization if more than fifty percent of the persons making contributions to the committee  
119 during the current calendar year are members, officers, directors, employees or security  
120 holders of such organization or their spouses;

121 (12) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or  
122 anything of value for the purpose of supporting or opposing the nomination or election of any  
123 candidate for public office or the qualification, passage or defeat of any ballot measure, or for  
124 the support of any committee supporting or opposing candidates or ballot measures or for  
125 paying debts or obligations of any candidate or committee previously incurred for the above  
126 purposes. A contribution of anything of value shall be deemed to have a money value  
127 equivalent to the fair market value. "Contribution" includes, but is not limited to:

128 (a) A candidate's own money or property used in support of the person's candidacy  
129 other than expense of the candidate's food, lodging, travel, and payment of any fee necessary  
130 to the filing for public office;

131 (b) Payment by any person, other than a candidate or committee, to compensate  
132 another person for services rendered to that candidate or committee;

133 (c) Receipts from the sale of goods and services, including the sale of advertising  
134 space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of  
135 tickets or political merchandise;

136 (d) Receipts from fund-raising events including testimonial affairs;

137 (e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or  
138 other obligation by a third party, or payment of a loan or debt or other obligation by a third  
139 party if the loan or debt or other obligation was contracted, used, or intended, in whole or in  
140 part, for use in an election campaign or used or intended for the payment of such debts or  
141 obligations of a candidate or committee previously incurred, or which was made or received  
142 by a committee;

143 (f) Funds received by a committee which are transferred to such committee from  
144 another committee or other source, except funds received by a candidate committee as a  
145 transfer of funds from another candidate committee controlled by the same candidate but such  
146 transfer shall be included in the disclosure reports;

147 (g) Facilities, office space or equipment supplied by any person to a candidate or  
148 committee without charge or at reduced charges, except gratuitous space for meeting  
149 purposes which is made available regularly to the public, including other candidates or  
150 committees, on an equal basis for similar purposes on the same conditions;

151 (h) The direct or indirect payment by any person, other than a connected organization,  
152 of the costs of establishing, administering, or maintaining a committee, including legal,  
153 accounting and computer services, fund raising and solicitation of contributions for a  
154 committee;

155 (i) "Contribution" does not include:

156 a. Ordinary home hospitality or services provided without compensation by  
157 individuals volunteering their time in support of or in opposition to a candidate, committee or  
158 ballot measure, nor the necessary and ordinary personal expenses of such volunteers  
159 incidental to the performance of voluntary activities, so long as no compensation is directly or  
160 indirectly asked or given;

161 b. An offer or tender of a contribution which is expressly and unconditionally rejected  
162 and returned to the donor within ten business days after receipt or transmitted to the state  
163 treasurer;

164 c. Interest earned on deposit of committee funds;

165 d. The costs incurred by any connected organization listed pursuant to subdivision  
166 ~~[(4)]~~ (5) of subsection 5 of section 130.021 for establishing, administering or maintaining a  
167 committee, or for the solicitation of contributions to a committee which solicitation is solely  
168 directed or related to the members, officers, directors, employees or security holders of the  
169 connected organization;

170 (13) "County", any one of the several counties of this state or the city of St. Louis;

171 (14) "Disclosure report", an itemized report of receipts, expenditures and incurred  
172 indebtedness which is prepared on forms approved by the Missouri ethics commission and  
173 filed at the times and places prescribed;

174 (15) "Election", any primary, general or special election held to nominate or elect an  
175 individual to public office, to retain or recall an elected officeholder or to submit a ballot  
176 measure to the voters, and any caucus or other meeting of a political party or a political party  
177 committee at which that party's candidate or candidates for public office are officially  
178 selected. A primary election and the succeeding general election shall be considered separate  
179 elections;

180 (16) "Expenditure", a payment, advance, conveyance, deposit, donation or  
181 contribution of money or anything of value for the purpose of supporting or opposing the  
182 nomination or election of any candidate for public office or the qualification or passage of any  
183 ballot measure or for the support of any committee which in turn supports or opposes any  
184 candidate or ballot measure or for the purpose of paying a previously incurred campaign debt  
185 or obligation of a candidate or the debts or obligations of a committee; a payment, or an  
186 agreement or promise to pay, money or anything of value, including a candidate's own money  
187 or property, for the purchase of goods, services, property, facilities or anything of value for  
188 the purpose of supporting or opposing the nomination or election of any candidate for public  
189 office or the qualification or passage of any ballot measure or for the support of any  
190 committee which in turn supports or opposes any candidate or ballot measure or for the  
191 purpose of paying a previously incurred campaign debt or obligation of a candidate or the  
192 debts or obligations of a committee. An expenditure of anything of value shall be deemed to  
193 have a money value equivalent to the fair market value. "Expenditure" includes, but is not  
194 limited to:

195 (a) Payment by anyone other than a committee for services of another person  
196 rendered to such committee;

197 (b) The purchase of tickets, goods, services or political merchandise in connection  
198 with any testimonial affair or fund-raising event of or for candidates or committees, or the  
199 purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or  
200 committee;

201 (c) The transfer of funds by one committee to another committee;

202 (d) The direct or indirect payment by any person, other than a connected organization  
203 for a committee, of the costs of establishing, administering or maintaining a committee,  
204 including legal, accounting and computer services, fund raising and solicitation of  
205 contributions for a committee; but

206 (e) "Expenditure" does not include:

207 a. Any news story, commentary or editorial which is broadcast or published by any  
208 broadcasting station, newspaper, magazine or other periodical without charge to the candidate  
209 or to any person supporting or opposing a candidate or ballot measure;

210 b. The internal dissemination by any membership organization, proprietorship, labor  
211 organization, corporation, association or other entity of information advocating the election or  
212 defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to  
213 its directors, officers, members, employees or security holders, provided that the cost incurred  
214 is reported pursuant to subsection 2 of section 130.051;

215 c. Repayment of a loan, but such repayment shall be indicated in required reports;

216 d. The rendering of voluntary personal services by an individual of the sort  
217 commonly performed by volunteer campaign workers and the payment by such individual of  
218 the individual's necessary and ordinary personal expenses incidental to such volunteer  
219 activity, provided no compensation is, directly or indirectly, asked or given;

220 e. The costs incurred by any connected organization listed pursuant to subdivision  
221 ~~[(4)]~~ (5) of subsection 5 of section 130.021 for establishing, administering or maintaining a  
222 committee, or for the solicitation of contributions to a committee which solicitation is solely  
223 directed or related to the members, officers, directors, employees or security holders of the  
224 connected organization;

225 f. The use of a candidate's own money or property for expense of the candidate's  
226 personal food, lodging, travel, and payment of any fee necessary to the filing for public office,  
227 if such expense is not reimbursed to the candidate from any source;

228 (17) "Exploratory ~~[committees]~~ committee", a committee which shall be formed by  
229 an individual to receive contributions and make expenditures on behalf of this individual in  
230 determining whether or not the individual seeks elective office. Such committee shall  
231 terminate no later than December thirty-first of the year prior to the general election for the  
232 possible office;

233 (18) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee,  
234 testimonial, rally, auction or similar affair through which contributions are solicited or  
235 received by such means as the purchase of tickets, payment of attendance fees, donations for  
236 prizes or through the purchase of goods, services or political merchandise;

237 (19) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in  
238 a form other than money. **The term "in-kind contribution" or "in-kind expenditure"**

239 **shall include, with respect to corporations regulated under chapter 355 and any foreign**  
240 **nonprofit corporations, any contribution or expenditure made by such corporations for**  
241 **the purpose of supporting or opposing a candidate for office or a ballot measure;**

242 (20) "Labor organization", any organization of any kind, or any agency or employee  
243 representation committee or plan, in which employees participate and which exists for the  
244 purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,  
245 wages, rates of pay, hours of employment, or conditions of work;

246 (21) "Loan", a transfer of money, property or anything of ascertainable monetary  
247 value in exchange for an obligation, conditional or not, to repay in whole or in part and which  
248 was contracted, used, or intended for use in an election campaign, or which was made or  
249 received by a committee or which was contracted, used, or intended to pay previously  
250 incurred campaign debts or obligations of a candidate or the debts or obligations of a  
251 committee;

252 (22) "Person", an individual, group of individuals, corporation, partnership,  
253 committee, proprietorship, joint venture, any department, agency, board, institution or other  
254 entity of the state or any of its political subdivisions, union, labor organization, trade or  
255 professional or business association, association, political party or any executive committee  
256 thereof, or any other club or organization however constituted or any officer or employee of  
257 such entity acting in the person's official capacity;

258 (23) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry,  
259 literature, or other items sold or distributed at a fund-raising event or to the general public for  
260 publicity or for the purpose of raising funds to be used in supporting or opposing a candidate  
261 for nomination or election or in supporting or opposing the qualification, passage or defeat of  
262 a ballot measure;

263 (24) "Political party", a political party which has the right under law to have the  
264 names of its candidates listed on the ballot in a general election;

265 (25) "Political party committee", a state, district, county, city, or area committee of a  
266 political party, as defined in section 115.603, which may be organized as a not-for-profit  
267 corporation under Missouri law, and which committee is of continuing existence, and has the  
268 primary or incidental purpose of receiving contributions and making expenditures to  
269 influence or attempt to influence the action of voters on behalf of the political party;

270 (26) "Public office" or "office", any state, judicial, county, municipal, school or other  
271 district, ward, township, or other political subdivision office or any political party office  
272 which is filled by a vote of registered voters;

273 (27) "Regular session", includes that period beginning on the first Wednesday after  
274 the first Monday in January and ending following the first Friday after the second Monday in  
275 May;



276 (28) "Write-in candidate", an individual whose name is not printed on the ballot but  
277 who otherwise meets the definition of candidate in subdivision (3) of this section.

130.047. Any person, **including any corporation regulated under chapter 355 and**  
2 **any foreign nonprofit corporation**, who is not a defined committee who makes an  
3 expenditure or expenditures aggregating five hundred dollars or more in support of, or  
4 opposition to, one or more candidates or in support of, or in opposition to, the qualification or  
5 passage of one or more ballot measures, other than a contribution made directly to a candidate  
6 or committee, shall file a report signed by the person making the expenditures, or that  
7 person's authorized agent. The report shall include the name and address of the person  
8 making the expenditure, the date and amount of the expenditure or expenditures, the name  
9 and address of the payee, and a description of the nature and purpose of each expenditure.  
10 Such report shall be filed with the appropriate officer having jurisdiction over the election of  
11 the candidate or ballot measure in question as set forth in section 130.026 no later than  
12 fourteen days after the date of making an expenditure which by itself or when added to all  
13 other such expenditures during the same campaign equals five hundred dollars or more. If,  
14 after filing such report, additional expenditures are made, a further report shall be filed no  
15 later than fourteen days after the date of making the additional expenditures; except that, if  
16 any such expenditure is made within fourteen days prior to an election, the report shall be  
17 filed no later than forty-eight hours after the date of such expenditure. The provisions of this  
18 subsection shall not apply to a person who uses only the person's funds or resources to make  
19 an expenditure or expenditures in support of or in coordination or consultation with a  
20 candidate or committee; provided that, any such expenditure is recorded as a contribution to  
21 such candidate or committee and so reported by the candidate or committee being supported  
22 by the expenditure or expenditures.

**355.077. A corporation regulated under this chapter that makes an in-kind**  
2 **contribution or in-kind expenditure shall:**

3 (1) **Be subject to the contribution and expenditure limitations imposed under**  
4 **Article III, Section 2 and Article VIII, Section 23 of the Constitution of Missouri; and**

5 (2) **Report the in-kind expenditure in the manner required under section**  
6 **130.047.**

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